



Board of Minerals and Environment

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

AGENDA

Board of Minerals and Environment
Mineral Palace Hotel and Gaming - Gem Theater meeting room
604 Main Street
Deadwood, SD

August 19 - 20, 2015

August 19, 2015 - Mineral Palace Lobby

10:00 a.m. MDT Call meeting to order and roll call
Open LAC Minerals hearing

Mine Tours

10:15 to 10:30 a.m. Travel to Gilt Edge
10:30 to 11:45 a.m. Gilt Edge Superfund Site tour
11:45 to Noon Travel to lunch
Noon to 1:00 p.m. Lunch at the Chop House in Lead
1:00 to 1:15 p.m. Travel to LAC
1:30 to 3:00 p.m. LAC Minerals tour
3:00 to 3:15 p.m. Travel to Wharf
3:15 to 5:00 p.m. Wharf Resources tour
5:00 p.m. Recess

Note: The tours are open to the public. Persons interested in attending the tours will need to meet at the lobby of the Mineral Palace in Deadwood, SD, prior to 10:00 a.m. MDT. Persons interested in attending only the LAC Minerals tour should meet at the Trojan Pit Overlook area at the Wharf Resources Mine on the Wharf Road by 1:30 p.m. MDT. Individuals not party to the proceedings will need to provide their own transportation to attend the site tour. Four-wheel drive vehicles are recommended for travel in certain areas. Some parts of the tours may be conducted on foot, and may not be readily accessible by persons with disabilities as the terrain may be rugged. Participants will be required to wear safety equipment, which will be provided during the tours. More instructions and maps showing the locations of the sites will be provided during the 10:00 a.m. MDT meeting at the Mineral Palace.

August 20, 2015 – Mineral Palace Gem Theater

9:00 a.m. MDT Call to order and roll call
Approval of minutes from July 16, 2015, meeting
Mining issues

- Consent Calendar – Eric Holm

9:15 a.m. Public hearing to consider amendments to the Air Quality Regulations ARSD 74:36
– Air Pollution Control Program– Kyrik Rombough

Adjourn

Notice is given to individuals with disabilities that the meeting on August 20 is being held in a physically accessible place. Please call the Department of Environment and Natural Resources at (605) 773-4216 at least 48 hours before the meeting if you have a disability for which special arrangements must be made.

Minutes of the
Board of Minerals and Environment
Telephone Conference Call Meeting
DENR Lower Level Conference Room
523 East Capitol Avenue
Pierre, South Dakota

July 16, 2015
10:00 a.m. CT

CALL TO ORDER AND ROLL CALL: The meeting was called to order by Chairman Rex Hagg. The roll was called and a quorum was present.

BOARD MEMBERS PARTICIPATING: Rex Hagg, Linda Hilde, Dennis Landguth, Glenn Blumhardt, Pete Bullene, Doyle Karpen, Gregg Greenfield, and Bob Morris.

BOARD MEMBER ABSENT: Daryl Englund.

OTHERS PRESENT: Mike Cepak, Eric Holm, Bret Graves, and Patty McQuay, DENR Minerals and Mining Program, Kyrik Rombough, DENR Air Quality Program, Steven Blair, Assistant Attorney General.

ANNUAL ELECTION OF OFFICERS: Chairman Hagg called for election of officers.

Landguth nominated Rex Hagg as chairman of the board, seconded by Bullene.

Motion by Landguth, seconded by Hilde, to approve Rex Hagg as chairman of the Board of Minerals and Environment. A roll call vote was taken, and the motion carried unanimously.

Morris nominated Glenn Blumhardt as vice chairman of the board, seconded by Landguth.

Motion by Morris, seconded by Hilde, to approve Glenn Blumhardt as vice chairman of the Board of Minerals and Environment. A roll call vote was taken, and the motion carried unanimously.

Landguth nominated Linda Hilde as secretary of the board, seconded by Bullene.

Motion by Blumhardt, seconded by Landguth, to approve Linda Hilde as secretary of the Board of Minerals and Environment. A roll call vote was taken, and the motion carried unanimously.

APPROVAL OF MINUTES FROM MAY 21, 2015, MEETING: Motion by Blumhardt, seconded by Landguth, to approve the minutes from the May 21, 2015, 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 releases of liability (see attachment).

