



Board of Minerals and Environment

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

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

AGENDA

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

November 16, 2023

10:00 a.m. Central Time

Call to order and roll call

Approval of minutes from October 19, 2023, meeting

Mining Issues Consent Calendar – Tom Cline

Transfer of Large Scale Mine Permit 445 from LAC Minerals (USA), LLC to Homestake Mining Company – Eric Holm

Acceptance of post closure financial assurance for Homestake Mining Company's Mine Permit Nos. 332 and 456 – Eric Holm

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

Bob Ewing oral biography

Next meeting – January 18, 2024

Adjourn

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

Interested parties may participate via telephone or in the DANR Large Conference Room, 523 East Capitol Avenue, Pierre, SD. To participate via telephone please contact DANR at (605) 773-3886 no later than 4:00 p.m. Central Time on Wednesday, November 15, 2023.

Notice is given to individuals with disabilities that the meeting is being held in a physically accessible location. Individuals requiring assistive technology or other services in order to participate in the meeting or materials in an alternate format should contact Brian Walsh, Nondiscrimination Coordinator, by calling (605) 773-5559 or by email at Brian.Walsh@state.sd.us as soon as possible but no later than two business days prior to the meeting in order to ensure accommodations are available.

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

October 19, 2023
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.

The meeting was streaming live on SD.net, a service of South Dakota Public Broadcasting.

Chairman Hagg welcomed new board members Laurie Schultz and Bob Ewing.

BOARD MEMBERS PRESENT: Rex Hagg, Glenn Blumhardt, Gregg Greenfield, Gary Haag, and Doyle Karpen participated via telephone conference call. Laurie Schultz and Bob Ewing participated in-person.

BOARD MEMBERS ABSENT: Jessica Peterson and Bob Morris.

OTHERS PRESENT: Mike Lees, Roberta Hudson, Eric Holm, and Bret Graves, DANR Minerals, Mining, and Superfund Program; Mark Tieszen and Jeff Burich, Homestake Mining Company; Jennifer Henson, Bentonite Performance Minerals LLC; Heath Byrd, SWCA Environmental Consultants; Matt Clark and Darci Haug, State Investment Council; and Samantha Keeran, Bureau of Land Management.

APPROVAL OF MINUTES FROM AUGUST 17, 2023, MEETING: Motion by Blumhardt, seconded by Karpen, to approve the minutes from the August 17, 2023, 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 copy of the consent calendar, which is a table listing the department recommendations for releases of liability and surety, transfer of liability and release of surety, transfer of liability, and releases of liability. (See attachment)

Bret Graves, Minerals, Mining, & Superfund Program, was available to answer questions. There were no questions from the board.

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

BENTONITE PERFORMANCE MINERALS LLC'S 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 SWCA Environmental Consultants as its socioeconomic contractor. The company is applying for a large-scale mine permit for a bentonite mine located approximately seven 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 the 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.

A copy of SWCA's Statement of Qualifications was included in the packet that was sent to the board prior to the meeting.

Jennifer Henson from Bentonite Performance Minerals and Heath Byrd from SWCA Environmental Consultants were available to answer board questions.

Chairman Hagg asked Jennifer Henson if they have done prior socioeconomic studies in South Dakota. She said that socioeconomic studies had been conducted for Bentonite Performance Minerals' Permit 481 and Permit 482, the Purple and Killinger mines in 2014. These two permits are now in the reclamation phase.

There were no other questions from the board. Chairman Hagg requested board action.

Motion by Blumhardt, seconded by Haag, to approve SWCA Environmental Consultants as the socioeconomic contractor for Bentonite Performance Minerals, LLC. A roll call vote was taken, and the motion carried unanimously.

FIVE-YEAR UPDATE OF HOMESTAKE MINING COMPANY'S POST CLOSURE BOND FOR MINE PERMITS 332 AND 456: Board member Ewing, who is a Lawrence County commissioner, stated that Homestake recently gave a presentation to the county commission. Mr. Ewing asked if that creates a conflict of interest for him.

Chairman Hagg said he believes Mr. Ewing being a member of the county commission does not create a conflict, but if Mr. Ewing had testified on behalf of Homestake outside of his official capacity that would create a conflict of interest. Chairman Hagg said he was fine with Mr. Ewing participating in the Homestake post closure bond matter.

Eric Holm presented the five-year update of Homestake Mining Company's post closure bond for Permits 332 and 456.

