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Minutes of the
Board of Minerals and Environment
Telephone Conference Call Meeting

September 17, 2020
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 the meeting was streaming live on SD.net, a service of South Dakota Public Broadcasting.

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

BOARD MEMBERS ABSENT: None.

OTHERS: Hunter Roberts, Secretary of DENR; Mike Lees, Eric Holm, Tom Cline, Roberta Hudson, Patty McQuay, DENR Minerals and Mining Program; Matt Zietlow, Wharf Resources; Dana Bender, VMC, LLC; Mark Tieszen, LAC Minerals and Homestake Mining Company; Michael Barr, Bentonite Performance Minerals, LLC; Julie Santella, Rapid City; and Tonia Stands, Rapid City.

APPROVAL OF MINUTES FROM AUGUST 20, 2020: Motion by Karpen, seconded by Blumhardt, to approve the minutes of the August 20, 2020, Board of Minerals and Environment meeting. A roll call vote was taken, and the motion carried unanimously.

UPDATE ON DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AND DEPARTMENT OF AGRICULTURE MERGER: Governor Noem has announced that the Department of Agriculture and Department of Environment and Natural Resources will merge to form the South Dakota Department of Agriculture and Natural Resources. The merger will streamline and improve services by capturing some synergies between the two agencies.

Secretary Roberts stated that both agencies have given their budget presentation to the Bureau of Finance and Management. The two budgets will be consolidated for the Governor's budget address in December. In the first five days of the 2021 Legislative Session, Governor Noem will issue an Executive Order to merge the two agencies. The merger becomes complete ninety days after issuance of the Executive Order if the Legislature does not take action.

In response to a question from Mr. Scheetz, Secretary Roberts stated both agencies presently do enforcement, and after the merger the Department of Agriculture and Natural Resources will continue to do enforcement.

Secretary Roberts stated he does not anticipate big changes for the Board of Minerals and Environment as a result of the merger.

Chairman Hagg asked if legislative changes to the statutes will be needed.

Secretary Roberts answered that a lot of the cross referencing, through the Executive Order, will be changed through the Code Commission process, but legislation may be needed to streamline and change some programs.

Chairman Hagg requested that the board be given another update after a detailed plan for the merger is in place.

MINING ISSUES:

Consent Calendar: Prior to the meeting, the board received a table listing the department recommendations for release of surety, release of liability and surety, releases of liability, transfers of liability and releases of surety, and transfers of liability. (see attachment).

Tom Cline, Minerals and Mining Program, presented the consent calendar.

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

BENTONITE PERFORMANCE MINERALS, LLC REQUEST FOR APPROVAL OF ITS SOCIOECONOMIC CONTRACTOR FOR A LARGE-SCALE BENTONITE MINE PERMIT APPLICATION PURSUANT TO SDCL 45-6B-33.1: Eric Holm reported that Bentonite Performance Minerals is requesting board approval of Dr. Michael Madden as its socioeconomic contractor. The company is applying for a large-scale mine permit application for a bentonite mine located approximately two and one-half miles northwest of Belle Fourche, SD.

Under the mining statutes, an applicant for a large-scale mine permit is required to do a socioeconomic impact study and include it in its mine permit application. The law requires the applicant to get board approval for the contractor to conduct the study.

As part of its decision-making process on a mine permit application, the board can consider the socioeconomic impacts of a mining operation. The board can deny a mine permit application if it finds the adverse socioeconomic impacts of the proposed mining operation outweigh the benefits of the operation.

Mr. Holm noted that a copy of a letter from Michael Barr, Bentonite Performance Minerals, LLC, requesting board approval of Dr. Michael Madden as socioeconomic contractor and a copy of Dr. Madden's resume were included in the packet sent to the board prior to the meeting.

Michael Barr from Bentonite Performance Minerals was available to answer questions.

Motion by Blumhardt, seconded by Karpen to approve Dr. Michael Madden as socioeconomic contractor for Bentonite Performance Minerals, LLC, for a large-scale mine permit application pursuant to SDCL 45-6B-33.1. A roll call vote was taken, and the motion carried unanimously.

