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Minutes of the
Board of Minerals and Environment
Telephone Conference Call Meeting
Matthew Environmental Education and Training Center
523 East Capitol Avenue
Pierre, South Dakota

August 19, 2021
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, Dennis Landguth, Doyle Karpen, Daryl Englund, Bob Morris, Jessica Peterson, and John Scheetz.

BOARD MEMBER ABSENT: None.

OTHERS PRESENT: Mike Lees, Eric Holm, Tom Cline, and Bret Graves.

ELECTION OF OFFICERS: Motion by Blumhardt, seconded by Morris, to nominate Rex Hagg as chairman.

There were no other nominations.

A roll call vote was taken, and the motion carried unanimously.

Motion by Morris, seconded by Karpen, to nominate Glenn Blumhardt as vice chairman.

There were no other nominations.

A roll call vote was taken, and the motion carried unanimously.

Motion by Englund, seconded by Karpen, to nominate Gregg Greenfield as secretary.

There were no other nominations.

A roll call vote was taken, and the motion carried unanimously.

APPROVAL OF MINUTES FROM MAY 20, 2021 MEETING: Motion by Landguth, seconded by Karpen, to approve the minutes from the May 20, 2021, 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, transfers of liability, and releases of liability. (See attachment)

Chairman Hagg asked why the bond amount was reduced from \$20,000 to \$15,000 in the transfer of liability from Dakota Road Builders, Inc. to Carstensen Contracting, Inc.

Mr. Cline responded that Dakota Road Builders, Inc. has several sites in the state of South Dakota, and only one site is being transferred. Minerals and Mining staff determined that, because of the acreage, a \$15,000 surety would be required, and Carstensen Contracting, Inc. opted to go with the \$15,000 surety as opposed to the \$20,000 statewide surety.

Regarding the transfer of liability and release of surety from Coteau Gravel, LLC to Eastman, Inc. Mr. Morris asked why the amount being released for Coteau Gravel, LLC is \$10,000, but the surety amount for Eastman, Inc. is \$1,000.

Mr. Cline stated that Coteau Gravel, LLC had mined an area historically, then reclaimed most of the area because they are looking at getting out of the business. Eastman, Inc. wanted a portion left open so they can continue mining, and the \$1,000 surety amount is for the two acres or less that was left open.

Motion by Blumhardt, seconded by Peterson, to accept the department recommendations for transfer of liability and release of surety, transfers of liability, and releases of liability, as listed on the consent calendar. A roll call vote was taken, and the motion carried unanimously.

UPDATE ON SPYGLASS CEDAR CREEK, LP: Mike Lees reported that in 2012 Spyglass Cedar Creek, LP shut in 40 natural gas wells in Harding County due to a significant decline in the natural gas market.

In 2018 the department issued a Notice of Violation and petitioned the board to revoke Spyglass' 40 drill permits and order forfeiture of Spyglass' surety. Spyglass intervened in the case and proposed a Consent Agreement between the department and Spyglass stipulating Spyglass would post a bond, but Spyglass did not follow through with posting the bond.

In January 2019 the board approved revocation of the Spyglass permits and forfeiture of its bond, authorized the department to pursue additional enforcement actions, and directed the department to present additional enforcement options at the March 2019 board meeting.

In March 2019 the board directed the Attorney General's Office to file civil suit against Spyglass for the maximum penalty provided under SDCL 45-9, which was \$15,494,000. The defendants answered the state's complaint on October 16, 2019, but Spyglass' attorneys subsequently

withdrew from the case. As of November 2019, no scheduling order had been issued by the court.

In April 2021 the State filed a motion to amend the complaint. The defendants have not filed a response to that motion, and the court has not yet ruled on it. The Attorney General's office has not been able to contact the defendants regarding their position on the motion or for scheduling purposes.

In July 2019 the board recommended that the department seek a legislative appropriation to pay for plugging the orphaned wells. In 2020 the department brought Senate Bill 17 to the legislature, and the legislature made a special appropriation of \$727,000 for plugging orphaned wells.

Between October 2020 and May 2021, twenty-one of the 40 wells were plugged including the two deep wells and all the least financially viable wells. In addition to plugging the wells, the compressor station site was reclaimed. Plugging the 21 wells and reclaiming the compressor site cost the state \$301,000.