In May 2006 the Board of Minerals and Environment approved a 100-year post closure period for Homestake and required five-year reviews of the post closure financial assurance for Mine Permits 332 and 456. Previous reviews took place in 2012 and 2017.

In 2022 DANR reviewed and recalculated Homestake's post closure financial assurance during that review period. The post closure bond covers water management and treatment, monitoring, and maintenance of post closure areas.

Staff took a hard look at inflation and discount rates used in the present worth analysis of the calculation. The concerns were over current high inflation rates and whether appropriate discount rates are being used in the calculation. In November 2022, Homestake asked Barrick's financial advisor, Verus, to analyze inflation and discount rates. In February 2023 Verus submitted an analysis recommending that a 2.3 percent inflation rate and a five percent discount rate be used for the present worth analysis. The current bond uses a five percent discount rate and a three percent inflation rate.

DANR asked the South Dakota State Investment Council to review the Verus analysis. The State Investment Council disagreed with Verus' 2.3 percent inflation rate based on the Consumer Price Index (CPI). During their research, the State Investment Council found that reclamation and water treatment inflation has historically exceeded CPI by one percent. After their analysis, the State Investment Council recommended a 3.3 percent inflation rate.

Darci Haug, State Investment Council, provided information regarding industry specific inflation data alternatives the State Investment Council reviewed for the Homestake post closure bond calculation.

Mr. Holm stated that the State Investment Council found that the five percent discount rate is not feasible without taking a credit risk for which there is no backstop. Any forfeited financial assurance is placed into the Cash Flow Fund in the State Treasury. Under SDCL 4-5-28, there are certain policies that are listed that the State Investment Council has to follow when it invests money that is placed in the Cash Flow Fund. The State Investment Council has to not only weigh the return of the investment but also the amount of risk that is involved in that particular investment.

The State Investment Council looked at a 30-year US Treasury Bond rate at the end of February 2023, which was four percent and had a lower credit risk. The State Investment Council recommended a four percent discount rate.

Matt Clark, State Investment Council, provided information regarding the reasons the State Investment Council recommended the four percent discount rate.

Mr. Holm reported that on March 28, 2023, a Teams meeting took place between DANR, the South Dakota State Investment Council, Homestake and Verus to discuss the State Investment Council's review of the Verus analysis. Following the meeting, DANR informed Homestake

that the State Investment Council's four percent discount rate and 3.3 percent inflation rate would be used.

On April 13, 2023, DANR sent Homestake a revised post closure financial assurance calculation using the four percent discount rate and 3.3 percent inflation rate. Homestake requested another look at the inflation and discount rates. DANR honored the request with the provision that Homestake respond to the department by July 31, 2023.

On July 25, 2023, Homestake requested that the discount rate be changed to 4.2 percent and that the inflation rate be changed to three percent with the provision that the inflation and discount rates be reviewed every three years. The South Dakota Investment Council reviewed and agreed to Homestake's request.

Mr. Holm requested approval of an update to Homestake's post closure financial assurance, using the 4.2 percent discount and three percent inflation rates. The period of post closure has been reduced to 83 years and ends in 2105. Credit was given to Homestake for activities completed up to year 17. Homestake's actual water treatment and maintenance costs were used in the calculation for the financial assurance amount.

The updated financial assurance for 2023 is \$80,201,732. The current financial assurance is \$61,271,809. For 2023, additional financial assurance in the amount of \$18,929,923 is needed. The reasons for the large increase are the reduction of the discount rate from five percent to 4.2 percent which resulted in approximately \$17.5 million of the increase. Also, increases in, labor, heavy equipment, seed, water treatment, water sampling and analysis costs due to inflation contributed to the increase.

The post closure financial assurance assumptions were based on perpetual water treatment calculations which were developed by other state and federal agencies. A present worth analysis of annual costs was applied and adjusted for inflation. The post closure bond is the sum of all the present worths. Mr. Holm noted that water treatment ends in adjusted year 83 based on modeling results.

Annual operation and maintenance costs include the East Waste Rock Depository slope and road maintenance, the Open Cut East Waste Dump stability monitoring, a site caretaker and water sampler, weed control, a vehicle every 10 years, and vehicle fuel and maintenance.

In year 2091 (adjusted post closure year 69), there is a \$1,000,000 contingency to cover water treatment in the Open Cut. Based on the current model, the Open Cut would eventually fill with water if the underground lab ever shut down. The model indicates that water quality will be good and will not require treatment. However, DANR wanted the \$1,000,000 contingency to cover water treatment in the year 2091, in the event it is needed.

