



**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
Telephone Conference Call Meeting**

September 17, 2015
10:00 a.m. CDT

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

Approval of minutes from August 19-20, 2015, meeting

Mining issues

- Consent Calendar – Bret Graves
- Release of Liability and Surety for Dakota Block Company a Division of Pete Lien & Sons, Inc. Small Scale Mine Permit No. 457 – Eric Holm

A limited number of phone lines are available for this call. Interested parties who wish to participate in the telephone conference call should contact DENR at (605)773-3886 no later than 3:00 p.m. Central Time on Wednesday, September 16, 2015.

Interested parties may also participate at the Department of Environment and Natural Resources, Lower Level Conference Room, 523 East Capitol Avenue, Pierre, SD

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

Note: Scheduled times are estimates only. Agenda items may be delayed due to prior scheduled items or may be moved up on the agenda.

Minutes of the
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 – 10:00 A.M. MDT

CALL TO ORDER AND ROLL CALL: The meeting was called to order by Chairman Rex Hagg in the lobby of the Mineral Palace Hotel. The roll was called and a quorum was present.

BOARD MEMBERS PRESENT: Rex Hagg, Glenn Blumhardt, Dennis Landguth, Doyle Karpen, Daryl Englund, and Bob Morris.

BOARD MEMBER ABSENT: Pete Bullene, Linda Hilde, and Gregg Greenfield.

OTHERS PRESENT: See attached attendance sheet.

MINE TOURS: The board members, DENR staff, representatives of the Attorney General's Office, and other interested persons toured the Gilt Edge Superfund site, LAC Minerals, and Wharf Resources.

Following the tours, a motion was made by Blumhardt, seconded by Morris, to recess until the following morning. Motion carried unanimously.

Chairman Hagg declared the board in recess at 6:30 p.m. MDT.

AUGUST 20, 2015 - MINERAL PALACE GEM THEATER MEETING ROOM

CALL TO ORDER: Chairman Hagg called the meeting to order at 9:00 a.m.MDT. A quorum was present with the same board members answering the roll call as the previous day.

APPROVAL OF MINUTES FROM JULY 16, 2015: Motion by Blumhardt, seconded by Morris, to approve the minutes from the July 16, 2015, Board of Minerals and Environment meeting. Motion carried unanimously.

MINING ISSUES

Consent Calendar: Prior to the meeting, the board received a table listing the department recommendations for release of liability and surety and transfers of liability (see attachment).

Motion by Karpen, seconded by Landguth, to accept the department recommendations for transfer of liability and release of surety, as shown on the consent calendar. Motion carried unanimously.

Motion by Blumhardt, seconded by Englund, to accept the department recommendations for releases of liability and surety and releases of liability, as shown on the consent calendar.
Motion carried unanimously.

PUBLIC HEARING TO CONSIDER AMENDMENTS TO ARSD 74:36 – AIR POLLUTION CONTROL PROGRAM: Chairman Hagg opened the hearing at 9:15 a.m. MDT.

The purpose of the hearing was to consider the adoption and amendment of administrative rules numbered:

Chapter 74:36:01 - revise sections 74:36:01:01, 74:36:01:05, 74:36:01:10, and 74:36:01:20; and add section 74:36:01:10.01;

Chapter 74:36:02 - revise sections 74:36:02:02 through 74:36:02:05;

Chapter 74:36:03 – revise entire section;

Chapter 74:36:04 – revise sections 74:36:04:03, 74:36:04:04; and add section 74:36:04:21.01;

Chapter 74:36:05 - revise sections 74:36:05:04, 74:36:05:04.01, 74:36:05:06, and, 74:36:05:16.01; and add section 74:36:05:39.01;

Chapter 74:36:07 - revise 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;

Chapter 74:36:08 - revise sections 74:36:08:01 through 74:36:08:130;

Chapter 74:36:09 - revise sections 74:36:09:02 and 74:36:09:03;

Chapter 74:36:10 - revise sections 74:36:10:02, 74:36:10:03.01, and 74:36:10:05 through 74:36:10:08;

