



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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October 5, 2026

Jennifer Henson
Environmental Specialist
Bentonite Performance Minerals, LLC.
554 US Highway 212
Belle Fourche, SD 57717

RE: Larsen Large Scale Mine Permit Application

Dear Ms. Henson:

The department has completed its review of Bentonite Performance Minerals' (BPM) large scale mine permit application submitted on September 4, 2026, for the proposed Larsen Mine. Based on our review, we have determined that the mine permit application is incomplete. BPM will need to address the following items in order to complete the application:

1. Application Form: I have enclosed the Large Scale Mine Permit application form for the following revisions:
 - a) The proposed starting date and completion date for the proposed mining operation need to be entered on the form.
 - b) On the resident agent portion of the form, you list the address for BPM's resident agent Capitol Corporate Services Inc. as 300 S Phillips Avenue, Suite 300, Sioux Falls, SD 57104. However, the South Dakota Secretary of State's business database lists the address as 207 E Capitol Avenue, Suite 101B, Pierre, SD 57501. Please verify the correct address and phone number for Capitol Corporate Services, and if the address and/or phone number on the form is not correct, please revise them on the enclosed copy of the application form.

I have also enclosed a new Large Scale Mine Permit form if you want to submit a new form instead of revising the current form.

2. SDCL 45-6B-8: In Section 2.1, page OP-1 and Section 3.7.6 on page RP-15, BPM mentions mining done under previous mine permits in the area and states there has been

no underground mining. However, there is no mention of areas mined prior to July 1, 1971, as required under this statute. Therefore, please identify any areas mined prior to July 1, 1971.

3. SDCL 45-6B-42: Please discuss whether BPM plans to fence and post warning signs around pit highwalls in addition to the MSHA required berms.
4. SDCL 45-6-44: After reviewing the certified mail return receipt cards submitted for the adjacent landowner letters, I noticed that the letter for the Highway 212 right of way was sent to the South Dakota Office of School and Public Lands. After checking the Office of School and Public Lands web page, there is no land managed by that agency adjacent to the proposed mine permit boundary. I also checked American Colloid's Mine Permit 471, and the South Dakota Department of Transportation (SDDOT) was listed as the adjacent surfacer owner for the Highway 212 right of way. Therefore, please send the SDDOT the adjacent landowner letter for the right of way to:

South Dakota Department of Transportation
Belle Fourche Area Office
10921 SD Highway 34
Belle Fourche, SD 57717

5. SDCL 45-6B-46: Please address in Section 3.2.7 on page RP-4 whether reclamation will be completed within five years after completion of each phase of the operation. Also, in addressing subsection 1 of this statute, please discuss whether there are unsuitable land, roads, permanent pools or lakes, or other features located on the land in which revegetation will not be feasible. Finally, in addressing subsection 2 of this statute, please discuss whether the chemical and physical characteristics of the surface and immediately underlying material of affected land are toxic, deficient in plant nutrients, or composed of sand, gravel, shale, or stone to such extent as to inhibit plant growth that cannot be remedied by fertilizer, chemical treatment, or other measures.
6. SDCL 45-6B-92(4): In section 3.7.4 on page RP-14, please address direct or indirect sources of drinking water in the proposed mining area.
7. ARSD 74:29:02:08: In section 4 of the mine permit application, BPM includes assumptions and a map in its discussion of its \$987,000 reclamation cost estimate. However, it does not include the detailed cost estimate for each component of the affected land such as mine pits, the permanent overburden stockpile, and topsoil and subsoil stockpiles that are required under this regulation. On July 27, 2026, Lecia Craft of SWCA emailed me a link to the bond calculation spreadsheet used to determine the \$987,000 estimate. The entire bond calculation spreadsheet needs to be included in Section 4 of the mine permit application to comply with the requirements of this regulation.

8. ARSD 74:29:02:01: As we began our review of the large scale mine permit application, we attempted to use the Regulatory Crosswalk in Appendix H. However, we found the crosswalk to be confusing to use, as we were incorrectly going to sections of the application that we thought addressed the items identified in the crosswalk, but did not. We finally were able to access the correct locations in the application after figuring out BPM's nomenclature identified in the crosswalk. Since other state government agencies and the public will be reviewing the application, BPM must clearly identify the entire applicable section and page number in the crosswalk to help avoid the confusion we experienced. For example, under SDCL 45-6B-39 Revegetation, the citation for the location in the application should be S3.2.10, pg. RP-6 instead of RP S2.10. Please make the necessary changes to the crosswalk.