Mr. Holm also discussed the operation and maintenance annual indirect costs, water treatment costs and indirect costs, annual monitoring costs and indirect costs, and office costs and indirect costs.

Consent Calendar
South Dakota Board of Minerals & Environment

October 19, 2023

<u>License Holder</u>	<u>License No.</u>	<u>Site No.</u>	<u>Surety Amount</u>	<u>Surety Company or Bank</u>	<u>DANR Recommendation</u>
<u>Release of Liability & Surety:</u>					
Kilby Trucking Faith, SD	02-749	749001	\$500	State Bank of Eagle Butte, Eagle Butte S1/2 Section 12; T8N-R14E, Meade County	Release liability and \$500.
Floyd Morrison Mitchell, SD	06-827	827001	\$500 \$500	Palace City Federal Credit Union, Mitchell Fulton State Bank, Mitchell N1/2 Section 22 & N1/2 Section 23; T104N-R60W, Davison County	Release liability and \$1,000.
John Oban Roscoe, SD	03-769	769001	\$500	First National Bank, Pierre NE1/4 Section 9; T122N-R73W, Edmunds County	Release liability and \$500.
William J. Sutton Burke, SD	06-830	830001	\$1,000	First Fidelity Bank, Burke SE1/4 Section 12; T97N-R70W, Gregory County	Release liability and \$1,000.

Consent Calendar
South Dakota Board of Minerals & Environment

October 19, 2023

<u>License Holder</u>	<u>License No.</u>	<u>Site No.</u>	<u>Surety Amount</u>	<u>Surety Company or Bank</u>	<u>DANR Recommendation</u>
<u>Release of Liability & Surety:</u>					
Matthew R. Vogel Aberdeen, SD	13-956		\$1,000	First State Bank, Aberdeen	Release liability and \$1,000
		956001	SW1/4 Section 18; T121N-R64W, Brown County		
<u>Transfer of Liability & Release of Surety:</u>					
Gregory Schimkat Naperville, IL	11-927		\$1,000	Farmers State Bank, Marion	Transfer liability and release \$1,000.
		927001	E1/2 Section 20; T100N-R53W, Turner County		
Transfer to:					
Rechnagel Construction, Inc. Hurley, SD	83-135		\$20,000	United Fire & Casualty Company	
<u>Transfer of Liability:</u>					
Lyman County Highway Department Kennebec, SD	83-215		EXEMPT	NA	Transfer liability.
		215008	SW1/4 Section 21; T106N-R71W, Lyman County		
Transfer to:					
Cherie & Cody Lafferty Reliance, SD	93-480		\$3,500	BankWest, Gregory	

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October 19, 2023

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<u>Release of Liability:</u>					
Bawek Construction Grenville, SD	83-121		\$20,000	Bank of Hoven, Conde	Release liability.
		121003	W1/2 SW1/4, SE1/4 SW1/4 Section 10; T120N-R59W, Day County		
		121005	NW1/4 Section 12; T119N-R59W, Clark County		
Fisher Sand & Gravel Company Dickinson, ND	83-54		\$20,000	Liberty Mutual Insurance Company	Release liability.
		54030	W1/2 NW1/4 Section 19; T8N-R6E, Butte County		
Wayne Swenson Watertown, SD	01-715		\$2,000	DNB National Bank, Clear Lake	Release liability.
		715001	NE1/4 SE1/4 Section 9; T117N-R50W, Deuel County		
Miner County Highway Department Howard, SD	83-177		EXEMPT	NA	Release liability.
		177022	S1/2 Section 15; T105N-R57W, Miner County		

South Dakota Board of Minerals & Environment

October 19, 2023

<u>Permit Holder</u>	<u>Permit No.</u>	<u>Surety Amount</u>	<u>Surety Company or Bank</u>	<u>DANR Recommendation</u>
<u>Five-Year Update of Post Closure Financial Assurance:</u>				
Homestake Mining Company Central City, SD	332 & 456	\$61,271,809	Federal Insurance Company	Increase the Post Closure bond amount to \$80,201,732.

