



Board of Minerals and Environment

523 East Capitol Avenue
Pierre, South Dakota 57501-3182
(605)773-3151 Fax: (605)773-4068

Live audio of the meeting is available at <http://www.sd.net>

AGENDA

Board of Minerals and Environment
Telephone Conference Call Meeting
DANR Large Conference Room
523 East Capitol Avenue
Pierre, South Dakota

June 16, 2022

10:00 a.m. Central Time

10:00 a.m. Call to order and roll call

Approval of minutes of the May 19, 2022, meeting

Mining Issues

Consent Calendar – Tom Cline

VMC oral mining report

Transfer of Exploration Notices of Intent EXNI-424, 439, & 440 from Dakota Territory Resource Corp to DTRC LLC – Roberta Hudson

Public comment period in accordance with SDCL 1-25-1

Next meeting

Adjourn

Interested parties who wish to participate may do so by contacting Brenda Binegar at (605) 773-3886 no later than 4:00 p.m. Central Time on Wednesday, June 15, 2022. Interested parties may also participate in person in the DANR Large Conference Room, 523 East Capitol Avenue, Pierre, SD.

The board packet is available on the Boards and Commissions Portal at <https://boardsandcommissions.sd.gov/Meetings.aspx?BoardID=67>

Notice is given to individuals with disabilities that the meeting is being held in a physically accessible location. Please notify the Department of Agriculture and Natural Resources by calling (605) 773-5559 at least 48 hours prior to the meeting if you have a disability for which special arrangements are required.

The audio recording for this meeting is available on the South Dakota Boards and Commissions Portal at <http://boardsandcommissions.sd.gov/Meetings.aspx?BoardID=67>

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

<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>					
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	
<u>Release of Liability:</u>					
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
South Dakota Board of Minerals & Environment

May 19, 2022

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

Release of Liability:

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

May 19, 2022

<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.

Consent Calendar
South Dakota Board of Minerals & Environment

June 16, 2022

<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>					
Hilde Pipe & Gravel Inc. Madison, SD	83-71		\$20,000	Auto-Owners Insurance	Transfer liability and release \$20,000.
Transfer to: Reynolds Construction Management Sioux Falls, SD	22-1107	71001		N1/2 NE1/4 Section 27, SE1/4 Section 22, & SW1/4 SW1/4 Section 23; T106N-R52W, Lake County	
<u>Transfer of Liability:</u>					
LG Everist Inc. & Subsidiaries Sioux Falls, SD	83-37		\$20,000	North Atlantic Specialty Insurance Company	Transfer liability.
Transfer to: LG Everist Inc. & Subsidiaries Sioux Falls, SD	83-37	37017		The Aetna Casualty & Surety Company	Transfer liability.
			\$20,000	The Aetna Casualty & Surety Company	Transfer liability.
			\$20,000	The Aetna Casualty & Surety Company	Transfer liability.

***Consent Calendar
South Dakota Board of Minerals & Environment***

June 16, 2022

<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:</u>					
Lien Transportation Company Aberdeen, SD	84-257		\$20,000	Western Surety Company	Transfer liability.
		257005	NE1/4 Section 13; T122N-R53W, Day County		
		257006	SE1/4 Section 11; T122N-R53W, Day County		
Transfer to: Earl or Dwight Althoff Waubay, SD	18-1041		\$20,000	First Savings Bank, Waubay	
<u>Release of Liability:</u>					
Halme Inc. Lake Norden, SD	16-1011		\$20,000	Travelers Casualty & Surety Company of America N1/2 SE1/4 Section 24; T113N-R54W, Hamlin County	Release liability.
Beadle County Highway Department Huron, SD	83-76		EXEMPT	NA	Release liability.
		76007	E1/2 Section 22; T112N-R63W, Beadle County		

*Consent Calendar
South Dakota Board of Minerals & Environment*

<i>June 16, 2022</i>					
<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 Liability:</u> Lyman County Highway Department	83-215	215014	EXEMPT	NA	Release liability.
			NW1/4 Section 36;	T43N-R26W,	Mellette County

South Dakota Board of Minerals & Environment

June 16, 2022

DENR Recommendation

Surety Company or Bank

Surety Amount

Permit No.

Permit Holder

Transfer of Exploration Notices of Intent EXNI-424, 439, & 440:

Dakota Territory Resource Corp
Lead, SD

\$20,000

First Interstate Bank, Deadwood

Transfer liability and release CD No. 8201000704, First Interstate Bank, Deadwood, in the amount of \$20,000. Accept CD No. 8701000503, First Interstate Bank, Lead, in the amount of \$20,000.

EXNI-424

Portions of Sections 20 & 21; T5N-R3E, Lawrence County

EXNI-439

Portions of Section 18; T5N-R3E & Section 13; T5N-R2E, Lawrence County

EXNI-440

Portions of Sections 14, 15, 22, & 23; T5N-R2E, Lawrence County

Transfer to:

DTRC LLC
Lead, SD

\$20,000

First Interstate Bank, Lead