

Minutes of the
Board of Minerals and Environment
Matthew Environmental Education and Training Center
523 East Capitol Avenue
Pierre, South Dakota

May 21, 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 PRESENT: Rex Hagg, Glenn Blumhardt, Linda Hilde, Dennis Landguth, Doyle Karpen, Gregg Greenfield, Daryl Englund, and Bob Morris.

BOARD MEMBER ABSENT: Pete Bullene.

OTHERS PRESENT: See attached attendance sheet.

APPROVAL OF MINUTES FROM APRIL 16, 2015, MEETING: Mr. Englund pointed out that the “Coding” in line 3 of paragraph 2 on page 3 should be changed to “Codington.”

Motion by Englund, seconded by Hilde, to approve the minutes from the April 16, 2015, Board of Minerals and Environment meeting, as amended. 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 Morris, seconded by Blumhardt, to accept the department recommendations for releases of liability and surety and transfers of liability, as shown on the consent calendar. Motion carried unanimously.

Transfer of Small Scale Mine Permit 415 from Pamela Frink to Robert Griggas: Mike Cepak reported that on August 21, 2014, the board held a hearing for the transfer of Small Scale Mine Permit 415 from Pamela Frink, Hill City, South Dakota to Robert Griggas, Lake Mills, Wisconsin.

This mine is located in Mystic, about 12 miles northwest of Hill City. It is a small underground gold mining operation with a small waste rock dump on the surface.

During the August 21, 2014 hearing, the department recommended that the board approve the transfer of Small Scale Mine Permit 415 from Pamela Frink to Robert Griggas, release the \$500 reclamation bond, CD No. 0026602190, US Bank, Rapid City, to Mrs. Frink, and accept Irrevocable Letter of Credit No. 23, Summit Credit Union, Madison, WI, in the amount of \$500 from Mr. Griggas.

During the board discussion on this matter at the August 21 hearing, there was concern about the expense to collect a forfeited \$500 Letter of Credit from an out of state bank.

At the hearing, a motion was made to approve the transfer and accept the Griggas Letter of Credit as the replacement bond. However, due to the concerns regarding collecting a forfeited Letter of Credit, a substitute motion was made and approved by the board. The substitute motion was to transfer Small Scale Mine Permit 415 from Pamela Frink to Robert Griggas and release CD No. 0026602190, US Bank, Rapid City, in the amount of \$500, contingent upon Mr. Griggas submitting the \$500 financial assurance in the form of cash or a certificate of deposit.

Mr. Cepak reported that following the hearing, Mr. Griggas had some difficulty in obtaining a certificate of deposit. Mr. Cepak explained that some banks will not issue a certificate in the name of the operator and the department. Also, some banks will not issue certificates in amounts less than \$1000.

Mr. Cepak stated that Mr. Griggas was able to purchase a certificate from a local Pierre Bank. The CD is in the name of both the operator and the department.

Pursuant to the August 21, 2014 motion, the transfer of Permit 415 to Robert Griggas was contingent on Mr. Griggas submitting the \$500 replacement surety in the form of cash or a CD. Since this contingency has been met, the department recommended the board accept Robert Griggas's \$500 CD, No. 215508, First National Bank, Pierre, SD.

Mr. Cepak noted that acceptance of this financial assurance will complete the transfer of Permit 415 and allow the release of CD No. 0026602190, US Bank, Rapid City, in the amount of \$500 to Ms. Frink.

Motion by Morris, seconded by Landguth, to transfer Permit 415 to Robert Griggas and release CD No. 0026602190, US Bank, Rapid City, in the amount of \$500, and accept CD No. 215508, First National Bank, Pierre, in the amount of \$500. Motion carried unanimously.

Increase to reclamation bond for Dakota Granite Company's Mine Permit 15: Eric Holm reported that the department recently recalculated the reclamation bond for Dakota Granite's Large Scale Mine Permit 15 to account for increased disturbance and inflation.

The new bond amount calculated by the department is \$347,400, which is an increase of \$107,700 over the current reclamation bond. To cover the increase, Dakota Granite has submitted an amendment to its Irrevocable Letter of Credit with Great Western Bank, which serves as its reclamation bond.

The department recommended the board accept Amendment No. 1 to Irrevocable Letter of Credit No. 161, Great Western Bank, increasing the bond by \$107,700 to the new amount of \$347,400.

Motion by Englund, seconded by Landguth, to accept Amendment No. 1 to Irrevocable Letter of Credit No. 161, Great Western Bank, increasing the bond by \$107,700 to the new amount of \$347,400 for Dakota Granite Company, Milbank, SD, Permit 15. Motion carried unanimously.

