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MINERALS & MINING PROGRAM



BENTONITE
Performance Minerals LLC

Colony, Wyoming Plant

554 US Hwy 212,

Belle Fourche, SD 57717

Phone (307)896-2596/Fax (307)896-4588

February 23, 2024

Eric Holm
Engineer III
Department of Agriculture & Natural Resources
Mining and Minerals Program
523 East Capitol Avenue Pierre, SD 57501-3392

Dear Eric Holm,

Bentonite Performance Minerals, LLC (BPM) is submitting the enclosed a revised Large Scale Mining/Milling Permit Application and supporting information in accordance 45-6B-5 with for the Security bentonite project located west of Belle Fourche, South Dakota. The submission is complete with responses to your comments. Please let me know what other agencies should get copies of the permit application and at what time.

Please excuse this delayed submittal, BPM has undergone significant personnel changes in the last couple years. Should you need any further explanation, please let me know and I can provide a summary.

Should there be any questions, please call reach out to me at 307.896.6060 or at Michael.Barr@Halliburton.com.

Sincerely,

Michael Barr
Senior Project Coordinator

Enclosures:

- (1) Large Scale Mining/Milling Permit Application (Revised from Original)
- (1) Response to Comments



**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 E CAPITOL AVE
PIERRE SD 57501-3182
danr.sd.gov

November 7, 2022

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FEB 28 2024
MINERALS & MINING PROGRAM

Michael Barr
Senior Project Coordinator
Bentonite Performance Minerals, LLC.
554 US Highway 212
Belle Fourche, SD 57717

RE: Security Large Scale Mine Permit Application

Dear Mr. Barr:

The department has completed its review of Bentonite Performance Minerals' (BPM) large scale mine permit application submitted on October 17, 2022, for the proposed Security 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: The general office address listed on the application form is "3000 N Sam Houston Drive Pkwy E Building J – 4th Floor, Houston, Texas". However, in Section 1.0 on page 66 of the mine permit application, BPM states that both the general and local address is "554 US Highway 212, Belle Fourche, SD". Please verify the correct general address for the application and list the correct address on either the application form or Section 1.0 of the application.

Response to comment:

Section 1.0 has been revised to reflect this comment.

2. Certification of Applicant Form: BPM is required to attach a sheet to the Certification of Applicant form disclosing any of the applicable facts listed on the front page of the form, including any environmental violations at the company's mining and other operations in South Dakota and other states. The enclosed attachment listing several violations was previously submitted with the Certification of Applicant form for the Killinger and Purple mine permit applications. This violation list is required to be included with the Certification of Applicant form in this application. Any disclosures will not automatically result in denial of the application.

Response to comment:

ECHO reports were pulled on 2/7/24 and were incorporated into the permit.

3. SDCL 45-6B-6(8(b)) and ARSD 74:29:02:04(1, 2, and 3): Under Mining Method and Type in Section 2 on pages 66 and 67 of the Operating Plan, please include a narrative

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describing the depths of the various pits that will be mined during the project. Also, please include a narrative with details on the direction of mining during each phase of the project. Finally, please describe how many pits will be mined during each phase of the project.

Response to comment:

Section 2 has been modified to reflect this comment.

Also, in Section 2.0 please include a narrative of the pre and post mining topography. In the narrative, please describe the pre and post mining slopes and slope directions and the post mining slopes of any permanent overburden stockpiles. During the October 5, 2022, inspection of the area, it was my impression after discussions with BMP personnel that the post mine topography may have a gentler slope with different drainage patterns than the current topography.

Response to comment:

Section 2.0 has been modified to reflect this comment.

The mine plan map in Appendix A shows a total of 10 pits will be mined during Phase 2. However, no pits are shown for Phases 1, 3, 4, or 5. Please show on the map the pits that will be mined for these phases of the project.

Response to comment:

Section 2.0 has been modified to reflect this comment. Example pits have been included on the pertinent map(s). The pits are what BPM intends to implement in the field however, the planned pits are subject to change given changes in the market, ground conditions or other factors. All pits should be considered conceptual at this time.

In Section 5.6 on page 85 of the Reclamation Plan, BPM states that Section 5.0 of the Operating Plan outlines three “sequences” (A, B, and C). Please note that mine sequences A, B, and C are not mentioned in Section 5.0 of the Operating Plan. If these sequences are being proposed, please include a description of them in this section. If not, please remove the reference to them in Section 5.6 of the Reclamation Plan.

