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Minutes of the
Board of Minerals and Environment
Telephone Conference Call Meeting
523 East Capitol Avenue
Pierre, South Dakota

May 19, 2022
10:00 a.m. Central Time

CALL TO ORDER: The meeting was called to order by Chairman Rex Hagg. The roll was called, and a quorum was present.

Chairman Hagg announced that this meeting was streaming live on SD.net, a service of South Dakota Public Broadcasting.

BOARD MEMBERS PRESENT: Rex Hagg, Glenn Blumhardt, Gregg Greenfield, Doyle Karpen, Daryl Englund, Dennis Landguth, Bob Morris, and John Scheetz.

BOARD MEMBERS ABSENT: Jessica Peterson.

OTHERS PRESENT: Mike Lees, Roberta Hudson, Eric Holm, Tom Cline, DANR Minerals and Mining Program; Mark Lawrensen, DANR Inspection, Compliance and Remediation Program; Matt Zietlow, Wharf Resources, and Mark Tieszen, Homestake Mining Company and LAC Minerals.

APPROVAL OF MINUTES FROM APRIL 21, 2022, MEETING: Motion by Karpen, seconded by Blumhardt, to approve the minutes from the April 21, 2022, Board of Minerals and Environment meeting. A roll call vote was taken, and the motion carried unanimously.

MINING ISSUES CONSENT CALENDAR: Prior to the meeting, the board received a table listing the department recommendations for transfer of liability and release of surety and releases of liability. (See attachment)

Tom Cline presented the consent calendar.

In response to a question from Chairman Hagg regarding the release of liability for H & H Land Company #2 LLC, Mr. Cline stated that liability is being released because H & H Land Company did not mine at the site.

Motion by Landguth, seconded by Englund, to accept the department recommendations for transfer of liability and release of surety and releases of liability. A roll call vote was taken, and the motion carried unanimously.

ACCEPTANCE OF POSTCLOSURE FINANCIAL ASSURANCE INCREASE FOR LAC MINERALS (USA), LLC, LARGE SCALE MINE PERMIT 445: Eric Holm reported that during its April 21, 2022, meeting the board approved increasing LAC Minerals' postclosure financial assurance to \$30,838,220. To cover the increase LAC Minerals submitted a rider to Surety Bond No. 09177703, Fidelity & Deposit Company of Maryland and Zurich American Insurance Company increasing the amount from \$20,340,567 to \$30,838,220.

Fidelity & Deposit Company of Maryland and Zurich American Insurance Company are licensed in South Dakota and are on the US Department of Treasury list of approved surety companies. Ratings for the companies from AM Best, Standard and Poor's, Moody's, and Fitch's are superior, very strong, high quality, and high credit, respectively. Outlooks are stable except for a positive long-term outlook from AM Best.

The department's recommendation was to accept the rider to Bond No. 09177703, Fidelity & Deposit Company of Maryland and Zurich American Insurance Company, increasing the postclosure financial assurance amount to \$30,838,220.

Motion by Blumhardt, seconded by Karpen, to accept the rider to Bond No. 09177703, Fidelity & Deposit Company of Maryland and Zurich American Insurance Company, increasing the postclosure financial assurance amount to \$30,838,220. A roll call vote was taken, and the motion carried unanimously.

ACCEPTANCE OF FINANCIAL ASSURANCE INCREASE FOR WHARF RESOURCES (USA), INC., LARGE SCALE MINE PERMITS 356, 434, 435, 464, AND 476: Mr. Holm presented an adjustment of the financial assurance amount for Wharf Resources. This financial assurance, also known as the "cyanide spill bond," is required under SDCL 45-6B-20.1 and covers costs to the state for responding to and remediating accidental releases of cyanide and other leaching agents at the Wharf site. This financial assurance is in addition to Wharf Resources' \$58,200,000 reclamation bond and \$38,400,000 post closure bond.

The department adjusted the financial assurance for inflation and calculated a revised amount of \$760,600, which is an increase of \$29,300 from the 2021 update.

To cover the increase, Wharf has submitted a rider to the United States Fire Insurance Company surety bond that currently serves as financial assurance, which increases the amount to \$760,600. United State Fire Insurance Company is licensed in South Dakota and is on the US Department of Treasury list of approved surety companies. Ratings for the company from AM Best, Standard and Poor's, and Moody's are excellent, strong, and medium quality, respectively. The AM Best outlook is stable, while Standard and Poor's and Moody's outlooks are positive.

The department recommended that the board accept the rider to Bond No. 612408650, United States Fire Insurance Company, increasing the financial assurance bond from \$731,300 to \$760,600.

Responding to questions from Mr. Scheetz, Matt Zietlow, Wharf environmental manager, stated that Wharf Resources does not have a stand-alone pollution prevention liability insurance, but

Wharf does have a reclamation and postclosure bond that is more than \$90,000,000 combined along with the cyanide spill bond.