Annual update of Homestake Mining Company's post closure bond: Mr. Holm reported that in the May 18, 2006 Board Order regarding the post closure financial assurance for Mine Permit Numbers 332 and 456, it states that the financial assurance shall be automatically extended for periods of one year. At the time of each annual extension, the face value of the financial assurance shall be adjusted to the bonding schedule set by the board in 2006 and updated in 2012.

For 2015, the face value of the surety bond that serves as the post closure financial assurance is required to be \$40,786,227. This is an increase from the \$39,626,023 which was submitted last year. Homestake has submitted a rider to its current surety bond which increases the amount to the new amount of \$40,786,227. The rider and the status of Federal Insurance Company have been reviewed by the department.

The department recommended the board accept the rider to Surety Bond No. 8233-63-10, Federal Insurance Company, to increase the amount to \$40,786,227.

Motion by Blumhardt, seconded by Hilde, to accept rider to Surety Bond No. 8233-63-10, Federal Insurance Company, to increase the amount to \$40,786,227, for Homestake Mining Company, Lead, SD, Mine Permit 332. Motion carried unanimously.

REQUEST PERMISSION TO ADVERTISE FOR A PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE AIR QUALITY REGULATIONS – ARSD 74:36: Marlys Heidt, DENR Air Quality Program, requested permission from the board to advertise for public hearing to consider amendments to the air quality regulations, ARSD 74:36.

The proposed revisions include updating the rules to the most current federal reference of July 1, 2014. The proposed revisions would remove references under the New Source Review Program stayed indefinitely by the Circuit Court. The revisions are also proposed to the Construction Permit Program, which will speed up the permitting process for projects with small increases in allowable emissions.

Mr. Rombough noted that the department intends to offer the proposed amendments for initial comments prior to the actual public notice.

Ms. Heidt and Kyrik Rombough answered questions from the board such as those regarding the Circuit Court stay on the New Source Review Program.

Motion by Hilde, seconded by Blumhardt, to grant permission to advertise of a public hearing to consider amendments to the Air Quality Regulations – ARSD 74:36. Motion carried unanimously.

ORAL MINING REPORTS: Representatives of the large-scale gold mining companies provided oral presentations of their annual reports to the board. The annual oral mining presentations are required by statute. Mine representatives reported on production and reclamation activities during 2014 and discussed plans for 2015:

LAC Minerals – Mark Tieszen

During 2014, LAC Minerals continued water treatment, discharging 29 million gallons. In 2015, LAC Minerals will file a petition for release of reclamation liability and post closure plan for the site, which may be heard before the board late in the year.

Homestake Mining Company – Mark Tieszen

During 2014, Homestake continued to remove return and decant pipes wrapped with material containing asbestos and PCB's and associated contaminated soils at Grizzly Gulch and continued water treatment at its Blacktail Plant in Central City. At the Blacktail Plant, Homestake upgraded its biological reactors for selenium treatment and built a facility for sludge dewatering and iron sponge oxidation. In 2015, Homestake plans to finish removing the pipes wrapped with material containing asbestos and PCB's and associated contaminated soils at Grizzly Gulch.

Wharf Resources – Ron Waterland

During 2014, Wharf Resources, the only large-scale gold mine still operating, produced 72,094 ounces of gold and 322,959 ounces of silver. In 2014, Wharf completed a new haul road to the Golden Reward Mine and commenced mining the Harmony Pit at Golden Reward. Wharf also relined the Ross Valley Holding Pond and made improvements to their water treatment facilities. In 2015, Wharf plans to continue mining the Green Mountain, Bald Mountain, and Harmony Pits. Wharf plans to reline Leach Pad No. 5 and will construct a new capping system over an acid generating rock impoundment in the West Liberty Pit at Golden Reward.

VMC, LLP – Mark Nelson (via telephone conference call)

Mr. Nelson gave an update of VMC's (Deadwood Standard) proposed operation on the rim of Spearfish Canyon. VMC is currently reassessing the project to consider off-site processing and it is not planning to submit any permit applications in the near future.

Gilt Edge Superfund Site – Mike Cepak

Mr. Cepak reported that in 2014, 155 million gallons of acid water was treated at the Gilt Edge Superfund Site. Remediation work, including backfilling and capping of the mine pits at Gilt Edge, is planned to begin in 2016.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER IN THE MATTER OF QUARTZ OPERATIONS, LLC SURETY BOND: 2015 PARTIAL DISBURSEMENT REQUEST: Board Chairman Hagg was the hearing chairman for this matter.

The following parties were present:

Charles T. Patterson and Margaret Prah, attorneys for Woodford Construction Co., Inc.

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Steven Blair and Ellie Bailey, assistant Attorneys General, representing the Department of Environment and Natural Resources.

Charles McGuigan, Chief Deputy Attorney General, representing the Board of Minerals and Environment.