Response to comment:

The language in the reclamation plan has been changed to reflect this comment.

4. SDCL 45-6B-8: In Section 2.0 on page 78 of the Reclamation Plan, BPM states previous mining of any kind or variety has not occurred within the permit boundary. Also, during the two inspections of the Security area, we did not note, and BPM did not point out, any pre 1971 mining areas. However, in Section 5.0 on page 69 of the Operating Plan, BPM states pre-law disturbances are nearby the active pits. Also, in the Weed Control Plan on page 107 of the Reclamation Plan, BPM refers to Canada thistle within the pre-law mining areas. Finally, in the proposed list of technical revisions on page 3 of the application, BPM refers to existing pre-law land that is included in reclamation in technical revision category number 10. Please clarify whether there are any pre 1971 mining areas within the proposed mine permit boundary. If there are, please revise Section 2.0 of the Reclamation Plan. If not, please revise the other applicable sections.

Response to comment:

Pre-law lands were unintentionally carried over from language in previously submitted permits. Pre-Law lands have been removed from this permit application.

5. SDCL 45-6B-10, ARSD 74:29:01:17, ARSD 74:29:02:09, ARSD 74:29:02:11(2 and 3) and ARSD 74:29:02:12: All maps in the mine permit application are required to comply with the requirements of SDCL 45-6B-10 and ARSD 74:29:02:12. Therefore, several revisions are required for the maps submitted with the mine permit application. First, each map in the application needs to have a title explaining the purpose of the particular map. In addition, each map needs to identify the particular statute and/or regulation, including subsection, the map is intended to fulfill. In the maps submitted with the application, BPM only refers to SDCL 45-6B-10 which does not completely address this requirement.

Response to Comment:

Maps have been reviewed and I believe we have correctly applied each SDCL or ARSD to any given map.

ARSD 74:29:02:11(2) requires geologic cross sections that are representative of the proposed mining area. The geologic cross-sections provided are for operations in Colony, WY and are therefore not representative of the proposed mining area. Please provide representative geologic cross-sections for the proposed mine area.

Response to comment:

The contact between the Belle Fourche Shale and the underlying Mowry Shale units is where the Commercial (also known as the Clay Spur) bentonite bed is found. The Security permit application is for the extraction of this same Commercial bed which is the same in South Dakota as it is in Wyoming. Therefore, BPM proposes not changing the cross sections as they are representative of the Commercial Bed in both South Dakota, Montana and Wyoming. This geologic cross section is the same that was used in the Killinger and Purple permit applications and are representative of the geology at each property.

Regarding the mine pit cross-section drawing, it needs a title and a scale. Also, cross sections A-A' and B-B' are not shown on any of the plan view maps. Please include these cross sections on at least the mine plan map and final reclamation map. Finally, a green line on the cross sections is labeled as the pit surface. Should this be the backfilled pit surface or the final reclaimed surface? If so, please revise the label to reflect this. If not, please add a line showing the final pit backfill or reclaimed surface.

Response to comment:

Maps and cross sections have been adjusted to reflect this comment.

In addition, the map showing surface ownership and soils does not have township, range, or section boundaries. Please add those boundaries to the map.

Response to comment:

Maps were modified to reflect this comment.

The 3 View Road is labeled on the soil and surface ownership map, but the American Colloid haul road is not labeled. Please label the road on the map. Also, the Belle Fourche River is labeled on one of the maps in Appendix A, but Middle Creek is not. Please label Middle Creek on the map.

Response to comment:

Maps were modified to reflect this comment.

As I mentioned in my October 27, 2022, email, please submit a map showing the permitted petroleum contaminated soil and solid waste facilities in relation to the mine disturbance shown on the mine plan map.

Response to comment:

BPM has provided a map that shows the proposed disturbance footprint for mining related disturbances and contains the approximate permit boundaries of the PCS Farm and Solid Waste Facilities previously permitted and closed between the state and the surface owners. Approximate boundaries were used for the PCS and SWF as that is what was provided from the state (Steve Kropp) to draft the maps.

Finally, the maps submitted with the application are rather busy since there are several items shown on each map. It would be helpful if BPM could submit several maps addressing only one or two requirements per map. In the Killinger and Purple mine permit applications, BPM submitted separate maps for the mine plan, pre-mine contours, post mine contours, surface hydrology, sediment control, roads and utility lines, surface and mineral ownership, soils, vegetation, and wetlands. It would also be helpful to put figure numbers on each map to help in referencing each map to the applicable section in the application.

