

Department of Agriculture and Natural Resources
Minerals and Mining Program
523 East Capitol Avenue
Pierre, South Dakota 57501-3182
605 773-4201; Fax: 605 773-5286

LARGE SCALE MINING/MILLING PERMIT
Pursuant to SDCL 45-6B and ARSD 74:29

Relating to The Extraction and Processing of Minerals in
Operations Affecting More Than 10 Acres and/or
Removing over 25,000 Tons Per Year or For Operations
Utilizing Cyanide Leaching or Other Chemical or Biological
Leaching Agents

Operator's name: Wharf Resources (U.S.A.), Inc.

General office address: 10928 Wharf Road
Lead, South Dakota, 57754

Telephone: 605.584.1441

Local mailing address: Same as office address.

Telephone: Same as office telephone.

Resident agent (if out-of-state corporation): CT Corporation

Resident agent address: 319 S. Coteau Street
Pierre, South Dakota 57501

Resident agent telephone: 605.224.5826

Legal description of affected land: Portions of Sections 2 and 3, Township 4 North, Range 2 East

County: Lawrence

Name and address of surface owner:

Wharf Resources (U.S.A.), Inc.
10928 Wharf Road
Lead, South Dakota 57754

Name and address of mineral owner:

Excluding Precambrian: Wharf Resources (U.S.A.), Inc.
Precambrian: Wharf Resources (U.S.A.), Inc. - 50% and
Homestake Mining Company of CA - 50%
11457 Bobtail Gulch Street
Lead, South Dakota 57754

Minerals to be extracted or milled, or both: gold, silver

Proposed starting date: winter 2022

Proposed completion date: 2030

Size of area (acres) to be worked at any one time: 15-30

Estimated working days per year: 365

Estimated tons of ore per year: 1-1.5MT

Estimated overburden/waste tons per year: 4-5MT

Estimated total tonnage per year: 5-6.5 MT

See Section 2.4 and Appendix C.

Include a copy of your source of legal right to enter and initiate operations: Lease Letter USFS Permit

Include a copy of your source of legal right to dispose of tailings: Lease Letter USFS Permit

See Section 5.4.

INSTRUCTIONS:

Please reference SDCL 45-6B and ARSD 74:29. This large scale mining/milling permit must be accompanied by:

1. A narrative description of the methods of mining and milling to be employed per Section 6(8).
2. A reclamation plan pursuant to Section 7.
3. A map of the affected area pursuant to Section 10.
4. A fee of \$1,000 payable to the Department of Agriculture and Natural Resources pursuant to Section 14. For precious metals, coal, or uranium, a fee of \$50,000 payable to the Department of Agriculture and Natural Resources is required.
5. A map clearly depicting all surface and mineral owners of the affected land pursuant to Section 10 and ARSD 74:29:02:03.
6. Proof of compliance with all local and county zoning ordinance requirements pursuant to Section 4 and ARSD 74:29:02:02.

Before a hearing on this large scale mining/milling permit can be conducted by the SD Board of Minerals and Environment, the operator must submit the following:

1. Certified mail receipts confirming mailing of notice to all surface owners and lessees pursuant to Section 17.
2. A copy of the affidavit of publication of notice pursuant to Section 16.
3. Proof of filing a copy of the large scale mining/milling permit with the Register of Deeds pursuant to Section 15.
4. A surety in an amount to be determined by the department pursuant to Section 20.
5. A copy of instruments of consultation from all surface landowners, if different than the owner of the minerals, including written receipt of the operating and reclamation plans pursuant to Section 12 and 13.

Applicant affirms that the mining or milling will be conducted pursuant to SDCL 45-6B or any regulations promulgated thereunder, that he will grant access to the SD Board of Minerals and Environment or its agents to the area under this large scale mining/milling permit from the date of application and during the life of the permit as necessary to assure compliance with SDCL 45-6B.

I declare and affirm under the penalties of perjury that this claim (petition, application, information) has been examined by me, and to the best of my knowledge and belief, is in all things true and correct.

[Signature]
Signature

Date: 10/10/22

Title: Assistant General Manager

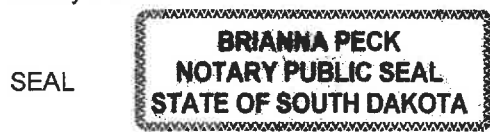
STATE OF South Dakota

COUNTY OF Perrington

On this 10 day of October, 2022, before me personally appeared John Key, who acknowledged himself to be the Assistant General Manager (Title) for Wharf Resources Inc (USA) (Operator) and that he is authorized to execute the Large Scale Mining/ Milling Permit for the purposes contained therein.