BPM also needs to ensure that each statute and regulation, including the applicable subsections, is correctly cited throughout the permit application and in the crosswalk in Appendix H. Please note that regulatory citations identified in some of the section titles are not always addressed under that section. Some examples found in the application in which the statute, regulation, and/or related subsections were not correctly referenced or were not identified are outlined below:

- a) SDCL 45-6B-8: The following were issues noted in the references to this statute in section titles and the Appendix H crosswalk:
 - a. Section 2.1: The statute is identified as being addressed in the title of the section but there is no statement about surface mining activity prior to July 1, 1971, in this section.
 - b. Section 2.2: In the section title, BPM list SDCL 45-6B-8(a-d). Please note, since this statute does not have subsections, the reference needs to be changed to SDCL 45-6B-8. It is believed this is most likely a typo and the section reference is supposed to be SDCL 45-6B-6(8(a-d)). This section also does not provide any information on surface mining activities that may have been conducted in this area prior to July 1, 1971.
 - c. Section 3.7.6: This statute is identified in the section title regarding "Soils", but there is no discussion on surface mining activities conducted prior to July 1, 1971. We are also curious why underground mining is mentioned in this section and how it is related to soils.
 - d. Appendix H: The crosswalk also identifies Appendix A as a reference for this statute, but there are no maps in Appendix A that provide information on surface mining activities conducted prior to July 1, 1971.
- b) In Appendix H, the reference to ARSD 74:29:02:04(5), Stability Discussion, should refer to Section 3.2.6 on page RP-3 as well as Section 2.11 on page OP-9. Section 2.11 does state that no tailings dams/ponds, reservoirs, heap leach pads and other critical earth structures will be constructed, but BPM should include in this section a discussion on the permanent overburden stockpile that will be constructed and whether any other critical earth structures such as stock dams will be disturbed by BPM during the mining operation.

- c) Since Section 3.2.4 on page RP-2 discusses the five-year reclamation timeline required under SDCL 45-6B-46, the section should also be referenced for SDCL 45-6B-46 in the Regulatory Crosswalk. Also, the title in this section should also include a SDCL 45-6B-46 citation.
- d) In Section 1.6 on page S-3, the statute reference needs to be changed from SDCL 45-**SB**-6(4) to SDCL 45-**6B**-6(4).
- e) In Section 3.9 on page RP-17, the statute reference needs to be changed from SDCL 45:6B-6(4) to SDCL 45-6B-6(4).

Please note the above identified errors are only a small portion of the overall reference errors noted in the application. BPM must review the references made through the report and Appendix H and make the necessary corrections to the mine permit application to ensure that citations are made to the correct statutes and regulations.

9. ARSD 74:29:02:12(1 through 7): None of the figures in Appendix A were signed by the preparer as required under ARSD 74:29:02:12(2). Also, only the preparer's initials were indicated on the figures, or the preparer's name was not included in Figures 7 and 13. Therefore, please submit a set of new figures that include the full name of the preparer and signature.

In addition, Figures 7 and 13 which are cross sections are missing the following items which are required under ARSD 74:29:02:12:

- ARSD 74:29:02:12(1): Bentonite Performance Minerals' name is missing.
- ARSD 74:29:02:12(3): The date prepared is missing.
- ARSD 74:29:02:12(5): The legend is fuzzy and almost impossible to read. If these are copies of original drawings, the original drawings with legible legends need to be submitted.
- ARSD 74:29:02:12(7): The drawing scale is missing.

Please submit revised Figures 7 and 13 with the missing information.

Also, Figure 6 needs township, range, and section boundaries as required under ARSD 74:29:02:12(6). In addition, the overburden stockpile north of the Phase 3 mining is shown as a permanent stockpile. Should this be a temporary overburden stockpile?

10. ASRD 74:29:06:02(4)(a) and (b): In Section 3.8 on page RP-17, please address whether the proposed postmine land use of rangeland is obtainable according to data on expected need and market and whether it is supported by commitments from public agencies where appropriate.
11. ARSD 74:29:07:02(6): In Section 2.9, please discuss how impacts to wildlife from heavy equipment traffic on the haul road will be mitigated during the mining operation.