Motion by Morris, seconded by Blumhardt, to accept the department recommendations for releases of liability as listed on the consent calendar. A roll call vote was taken, and the motion carried unanimously.

Transfer of Small Scale Mine Permit No. 473 from Douglas Ottema to Beartown Hill Placer LLC: Eric Holm reported that Douglas Ottema requested transfer of Small Scale Mine Permit No. 473 to his limited liability company, Beartown Hill Placer LLC. The general location of the gold mining operation is one-half mile east of Tinton, SD.

Under SDCL 45-6B-47, any mine permit can be transferred from one operator to another, with the successor operator assuming all reclamation liability.

The department received the transfer application and \$100.00 transfer fee on May 18, 2015. The \$2,500 replacement reclamation bond was submitted on June 24, 2015, and the application was considered complete on June 29, 2015.

The department recommendation to transfer the permit was prepared on June 29, 2015, and was published in the Black Hills Pioneer on July 2 and 9, 2015. The Affidavit of Publication was received on July 16, 2015.

No intervention petitions were received.

In accordance with SDCL 45-6B-47, the board cannot deny a mine permit transfer unless the operation is not or cannot be brought into compliance with all applicable federal, state or local laws or the successor operator is in violation of state mining laws or mine permit conditions for any mining operation in the state.

Mr. Holm stated that the current mine permit and Beartown Hill Placer LLC are in compliance with all federal, state, and local laws and regulations.

The department recommended the board transfer Small Scale Mine Permit No. 473 from Douglas Ottema to Beartown Hill Placer LLC, release CD No. 144165629, Great Western Bank, in the amount of \$2,500, and accept replacement CD No. 144264427, Great Western Bank, Spearfish, in the amount of \$2,500.

Mr. Holm answered questions from the board.

Motion by Landguth, seconded by Bullene, to transfer Small Scale Mine Permit No. 473 from Douglas Ottema to Beartown Hill Placer LLC, release CD No. 144165629, Great Western Bank, in the amount of \$2,500, and accept replacement CD No. 144264427, Great Western Bank,

Spearfish, in the amount of \$2,500. A roll call vote was taken, and the motion carried unanimously.

Transfer of Exploration Notice of Intent EXNI-393 from Douglas Ottema to Beartown Hill Placer LLC: Mr. Holm reported that Douglas Ottema requested transfer of EXNI-393 to his limited liability company, Beartown Hill Placer LLC. The general location of the gold exploration operation is one-half mile east of Tinton, SD.

Under SDCL 45-6C-53, any exploration notice of intent can be transferred, with the successor operator assuming all reclamation liability.

The transfer application and \$250 transfer fee was submitted May 18, 2015. The \$5,000 replacement reclamation bond was submitted on June 24, 2015. The notice of filing of application to transfer was published by the applicant in the Black Hills Pioneer on July 2, 2015, and the Affidavit of Publication was received on July 6, 2015.

In accordance with SDCL 45-6C-53, the board cannot deny an EXNI transfer unless the operation is not or cannot be brought into compliance with all applicable federal, state or local laws or the successor operator is in violation of state statutes, rules, EXNI restrictions, mining permit conditions, or requirements with respect to any exploration or mining operation in the state. The current EXNI and Beartown Hill Placer LLC are in compliance with all federal, state, and local laws and regulations and EXNI and mine permit restrictions and conditions.

The department recommended the board transfer EXNI-393 from Douglas Ottema to Beartown Hill Placer LLC, release CD No. 0447010506, Wells Fargo Bank, in the amount of \$5,000, and accept CD No. 144264746, Great Western Bank, Spearfish, in the amount of \$5,000.

Mr. Holm answered questions from the board.

Motion by Blumhardt, seconded by Landguth, to transfer EXNI-393 from Douglas Ottema to Beartown Hill Placer LLC, release CD No. 0447010506, Wells Fargo Bank, in the amount of \$5,000, and accept CD No. 144264746, Great Western Bank, Spearfish, in the amount of \$5,000. A roll call vote was taken, and the motion carried unanimously.