Response to comment:

Multiple maps have been generated as suggested by this comment.

6. SDCL 45-6B-10(2) and SDCL 45-6-44: On the surface ownership map, Dave Garman is shown as the surface owner of the 3 View Road and the American Colloid Haul Road. Please verify the correct landownership of these roads since it appears that Butte County should be the surface owner of the 3 View Road right of way and American Colloid may be the surface owner of the haul road. If this is the case, please show these adjacent surface owners on the surface ownership map and submit proof of consultation. The instrument of consultation can consist of a written receipt from those adjacent landowners stating that they received a copy of the reclamation plan.

Response to comment:

The Butte County Highway Dept. verified that the surface is owned by Butte County. A records search of the ACC Haul Road indicates that ACC is the owner of that surface. Certified mail has been sent to both parties and proof of delivery has been included in the permit application.

7. SDCL 45-6B-37 and ARSD 74:29:07:04(1 and 2): In Section 5.6 on page 85 of the Reclamation Plan, BPM discusses mine sequence A in which permanent overburden stockpiles are possible. In the mine permit application, BPM is required to show the

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location of these potential permanent stockpiles on the mine plan map, including possible final contours of these stockpiles. Cross sections of these permanent stockpiles are also required. Finally, BPM needs to discuss the final slopes of the permanent overburden stockpiles in this section.

Response to comment:

The general location of the permanent overburden was on the original map, the map has been adjusted and contours of the permanent stockpile have been included. A cross section of the permanent stockpile has been included, please note that this represents anticipated final build. The as-built may slightly differ from the model however, the slope angles and other considerations contained within the permit will be incorporated into the permanent overburden stockpile. Language has been added to the bullet point in section 5.6 that denotes the slope angles of permanent overburden stockpiles.

In the grading plan, please describe in detail how the backfilled pits, a potential remaining final pit in which highwalls will be reduced, and any permanent overburden stockpiles will be graded to slopes which are visually and functionally compatible, structurally stable, and suitable for the post mining land use of rangeland and whether the final slopes of these areas will exceed the angle of repose. Also, please describe in detail how grading will control erosion and sedimentation. In Section 5.15, BPM references ARSD 74:29:07:04(2) in its discussion on sediment and erosion controls, but it does not describe methods it will use during final grading to control erosion and sedimentation. Finally, please describe how areas outside the permanent overburden stockpiles will be protected from slides during final grading.

Response to comment:

Section 5.9 and Section 5.15 have been modified to reflect this comment. Slides are discussed in section 7.0 of the Reclamation plan.

BPM may want to consider combining Sections 5.5, 5.6, 5.9, and 5.10 into one section since they all address aspects of SDCL 45-6B-37 and ARSD 74:29:07:03 and 04.

Response to comment:

BPM has elected to retain the sections and understands that reformatting the Reclamation Plan in the future is advised by the DANR.

8. SDCL 45-6B-38 and ARSD 74:29:07:05: As discussed in the October 26, 2022, email from Steve Kropp of DANR's Solid Waste Program, please discuss how BPM plans to avoid disturbance of the closed solid waste facility located within the proposed mine permit boundary. Also, please verify the state of Wyoming has no issues with BPM hauling petroleum contaminated soil and solid waste from the Security Mine to permitted facilities at its Colony Plant. If the state of Wyoming will not allow BPM to dispose of this material at the plant, BPM will need to discuss other options for petroleum contaminated soil and solid waste disposal.

Response to comment:

Language has been added to Section 14 of the Operating Plan to address this comment. Maps have been submitted with this permit application that depict the closed permit boundaries. The surface

expression of the closed solid waste facility has also been denoted on the map, BPM shall not disturb the piles during operations.

The Wyoming DEQ LQD indicated that materials generated outside of the Wyoming approved mining and milling operations are not permitted for disposal in BPM's Colony landfill. Language has been adjusted in section 14 of the Operating plan to reflect the appropriate management of solid waste and petroleum contaminated soils.

9. SDCL 45-6B-39 and ARSD 74:29:07:06(2 and 3): In section 5.12.3 on page 88 of the Reclamation Plan, please describe in detail the size of the two vegetation reference areas shown on the mine plan map. Also, please describe in detail whether the areas will be affected by future mining, how they will be managed, and if they are representative of the post mine land use of rangeland.