[Signature]
Notary Public

My Commission Expires: 08/11/2026



FOR DEPARTMENT USE ONLY

DATE APPROVED: _____ BOND AMOUNT: _____ PERMIT NUMBER: _____
Chairman, SD Board of Minerals & Environment

STATE OF SOUTH DAKOTA

BEFORE THE SECRETARY OF

THE DEPARTMENT OF AGRICULTURE AND NATURAL RESOURCES

IN THE MATTER OF THE)
APPLICATION OF)
WHAFF RESOURCES, INC (USA))
STATE OF SOUTH DAKOTA)
COUNTY OF LAWRENCE)

CERTIFICATION OF
APPLICANT

I, JOHN R KEY, the applicant in the above matter after being duly sworn upon oath hereby certify the following information in regard to this application:

I have read and understand South Dakota Codified Law Section 1-41-20 which provides:

"The secretary may reject an application for any permit filed pursuant to Titles 34A or 45, including any application by any concentrated swine feeding operation for authorization to operate under a general permit, upon making a specific finding that:

(1) The applicant is unsuited or unqualified to perform the obligations of a permit holder based upon a finding that the applicant, any officer, director, partner, or resident general manager of the facility for which application has been made:

- (a) Has intentionally misrepresented a material fact in applying for a permit;*
- (b) Has been convicted of a felony or other crime involving moral turpitude;*
- (c) Has habitually and intentionally violated environmental laws of any state or the United States which have caused significant and material environmental damage;*
- (d) Has had any permit revoked under the environmental laws of any state or the United States; or*
- (e) Has otherwise demonstrated through clear and convincing evidence of previous actions that the applicant lacks the necessary good character and competency to reliably carry out the obligations imposed by law upon the permit holder; or*

(2) The application substantially duplicates an application by the same applicant denied within the past five years which denial has not been reversed by a court of competent jurisdiction. Nothing in this subdivision may be construed to prohibit an applicant from submitting a new application for a permit previously denied, if the new application represents a good faith attempt by the applicant to correct the deficiencies that served as the basis for the denial in the original application.

All applications filed pursuant to Titles 34A and 45 shall include a certification, sworn to under oath and signed by the applicant, that he is not disqualified by reason of this section from obtaining a permit. In the absence of evidence to the contrary, that certification shall constitute a prima facie showing of the suitability and qualification of the applicant. If at any point in the application review, recommendation or hearing process, the secretary finds the applicant has intentionally made any material misrepresentation of fact in regard to this certification,

consideration of the application may be suspended and the application may be rejected as provided for under this section.

Applications rejected pursuant to this section constitute final agency action upon that application and may be appealed to circuit court as provided for under chapter 1-26."

I certify pursuant to 1-41-20, that as an applicant, officer, director, partner, or resident general manager of the activity or facility for which the application has been made that I; a) have not intentionally misrepresented a material fact in applying for a permit; b) have not been convicted of a felony or other crime of moral turpitude; c) have not habitually and intentionally violated environmental laws of any state or the United States which have caused significant and material environmental damage; (d) have not had any permit revoked under the environmental laws of any state or the United States; or e) have not otherwise demonstrated through clear and convincing evidence of previous actions that I lack the necessary good character and competency to reliably carry out the obligations imposed by law upon me. I also certify that this application does not substantially duplicate an application by the same applicant denied within the past five years which denial has not been reversed by a court of competent jurisdiction. Further;

"I declare and affirm under the penalties of perjury that this claim (petition, application, information) has been examined by me, and to the best of my knowledge and belief, is in all things true and correct."

Dated this 10 day of OCTOBER, 2022.

Applicant (print) JOHN KRISTIAN KEY

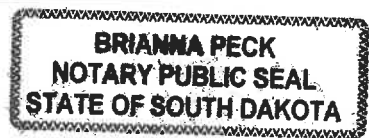
[Signature]
Applicant (signature)

Subscribed and sworn before me this 10 day of October, 2022.