Chapter 74:36:11 - revise section 74:36:11:01;

Chapter 74:36:12 - revise sections 74:36:12:01 and 74:36:12:03;

Chapter 74:36:13 - revise sections 74:36:13:02 through 74:36:13:04, 74:36:13:06 through 74:36:13:08;

Chapter 74:36:16 - revise sections 74:36:16:01, 74:36:16:02, 74:36:16:04, and 74:36:16:05;

Chapter 74:36:18 - revise section 74:36:18:10;

Board of Minerals and Environment
August 19-20, 2015, Meeting Minutes

Chapter 74:36:20 - revise sections 74:36:02, 74:36:02.01, 74:36:20:05, and 74:36:20:11; and add section 74:36:20.05.01; and

Chapter 74:36:21 - revise sections 74:36:21:02, 74:36:21:04, 74:36:21:05, and 74:36:21:09.

The effect of the proposed amendments is to adopt revisions to federal regulations, clarify existing regulations, and streamline the existing air quality permitting process for specific types of operations.

By adopting the proposed amendments South Dakota's air pollution control program rules will continue to comply with the federal regulations, and to allow South Dakota to maintain approval of its air quality program.

In June 2015, which was prior to public notice, the proposed amendments and additions were sent to several entities, including industry, environmental groups, and other interested parties, for review and comment. During that review/comment period, the only comments received by the department were verbal from EPA.

Notice of the public hearing was published on July 28, 2015, in Aberdeen's American News, Sioux Falls' Argus Leader, Spearfish's Black Hills Pioneer, Brookings' Brookings Register, Pierre's Capitol Journal, Mitchell's The Daily Republic, Huron's The Plainsman, Madison's Daily Leader, Watertown's Public Opinion, and Yankton's Daily Press and Dakotan, and on July 29, 2015, in the Rapid City's Rapid City Journal. Affidavits of Publication were received and are on file at DENR.

Notice of the public hearing was posted on DENR's website and State of South Dakota public notice website. The notice was also sent to the department's interested parties mailing list, which includes environmental groups, industry and other interested parties.

The proposed rules were sent to the Bureau of Finance and Management and to the Legislative Research Council (LRC). LRC reviewed and approved the proposed amendments for form, style, and legality. LRC's changes were incorporated into the final version of the proposed rules.

The only written comments submitted were from LRC and EPA.

Kyrik Rombough, DENR Air Quality Program, explained the proposed amendments and additions. He answered questions from the board.

Following Mr. Rombough's presentation, Chairman Hagg requested public comment. No one from the public offered comments either for or against the proposed amendments.

Motion by Englund, seconded by Blumhardt, to adopt amendments to ARSD 74:36, Air Quality Regulations, as presented and including form and style changes made by LRC. A roll call vote was taken and the motion carried unanimously.

Chairman Hagg closed the hearing at 9:35 a.m. MDT.

AIR QUALITY PROGRAM UPDATE: Mr. Rombough discussed how EPA's Clean Power Plan and the Regional Haze Program affect South Dakota. He also discussed EPA's proposed rules on landfills, oil and gas production, and EPA's final ozone standards.

Mr. Rombough discussed the opacity requirements.

NEXT MEETING: The next board meeting is scheduled for September 17, 2015. The meeting is tentatively scheduled to take place in Watertown so the board is able to tour Glacial Lakes Ethanol.

ADJOURN: Motion by Blumhardt, seconded by Karpen, 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 17th day of September, 2015.