In January 2021 Highwire Energy Partners, LLC of Evansville, WY leased state minerals associated with 10 of the Spyglass wells and expressed interest in permitting and operating 19 of the Spyglass wells. In response, the department amended the state plugging contract to remove the 19 viable wells from the plugging queue. Highwire Energy Partners has posted a blanket plugging and performance bond and is in the process of procuring mineral leases and permitting the remaining wells.

In response to a question from Mr. Englund, Mr. Lees stated that Highwire Energy Partners, LLC posted a \$110,000 bond. The Minerals and Mining Program negotiated the amount of the bond with Highwire Energy, LLC, and that amount covers 11 of the 19 wells they are interested in. Highwire Energy, LLC has agreed to submit an additional \$10,000 per well up to \$190,000 once they are ready to submit applications for permits for the other wells. Mr. Lees noted that based on the staff's experience with plugging the first 21 wells, that amount would cover the state's expense to plug the wells if Highwire Energy, LLC decided not to continue with production of the wells.

Mr. Morris asked if the 19 remaining wells are all on state-leased land. Mr. Lees answered that not all remaining 19 wells are on state land. Highwire Energy, LLC leased minerals associated with 10 of the wells from the state.

Mr. Morris stated that after plugging the 21 wells, approximately \$400,000 is remaining from the \$727,000 special appropriation. He asked if the special appropriation funds can be used to plug other orphaned wells that the department has identified.

Mr. Lees stated that the special appropriation was not specific as to which natural gas wells the money can be used for. There is one other oil and gas well, which is located in Fall River County, that may be plugged using that special appropriation. He said that is the only other orphaned well that could possibly benefit from the use of those funds.

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Mr. Karpen asked if the forfeited Quartz surety bond was used first to plug the wells, or was the special appropriation used first. Mr. Lees answered that the special appropriation funds were used to plug the 21 Spyglass wells. The \$130,000 forfeited Quartz surety is still available for future use. The legislature gave the board and the department authority to use forfeited surety bonds that were not needed to plug a certain well for other oil and gas wells.

In response to a question from Mr. Greenfield, Mr. Lees stated that the special appropriation funds came from the Petroleum Release Compensation Fund, which is under the Department of Agriculture and Natural Resources, and the department has the authority to spend the money to plug orphaned wells. Money from the special appropriation not used to plug orphaned wells at this time will stay in the fund and can be used in the future.

Chairman Hagg asked how long of a timeline Highwire Energy, LLC will have to do something with the other 9 wells it has expressed interest in before the department decides to plug those wells.

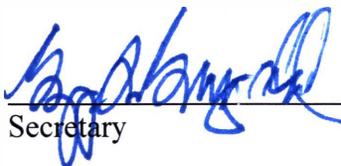
Mr. Lees stated that Highwire Energy, LLC partners has communicated their plan to bring one group of wells online in 2021 and bring the second group of wells online in the spring of 2022. Highwire Energy, LLC has not completed the permitting on any of the wells yet, but they have submitted the \$110,000 surety bond and permit application on seven of the wells with four more pending in the immediate future. The additional eight wells would be permitted sometime late this year or early next year.

Chairman Hagg asked Mr. Lees to request that at the next board meeting the Attorney General's Office report on the status of the motion to amend the complaint and Spyglass' failure to respond. Mr. Lees indicated he will ask Steve Blair, Assistant Attorney General, to report to the board at its next meeting.

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

NEXT MEETING: The next meeting is scheduled for September 16, 2021.

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


Secretary _____
9/16/21
Date


Witness _____
9/9/21
Date

Consent Calendar
South Dakota Board of Minerals & Environment

August 19, 2021

<u>License Holder</u>	<u>License No.</u>	<u>Site No.</u>	<u>Surety Amount</u>	<u>Surety Company or Bank</u>	<u>DENR Recommendation</u>
<u>Transfer of Liability & Release of Surety:</u>					
Coteau Gravel, LLC Sisseton, SD	09-888		\$10,000	Dacotah Bank, Sisseton	Transfer liability and release \$10,000.
		888001	NE1/4 Section 30; T126N-R49W, Roberts County		
Transfer to:					
Eastman Inc. Browns Valley, MN	21-1093		\$1,000	Dacotah Bank, Sisseton	
<u>Transfers of Liability:</u>					
Central Specialties Inc. Alexandria, MN	02-733		\$20,000	Ohio Farmers Insurance Company	Transfer liability.
		733003	NW1/4 Section 35; T129N-R54W, Marshall County		
Transfer to:					
Carlson Crushing & Excavating, LLC Britton, SD	10-904		\$20,000	Norstar Federal Credit Union, Britton	

