



Board of Minerals and Environment

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

AGENDA

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

Board of Minerals and Environment
Matthew Environmental Education and Training Center
523 East Capitol Avenue
Pierre, South Dakota

May 15, 2019
10:00 a.m. Central Time

Scheduled times are estimates only. Agenda items may be delayed due to prior scheduled items.

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

Approval of minutes from April 18, 2019, meeting

Mining issues

- Consent Calendar – Tom Cline
- Acceptance of Financial Assurance Increase for Wharf Resources (USA), Inc., Permits 356, 464, & 476 – Eric Holm
- Annual Update of Preliminary List of Special, Exceptional, Critical, or Unique Lands – Eric Holm

Request permission to advertise for a public hearing to consider amendments to ARSD 74:28, Hazardous Waste – Carrie Jacobson

10:15 a.m.

Oral Mining Reports

LAC Minerals	10:15 – 10:30
Homestake Mining Company	10:30 – 10:45
Wharf Resources	10:45 – 11:00
VMC, LLC	11:00 – 11:05
Gilt Edge Superfund Site	11:05 – 11:35

Grizzly Gulch Tailings Dam – Eric Holm (DENR) and Mark Tieszen (Homestake)

11:45 a.m.

Spyglass Cedar Creek, LP's Revoked Permits - Status of Spyglass wells, summary of enforcement options for addressing unplugged wells – Rich Williams, Deputy Attorney General

Public comment period

Next Meeting

Adjourn

Notice is given to individuals with disabilities that this meeting is being held in a physically accessible location. Please notify the Department of Environment 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
Matthew Environmental Education and Training Center
523 East Capitol Avenue
Pierre, South Dakota

April 18, 2019
10:00 a.m. Central Time

CALL TO ORDER: The meeting was called to order by Chairman Rex Hagg at 10:12 a.m. 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, and Bob Morris.

BOARD MEMBER ABSENT: Daryl Englund, John Scheetz, and Jessica Peterson.

OTHERS PRESENT: Mike Lees, Lucy Blocker, Patty McQuay, and Eric Holm, DENR; Bob Mercer, newspaper reporter.

APPROVAL OF MINUTES FROM MARCH 21, 2019, MEETING: Bob Morris requested the following change in the second to last paragraph on page 5:

Bob Morris stated that he would continue recusal over any quasi-judicial discussion regarding Spyglass, but he would participate in any future the bonding and policy discussion.

Motion by Morris, seconded by Landguth, to approve the minutes from the March 21, 2019, Board of Minerals and Environment meeting, as amended. A roll call vote was taken, and the motion carried unanimously.

SPYGLASS CEDAR CREEK, LP'S REVOKED PERMITS - STATUS OF SPYGLASS WELLS, SUMMARY OF ENFORCEMENT OPTIONS FOR ADDRESSING UNPLUGGED WELLS: Assistant Attorney General Steve Blair reported that the Office of Attorney General is still researching whether the forfeited \$130,000 Quartz Operations bond can be spent for plugging some of the Spyglass wells, therefore, the Attorney General has not come to a conclusion regarding the use of those funds for any Spyglass activities.

The board voted March 21 to levy a \$15,494,000 civil penalty against Spyglass Cedar Creek, Limited Partnership. Mr. Blair stated that the enforcement action is expected to be filed before the next Board of Minerals and Environment meeting.

Bob Morris asked that the record reflect that he would continue recusal over any quasi-judicial discussion regarding Spyglass, but he would participate in any future bonding and policy discussion.

Chairman Hagg requested board action.

Motion by Karpen, seconded by Landguth, to defer the Spyglass Cedar Creek LP revoked permits matter to the May board meeting. A roll call vote was taken, and the motion carried with Blumhardt, Greenfield, Karpen, Landguth, and Hagg voting aye. Morris abstained.

NEXT MEETING: Chairman Hagg noted that he had a conflict with the May 16 meeting date. There was consensus among the board members to hold the next board meeting on Wednesday, May 15, 2019, in Pierre.

PUBLIC COMMENT PERIOD: There were no public comments.