Response to comment:

Section 5.12.3 of the reclamation plan has been revised to address the vegetation reference areas shown on the map(s).

In Section 5.12.1, BPM states topsoil may be seeded with a temporary cover crop in the event topsoil is reapplied outside of optimal seeding timelines. Also, on page 14 in the Stormwater Pollution Prevention Plan in Appendix B, BPM states that the seed mix contains rye grass to quickly establish vegetation. Please note that rye grass or any other temporary cover or nurse crop species are not in the seed mix recommended by the Butte County NRCS office in the mine permit application. Please note that any cover or nurse crop species are required to be part of the seed mix and need to be approved by the NRCS before the permit application can be considered complete.

Response to comment:

Additional consultation with NRCS has been completed regarding the seed mix and cover crop seed mix. The NRCS approved permanent and cover seed mixes have been incorporated into Section 3, Reclamation Requirements, Seeding Plan and Record.

Also, in Section 5.12.2 on page 88 of the Reclamation Plan, BPM discusses the potential of substituting species in the approved seed mix due to seed availability and cost. It

proposes to notify DANR and the landowner if three or more species are substituted. Please note that BPM is required to use the approved seed mix in the mine permit application regardless of cost or seed availability during seeding. Also, DANR views **any** changes or substitutions to species in the seed mix as a minor modification to the mine permit which requires a technical revision for each change or substitution. In fact, BPM lists changes to seeding mixtures and rates as a technical revision category on page 3 of the application. This allows the Butte County NRCS as well as the landowner to be involved in approving any changes. Species availability issues can be addressed to a certain extent without a technical revision, but it needs to be limited to substituting a variety of a species and not substituting one species for an entirely different species. If BPM has concerns over species availability or cost, you need to contact the Butte County NRCS office and surface owner Dave Garman and develop a list of acceptable substitute species for its approval that can be included as part of the mine permit application.

Response to comment:

Section 5.12.2 and the Technical Revisions Section were modified to account for this comment. BPM does not anticipate any seed substitutions based on purchasing history for the Purple and Killinger projects and discussing annual seed availability with BPM's seed distribution vendors.

Finally, please address the potential for conducting permanent seeding during the spring in addition to the September to November timeframe.

Response to comment:

Section 5.7 of the reclamation plan has been modified to account for this comment.

10. SDCL 45-6B-7(11), SDCL 45-6B-40 and ARSD 74:29:07:07(2, 3, 5, 6, and 8): In Section 5.11.1 on page 87 of the Reclamation Plan, BPM states it will remove and replace subsoil and topsoil according to the topsoil salvage depths listed in Table A-4 of the baseline soil survey. Table A-4 does list the topsoil salvage depths, but it does not list the topsoil volume to be salvaged for each soil unit. Please note in this section, BPM does not address the volume of topsoil required for reclamation, whether excess topsoil is present, if a topsoil substitute is needed, or if subsoil or other soil will need to be amended if there is not enough topsoil. Therefore, please submit an estimate of the volume of topsoil (in cubic yards) that can be salvaged from the proposed disturbed area, the volume of topsoil (in cubic yards) that will be required for final reclamation, and the depth of topsoil that will be applied during final reclamation. After these estimates are developed, please address whether there will be any excess topsoil, and if so, what it will be used for. Also, please address whether a topsoil substitute will be required.

Response to comment:

Section 5.11.1 has been adjusted to reflect this comment. Appendix C has been updated and incorporates revisions to the Soil Baseline to address this comment. SD-CL-6B-46 (2) states that no planting of any kind may be required on affected land given the properties of those soils don't allow for the growth and that amendments/treatments cannot be feasibly applied as a remedy. BPM has

calculated the requested estimates and incorporated them into Appendix C. BPM shall apply the same amount of topsoil and subsoil that was removed from each of the soil units therefore, it shall be a sufficient amount of soil to be replaced to sustain vegetation growth. Should BPM believe there to be a deficient amount of topsoil, BPM shall adhere to ARSD 74:29:07:07 (8) and utilize subsoil as a suitable material. In the event of a proposed substitution, BPM shall consult the DANR prior to taking any action.

