

Minutes of the
Board of Minerals and Environment
Telephone Conference Call Meeting

DENR Lower Level Conference Room
523 East Capitol Avenue
Pierre, South Dakota

November 20, 2014
10:00 a.m. CDT

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, Glenn Blumhardt, Linda Hilde, Doyle Karpen, Bob Morris, Pete Bullene, Dennis Landguth, and Daryl Englund.

BOARD MEMBER ABSENT: Gregg Greenfield.

OTHERS PRESENT: Mike Cepak, Eric Holm, Tom Cline, and Patty McQuay, DENR Minerals and Mining Program; Mike Mehlhaff, School and Public Lands; Ron Waterland and Abby Olson, Wharf Resources; Erik Janssens, Swiss Re Corporate Solutions America Holding Corporation; Murray Epp, Marsh Canada.

APPROVAL OF MINUTES FROM SEPTEMBER 18, 2014, MEETING: Motion by Blumhardt, seconded by Englund, to approve the minutes of the September 18, 2014, Board of Minerals and Environment meeting. A roll call vote was taken, and the motion carried unanimously.

MINING ISSUES

Exchanges of Surety – Wharf Resources (USA), Inc.: Eric Holm reported that Wharf Resources (USA), Inc. requested that the board exchange its current irrevocable letters of credit, which serve as the company's reclamation, post-closure, and financial assurance (cyanide spill) bonds for surety bonds.

In September, the board approved increasing the letters of credit issued by Scotia Bank for the reclamation bond to \$35,786,000 and for the cyanide spill bond to \$597,800. Since that time, Wharf Resources determined that because of increased premiums for the letters of credit, it would like to exchange them for surety bonds.

The two companies that will provide the surety bonds are North American Specialty Insurance Company and Westport Insurance Corporation, which are both part of the Swiss RE group of Insurance Companies.

DENR staff verified that the companies are licensed in South Dakota and that they are certified by the United States Treasury Department and qualified to write surety bonds.

Staff also checked the financial strength of the companies. For AM Best, the companies are rated as A+ (superior), stable, and have a long-term credit rating of aa-, which is very strong. The companies have a Financial Size Category of XV, which is \$2 billion or greater and provides a convenient indicator of the size of a company in terms of its statutory surplus and related accounts.

Standard and Poors (S&P) ratings for the companies is aa-, which is very strong to meet obligations, stable, and a long-term credit rating aa-, which is very strong.

Moody's Rating for the companies is Aa3 (excellent), stable, with a long-term credit rating of Aa3 (very strong).

Mr. Holm noted that the companies have at least \$4 million in net worth or surplus.

The department recommended the board approve the exchanges of surety for Wharf Resources (USA), Inc.

Reclamation Bond: Motion by Morris, seconded by Hilde, to exchange Irrevocable Letter of Credit No. S18572/191556 for North American Specialty Insurance Company and Westport Insurance Corporation Bond No. 2179280 in the amount of \$35,786,000. A roll call vote was taken, and the motion carried unanimously.

Post-closure Bond: Motion by Morris, seconded by Englund, to exchange Irrevocable Letter of Credit No. S18572/199984 for North American Specialty Insurance Company and Westport Insurance Corporation Bond No. 2179281 in the amount of \$30,783,000. A roll call vote was taken, and the motion carried unanimously.

Financial Assurance (Cyanide Spill) Bond: Motion by Morris, seconded by Bullene, to exchange Irrevocable Letter of Credit No. S18572/334184 for North American Specialty Insurance Company Bond No. 2179282 in the amount of \$597,800. A roll call vote was taken, and the motion carried unanimously.

Request to Extend Final Reclamation Period After Completion of Mining: Mr. Holm reported that Pete Lien and Sons completed mining at its Rapid City Quarry covered under Large Scale Mine Permit No. 57 in 2004. The quarry also includes a limestone crushing operation and a lime plant that processes material from Pete Lien's Black Hawk Quarry, which is mined under Mine License 83-100 and, to a lesser extent, under Large Scale Mine Permit No. 216.

SDCL 45-6B-45 requires an operator to complete final reclamation of a mine site within five years after completion of mining. Since Pete Lien was still backfilling mined-out pit areas with waste material from the crusher and bag house dust from its Lime Plant in 2009, the company asked the board for a five-year extension of the reclamation period. On June 23, 2009, the board granted Pete Lien a five-year extension of the reclamation period. Pete Lien was required to complete final reclamation of the quarry by the December 31, 2014.

After the extension was granted, Pete Lien continued to backfill the mined-out pit areas.

During an October 29, 2014 inspection, the department noted that pit backfilling and other reclamation was not completed and reminded Pete Lien personnel of the December 31, 2014, deadline. As a result, on October 31, 2014, Pete Lien sent a letter to the department requesting the board approve a second five-year extension of the reclamation period to complete pit backfilling and final site reclamation.