[Signature]
Notary Public (signature)

My commission expires: 08/11/2026

(SEAL)



PLEASE ATTACH ANY ADDITIONAL INFORMATION NECESSARY TO DISCLOSE ALL FACTS AND DOCUMENTS PERTAINING TO SDCL 1-41-20 (1) (a) THROUGH (e). ALL VIOLATIONS MUST BE DISCLOSED, BUT WILL NOT AUTOMATICALLY RESULT IN THE REJECTION OF AN APPLICATION

Prepared By and Recorded at the Request of
Wharf Resources (U.S.A.), Inc.
Attn. James F. Lessard
10928 Wharf Road
Lead, South Dakota 57754
(605) 584-4171



Doc#: 2004-04993
Recording Fee: \$ 12
Date: 07/30/2004 Time: 14:52
Lawrence County
Register of Deeds

Shelley Green
Deputy

TRANSFER FEE PAID \$ 2.50
R# 04-5753

QUIT-CLAIM DEED

WHARF RESOURCES (U.S.A.), INC., a Colorado corporation, Grantor, of 10928 Wharf Road, Lead, South Dakota 57754, in consideration of \$2,500.00 and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby convey and quitclaim unto Grantee, PAUL GREGORY AKROP having a mailing address of 98 Charles Street, Deadwood, South Dakota 57732 all of Grantor's right, title and interest in and to the surface estate only of the property more particularly described as follows:

Lot W-1, formerly known as Lot W, a subdivision of the Whale Lode of Mineral Survey 1139 and the Last Chance Lode of Mineral Survey 1205, as described in the plat recorded as Document No. 2004-4531, located in the Northwest ¼ of Section 2, T. 4 N., R. 2 E., BHM, Lawrence County, South Dakota.

Total area conveyed is 1.45 acres, more or less.

Subject to prior easements and agreements of record.

Grantor expressly excepts from this conveyance and does not convey by this Deed any right, title, or interest in the minerals in, on, or under the foregoing Property, in whatever form or character, together with the right to explore for, develop, mine or reclaim such minerals, along with the right to use so much of the surface of the Property as is reasonable and necessary in connection with such activities.

Dated this 30th day of JULY, 2004.

WHARF RESOURCES (U.S.A.), INC.

By: *John A. Begeman*
John A. Begeman
Vice President, Western Operations

STATE OF SOUTH DAKOTA)
) ss.
COUNTY OF LAWRENCE)

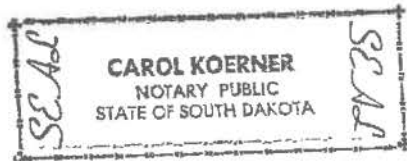
On this the 30TH day of JULY, 2004, before me, the undersigned officer, personally appeared John A. Begeman, who acknowledged himself to be the Vice President, Western Operations, of Wharf Resources (U.S.A.), Inc., and that he, as such Vice President, Western Operations, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as Vice President, Western Operations.

In witness whereof, I hereunto set my hand and official seal.


Notary Public, South Dakota

My commission expires: 05-26-05

(seal)



Prepared by:
Bennett Main Gubbrud & Willett, P.C.
618 State Street
Belle Fourche, SD 57717
605-895-5011

BUFFER ZONE WAIVER



Doc #: 2021-11289
Date: 12/7/2021 2:41:04 PM
Davida D. Hansen
Lawrence County Register of Deeds
Fee: \$ 30.00

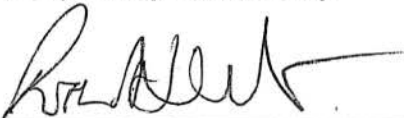
RE: Wharf Resources (U.S.A.), Inc. expansion – CUP # 470 dated 11-29-2021.

I/We, are the owner(s) of the following described real property:

**Lily of the West Lode, M.S. 1139, located in Section 2, T4N, R3E, B.H.M.,
Lawrence County, South Dakota, excluding any portion in conflict with
Lots 3, 4 and 5, Block 6, Tract A of Lost Camp Valley Acreage, a subdivision
Of a portion of M.S. 1139, as shown in Plat Book 2, page 92.**

I/We hereby waive the five hundred foot (500') buffer zone required by Lawrence County Extractive Industry Conditional Use Permits Ordinance 11-20.030(A) between disturbed land and my/our above-described real property.

Respectfully submitted by:



Ross A. Determan



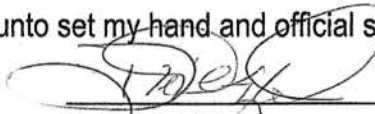
Amber A. Determan

STATE OF SOUTH DAKOTA)
)ss.
COUNTY OF DAVISON)

On this 29th day of November, 2021, before me, the undersigned officer, personally appeared Ross Determan and Amber Determan, known to me or satisfactorily proven to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged that he/she/they executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.