SDCL 45-6B-46 (2)

No planting of any kind may be required on any affected land so long as the chemical and physical characteristics of the surface and immediately underlying material of such affected land are toxic, deficient in plant nutrients, or composed of sand, gravel, shale, or stone to such an extent as to seriously inhibit plant growth and such condition cannot feasibly be remedied by chemical treatment, fertilization, replacement of overburden, or like measures.

Section 74:29:07:07(8)

If the amount of topsoil necessary for reclamation does not exist on the affected land, other suitable material such as subsoil may be used as a topsoil substitute if it can be demonstrated that the material is capable of establishing and sustaining the required vegetation. If other suitable materials are used in lieu of topsoil, they must be managed in accordance with all topsoil requirements in this section and with the following:

Also, 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 you 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.

Response to comment:

Section 11.0 of the Reclamation Plan has been revised to address comment.

Finally, in Section 6.0 on page 69 of the Operating Plan and Section 5.11.1 on page 87 of the Reclamation Plan, BPM states that any soils from the closed Petroleum Contaminated Soils (PCS) Land Farm facility will be removed and stockpiled separately from other soils salvaged within the mine permit boundary. Please show the proposed location of the PCS Land Farm topsoil and subsoil stockpiles on the mine plan map.

Response to comment:

The SWCA Baseline Soil Survey has been revised to include the expected topsoil and subsoil salvage volumes of suitable material from the PCS Landfarm Area (Appendix A, Table A-8). The stockpile location has been added to the map.

11. SDCL 45-6B-41, ARSD 74:29:02:11(9), ARSD 74:29:07:08(2 and 3), and ARSD 74:29:07:09(2, 3, 4, 5, 7, and 8): Figure 4 of the Storm Water Pollution Prevent Plan shows that one of the current drainages will be rerouted around the overburden stockpile area. Since this is an ephemeral drainage, it does not need to meet the requirements of ARSD 74:29:07:10. However, since it will be carrying surface runoff around the stockpile area, it will need to meet the requirements of ARSD 74:29:07:09. Some of the required information has been addressed in Section 11.0 on page 73 of the Operating Plan. However, BPM needs to address if the diversion will be constructed in rock, what methods will be used to prevent erosion, how the diversion will be constructed to minimize hazards to humans, livestock, and wildlife, and if the diversion will discharge onto topsoil or overburden stockpiles. Also, Figure 4 shows that culverts will be installed where needed along the diversion. Please show on a map the potential location of the culverts.

Response to comment:

Section 11 of the Operating Plan has been changed to reflect this comment. Section 5.2, 5.15 and Section 8 of the Reclamation Plan has also been changed to reflect this comment. The Operating Plan Map depicts storage locations for the closed PCS Farm soils. The Hydrological Map depicts ephemeral drainage patterns, example temporary drainages and culverts.

In addition, please submit a larger map showing the location of the rerouted drainage, any other potential rerouted drainages, and any potential erosion control structures such as filter dams, berms, meander bars, and retention basins. DANR realizes the map will be considered conceptual at this time since these structures will need to be modified as mining and concurrent reclamation progresses.

Response to comment:

The requested conceptual representations have been added to the Surface Hydrology maps.

In the third paragraph in Section 5.2 on page 83 of the Reclamation Plan, BPM states the surface owner owns a water line within the mine permit boundary. Please show the location of this water line on a map and address the potential for this water line to be moved during the mining operation. If the water line is inside the proposed mining area, please also show the potential new location of the water line if it needs to be moved during mining.

Response to comment:

Section 5.2 of the Reclamation Plan was modified to reflect this comment. In addition, the water line has been added to the Operating Plan map and the Road and Utility Map.

Also, in Section 5.2 please discuss whether the mining operation will be conducted in compliance with state and federal water quality laws and dredge and fill laws.

Response to comment:

Section 5.2 of the Reclamation Plan has been modified to reflect this comment.

Please address whether the restored drainage patterns discussed in Section 5.10 on page 86 of the Reclamation Plan will be similar to the current drainage patterns. During the October 5, 2022, inspection, BPM personnel said the restored drainages may be different than the current ones.

Response to comment:

Section 5.10 of the Reclamation Plan has been modified to reflect this comment.

Finally, please include the discussion of the two wells outside the permit boundary mentioned in Section 4.2 on page 80 of the Reclamation Plan in Section 5.2 of the Reclamation Plan.

Response to comment:

Section 4.2 provides basic information and section 5.2 has been revised and incorporate a response to this comment.