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Consent Calendar
South Dakota Board of Minerals & Environment

November 16, 2023

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<u>Release of Liability & Surety:</u>					
Thomas Maher Pierre, SD	00-699		\$2,000	First National Bank, Pierre	Release liability and \$2,000.
		699001	S1/2 Section 18; T110N-R77W, Hughes County		
<u>Transfer of Liability:</u>					
Dawson Construction Inc. Howard, SD	83-21		\$20,000	Sun Surety Insurance Company	Transfer liability.
		21019	NE1/4 Section 28; T105N-R55W, Miner County		
Transfer to:					
Shannon Hutterian Brethren Inc. Winfred, SD	23-1130		\$2,000	Rivers Edge Bank, Howard	
Rogers Construction Inc. Sturgis, SD	15-988		\$20,000	United Fire & Casualty Company	Transfer liability.
		988007	NW1/4 Section 22; T4N-R8E, Meade County		
Transfer to:					
Meade County Highway Department Sturgis, SD	83-113		EXEMPT	N/A	

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<u>Transfer of Liability:</u>					
Lyman County Highway Department Kennebec, SD	83-215		EXEMPT	NA	Transfer liability.
		215005	NW1/4 Section 10; T103N-R74W, Lyman County		
Transfer to:					
Dave Hieb Chamberlain, SD	23-1129		\$1,000	First Dakota National Bank	
Roberts County Highway Department Sisseton, SD	83-23		EXEMPT	NA	Transfer liability.
		23005	NE1/4 Section 21; T124N-R52W, Roberts County		
Transfer to:					
Fisher Sand & Gravel Company Dickinson, ND	83-54		\$20,000	Liberty Mutual Insurance Company	

Consent Calendar
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<u>Release of Liability:</u>					
Fisher Sand & Gravel Company Dickinson, ND	83-54		\$20,000	Liberty Mutual Insurance Company	Release liability.
		54072	NE1/4 Section 7; T17N-R10E, Perkins County		
		54081	SE1/4 Section 14; T100N-R67W, Charles Mix County		
		54108	SE1/4 Section 29; T22N-R27E, Corson County		
DOT – Aberdeen Region Aberdeen, SD	83-10		EXEMPT	NA	Release liability.
		10007	NE1/4 Section 9; T122N-R73W, Edmunds County		
Edmunds County Highway Department Ipswich, SD	83-161		EXEMPT	NA	Release liability.
		161003	NE1/4 Section 9; T122N-R73W, Edmunds County		

Consent Calendar
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November 16, 2023

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<u>Release of Liability:</u>					
Lake County Highway Department Madison, SD	83-70		EXEMPT	NA	Release liability.
		70004	Lake County Sublots 2-3 NE1/4 Section 3; T105N-54W, Lake County		
Roberts County Highway Department Sisseton, SD	83-23		EXEMPT	NA	Release liability.
		23010	NE1/4 Section 11; T125N-R51W, Roberts County		
Walworth County Highway Department Selby, SD	83-7		EXEMPT	NA	Release liability.
		7025	SW1/4 Section 4; T121N-R77W, Walworth County		
		7027	W1/2 SE1/4 Section 10; T121N-R74W, Walworth County		

South Dakota Board of Minerals & Environment

November 16, 2023

<u>Permit Holder</u>	<u>Permit No.</u>	<u>Surety Amount</u>	<u>Surety Company or Bank</u>	<u>DANR Recommendation</u>
<u>Transfer of Large Scale Mine Permit 445:</u>				
LAC Minerals (USA), LLC Central City, SD	445	Reclamation Bond \$61,100	Fidelity & Deposit Company of Maryland	Transfer Permit 445 and liability from LAC Minerals (USA), LLC to Homestake Mining Company of California. Accept rider to Bond No. 09177704, Fidelity & Deposit Company of Maryland, changing the Principal from LAC Minerals (USA) LLC to Homestake Mining Company of California.
		Post Closure Bond \$31,596,628	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, changing the Principal from LAC Minerals (USA) LLC to Homestake Mining Company of California.
		Sections 10, 11, 14, 15, 22, 23, 26, & 35; T5N-R2E, Lawrence County		
Transfer to:				
Homestake Mining Company of California Salt Lake City, UT				

South Dakota Board of Minerals & Environment

November 16, 2023

<u>Permit Holder</u>	<u>Permit No.</u>	<u>Surety Amount</u>	<u>Surety Company or Bank</u>	<u>DANR Recommendation</u>
<u>Acceptance of Post Closure Financial Assurance:</u>				
Homestake Mining Company of California Salt Lake City, UT	332 & 456	\$61,271,809	Federal Insurance Company	Accept rider to Bond No. 82336310, Federal Insurance Company, increasing the Post Closure Financial Assurance amount to \$80,201,732.