Mr. Holm noted that since the backfilled pits will eliminate permanent long-term high walls and allow more site vegetation, the department recommended the board approve the five-year extension of the reclamation period until December 31, 2019.

Mr. Holm answered questions from the board regarding Pete Lien and Sons' mining operation.

Several of the board members expressed concern with approving the extension.

Mr. Morris suggested another extension, if approved by the board, be contingent on Pete Lien keeping the department informed regarding the percentage of reclamation that is complete.

Mr. Holm stated that 133 acres of the 400 affected acres are not yet reclaimed. Some of the 133 acres involves the lime kiln plant and the stockpile areas. He noted that those areas may have to be brought under the mine license at some point if Pete Lien intends to continue to use those facilities for the Black Hawk Quarry.

Mr. Bullene suggested the board approve the extension contingent upon Pete Lien being required to reclaim a certain percentage of the affected acres per year to insure that it is completed within the five-year timeframe.

Mike Cepak stated that Pete Lien could complete the reclamation within a year or two if they were required to do so. However, regarding the backfilling, the pit will be filled in and the high wall will be eliminated. The material Pete Lien is using as backfill is just bag house dust and lime kiln residues, so it is going into the pit at a very slow rate; only a few thousand tons per month. Mr. Cepak said if the board requires Pete Lien to reclaim the pit now, the high wall will remain on the north end of the quarry. The high wall is approximately 25 feet high, it is straight up and down, and it is next to a highway.

Motion by Blumhardt, seconded by Landguth, to approve a five-year extension to reclamation activities until December 31, 2019 for Pete Lien and Sons, Inc., Rapid City, SD, Mine Permit No. 57.

Chairman Hagg requested that the department let Pete Lien and Sons know that the board was reluctant in approving the extension and that the board encourages the company to complete the reclamation so soon as possible.

Mr. Karpen asked the department to keep a closer eye on Pete Lien and Sons.

Mr. Morris asked that the department provide the board with a briefing every year on the progress being made as to the remainder of the reclamation.

Mr. Holm noted that the annual report is due in January of each year. Mr. Holm stated that he will provide a brief to the board on the reclamation each year following receipt of the annual report.

A roll call vote was taken on the motion to approve the five-year extension, and the motion carried unanimously.

Prior to the meeting, the board received the table listing the department recommendations for transfers of liability and releases of liability (see attachment).

Motion by Englund, seconded by Bullene, to accept the department recommendations for transfers of liability, as shown on the attached table. A roll call vote was taken, and the motion carried unanimously.

Tom Cline answered questions from the board regarding releases of liability.

Motion by Hilde, seconded by Landguth, to accept the department recommendations for releases of liability, as shown on the attached table. A roll call vote was taken, and the motion carried unanimously.

NEXT MEETING: The next board meeting is January 22, 2015, in the Matthew Training Center in Pierre.

Mr. Holm noted that at the January meeting, staff will provide a presentation on reclamation bonding and a presentation on oil and gas development, spacing units, unitization, pooling, etc.

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

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 22nd day of January 2015.

Linda Hilde 1-22-15
Secretary Date

[Signature] 1-22-15
Witness Date

South Dakota Board of Minerals & Environment

November 20, 2014

License or Permit Holder	License or Permit Number	Site Number or Legal	Surety Amount	Surety Number	Surety Company or Bank	DENR Recommendation
Mine Permits:						
<u>Exchanges of Surety:</u>						
Wharf Resources (USA), Inc. Lead, SD	356, 434, 435, 464, & 476	Reclama- tion Bond	\$35,786,000	ILOC No. S18572/191556	ScotiaBank, Ontario, Canada	Exchange Irrevocable Letter of Credit No. S18572/191556 for North American Specialty Insurance Company & Westport Insurance Corporation Bond No. 2179280 in the amount of \$35,786,000.
		Post Closure Bond	\$30,783,000	ILOC No. S18572/199984	ScotiaBank, Ontario, Canada	Exchange Irrevocable Letter of Credit No. S18572/199984 for North American Specialty Insurance Company & Westport Insurance Corporation Bond No. 2179281 in the amount of \$30,783,000.
		Financial Assurance Bond	\$597,800	ILOC No. S18572/334184	ScotiaBank, Ontario, Canada	Exchange Irrevocable Letter of Credit No. S18572/334184 for North American Specialty Insurance Company Bond No. 2179282 in the amount of \$597,800.
<u>Request to Extend Period of Final Reclamation After Completion of Mining:</u>						
Pete Lien & Sons, Inc. Rapid City, SD	57		\$204,300	ILOC No. S500998	UMB Bank, Kansas City, MO	Grant Pete Lien & Sons, Inc. a 5-year extension to extend reclamation activities under Permit 57 until 2019.
Portions of Section 20 & 21; T2N-R7E, Pennington County						