ORAL MINING REPORTS:

The annual large-scale gold mine oral reports were presented to the board by representatives of VMC, LLC, LAC Minerals, Homestake Mining Company, and Wharf Resources. The operators reported on water treatment, production, and reclamation activities during the past year, and discussed plans for the upcoming year. The annual oral mining presentations are required by statute.

VMC, LLC: Dana Bender reported that no mining activities occurred, but they were now working toward obtaining the necessary county permits for VMC's operation.

LAC Minerals: Mark Tieszen reported that LAC Minerals continues to treat water at the site, and water quality monitoring has confirmed there have been no impacts from the Richmond Hill Mine to Cleopatra Creek.

Homestake Mining Company: Mr. Tieszen provided information on updates to the water treatment system and geotechnical analyses of the site. He also commented on some rock movement within the Open Cut in Lead, SD.

Wharf Resources: Matt Zietlow reported that Wharf continues mining the southern edge of the mine along the Portland Ridge and has completed mining at Golden Reward. After backfilling and reclamation are complete at Golden Reward, the Terry Peak Ski area is looking forward to incorporating portions of the area into the long-term ski plans for Terry Peak.

Each of the mining company representatives answered questions from the board members.

BOARD MEMBER BIOGRAPHIES: Gregg Greenfield and Daryl Englund provided personal biographies.

NEXT MEETING: The next meeting is scheduled for November 19, 2020.

PUBLIC COMMENT PERIOD: Julie Santella commented on concerns regarding proposed exploration at Wharf Resources and the continuing issues at Richmond Hill.

Mr. Zietlow stated that Wharf Resources and the state are aware of the ARD challenges that developed when Richmond Hill was in operation, but that geology is not in the exploration target area. The exploration work is focused generally above that area in oxidized material. DENR requires Wharf to monitor the fluids from the drilling to make sure there are no pH issues, and, to date, there have been no issues.

Tonia Stands asked how many of these companies have notified the tribes about their projects.

Roberta Hudson, Minerals and Mining Program, stated that when a company applies for a mine permit, there is no requirement for consultation with the tribes. She said the State Historical Preservation Office (SHPO) may consult with the tribes during their review, but there is no requirement in statute.

Ms. Stands said that is a huge problem because SHPO does not participate in some of the cultural practices, so to not include the tribes is a highly racial decision to make. She stated that the issue needs to be addressed.

Chairman Hagg suggested that Ms. Stands contact DENR or the legislator in her area regarding this matter.

Ms. Hudson stated that public notices of large-scale mine permit applications are published in the newspapers and anyone can submit comments or file a petition to intervene.

Mr. Holm noted that the public notices and other information regarding permit applications are also included on the department's website.

Mr. Scheetz stated that if the site that is going to be mined is adjacent to public lands or is done with public money, the project would fall under the National Environmental Policy Act (NEPA), which requires consultation with the tribes. He said the tribes must be involved if tribal land or federal land is involved with the permitting action. A public notice in the newspaper is required for permits on private land and private money.

ADJOURN: Motion by Morris, seconded by Karpen, that the meeting be adjourned. A Roll call vote was taken, and the motion carried unanimously.

Secretary

Date

Witness

Date

Consent Calendar
South Dakota Board of Minerals & Environment

September 17, 2020

<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>Release of Surety:</u>					
James Reynolds Sioux Falls, SD	16-1003		\$2,000	First National Bank, Sioux Falls	Release \$2,000.
<u>Release of Liability & Surety:</u>					
Loren De Jong Kimball, SD	92-438	438001	\$1,000	United Fire & Casualty Company NE1/4 Section 15; T105N-R68W, Brule County	Release liability and \$1,000.
Kenneth Kloucek Scotland, SD	83-170	170001	\$1,000	Security State Bank, Tyndall NW1/4 Section 22; T95N-R58W, Bon Homme County	Release liability and \$1,000.
<u>Release of Liability:</u>					
Ken Engel Hamill, SD	94-517	517002	\$1,000	First Fidelity Bank, Winner SE1/4 Section 8; T100N-R74W, Tripp County	Release liability.