12. SDCL 45-6B-42 and ARSD 74:29:07:16: In addition to the warning signage and fencing discussed in Section 7.0 on page 90 of the Reclamation Plan, please discuss how access at the gate to the mine site will be controlled.

Response to comment:

Section 7 of the Reclamation Plan has been modified to reflect this comment.

13. SDCL 45-6B-46: In addressing subsection 2 of this statute, please discuss whether there is unsuitable land, roads, permanent pools or lakes, or other features located on the land in which revegetation will not be feasible.

Response to comment:

Section 5.4 of the Reclamation plan has been updated to address this comment.

14. SDCL 45-6B-92: Please submit additional information for the following critical resources and how impacts to these resources will be mitigated if encountered:

1. Wildlife – Please discuss if there is any critical deer winter range in the permit boundary area;
2. Aquatic Resources – Please include a discussion on potential impacts to aquatic resources in Middle Creek;
3. Vegetation – Please identify any threatened, endangered, and sensitive vegetative species;
5. Visual Resources – Please discuss the visibility of the proposed mining operation from nearby residences, 3 View Road, and US Highway 212;
6. Soils – Please identify any soils with low revegetation potential; and
9. Noise – Please identify any noise impacts to nearby receptors, including residences.

Response to comment:

#1 Section 12.0 (1) of the Reclamation Plan was modified to reflect this comment.

#2 Section 12.0 (2) of the Reclamation Plan was modified to reflect this comment.

#3 Section 12.0 (3) of the Reclamation Plan was modified to reflect this comment.

#5 Section 12.0 (5) of the Reclamation Plan was modified to reflect this comment.

#6 Section 12.0 (6) of the Reclamation Plan was modified to reflect this comment.

#9 Section 12.0 (9) of the Reclamation Plan was modified to reflect this comment.

15. ARSD 74:29:02:01: BPM is required to identify which sections of the permit application fulfill the requirements of SDCL 45-6B and ARSD 74:29. It appears BPM attempted to reference each statute and regulation in each applicable section of the application. However, in the Killinger and Purple mine permit applications, BPM included a table that listed each statute, regulation, and applicable subsections and the page number in the application where it is addressed. A similar table should be included for this application. I have attached a copy of the table from the Killinger permit application as an example you can use for this application.

BPM needs to ensure that each statute and regulation, including the applicable subsections, is correctly cited throughout the permit application. I have found the following sections of the application in which the statute, regulation, and/or related subsections were not correctly referenced or were not identified:

- a) Section 2.0, page 66, Operating Plan: Subsection (c) needs to be added to SDCL 45-6B-6(8(a, b, & d). Also, subsection 7 needs to be added to ARSD 74:29:07:04(6). Finally, ARSD 74:29:07:02(5) needs to be added to the reference list.
- b) Section 5.0, page 68, Operating Plan: The applicable subsections that are addressed in this section need to be added to ARSD 74:29:07:02.
- c) Section 6.0, page 70, Operating Plan: ARSD 74:29:07:14, including each applicable subsection, needs to be added to the reference list.
- d) Section 11.0, page 73, Operating Plan: ARSD 74:29:07:09 and 74:29:07:10, including each applicable subsection, needs to be added to the reference list.
- e) Section 14.0, page 73, Operating Plan: SDCL 45-6B-38 and ARSD 74:29:07:05 need to be added to the reference list.

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- f) Section 18.0, page 74, Operating Plan: SDCL 45-6B-41 and ARSD 74:29:07:08(1) need to be added to the reference list.
- g) Section 19.0, page 74, Operating Plan: ARSD 74:29:07:27 needs to be added to the reference list. Also, please list the subsection of SDCL 45-6B-6 addressed in this section.
- h) Section 5.6, page 85, Reclamation Plan: ARSD 74:29:07:14 needs to be added to the reference list.
- i) Section 5.13, page 89, Reclamation Plan: ARSD 74:29:07:14 is listed, but it is not addressed in this section.
- j) Section 5.15, page 89, Reclamation Plan: SDCL 45-6B-41 and ARSD 74:29:07:08(4) need to be added to the reference list.
- k) Section 5.15, page 89, Reclamation Plan: SDCL 45-6B-41 and ARSD 74:29:07:08(4) need to be added to the reference list.
- l) Section 8.0, page 90, Reclamation Plan: ARSD 74:29:02:12(9) and 74:29:07:09 need to be added to the reference list.
- m) I could not find a reference for ARSD 74:29:07:01.