South Dakota Board of Minerals & Environment

November 20, 2014

License or Permit Holder	License or Permit Number	Site Number or Legal	Surety Amount	Surety Number	Surety Company or Bank	DENR Recommendation
Mine Licenses:						
<u>Transfers of Liability:</u>						
HF Jacobs & Son Construction Inc. Aberdeen, SD	83-188		\$20,000	964 93 46	Fidelity & Deposit Company of Maryland	Transfer liability.
		188004	NW1/4 Section 15; T120N-R59W, Day County			
Transfer to:						
Guy Hanlon Verdon, SD	83-38		\$500	5098	Plains Commerce Bank, Conde	
			\$1,000	5053	Plains Commerce Bank, Conde	
			\$1,000	10146	Plains Commerce Bank, Conde	
			\$1,000	10440	Plains Commerce Bank, Conde	
			\$1,500	10057	Plains Commerce Bank, Conde	
			\$1,500	10277	Plains Commerce Bank, Conde	
			\$13,500	200010566	Plains Commerce Bank, Conde	
Clarence Mc Cune DeSmet, SD	93-477		\$500	64474	First National Bank, Pierre	Transfer liability.
		477004	SE1/4 Section 16; T111N-R56W, Kingsbury County			
Transfer to:						
Allen Wilde Construction Lake Preston, SD	85-301		\$1,500	0242858173	Wells Fargo Bank, Huron	

South Dakota Board of Minerals & Environment

November 20, 2014

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<u>Transfers of Liability:</u>						
Wagner Building Supply Wagner, SD	83-173		\$14,000	55-197526	United Fire & Casualty Company	Transfer liability.
		173004	NW1/4 Section 15; T94N-R62W, Charles Mix County			
Transfer to:						
Charles Mix County Highway Department Lake Andes, SD	83-22		EXEMPT	NA	NA	
<u>Releases of Liability:</u>						
Aggregate Construction Inc. Minot, ND	89-382		\$20,000	5301306	Ohio Farmers Insurance Company	Release liability.
		382017	S1/2 SW1/4 Section 4; T8N-R5E, Butte County			
Arthur E. Argo, Jr. Wilmot, SD	09-876		\$500 \$3000 \$3,500	13091 13115 13458	First State Bank, Wilmot	Release liability.
		876005	E1/2 SE1/4 Section 12; T125N-R52W, Roberts County			

South Dakota Board of Minerals & Environment

November 20, 2014

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<u>Releases of Liability:</u>							
Atteberry Construction, Inc. Colome, SD	97-617		\$500	14484	First National Bank, Pierre	Release liability.	
			\$500	168439	First National Bank, Pierre		
			\$2,000	94848	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		
			\$2,500	304152	First Fidelity Bank, Colome		
	617005	Section 24; T42N-R25W, Mellette County					
Clausen Construction Inc. Watertown, SD	83-15		\$8,500	SD 11204	Merchants Bonding Company	Release liability.	
		15007	NE1/4 Section 12; T115N-R58W, Clark County				
Hills Materials Company Rapid City, SD	83-42		\$20,000	8881210	Fidelity & Deposit Company of Maryland	Release liability.	
		42001	S1/2 NE1/4 & N1/2 SE1/4 Section 19; T3S-R7E, Custer County				
		42011	Section 17; T1N-R11E, Pennington County				

South Dakota Board of Minerals & Environment

November 20, 2014

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<u>Releases of Liability:</u>						
Hughes County Highway Department Pierre, SD	83-31		EXEMPT	NA	NA	Release liability.
		31005	SW 20 Section 20; T110N-R75W, Hughes County			
		31013	SE1/4 Section 14 & NE1/4 Section 23; T108N-R74W, Hughes County			
		31016	Section 6; T112N-R76W, Hughes County			
Lyman County Highway Department Kennebec, SD	83-215		EXEMPT	NA	NA	Release liability.
		215015	SW1/4 Section 19; T103N-R78W, Lyman County			
DOT – Aberdeen Region Aberdeen, SD	83-10		EXEMPT	NA	NA	Release liability.
		10003	NW1/4 SE1/4 Section 9; T127N-R54W, Marshall County			
		10309	SE1/4 SE1/4 Section 36; T112N-R52W, Brookings County			

South Dakota Board of Minerals & Environment

November 20, 2014

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<u>Releases of Liability:</u>						
DOT – Rapid City Region Rapid City, SD	83-10		EXEMPT	NA	NA	Release liability.
		10053	N1/2 NE1/4 Section 4; T5N-R6E & S1/2 SE1/4 Section 33; T6N-R6E, Meade County			
		10333	E1/2 SE1/4 Section 7; T2N-R15E, Pennington County			