Notary Public
My commission expires: 7/7/27



Prepared By:
Bennett Main Gubbrud & Willert, P.C.
618 State Street
Belle Fourche, SD 57717
605.892.2011



Doc #: 2021-11290
Date: 12/7/2021 2:41:05 PM
Davida D. Hansen
Lawrence County Register of Deeds
Fee: \$ 30.00

BUFFER ZONE WAIVER AND INDEMNITY AGREEMENT

RE: Wharf Resources (U.S.A.), Inc. ("Wharf") expansion – CUP #470.

Terry Valley-Trojan Water Project District ("District"), is the owner of the following described real property:

Lot 1 Revised of Lot A, formerly Lot 1 of Lot A of the Clarence Lode, M.S., 2021, located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 2, T4N, R2E, B.H.M., Lawrence County, South Dakota, as shown on Plat Document 2005-3472.

The District hereby waives two hundred twenty-five feet (225') of the five hundred foot (500') buffer zone required by Lawrence County Extractive Industry Conditional Use Permits Ordinance 11-20.030(A) between disturbed land and the above-described real property. This waiver leaves a two hundred seventy-five foot (275') buffer zone between disturbed land and the above-described real property.

Wharf hereby indemnifies and holds District harmless from any damages, loss, liability, injury, or any claim therefore, to persons, property, natural resources and the environment, caused by Wharf's mine operations. This indemnity and hold harmless applies to damage to District improvements located on the above-described real property.

**TERRY VALLEY-TROJAN WATER
PROJECT DISTRICT**

WHARF RESOURCES (U.S.A.), INC.

By: Janell Berg

By: John Key 12/7/21
~~KEN NELSON~~, Mine General Manager

Printed Name: Janell Berg

John Key

Its: Chairperson



STATE OF SOUTH DAKOTA)
)ss.
COUNTY OF LAWRENCE)

On this 7th day of December, 2021, before me, the undersigned officer, personally appeared Janell Berg, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that he/she executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



Linda Derosier
Notary Public
My commission expires: 11-2-22

STATE OF SOUTH DAKOTA)
)ss.
COUNTY OF LAWRENCE)

On this 7th day of December, 2021, before me, the undersigned officer, personally appeared ~~KEN NELSON~~ John Key, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



Julie Stone
Notary Public
My commission expires: 5-1-2026





**DEPARTMENT of AGRICULTURE
and NATURAL RESOURCES**

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

**NOTICE OF DETERMINATION OF
SPECIAL, EXCEPTIONAL, CRITICAL, OR UNIQUE LANDS
WHARF RESOURCES (USA) INC**

The Department of Agriculture and Natural Resources has made its determination regarding a Notice of Intent to Operate and Request for Determination of Special, Exceptional, Critical, or Unique Lands from Wharf Resources (USA) Inc., 10928 Wharf Rd, Lead, South Dakota 57754. The Notice of Intent to Operate was submitted as required under ARSD 74:29:10 for purposes of requesting the department to determine whether the lands potentially affected by the mining operation are eligible for inclusion on the preliminary list of special, exceptional, critical, or unique lands.

The proposed operation involves a 47.4-acre expansion of Wharf Resources (USA) Inc.'s existing gold mining operation on land approximately four miles west of Lead, South Dakota. Topsoil and subsoil will be stripped and stockpiled for use in concurrent and future reclamation activities. Ore will be processed through cyanide heap leach methods before being treated and used along with waste rock as backfill in the mine pits. Reclamation will be conducted concurrently with the mining operation. The proposed postmining land use is woodland grazing and recreation.

In accordance with ARSD 74:29:10:08 and 74:29:10:09, the department has determined that the lands described in the Notice of Intent to Operate do not constitute special, exceptional, critical, or unique lands. This determination is based on the on-site inspection of the proposed lands to be affected, examination of the established preliminary list, consultation with other agencies, and evaluating information provided with the Notice of Intent to Operate. In addition, no nominating petitions pertaining to the lands described in the Notice of Intent were filed with the department.

The lands described in the Notice of Intent to Operate are considered cleared from special, exceptional, critical, or unique characteristics in accordance with ARSD 74:29:10:15. This clearance will remain in effect for seven years. If a mine permit application is not submitted within the seven-year period, the Board of Minerals and Environment may declare the clearance void and the lands may be reevaluated.

Wharf Resources (USA) Inc. may appeal the department's determination by filing a petition for a contested case hearing pursuant to SDCL 1:26 within seven days after receipt of the determination. The hearing on the appeal shall be confined to the determination of the lands as special exceptional, critical, or unique and whether an environmental impact statement and socioeconomic study will be required.

