

**DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES
RECOMMENDATION
SIMON CONTACTORS OF SD, INC.
LARGE SCALE MINING PERMIT APPLICATION**

The Department of Agriculture and Natural Resources is recommending conditional approval of Simon Contractors of SD, Inc.'s (Simon Contractors) application for the Loring Quarry large scale limestone mining operation. The proposed limestone mine is located in Portions of Sections 33 and 34; T5S-R4E, Custer County. The general location is approximately four miles southwest of Pringle, South Dakota.

The proposed mine permit involves the expansion of the Loring Limestone Quarry which is currently mined under Simon Contractors' Mine License 14-977. Mining will continue under the mine license; however, the mine permit will allow the company to mine limestone for uses other than construction aggregate and cement, such as for an agricultural consumer base. A total of approximately 105.30 acres of permitted affected land will be disturbed during the life of the project. Topsoil and overburden, which will be stripped from portions of the expansion area to allow for one to three years of sales volume, will be stockpiled for use in reclamation. The stripped area and existing quarry will be drilled and blasted, and limestone will be removed and hauled to an on-site crusher where it will be sized into different products. After the limestone is processed, it will be stockpiled until it is loaded onto trucks and shipped to customers. Reclamation will occur concurrently with the mining operation. The proposed future use of the affected area is forest which is the current use of the land around the existing quarry.

REASONS FOR APPROVAL

The permit application addresses all of the requirements of SDCL 45-6B and ARSD 74:29. The application with the Department's recommended conditions (below) provides the necessary safeguards to protect the environment during and following operations and ensure that the land is reclaimed to a beneficial use following operations.

RECOMMENDED CONDITIONS

Technical Revisions

1. The Board of Minerals and Environment (board), pursuant to ARSD 74:29:03:16, authorizes the department to approve proposed technical revisions to Simon Contractors' mining permit for the following:
 1. Monitoring plans or parameters;
 2. Seeding mixtures or rates;
 3. Modification or relocation of erosion, sedimentation, or drainage control;

4. Topsoil stripping or storage;
5. Implementing new and improved reclamation techniques as they are developed;
6. Modification of dust control measures;
7. Modification of the size of area to be worked at any one time;
8. Modification of operating timetables for proposed operation;
9. Location or modification of ancillary facilities within the permit boundary, including equipment storage areas, perimeter fencing, and stockpiles;
10. Modification of the reclamation plan;
11. Use of excess topsoil for reclamation elsewhere after the completion of final reclamation;
12. Addition of a wash plant and washing ponds to remove limestone fines from specific products to meet customer specifications;
13. Adjustment of the designated acreage split between mine permit and mine license acreage based on future customer demand;
14. Relocation or modification of roads within the permitted affected land;
15. Plans and specification for permitted facilities; and
16. Adding contiguous affected land within the permit boundary area for this permit with the total of such additions not to exceed 20 percent of the permitted affected land area of 105.30 acres for this permit. The maximum amount of expansion allowed (20% of 105.30 acres) is 21.06 acres.

Technical revisions must comply with ARSD 74:29:03:03, as applicable, and must be submitted to the department in writing. Within 30 days of receipt, the department shall approve, disapprove, conditionally approve, or request additional information deemed necessary to approve technical revisions. If a request for additional information is made, the department shall, within 30 days of receipt of the response, either approve, conditionally approve, or disapprove the technical revision.

General

1. The conditional approval of this permit application hereby incorporates by reference those representations made by Simon Contractors as to plans, specifications, operations, environmental impacts, and reclamation as contained in the permit application submitted January 13, 2022, and supplemental information submitted March 23, May 9, and 23, and June 6, 7, and 14, 2022. The representations contained in these documents are general conditions of the permit unless modified by the following conditions, modified by future technical revisions, amendments, or permits, or modified by other conditions as may be imposed by the board.
2. This permit and all rights under such are expressly conditioned on the truth of representations made by Simon Contractors, its officers, employees, and contractors in the application, supporting documentation related to the application, and evidence presented to the board. Should any such material representation prove to be false, this permit and all rights under such may be canceled upon such findings by the board.