Financial Assurance Increase for Wharf Resources (USA), Inc.: 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. The financial assurance is in addition to Wharf Resources’ \$35,700,000 reclamation bond and \$30,800,000 post closure bond.

Mr. Holm stated that the department adjusted the financial assurance for inflation and calculated a revised amount of \$612,400, which is an increase of \$14,600 from the 2014 calculation. The department again used the Construction Cost Index to calculate the inflationary increase in the bond.

To cover the increase, Wharf has submitted a rider to the surety bond that currently serves as financial assurance, which increases the amount to \$612,400.

The department recommended the board accept the rider to Bond No. SU27832, Aspen American Insurance Company, increasing the financial assurance bond to \$612,400.

Motion by Morris, seconded by Blumhardt, to accept the rider to Bond No. SU27832, Aspen American Insurance Company, increasing the financial assurance bond to \$612,400. A roll call vote was taken, and the motion carried unanimously.

DISCUSS AUGUST 19, 2015, TOUR OF GILT EDGE SUPERFUND SITE, LAC MINERALS AND WHARF RESOURCES: Mike Cepak reported that staff has arranged for tours on August 19, 2015, of the Gilt Edge Superfund Site, LAC Minerals Richmond Hill Mine, and Wharf Resources.

The tour of LAC Minerals will be part of a hearing on LAC's release of reclamation liability and the post closure plan. The hearing will be opened prior to the tour, and following the tour, the hearing will be continued to September 17, 2015, which is the board's next regularly scheduled meeting date.

Mr. Cepak discussed tentative plans for the tours in Deadwood and answered questions from the board.

SELECT HEARING CHAIRMAN FOR LAC MINERALS REQUEST FOR RELEASE OF RECLAMATION LIABILITY, POST CLOSURE PLAN, UPDATED RECLAMATION PLAN, AND FIVE-YEAR RECLAMATION PERIOD EXTENSION: Mr. Holm provided a general overview of the LAC minerals request. He stated that LAC Minerals submitted a petition to the Board of Minerals and Environment to release reclamation liability for the majority of the acreage affected under Large Scale Mine Permits 445 and 460. The post closure plan has also been submitted since most of the release acreage will be placed into a post closure period. In addition, the company has submitted post closure and updated reclamation bond calculations for board approval.

The hearing will take place at the board's September 17, 2015, meeting.

Chairman Hagg appointed Gregg Greenfield as hearing chair for this matter.

REQUEST TO HOLD SEPTEMBER BOARD MEETING IN WATERTOWN: Kyrik Rombough, DENR Air Quality Program, requested that the board consider holding its September meeting in Watertown. Staff would like the board to have the opportunity to tour the Glacial Lakes ethanol plant. Mr. Rombough noted that the ethanol industry is one of the largest industries in the state. The ethanol plants are required to obtain several different environmental permits, including air quality permits, surface water discharge permits, and a few may have a solid waste discharge permit. Since there is a possibility that in the future the board will receive

a request for a permit from one of the ethanol plants, the department would like the board to tour an ethanol plant to become familiar with how it operates.

Eric Holm noted that he had visited with LAC Minerals about possibly traveling to Watertown for the hearing, and LAC Minerals had no objection to going to Watertown.

Motion by Karpen, seconded by Landguth, to hold the September 17, 2015, Board of Minerals and Environment meeting in Watertown. A roll call vote was taken, and the motion carried unanimously.

NEXT MEETING: The next meeting is scheduled for August 19 and 20, 2015, in Deadwood. The board will tour mine sites on August 19 and hold its regular meeting on August 20.

ADJOURNMENT: Motion by Karpen, seconded by Bullene, that the meeting be adjourned. Motion carried unanimously.

The meeting was digitally recorded and a copy of the recording may be obtained by contacting the Department of Environment and Natural Resources, 523 East Capitol Avenue, Pierre, SD 57501; telephone number 605-773-3886. The recording is also available on the DENR website at <http://denr.sd.gov/boards/schedule.aspx>.

Approved this 20th day of August, 2015.