Secretary

Date

Witness

Date

ATTENDANCE SHEET

BOARD OF MINERALS AND ENVIRONMENT MEETING

Location Mineral Palace Gem Theater
Deadwood SD

Date 8-20-15

NAME (PLEASE PRINT)

ADDRESS

REPRESENTING

Steve Blair

Pierre

ATG

Eric Holm

Pierre

DENR

Kyril Rombough

Pierre

DENR

Brn Gustaf

Pierre

DENR

Mike Cepal

"

"

Allie Bailey

Pierre

ATG

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			

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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			

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Releases of Liability:						
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			

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Releases of Liability:						
Raymond Johnson Sand & Gravel Huron, SD	83-139		\$1,000	76980	First National Bank, Pierre	Release liability.
			\$1,000	65388	First National Bank, Pierre	
			\$1,000	15323	First National Bank, Pierre	
		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			

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<u>Transfers of Liability & Release of Surety:</u>						
Schultz Ready Mix Avon, SD	95-564		\$3,500	6891	Community State Bank, Avon	Transfer liability and release \$3,500.
		564001			NE1/4 NW1/4 Section 25; T94N-R62W, Charles Mix County	
		564002			SE1/4 SW1/4 Section 1; T95N-R65W, Charles Mix County	
Transfer to:						
Schultz Redi-Mix LLC Avon, SD	15-985		\$3,500	61652	Commercial State Bank, Wagner	

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<u>Transfer of Liability:</u>						
Morris Inc. Pierre, SD	83-2		\$20,000	037S1035978 78	Travelers Casualty & Surety Company of America	Transfer liability.
		2044	S1/2 NW1/4 Section 12; T125N-R73W, McPherson County			
Transfer to:						
Obenauer Sand & Gravel Eureka, SD	84-282		\$5,382	305050	Great Plains Bank, Eureka	
			\$1,866	306016	Great Plains Bank, Eureka	
			\$2,984	30233	Great Plains Bank, Eureka	
			\$1,174	30174	Great Plains Bank, Eureka	
			\$1,007	31184	Great Plains Bank, Eureka	
			\$1,007	31185	Great Plains Bank, Eureka	
			\$4,000	61997	Great Plains Bank, Aberdeen	
<u>Releases of Liability:</u>						
Arthur E. Argo, Jr. Wilmot, SD	09-876		\$3,500	13458	First State Bank, Wilmot	Release liability.
			\$3,000	13115	First State Bank, Wilmot	
			\$500	13091	First State Bank, Wilmot	
		876003	SW1/4 NW1/4 Section 26; T123N-R50W, Roberts County			

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<u>Releases of Liability:</u>						
Bowes Construction, Inc. Brookings, SD	83-164	164028	\$20,000	HGMW-10- 206-0065	Hudson Insurance Company	Release liability.
			NE1/4 SE1/4 Section 28; T126N-R69W, McPherson County			
Schladweiler Construction Mitchell, SD	83-167	167003	\$2,500	103982	Fulton State Bank, Mitchell	Release liability.
			\$1,500	104097	Fulton State Bank, Mitchell	
			\$1,000	103814	Fulton State Bank, Mitchell	
			\$500	104186	Fulton State Bank, Mitchell	
			\$500	103809	Fulton State Bank, Mitchell	
			\$500	102880	Fulton State Bank, Mitchell	
		SW1/4 Section 17; & NW1/4 Section 20; T105N-R68W, Brule County				

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<u>Releases of Liability:</u>						
Western Construction Inc. Rapid City, SD	09-880		\$20,000	105126710	Travelers Casualty & Surety Company of America	Release liability.
		880005	Section 6; T3N-R8E, Meade County			
Harding County Highway Department Buffalo, SD	83-66		EXEMPT	NA	NA	Release liability.
		66009	SE1/4 SW1/4 Section 30 & NE1/4 NW1/4 Section 31; T21N-R6E, Harding County			

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<u>License or Permit Holder</u>	<u>License or Permit Number</u>	<u>Site Number or Legal</u>	<u>Surety Amount</u>	<u>Surety Number</u>	<u>Surety Company or Bank</u>	<u>DENR Recommendation</u>
<u>Release of Liability and Surety:</u>						
Dakota Block Company a Division of Pete Lien & Sons, Inc. Rapid City, SD	457		\$2,500	ILOC No. S500999	UMB Bank, Kansas City, MO	Release liability and \$2,500.
		Legal:	SW1/4 NE1/4 Section 26; T2N-R8E, Pennington County			