3. This permit is conditioned upon compliance with all applicable laws and regulations.
4. All monitoring systems presented in the permit application or as modified by the board shall be followed. Any changes in these monitoring systems must be approved by the department through technical revisions.
5. Simon Contractors shall follow the recommendations made by the South Dakota Archaeological Research Center, the South Dakota State Historic Preservation Office (SHPO), the South Dakota Department of Game, Fish, and Parks, and the South Dakota Department of Health unless restated in these conditions.
6. In accordance with the Administrative Rules of South Dakota, ARSD, 74:29:07:02(2), affected lands shall be cleared in small sections or increments to reasonably match the needs of mine production and to reduce the amount of dust generated from the operation.
7. Simon Contractors is permitted to disturb only the lands shown in the Mine Sequence Maps submitted with the mine permit application during the mining and reclamation phases of the operation. Simon Contractors will be required to submit a technical revision or a permit amendment for any disturbance outside the areas shown on the maps.
8. Simon Contractors shall report acreage disturbed under the mine permit separately from acreage disturbed under the mine license on the applicable annual reports.

Other Permits

1. Simon Contractors shall obtain, if necessary, a water right permit from the Water Rights Program.
2. These conditions do not change the requirements of other existing and future permits for the project.

Reclamation

1. Before reclamation bond and liability release, reclaimed and revegetated areas must exhibit a vegetative cover that is capable of self-regeneration and at least equal in cover, density, and diversity to the existing vegetation in the extended comparison area.
2. Before final closure and reclamation bond release, Simon Contractors shall maintain sufficient access to reclaimed areas to allow for any required reclamation maintenance. Roads which are not necessary for future use shall be reclaimed upon determination of the success of reclamation of all other affected and reclaimed areas.
3. Simon Contractors shall seed the affected area in such a manner to ensure species diversity and to avoid the establishment of monocultures.

4. Simon Contractors shall use the seed mix specified in the permit application during reclamation of the mine site. A technical revision shall be submitted to the department for any changes to the seed mix. The modified seed mix cannot be used until the department approves the technical revision.
5. Simon Contractors shall seed topsoil and subsoil stockpiles as required in the reclamation plan if they are in place for more than six months.

Dust Control

1. Simon Contractors shall effectively control fugitive dust and other air emissions from the operation. Dust control measures may include using water trucks, dust filters on equipment, dust suppressants (such as magnesium chloride) on roads, and/or vegetating disturbed areas as soon as possible.
2. Simon Contractors shall notify the department within five working days of written complaints from adjacent landowners concerning dust. The department, upon finding that a complaint is based in fact on a potential permit violation, may require Simon Contractors to develop a mitigation plan to correct the potential violation. The completion date for the mitigation plan will be set at the time of the department request.

Erosion and Sediment Control

1. Simon Contractors shall submit to the department for approval final plans and specifications for any additional sediment control structures that may be needed for the Loring Quarry. All surface water diversions and all final reclamation drainage channels must meet the requirements of ARSD 74:29:07:09.

The department shall not unreasonably withhold its final approval of the plans and specifications if they reflect the technical parameters specified in the permit application. Within 30 days of submittal, the department shall approve, disapprove, conditionally approve, and request additional information deemed necessary to approve the plans and specifications. If disapproved, the department shall identify those items necessary for approval. If plans and specifications are disapproved or a request of additional information is made, the department shall, within 30 days of receipt of the response, either approve, conditionally approve, or disapprove such plans and specifications.

Conditions placed on plans and specifications approval by the department shall be considered permit conditions. These conditions will not alter the conceptual design of the diversion ditches as permitted. Simon Contractors may request a hearing before the board to contest any conditions placed on plans and specifications.

2. Erosion and sediment control structures shall be in place where necessary and functional during all operational and reclamation phases in accordance with Simon Contractors' Stormwater Pollution Prevention Plan. Simon Contractors shall perform periodic maintenance on all erosion and sediment control structures to ensure control effectiveness.
3. Interim sedimentation and erosion controls shall be used as necessary on disturbed land during mining and reclamation until these areas are stabilized by vegetation.

Archaeologic

1. Simon Contractors shall maintain a 50-foot buffer zone at all times between the western and eastern mine areas and the Mickelson Trail.
2. Simon Contractors shall immediately contact the Archaeological Research Center, the State Historical Preservation Office, and the Department of Game, Fish, and Parks in the event the mining operation causes any impacts to the Mickelson Trail.
3. If any human remains, animal bones, artifacts, cultural features, foundation remnants, or other evidence of previously unrecorded past human use are discovered within the project area, all work shall be halted, and Simon Contractors shall contact the state archaeologist at once.

Spill Contingency Plan

1. Simon Contractor employees at the mine site are required to become familiar with the spill contingency plan and the spill reporting requirements. Employees shall take all necessary steps to prevent spills from occurring. Any spills that occur that exceed the reporting requirements of South Dakota Codified Laws, SDCL, 34A-12 and ARSD 74:34:01:04 must be reported to the department at (605) 773-3296 during normal business hours and (605) 773-3231 after business hours and holidays.