Secretary

Date

Witness

Date

South Dakota Board of Minerals & Environment

Consent Calendar

July 16, 2015

<u>License/Permit Holder</u>	<u>License/ Permit</u>	<u>Site No.</u>	<u>Surety Amount</u>	<u>Surety No.</u>	<u>Surety Company/Bank</u>	<u>DENR Recommendation</u>
<u>Releases of Liability:</u>						
Mehlhoff Construction Kaylor, SD	83-218	218023	\$4,000	57284	The Farmers & Merchants State Bank, Scotland	Release liability.
			E1/2 NE1/4 Section 28; T98N-R58W, Hutchinson County			
Lloyd Priebe & Sons Construction Chamberlain, SD	83-143	143008	\$20,000	SD 7013	Merchants Bonding Company	Release liability.
			S1/2 Section 12; T105N-R68W, Brule County			
Brown County Public Works Department Aberdeen, SD	83-154	154008	EXEMPT	NA	NA	Release liability.
			S1/2 Section 7; T128N-R63W, Brown County			
		154011	NE1/4 Section 16; T128N-R64W, Brown County			

South Dakota Board of Minerals & Environment

July 16, 2015

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<u>Transfer of Small Scale Mine Permit 473:</u>						
Douglas Ottema Whitewood, SD	473		\$2,500	144165629	Great Western Bank, Spearfish	Transfer Permit 473 to Beartown Hill Placer LLC and release CD No. 144165629, Great Western Bank, in the amount of \$2,500. Accept CD No. 144264427, Great Western Bank, Spearfish, in the amount of \$2,500.
Transfer to:		Legal:	W1/2 SW1/4 NW1/4, NW1/4 SW1/4, & SW1/4 SW1/4 Section 20; T5N-R1E, Lawrence County			
Beartown Hill Placer LLC Whitewood, SD			\$2,500	144264427	Great Western Bank, Spearfish	
<u>Transfer of Exploration Notice of Intent EXNI-393:</u>						
Douglas Ottema Whitewood, SD	EXNI-393		\$5,000	0447010506	Wells Fargo Bank, Spearfish	Transfer EXNI-393 to Beartown Hill Placer LLC and release CD No. 0447010506, Wells Fargo Bank, in the amount of \$5,000. Accept CD No. 144264746, Great Western Bank, Spearfish, in the amount of \$5,000.
Transfer to:		Legal:	Section 20; T5N-R1E, Lawrence County			
Beartown Hill Placer LLC Whitewood, SD			\$5,000	144264746	Great Western Bank, Spearfish	

South Dakota Board of Minerals & Environment

July 16, 2015

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<u>Acceptance of Financial Assurance Increase:</u>						
Wharf Resources (USA), Inc. Lead, SD	356, 464, & 476		\$597,800	SU27832	Aspen American Insurance Company	Accept rider to Bond No. SU27832, Aspen American Insurance Company, increasing Wharf's financial assurance bond to \$612,400.

South Dakota Board of Minerals & Environment

Consent Calendar

August 20, 2015

<u>License/Permit Holder</u>	<u>License/Permit</u>	<u>Site No.</u>	<u>Surety Amount</u>	<u>Surety No.</u>	<u>Surety Company/Bank</u>	<u>DENR Recommendation</u>
<u>Transfer of Liability & Release of Surety:</u>						
Sioux Falls Construction Company Sioux Falls, SD	87-346		\$20,000	08831990	Fidelity & Deposit Company of Maryland	Transfer liability and release \$20,000.
		346001	E1/2 SW1/4 Section 8; & NE1/4 NW1/4 Section 17; T101N-R50W, Minnehaha County			
Transfer to:						
Myrl & Roy's Paving, Inc. Sioux Falls, SD	83-95		\$20,000	0404434	Great American Insurance Company	
 <u>Releases of Liability & Surety:</u>						
Ruth Hulsebus Brookings, SD	83-149		\$1,500 \$500 \$500 \$500	41365 82140 71195 53589	First National Bank, Brookings First National Bank, Brookings First National Bank, Brookings First National Bank, Brookings	Release liability and \$3,000.
		149006	N1/2 Section 34; T113N-R48W, Deuel County			
Neil Kotas Huron, SD	07-844		\$500 \$500	9474036226 158118	Wells Fargo Bank, Huron First National Bank, Huron	Release liability and \$1,000.
		844001	N1/2 NE1/4 Section 34; T111N-R62W, Beadle County			