Response to comment:

BPM has included the appropriate ARSD and SDCL references into each title and has also provided a table that indicates the page number of the application any given pertinent ARSD and SDCL can be found.

BPM has adjusted each reference as indicated above and reviewed other references. In your comment l), you reference ARSD 74:29:02:12(9) however I cannot locate this within the ARSD. I assumed you were referencing ARSD 74:29:07:12(9) as it references water quality and have included this in the application. I also noted that there were two comments that were the same, these are j) and k) to which I assumed it was a duplicate.

16. ARSD 74:29:02:04(5) and ARSD 74:29:07:14(2 and 3): Since a permanent overburden stockpile would be considered a critical earth structure, please conduct a stability analysis for any permanent overburden stockpiles. Also, please address whether the overburden will be a source of water pollution.

Response to comment:

BPM will conduct a stability analysis should the board believe it is needed in accordance with the referenced ARSD. BPM does not believe that the out of pit overburden stockpile should be considered a critical earth structure. It will not be significantly different than any other sloped feature during the life cycle of mining. The same reclamation principles will be applied to the final overburden feature as the other reclamation slopes and features as described in the permit. These other reclamation features do not require a stability analysis and are not considered critical earth structures. BPM has constructed permanent overburden stockpiles in MT and WY as part of their mine and reclamation operations without being required to conduct a stability analysis. BPM has a record of success with post mine topography and will implement the same practices as described in the operating and reclamation plan, SWPPP and other supporting information which BPM applies at their mining operations. In the event the board determines that the operator must demonstrate the long-term stability of the dumps through geotechnical stability analyses conducted by a registered professional engineer competent in the field of geotechnical analysis, BPM requests that the criteria for evaluation be provided to fulfill the request.

17. ARSD 74:29:02:06: In Section 4.1 on page 80 of the Reclamation Plan, BPM states the "Level III Cultural Resources Inventory of Bentonite Deposit" is attached to the application in Appendix C. However, the inventory could not be found in Appendix C. Therefore, please submit a copy of the inventory to our office. Please note that since this is considered a confidential document under SDCL 1-20-21.2, it should not be included in the copy for public review at the Butte County Register of Deeds office.

Response to comment:

Section 4.1 has been modified to reflect this comment.

18. ARSD 74:29:06:02(4)(b): Since the Solid Waste Program of the DANR has expressed some concerns with mining impacts to the closed Solid Waste and Petroleum Contaminated Soil Land Farm, please discuss how that agency's concerns are being addressed.

Response to comment:

Comments have been added to section 5.4. We have also provided a specific map as requested and language from the original submission is contained in section 10 and section 6 of the operating plan. BPM takes the concerns of the DANR and the Solid Waste Program seriously and appreciates the communication and support of the agencies.

19. ARSD 74:29:07:01: Please address each subsection of this regulation in addressing how the reclamation plan rehabilitates the land to the post mine land use, how it meets concurrent, interim, and final reclamation requirements, and how reclamation will be completed prior to final and full bond release.

Response to comment:

Section 5.14 of the reclamation plan has been modified to reflect this comment.

20. ARSD 74:29:07:02(3, 5, 7, and 9): Please submit additional information for the following subsections of this regulation:

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3. Please address the visibility of the mining operation and discuss how pits, stockpiles, equipment and other mine facilities will be visually screened during the operation;
5. Please describe how access from the gate at the entrance to the mine will be controlled during the operation;
7. Please describe how the location of subsoil, topsoil, and overburden stockpiles will facilitate reclamation and minimize environmental impacts; and
9. Please describe how the design of mine facilities is compatible with surrounding land uses.

Response to comment:

3. Section 9.0 of the Operating Plan has been modified to reflect this comment.
5. Section 7 of the Reclamation Plan and Section 2 of the Operating Plan include language that reflect this comment.
7. Section 5.0 of the Operating Plan has been modified to reflect this comment.
9. Section 5.0 of the Operating Plan has been modified to reflect this comment

21. ARSD 74:29:07:12(1, 3, 5, 6, 7, and 8): In Section 16 on page 73 of the Operating Plan, please address if any roads will be constructed in riparian zones. Also, describe the types of drainage control that will be used on any roads and how they will be maintained. In addition, please describe how road culverts will be maintained and protected from erosion during the operation. Finally, please describe the width of vegetation clearing for any roads.