12. ARSD 74:29:07:04(2): In Section 3.2.6, please discuss in detail erosion and sediment controls to be implemented during pit backfilling and final grading prior to subsoil and topsoil placement. Also, please submit conceptual drawings of the terraces created on long or steep slopes and the location of erosion and sediment control structures planned during final grading.
13. ARSD 74:29:07:06(1): In Appendix D, page D-6, an August 12, 2025, email from you to Andrea Westlake of the Butte County NRCS is included in which you discuss promoting the reclamation of the mine land to sage grouse habitat by overseeding targeted areas with Wyoming big sagebrush and silver sagebrush seed. Ms. Westlake responded on August 15, 2025, with a seeding rate for these species. Please verify whether you plan to overseed with the sagebrush species since it is not mentioned in the reclamation plan. If you plan to proceed, BPM will need to include it in the reclamation plan and add wildlife habitat to the post mine land use since the overseeding is being done to enhance sage grouse habitat. You will also need to address each subsection of ARSD 74:29:07:22 for the wildlife habitat land use. BPM will also need to have Ms. Westlake submit an updated seeding plan with the sagebrush species included instead of just including an email conversation with the application. We will also need confirmation from Todd Larsen that he has no issues with seeding the sagebrush species.
14. SDCL 45-6B-40 and ARSD 74:29:07:07(2 and 7): For areas undergoing interim reclamation or during periods of temporary cessation, please address the temporary distribution of topsoil as required under subsection 2 of ARSD 74:29:07:07. In your discussion, please address whether topsoil productivity will be diminished, whether it will be protected from erosion, and whether it will be available for final reclamation.

Also, in the second to last sentence in Section 3.2.9 on page RP-6, please change the phrase “prior to soil salvaging activities” to “prior to stockpiling”. ARSD 74:29:07:07(7) requires trees, large rocks, and other waste from topsoil and subsoil be removed during salvaging and prior to stockpiling.

15. SDCL 45-6B-41 and ARSD 74:29:07:08(1 and 5): In section 2.18 on page OP-10, BPM states the pond near the Colony Plant is permitted according to applicable Wyoming regulatory requirements. Please verify that Wyoming regulatory requirements allow BPM to haul dust suppression water out of state to South Dakota.

Also, in Section 3.4 on page RP-11, BPM does not mention whether any permanent diversions will be constructed. Please address in this section whether any permanent diversions will be constructed, and if so, how they will be designed not to erode during an approved design precipitation event.

16. ARSD 74:29:07:10: In Section 2.11 on page OP-9, please address whether any intermittent or perennial streams will be diverted, and if so, please address each subsection of this regulation.

17. ARSD 74:29:07:12(7): In Section 2.16 on page OP-10, BPM states that the running width of roads will be approximately 20 to 25 feet not including the amount of disturbance needed to ensure drainage ditches are effective. Please note that the drainage ditch distance needs to also be included in the road width disturbance. Therefore, please revise the road width disturbance in Section 2.16 to include drainage ditch disturbance. Also, please submit a conceptual plan view map and cross section showing the road and drainage ditch disturbance.
18. SDCL 45-6B-45(2) and ARSD 74:29:07:20(3): In Section 3.2.12 on page RP-8, please discuss whether fencing will be required to preclude livestock or wildlife from impairing establishment of the required vegetative cover.

BPM should also be aware of the following general comments and questions concerning the permit application:

1. In responding to the items requested in this letter, BPM does not need to resubmit the entire mine permit application. BPM only needs to replace the sections of the application that need to be revised.
2. ARSD 74:29:06:01: The department concurs with BPM that rangeland is an appropriate postmine land use.
3. ARSD 74:29:01:04. The information requested in this letter must be filed with the Butte County Register of Deeds office. Proof of filing, such as a letter from the register of deeds office, is required to be submitted.
4. ARSD 74:29:01:10. The department will begin drafting a summary document for the permit application. We will provide the summary document to BPM for review and comment at a later date.

We also have the following technical comments:

1. Section 3.2.10.2, Seed Mix Substitutions, Page RP-7, Reclamation Plan: One of the circumstances BPM identifies when it may need to substitute one or more species in the seed mix is that the cost may be prohibitive. Please note that BPM is required to use the approved seed mix in the mine permit application regardless of cost during seeding. DANR will be hesitant to approve a technical revision to change a seed mix if the only basis is that the particular species in the approved mix to be changed is cost prohibitive.
2. Please submit cross sections of the diversion to be constructed along the western edge of the Phase 1 mining area. Also, please submit the anticipated culvert diameter to be used at the mine site and the storm event the culverts will be designed to carry. We realize that this information may be conceptual at this point.

If you have any questions, please feel free to contact our office.

Sincerely,

\s/

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Enclosure