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<u>Transfers of Liability:</u>					
Dakota Road Builders, Inc. Slayton, MN	83-240		\$20,000	Western Surety Company	Transfer liability.
		240003	N1/2 NW1/4 Section 23 & SE1/4 SW1/4 Section 14; T106N-R49W, Moody County		
Transfer to:					
Carstensen Contracting Inc. Dell Rapids, SD	21-1096		\$15,000	Western Surety Company	
Fisher Sand & Gravel Company Dickinson, ND	83-54		\$20,000	Liberty Mutual Insurance Company	Transfer liability.
		54051	SE1/4 Section 5 & S1/2 Section 4; T102N-R59W, Hanson County		
Transfer to:					
Dakota Constructors Inc. Harrisburg, SD	21-1090		\$20,000	Granite RE, Inc.	

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<u>Transfers of Liability:</u>					
Skeide Graveling Webster, SD	83-13		\$20,000	Dacotah Bank, Webster	Transfer liability.
		13007	NE1/4 Section 13; T122N-R53W, Day County		
Transfer to:					
Webster Scale, Inc. Webster, SD	03-766		\$20,000	AMCO Insurance Company	
Perkins County Highway Department Bison, SD	83-91		EXEMPT	NA	Transfer liability.
		91030	SW1/4 Section 35; T17N-R15E, Perkins County		
Transfer to:					
Darlene Kelly Faith, SD	21-1095		\$1,000	First National Bank, Faith	
<u>Releases of Liability:</u>					
Asphalt Paving & Materials Company Huron, SD	83-159		\$20,000	United Fire & Casualty Company	Release liability.
		159029	SW1/4 Section 22; T108N-R63W, Jerauld County		

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<u>Releases of Liability:</u>					
B & B Contracting Inc. Aberdeen, SD	01-716		\$20,000	North American Specialty Insurance Company	Release liability.
		716003	E1/2 Section 7; T120N-R65W, Spink County		
Bowes Construction, Inc. Brookings, SD	83-164		\$20,000	Hudson Insurance Company	Release liability.
		164016	SE1/4 Section 6; T109N-R49W, Brookings County		
Crusher Investment Company Sioux Falls, SD	83-24		\$20,000	North American Specialty Insurance Company	Release liability.
		24006	NW1/4 NE1/4 Section 36, E1/2 SE1/4 Section 26, & W1/2 SW1/4 Section 25; T102N-R49W, Minnehaha County		
Jensen Rock & Sand Inc. Mobridge, SD	83-112		\$20,000	New Hampshire Insurance Company	Release liability.
		112030	E1/2 Section 36; T122N-R74W, Walworth County		

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<u>Releases of Liability:</u>					
Vickie Kitchell Ipswich, SD	09-879		\$11,500	First State Bank of Roscoe	Release liability.
		879002	NW1/4 Section 23; T122N-R67W, Edmunds County		
Oban Construction LLC Ipswich, SD	83-35		\$20,000	Sun Surety Insurance Company	Release liability.
		35012	NE1/4 Section 10; T117N-R68W, Faulk County		
SD Game, Fish, & Parks Pierre, SD	19-1058		EXEMPT	NA	Release liability.
		1058001	NW1/4 Section 32; T98N-R57W, Hutchinson County		
Hughes County Highway Department Pierre, SD	83-31		EXEMPT	NA	Release liability.
		31020	W1/2 SE1/4 Section 21; T108N-R75W, Hughes County		

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<u>Releases of Liability:</u>					
McCook County Highway Department Salem, SD	83-157		EXEMPT	NA	Release liability.
		157010	NW1/4 Section 11; T104N-R55W, McCook County		
		157013	SW1/4 NW1/4 & SW1/4 Section 22; T103N-R55W, McCook County		
Moody County Highway Department Flandreau, SD	83-182		EXEMPT	NA	Release liability.
		182008	SE1/4 Section 9; T105N-R51W, Lake County		
Spink County Highway Department Redfield, SD	83-115		EXEMPT	NA	Release liability.
		115018	SE1/4 Section 10; T116N-R67W, Hand County		

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