John M. Fitzgerald, attorney for intervenor Richard Davis and Mark Ekse, attorney for Quartz Operations, were not present.

Hearing Chairman Hagg noted that the prehearing conference was held on April 9, 2015.

Prior to the prehearing conference, the Department of Environment and Natural Resources filed a Motion to Dismiss citing jurisdictional issues but primarily dealing with SDCL 34A-10-2.2 and SDCL 34A-10-2.3. Hearing Chairman Hagg requested all parties file briefs.

After reviewing the briefs and hearing the arguments of the parties, Hearing Chairman Hagg granted the department's Motion to Dismiss. As a result, Hearing Chairman Hagg requested the department to provide him with proposed Findings of Fact and Conclusions of Law based on the ruling at the prehearing conference.

Hearing Chairman Hagg reviewed the department's proposed Findings of Fact, Conclusions of Law, and Order, and made some changes and deletions.

Prior to today's meeting, the board members were provided with the department's proposed Findings of Fact and Conclusions of Law and Chairman Hagg's proposed Findings of Fact and Conclusions of Law.

Chairman Hagg stated that his proposed Findings of Fact and Conclusions are different from the state's primarily with regard to what jurisdiction the board has to act on the bond outside of the operator's request and what authority the board has to act on the bond as far as release of the bond to creditors once the state has completed its use of the bond for reclamation, if necessary.

Mr. Patterson presented the board members with a letter and Supplemental Order. He presented the reasons for Woodford's opposition to Hearing Chairman Hagg's ruling and he requested the board adopt his Supplemental Order.

Mr. Patterson answered questions from the board.

Mr. Blair stated that the department had no objections to Hearing Chairman Hagg's proposed Findings of Fact and Conclusions of Law.

Mr. Blair objected to the board entering Mr. Patterson's Supplemental Order into the record. He noted that the Order cites SDCL 45-6B-76, which is Mined Land Reclamation and does not apply to oil and gas.

Mr. Blair took issue with Mr. Patterson implying or saying that the department is doing nothing regarding Quartz. He explained the reasons that the board should not adopt the Supplemental Order. He also discussed the reasons the bond should not be released at this time.

ATTENDANCE SHEET

BOARD OF MINERALS AND ENVIRONMENT MEETING

Location Matthew Training Center
Pierre, SD

Date 5-21-15

NAME (PLEASE PRINT)

ADDRESS

REPRESENTING

Bob Townsend

Pierre

DENR

Mike Cepak

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Eric Holm

"

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Steve Blaws

"

ATG

Ellie Bailey

"

ATG

Rich Williams

"

ATG

Tom Patterson

Custer

Att

Margaret Peck

Custer

Attorney

Todd Daep

Lead

Homestake/LAC

Mark Tieszen

Lead

Homestake/LAC

Kyril Rombough

Pierre

DENR-AQ

Marlys Heidt

Pierre

DENR-AQ

Roberta Hudson

Pierre

DENR-mm

Fatty McJury

"

Bob Waterland

Sturgis

Want

Bret Graves

Pierre

DENR

Bob Mercer

Pierre

Newspaper

Mike Lees

Pierre

DENR

South Dakota Board of Minerals & Environment

Consent Calendar

May 21, 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>Release of Liability & Surety:</u>						
Brewer Gravel Box Elder, SD	10-900		\$1,500	177750	First National Bank, Ft. Pierre	Release liability and \$1,500.
		900001	Section 12; T3N-R9E, Meade County			
 <u>Transfer of Liability:</u>						
Bob Bak Construction Pierre, SD	83-61		\$4,000	13871	American State Bank, Pierre	Transfer liability.
			\$3,500	7410	American State Bank, Pierre	
			\$3,000	4981	American State Bank, Pierre	
			\$500	7305	American State Bank, Pierre	
			\$500	13850	American State Bank, Pierre	
			\$500	13751	American State Bank, Pierre	
			\$1,000	64334	First National Bank, Pierre	
			\$500	65266	First National Bank, Pierre	
			\$500	0621959600	Wells Fargo Bank, White River	
		61029	SW1/4 SE1/4 Section 9; T8N-R3E, Butte County			
Transfer to:						
Butte County Highway Department Belle Fourche, SD	83-6		EXEMPT	NA	NA	

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			\$500	7305	American State Bank, Pierre	
			\$500	13850	American State Bank, Pierre	
			\$500	13751	American State Bank, Pierre	
			\$1,000	64334	First National Bank, Pierre	
			\$500	65266	First National Bank, Pierre	
			\$500	0621959600	Wells Fargo Bank, White River	
		61031	NW1/4 Section 6; T3N-R13E, Meade County			
Transfer to:						
Meade County Highway Department Sturgis, SD	83-113		EXEMPT	NA	NA	