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<u>Release of Liability:</u>					
Northern Plains, LLC Winner, SD	98-634	634003	\$2,000 \$500	First National Bank, Pierre Sentinel Federal Credit Union, Box Elder	Release liability.
			Lots 1, 2, 3, 4, & the rest of Section 8; T100N-R73W, Gregory County		
Walworth County Highway Department Selby, SD	83-7	7032	EXEMPT	NA	Release liability.
			SW corner of NW1/4 Section 5; T123N-R78W, Walworth County		

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<u>Transfer of Liability & Release of Surety:</u>					
Sibson Gravel LLC Steamboat Springs, CO	08-857		\$1,500	The Buffalo Ridge Bank, Beardsley, MN	Transfer liability and release \$4,500.
			\$3,000	Frandsen Bank & Trust, Clinton, MN	
		857001	Section 14; T121N-R50W, Grant County		
		857002	Section 22; T121N-R47W, Grant County		
		857003	Section 1; T127N-R76W, Campbell County		
Transfer to:					
CT Sibson Gravel & Crushing, Inc. Beardsley, MN	19-1054		\$20,000	Frandsen Bank & Trust, Clinton, MN	
R & L Wright Enterprises Inc. Elkton, SD	15-987		\$1,500	Dacotah Bank, Webster	Transfer liability and release \$1,500.
		987001	NW1/4 Section 1; T123N-R53W, Day County		
Transfer to:					
Theodore Wasilk Waubay, SD	20-1078		\$2,000	Minnwest Bank, Summit	

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<u>Transfer of Liability:</u>					
Myrl & Roy's Paving Inc. Sioux Falls, SD	83-95		\$20,000	Great American Insurance Company	Transfer liability.
		95011	Lots 1, 3, & 4 of Royal Wood Addition in SW1/4 Section 27; T101N-R48W, Minnehaha County		
		95013	NW1/4 SE1/4, NE1/4 SW1/4, plus Tr. 6 & 7 NW1/4 Section 11; T101N-R49W, Minnehaha County		
		95018	W. 1534.04' of S. 1703.78' SE1/4 Section 27; T101N-R48W, Minnehaha County		
		95023	SW1/4 Section 9; T101N-R50W, Minnehaha County		
Transfer to:					
L.G. Everist Inc. & Subsidiaries Sioux Falls, SD	83-37		\$20,000	The Aetna Casualty & Surety Company	

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<u>Transfer of Liability:</u>					
Myrl & Roy's Paving Inc. Sioux Falls, SD	83-95		\$20,000	Great American Insurance Company	Transfer liability.
		95001	SW1/4 NW1/4 Section 8; T101N-R50W, Minnehaha County		
		95003	SW1/4 NE1/4 & S1/2 SE1/4 NE1/4 Section 16; T101N-R50W, Minnehaha County		
		95010	SE1/4 SE1/4 Section 8; T101N-R50W, Minnehaha County		
		95014	Tr. B SE1/4 Section 17; T98N-R48W, Lincoln County		
		95015	NE1/4 Section 2; T101N-R49W, Minnehaha County		
		95020	NE1/4 Section 8; T101N-R50W, Minnehaha County		
		95026	NE1/4 Section 16; T106N-R52W, Lake County		
Transfer to:					
TCB LLC Sioux Falls, SD	20-1080		\$20,000	First National Bank, Sioux Falls	

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<u>Transfer of Liability:</u>					
Turtle Creek Construction LLC Redfield, SD	09-877		\$20,000	Lexon Insurance Company	Transfer liability.
		877002	Section 35; T116N-R70W, Hand County		
Transfer to: Brownlee Construction, Inc. Watertown, SD	89-393		\$20,000	United Fire & Casualty Company	