Biological Monitoring

1. Simon Contractors shall consult with the Department of Game, Fish, and Parks in assessing whether some quarry highwalls should remain for bat habitat prior to blasting and regrading.
2. Simon Contractors shall follow the specific bat avoidance and mitigation measures listed in in the Operating Plan which were developed in consultation with the Department of Game, Fish, and Parks.
3. Upon discovering any state or federal listed rare, threatened, or endangered species, the critical habitat of such species, or nesting birds within or adjacent to the permitted

affected area, Simon Contractors shall promptly notify the Department of Game, Fish, and Parks. Prior to proceeding with operations that may impact threatened or endangered species or their critical habitat, Simon Contractors shall consult with the department and the Department of Game, Fish and Parks for direction regarding how to avoid adverse impacts to such species and their critical habitat.

Reclamation Surety

1. Simon Contractors shall submit a reclamation surety in the amount of \$883,000 before the mine permit is issued which will cover Phase 1 of the operation, including the current quarry disturbance and additional disturbance from Phase 1 Mine Sequence area 2023 to 2035. The bond or surety for subsequent phases shall be submitted to the department prior to the beginning of mining for each additional phase. The schedule for each additional phase is as follows:

Phase 2 (Mine Sequence 2036 to 2042) – Bond due December 31, 2035

Phase 3 (Mine Sequence 2042 to 2070) – Bond due December 31, 2041

Phase 4 (Mine Sequence 2071 to 2076) – Bond due December 31, 2070

The department reserves the right to adjust the bond based on the amount of new disturbance, the reclaimed acreage, and any changes to the original mine plan. The reclamation surety may also be decreased as reclamation work is completed.

Postclosure

1. Before the start of the postclosure period, Simon Contractors shall submit an updated postclosure plan (if necessary) to the department for approval. The postclosure plan shall be updated to reflect actual site conditions at the time of mine closure, and shall include hydrologic monitoring, vegetation monitoring, sediment and erosion control, and miscellaneous maintenance and care. The department reserves the right to modify postclosure monitoring plans, schedules and parameters if monitoring results indicate a modification is warranted.
2. In accordance with SDCL 45-6B-91, Simon Contractors shall submit a postclosure financial assurance (if necessary) at the time of mine closure to cover postclosure care and maintenance costs for Mine Permit No. 489 as identified in the approved postclosure plan. The postclosure financial assurance will be calculated at the time of mine closure. The postclosure financial assurance will be used to carry out postclosure care activities if Simon Contractors fails to complete them.

The department and the board reserve the right to increase or reduce the amount of postclosure financial assurance based on site performance factors including site stability, presence of hazards, revegetation success, hydrologic impacts, the need for long-term surface or ground water mitigation, and releases of substances that adversely impact natural resources.

3. If necessary, the postclosure period shall begin at the time of reclamation surety release (mine closure) and shall last for a period of 30 years, unless the board determines that an alternative period is necessary to ensure compliance with all applicable performance standards or design and operating criteria. The postclosure financial assurance shall be held for the designated postclosure period to ensure that all established reclamation and performance standards are met, and the site is maintenance free to the extent practicable.
4. In accordance with SDCL 45-6B-91, Simon Contractors' liability for the affected mine area shall continue (if necessary) until certification of the completion of the postclosure care plan is approved by the board. When Simon Contractors believes it is in full and continuing compliance with applicable performance standards, it may petition the board for release or reduction of the postclosure financial assurance and by submitting certification that postclosure care is complete. Funds left at the end of the postclosure period will be released to Simon Contractors.
5. Simon Contractors grants to the board or its representatives permission to enter the reclaimed area to monitor reclamation success during the postclosure period. The department shall give Simon Contractors the opportunity to accompany any inspector from the department or other agent of the board during the postclosure period.

This recommendation is being mailed to you pursuant to ARSD 74:29:01:15 and 18. Petitions to intervene and become party to the proceedings pursuant to ARSD 74:29:01:09 must be filed with the Department of Agriculture and Natural Resources no later than August 19, 2022. The department will issue the permit on this date if no petitions to intervene are received.

Persons desiring further information concerning the permit application may contact Eric Holm of the Minerals and Mining Program, Joe Foss Building, 523 East Capitol, Pierre, South Dakota 57501 - (605) 773-4201.

Hunter Roberts
Secretary
Department of Agriculture and Natural Resources

August 12, 2022