Response to comment:

Section 16 of the Operating Plan has been updated to reflect this comment.

22. ARSD 74:29:07:18: Please address the experience the individuals developing the Reclamation Plan have in developing reclamation plans.

Response to comment:

Section 14 of the Reclamation Plan has been modified to reflect this comment.

23. ARSD 74:29:08:02: Since the grading and seeding of topsoil stockpiles can also be considered interim reclamation, please include this in Section 11 on page 91 of the Reclamation Plan.

Response to comment:

Section 11 of the Reclamation Plan has been updated to reflect this comment.

1. BPM does not need to include the entire Request for Determination of Special, Exceptional, Critical, or Unique Lands application in Appendix C of the mine permit application. The only items that need to be included are the baseline soil, vegetation, wildlife, hydrologic, and cultural surveys, the DANR Notice of Determination, the Archaeological Context summary in Attachment 7, and the Solid Waste and Petroleum Contaminated Soil Facility Map in Attachment 8.

Response to comment:

BPM has revised Appendix C to reflect this comment.

2. ARSD 74:29:06:01: The department concurs with BPM that rangeland is an appropriate postmine land use.

Response to comment:

Thank you, no comment.

3. ARSD 74:29:01:07. Regarding the determination of procedural completeness, upon submission of the large scale mine permit application, the department will determine the adequacy of the applicant's response. Within thirty days of the submission of the application, the department will notify BPM in writing of the determination. If the response is adequate, the application will be considered filed. If the response is determined to be inadequate, your company has the following options:

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- a. Submit additional information necessary to complete the application;
- b. Request in writing that the application be considered filed; or
- c. Withdraw the application.

Response to comment:

Thank you, no comment.

4. 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.

Response to comment:

BPM shall send to the DANR proof of filing by the end of the calendar month.

5. 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.

Response to comment:

Thank you

We also have the following technical comments:

1. Page 3, Technical Revisions: BPM should consider adding a technical revision category to allow for the construction of stock ponds as a final reclamation feature.

Response to comment:

The technical revisions have been updated to reflect this comment.

2. Operating and Reclamation Plan Table of Contents: Please revise the page numbers in the table of contents for the Operating and Reclamation Plans so they refer to the actual page numbers of each plan. For example, in the Operating Plan Table of Contents, Section 1.0 – Security Bentonite Mine Overview is actually on page 66 instead of page 3 as listed in the contents.

BPM has elected to number every page contained within the Permit Application (including maps) and has also elected to renumber the Operating and Reclamation plans to reflect their own OP/RP numbering system. The index incorporates both page numbers as needed.

3. Section 2.0, page 67, Operating Plan: In the second sentence of the sixth paragraph on this page, should the sentence “Post-mining contours shall reasonably match the **post** mining contours upon final reclamation” be changed to “Post-mining contours shall reasonably match the **pre** mining contours upon final reclamation”?

Response to comment:

Section 2 of the operating plan has been updated to reflect this comment.

4. Section 5.0, page 68, Operating Plan: The sentence in the fourth paragraph of this section “As per SDCL 45-6B-36, BPM will...” is repeated in the fifth paragraph.

Response to comment:

Section 5 of the operating plan has been updated to reflect this comment.

5. Section 5.12.1, page 88, Reclamation Plan: Since wildlife habitat is not the post mine land use, BPM is not required to consult with the Department of Game, Fish, and Parks during development of the seed mix.

Response to comment:

Section 5.12.1 of the Reclamation Plan has been updated to reflect this comment.

6. Section 5.14, page 89, Reclamation Plan: In the last paragraph of this section, BPM states that it will submit a plan for evaluating reclamation success prior to final bond release. Please note that a revegetation success plan is already included in the Reclamation Requirements section of the Reclamation Plan for approval by DANR and the Board of Minerals and Environment. Therefore, this sentence can be modified by just referring to this plan.

Response to comment:

Section 5.14 of the Reclamation Plan has been updated to reflect this comment.

7. Reclamation Requirements Section of Reclamation Plan: BPM should consider making this section an appendix to the Reclamation Plan.

Response to comment:

BPM has adjusted the order in which the different topics appear so that the Reclamation Requirements are immediately after the Reclamation Plan and the Bond calculations appear before the Landowner Approval Section.