ADJOURN: Motion by Blumhardt, 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

May 15, 2019

<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>Transfers of Liability:</u>					
McLaughlin & Schulz, Inc. Marshall, MN	83-5		\$20,000	Merchants Bonding Company	Transfer liability.
		5004	N1/2 NE1/4 Section 33; T117N-R52W, Codington County		
Transfer to:					
J & J Earth Works, Inc. Milbank, SD	17-1017		\$20,000	Western Surety Company	
Van Zee Gravel & Construction Platte, SD	83-223		\$8,000	Bank of the West, Platte	Transfer liability.
		223001	SE1/4 SW1/4 Section 31; T101N-R65W, Aurora County		
Transfer to:					
Ringling Gravel & Construction LLC Platte, SD	19-1048		\$3,500	First Dakota National Bank, Chamberlain	

South Dakota Board of Minerals & Environment

May 15, 2019

<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 Financial Assurance Increase for Wharf Resources (USA), Inc.:</u>				
Wharf Resources (USA), Inc. Lead, SD	356, 464, & 476	\$669,200	Aspen American Insurance Company	Accept rider to Bond No. SU27832, Aspen American Insurance Company, increasing the bond by \$20,100 to the new amount of \$689,300.

Board of Minerals and Environment
Notice of Public Hearing to Amend Rules

A public hearing will be held in the Floyd Matthew Environmental Education and Training Center, 523 East Capitol Avenue, Pierre, South Dakota, on July 18, 2019, at 10:00 a.m. Central Daylight Time, to consider the adoption and amendment of proposed rules, numbered:

§§ 74:28:21:01; 74:28:21:02; 74:28:22:01; 74:28:23:01; 74:28:24:01; 74:28:25:01; 74:28:25:03; 74:28:25:04; 74:28:25:05; 74:28:26:01; 74:28:27:01; 74:28:28:01; 74:28:28:03; 74:28:28:04; 74:28:28:05; 74:28:30:01; 74:28:33:01

The effect of the rules will be to update the state's existing hazardous waste rules by incorporating updated, codified and final federal regulations by reference. The state's proposed rules reflect changes made to the federal hazardous waste regulations from July 1, 2016 through June 30, 2018 as well as final rules published on November 30, 2018 and February 22, 2019. Once these updates are made, the state's rules will then be substantially the same as the federal hazardous waste regulations. Changes to the rules include increasing regulatory flexibility and understandability of rules applicable to hazardous waste generators; establishing a methodology for the use of electronic manifests (e-Manifests); establishes procedures for managing and disposing of defective airbag inflators; provides healthcare facilities and pharmacies practical management and disposal options for hazardous waste pharmaceuticals; includes revisions to requirements involving imports and exports of hazardous wastes; and incorporates technical and typographical corrections that were made in the federal regulations.

The reason for updating the state's hazardous waste rules is to continue to ensure that companies generating, transporting, treating, storing or disposing of hazardous waste in South Dakota manage those wastes in a way that is protective of human health and the environment. These proposed rules offer clarified requirements for the state's hazardous waste generators and ensures safe, expeditious management of defective airbags, hazardous waste pharmaceuticals, and increased efficiency using the e-Manifest system. The proposed updates also enable the state to keep pace with changes made in the federal hazardous waste regulations.

Persons interested in presenting data, opinions, and arguments for or against the proposed rules may do so by appearing in person at the hearing or by sending them to the South Dakota Department of Environment and Natural Resources, Waste Management Program, Joe Foss Building, 523 East Capitol Avenue, Pierre, South Dakota 57501-3182. A copy of the draft rules and access to online commenting are also available at: <http://denr.sd.gov/public/default.aspx>. Electronic comments and those sent by mail must reach the Department by July 15, 2019 to be considered.

At the hearing, the board will consider all written and oral comments it receives on the proposed rules. The board may modify or amend a proposed rule at that time to include or exclude matters that are described in this notice.

Notice is further given to individuals with disabilities that this hearing is being held in a physically accessible place. Individuals needing assistance, pursuant to the Americans with Disabilities Act, should contact the Department of Environment and Natural Resources at 605-773-3153 at least 48 hours before the public hearing to make any necessary arrangements.

Copies of the proposed rules may be obtained without charge by calling Carrie Jacobson at (605) 773-3153 or from the following website: <http://denr.sd.gov/des/wm/hw/hwmainpage.aspx>

Steven M. Pirner, Secretary
Department of Environment and Natural Resources