South Dakota Board of Minerals & Environment

Consent Calendar

August 20, 2015

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<u>Releases of Liability & Surety:</u>						
Clarence Mc Cune De Smet, SD	93-477		\$500	64474	First National Bank, Pierre	Release liability and \$500.
		477003	SW1/4 Section 26; T110N-R56W, Kingsbury County			
Joe Pechous Tabor, SD	12-936		\$2,500	320027560	CorTrust Bank, Tabor	Release liability and \$2,500.
		936001	NE1/2 NE1/2 E1/2 NE1/4 Section 10; T94N-R58W, Bon Homme County			
James Petoske Midland, SD	83-77		\$500	64114	First National Bank, Pierre	Release liability and \$1,500.
			\$500	58695	First National Bank, Pierre	
			\$500	14339	First National Bank, Pierre	
		77001	NE1/4 Section 35; T2N-R24E, Haakon County			
Robert Smetana dba R & J Rock Alexandria, SD	97-626		\$500	5716	CorTrust Bank, Mitchell	Release liability and \$3,000.
			\$500	5717	CorTrust Bank, Mitchell	
			\$500	5718	CorTrust Bank, Mitchell	
			\$500	5719	CorTrust Bank, Mitchell	
			\$500	5720	CorTrust Bank, Mitchell	
			\$500	5721	CorTrust Bank, Mitchell	
		626001	NE1/4 & SE1/4 Section 17; T103N-R58W, Hanson County			

South Dakota Board of Minerals & Environment

Consent Calendar

August 20, 2015

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<u>Releases of Liability:</u>						
Aggregate Construction, Inc. Minot, ND	89-382		\$20,000	5301306	Ohio Farmers Insurance Company	Release liability.
		382005	SE1/4 Section 33; T9N-R3E, Butte County			
Atteberry Construction, Inc. Colome, SD	97-617		\$500	14484	First National Bank, Pierre	Release liability.
			\$500	168439	First National Bank, Pierre	
			\$500	303942	First Fidelity Bank, Colome	
			\$1,000	303791	First Fidelity Bank, Colome	
			\$1,000	303812	First Fidelity Bank, Colome	
			\$1,500	303483	First Fidelity Bank, Colome	
			\$2,000	304154	First Fidelity Bank, Colome	
			\$2,000	94848	First National Bank, Pierre	
			\$2,500	304152	First Fidelity Bank, Colome	
	617004	E1/2 Section 28 & W1/2 Section 27; T95N-R74W, Tripp County				
Dakota Trucking Inc. Wessington Springs, SD	10-899		\$2,500	104967	American Bank & Trust, Wessington Springs	Release liability.
		899001	NE1/4 Section 26; T108N-R66W, Jerauld County			

South Dakota Board of Minerals & Environment

Consent Calendar

August 20, 2015

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<u>Releases of Liability:</u>						
Raymond Johnson Sand & Gravel Huron, SD	83-139		\$1,000 \$1,000 \$1,000	76980 65388 15323	First National Bank, Pierre First National Bank, Pierre First National Bank, Pierre	Release liability.
		139007	W1/2 Section 10; T113N-R65W, Beadle County			
Gale Nitteberg dba Nitteberg Construction Company Estelline, SD	95-566		\$9,500	55-194350	United Fire & Casualty Company	Release liability.
		566002	N1/2 NE1/4 Section 17 & E1/2 Section 8; T113N-R53W, Hamlin County			
Spencer Quarries, Inc. Spencer, SD	83-36		\$20,000	55-194360	United Fire & Casualty Company	Release liability.
		36002	NE1/4 Section 27; T103N-R60W, Davison County			
Bates Township Wessington, SD	97-622		EXEMPT	NA	NA	Release liability.
		622001	NW1/4 Section 2; T109N-R66W, Hand County			

Public Hearing to Consider Amendments to ARSD 74:36 – Air Pollution Control Program

The Board of Minerals and Environment will consider changes to Administrative Rules of South Dakota (ARSD) 74:36 – Air Pollution Control Program. The revisions will clarify existing regulations and streamline the existing air quality permitting process for specific types of operations. The reason for adopting the amendments is to allow South Dakota to maintain approval of its air quality program.