Motion by Morris, seconded by Landguth, to accept the rider to Bond No. 612408650, United States Fire Insurance Company, increasing the financial assurance bond from \$731,300 to \$760,600. A roll call vote was taken, and the motion carried unanimously.

ANNUAL UPDATE OF PRELIMINARY LIST OF SPECIAL, EXCEPTIONAL, CRITICAL, OR UNIQUE LANDS: Mr. Holm reported that under ARSD 74:29:10:19, the Board of Minerals and Environment is required to annually hold a hearing to consider any petitions received to nominate lands to the Preliminary List of Special, Exceptional, Critical, or Unique Lands.

Under ARSD 74:29:10:17(4), the Department of Agriculture and Natural Resources publishes an annual notice to solicit petitions to add areas to the preliminary list. The notice was published on January 13, 2022, in the Capitol Journal, Sioux Falls Argus Leader, Black Hills Pioneer, and Rapid City Journal. Affidavits of Publication were received from all newspapers. The deadline for submittal of petitions to nominate areas to preliminary list was May 1, 2022. No nominating petitions were submitted, so no board action is needed.

ORAL MINING REPORTS: The annual oral mining reports were presented to the board by representatives of the largescale gold mining companies. The representatives reported on water treatment, production, and reclamation activities during 2021 and plans for 2022. The annual oral mining presentations are required by statute. Mark Tieszen presented the annual reports for LAC Minerals (Richmond Hill Mine) and Homestake Mining Company. Matt Zietlow presented the annual report for Wharf Resources.

Mr. Tieszen and Mr. Zietlow answered questions from the board regarding their presentations.

UPDATE ON BROHM EPA SUPERFUND SITE: Roberta Hudson, DANR Minerals and Mining Program, presented the annual update for the Brohm Superfund site and answered questions from the board.

Copies of all four slide presentations are available on the Boards and Commissions Portal at <https://boardsandcommissions.sd.gov/bcuploads/BME%20Packet%20May%202022.pdf>

PUBLIC COMMENT PERIOD IN ACCORDANCE WITH SDCL 1-25-1: There were no public comments.

NEXT MEETING: The next meeting is scheduled for June 16, 2022.

ADJOURN: Motion by Karpen, seconded by Greenfield, to adjourn the meeting. A roll call vote was taken, and the motion carried unanimously.

Secretary

Date

Witness

Date

Consent Calendar
South Dakota Board of Minerals & Environment

May 19, 2022

License Holder **License No.** **Site No.** **Surety Amount** **Surety Company or Bank** **DENR Recommendation**

Transfer of Liability & Release of Surety:

Theodore Wasilk Waubay, SD	20-1078		\$2,000	Minnwest Bank, Summit	Transfer liability and release \$2,000.
		1078001	NW1/4 Section 1;	T123N-R53W, Day County	
		1078002	E1/2 SW1/4 Section 36;	T124N-R53W, Day County	
Transfer to: Nick Wasilk Waubay, SD	22-1109		\$3,500	Minnwest Bank, Summit	

Release of Liability:

H & H Land Company #2 LLC Rapid City, SD	20-1067		\$10,000	First Interstate Bank, Rapid City	Release liability.
		1067002	W1/2 Section 13, NE1/4 Section 24 & W1/2 Section 18, Section 19;	T1S-R10E; T1S-R9E, Pennington County	
		1067003	E1/2 NE1/4 Section 26 & Section 25;	T1S-R9E, Pennington County	

Consent Calendar
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License Holder **License No.** **Site No.** **Surety Amount** **Surety Company or Bank** **DENR Recommendation**

Release of Liability:

Morris Inc. Pierre, SD	83-2	2017	\$20,000	United Fire & Casualty Company W1/2 NW1/4 Section 3; T120N-R73W, Potter County	Release liability.
		2033		Section 20; T13N-R22E, Dewey County	
		2035		W1/2 Section 6; T41N-R36W, Jackson County	
		2037		NE1/4 Section 4; T5N-R6E & SE1/4 Section 33; T6N-R6E, Meade County	
		2045		N1/2 SW1/4 Section 11; T126N-R77W, Campbell County	

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<u>Permit Holder</u>	<u>Permit No.</u>	<u>Surety Amount</u>	<u>Surety Company or Bank</u>	<u>DENR Recommendation</u>
<u>Acceptance of Post Closure Financial Assurance for LAC Minerals (USA), LLC:</u>				
LAC Minerals (USA), LLC Central City, SD	445	\$20,340,567	Fidelity & Deposit Company of Maryland Zurich American Insurance Company	Accept rider to Bond No. 09177703, Fidelity & Deposit Company of Maryland and Zurich American Insurance Company, increasing the Post Closure Financial Assurance amount to \$30,838,220.
<u>Acceptance of Financial Assurance for Wharf Resources (USA), Inc.:</u>				
Wharf Resources (USA), Inc. Lead, SD	356, 434, 435, 464, & 476	\$731,300	United States Fire Insurance Company	Accept rider to Bond No. 612408650, United States Fire Insurance Company, increasing the Financial Assurance amount to \$760,600.