Interested parties may review the proposed changes on the Department of Environment and Natural Resources webpage at:

<http://denr.sd.gov/public/default.aspx>

ARTICLE 74:36 – AIR POLLUTION CONTROL PROGRAM

NOTICE OF PUBLIC HEARING TO REVISE RULES

The Board of Minerals and Environment will hold a public hearing on August 20, 2015, at 9:15 a.m. Mountain Time at the Mineral Palace Gem Theater room, 601 Historic Main Street, Deadwood, SD, to consider the adoption and amendment of administrative rules numbered:

- a. Chapter 74:36:01 (e.g. revising sections 74:36:01:01, 74:36:01:05, 74:36:01:10, and 74:36:01:20; and adding section 74:36:01:10.01);
- b. Chapter 74:36:02 (e.g. revising sections 74:36:02:02 through 74:36:02:05);
- c. Chapter 74:36:03 (e.g. revising entire section);
- d. Chapter 74:36:04 (e.g. revising sections 74:36:04:03, 74:36:04:04; and adding section 74:36:04:21.01);
- e. Chapter 74:36:05 (e.g. revising sections 74:36:05:04, 74:36:05:04.01, 74:36:05:06, and, 74:36:05:16.01; and adding section 74:36:05:39.01);
- f. revising chapter 74:36:07 (e.g. revising sections 74:36:07:01 through 74:36:07:07.01, 74:36:07:09, 74:36:07:10, 74:36:07:12 through 74:36:07:28, 74:36:07:31 through 74:36:07:34, 74:36:07:36, 74:36:07:37, 74:36:07:39 through 74:36:07:92; and adding section 74:36:07:93);
- g. Chapter 74:36:08 (e.g. revising sections 74:36:08:01 through 74:36:08:130);
- h. Chapter 74:36:09 (e.g. revising sections 74:36:09:02 and 74:36:09:03);
- i. Chapter 74:36:10 (e.g. revising sections 74:36:10:02, 74:36:10:03.01, and 74:36:10:05 through 74:36:10:08);
- j. Chapter 74:36:11 (e.g. revising section 74:36:11:01);
- k. Chapter 74:36:12 (e.g. revising sections 74:36:12:01 and 74:36:12:03);
- l. Chapter 74:36:13 (e.g. revising sections 74:36:13:02 through 74:36:13:04, 74:36:13:06 through 74:36:13:08);
- m. Chapter 74:36:16 (e.g. revising sections 74:36:16:01, 74:36:16:02, 74:36:16:04, and 74:36:16:05);
- n. Chapter 74:36:18 (e.g. revising section 74:36:18:10);
- o. Chapter 74:36:20 (e.g. revising sections 74:36:02, 74:36:02.01, 74:36:20:05, and 74:36:20:11; and adding section 74:36:20.05.01); and
- p. Chapter 74:36:21 (e.g. revising sections 74:36:21:02, 74:36:21:04, 74:36:21:05, and 74:36:21:09).

The effect of the proposed amendments will be to adopt revisions to federal regulations, clarify existing regulations, and streamline the existing air quality permitting process for specific types of operations. The reason for adopting the proposed amendments is to continue to have South Dakota's air pollution control program rules comply with the federal regulations and to allow South Dakota to maintain approval of its air quality program.

Persons interested in presenting data, opinions, and arguments for or against the proposed amendments may do so by appearing in person at the hearing or by submitting written comments to the South Dakota Department of Environment and Natural Resources at the mailing address that appears below. Material sent by mail must reach the department by the close of business on August 18, 2015, to be considered.

After the hearing, the board will consider all written and oral comments it receives on the proposed amendments. 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. Please notify the department at least 48 hours before the public hearing if you have special needs for which special arrangements must be made. The telephone number for making special arrangements is (605) 773-3151.

Copies of the proposed rules may be obtained without charge from the following:

Teresa Williams
South Dakota Department of Environment and Natural Resources
523 East Capitol, Joe Foss Building
Pierre, South Dakota 57501
(605) 773-3151



Steven M Pirner, Secretary
Department of Environment and Natural Resources

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