Persons desiring further information may contact Roberta Hudson, Minerals and Mining Program, at (605) 773-4201.

Hunter Roberts
Secretary
Department of Agriculture and Natural Resources

May 6, 2022

CONDITIONAL USE PERMIT

CUP# 00000470

LAWRENCE COUNTY OFFICE OF
PLANNING & ZONING
DEADWOOD, SOUTH DAKOTA 57732

This Conditional Use Permit granted this day to WHARF RESOURCES (U.S.A.) INC (WHARF RESOURCES (U.S.A.) INC) on recommendation of the Lawrence County Planning Board and the Lawrence County Commission; and upon the results of the required public hearing(s).

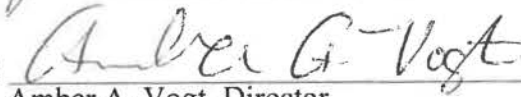
Said Conditional Use Permit is intended to be used for the specific use herein. Any other use of this Conditional Use Permit is in violation of Lawrence County Ordinance and the violator is subject to the penalties set forth in said Ordinance.

Parcel #: 00000-00000-000-00
Location: WHARF MINE
911 Add: 10928 WHARF ROAD
LEAD, SD 57754
Legal Desc: MULTIPLE PARCELS IN SECTIONS 2 & 3, T4N, R2E (view portions of the M.S Lodes map in the Planning & Zoning Official file in the office or online at <https://www.lawrence.sd.us/CivicAlerts.aspx?CID=1> B.H.M., LAWRENCE CO., SD
Type of Permit: LARGE SCALE MINE
Present Zoning Dist.: PF AND SRD

Signature of Property Owner:



Signature of Administrative Official:



Amber A. Vogt, Director
Lawrence County Planning and Zoning

Date Granted:

1/25/2022

REQUEST FOR CONDITIONAL USE PERMIT

LAWRENCE COUNTY OFFICE OF
PLANNING & ZONING
DEADWOOD, SOUTH DAKOTA 57732

11/19/2021
CUP# 00000470

Parcel #: 00000-00000-000-00
Name: WHARF RESOURCES (U.S.A.) INC
Applicant: WHARF RESOURCES (U.S.A.) INC
911 Address: 10928 WHARF ROAD
LEAD, SD 57754
Location: WHARF MINE
Type of Permit: LARGE SCALE MINE
Legal Desc: MULTIPLE PARCELS IN SECTIONS 2 & 3, T4N, R2E (view portions of the M.S Lodes map in the Planning & Zoning Official file in the office or online at <https://www.lawrence.sd.us/CivicAlerts.aspx?CID=1> B.H.M., LAWRENCE CO., SD
Present Zoning: PF AND SRD

Names of Property Owners with 500' of subject property: See Exhibit 'A'

Fee: \$10000.0 Receipt #: MR-21-0002738

Signature of Petitioner: pp [Signature]

Signature of Property Owner: pp [Signature]

Signature of Administrative Official: Amber A. Vogt
Amber A. Vogt, Director
Lawrence County Planning and Zoning

Public Hearing Date Scheduled: 01/06/2022 at 1:30 p.m. and 01/25/2022 at 9:00 a.m.
(or as soon thereafter as may be heard)

Legal Note Published: DEC 23, 2021 and JAN 15, 2022

Notice of Hearing Posted on Road Frontage Property: 12/27/2021

Recommendations of Planning Commission: Approval X Denial ___
(Reasons attached) Date 01/06/2022

Recommendations of County Commission: Approval X Denial ___
(Reasons attached) Date 1/25/22



Planning & Zoning Staff Report prepared by: Amber Vogt, P & Z Director

Date of Informational Meeting: December 2, 2021 @ 1:30 p.m. @ Lawrence County Commission Room

Date of PZ Public Hearing: January 6, 2022 @ 1:30 p.m. @ Deadwood City Hall

Date of County Commission Public Hearing: January 25, 2022 @ 10:30 a.m. @ Deadwood City Hall

Meetings Published in Black Hills Pioneer: December 23, 2021 and January 15, 2022

Findings of Fact Received from Wharf on Monday, December 20, 2021 [W CUP.470.docx](#)

OVERVIEW:

PUBLIC HEARING: CUP

#470 APPLICANT: Wharf

Resources LEGAL

DESCRIPTION: VICINITY

LOCATION: Terry

Peak/Wharf Area

SUMMARY: The applicant

is requesting a new CUP

to increase the boundary

to extend mining operation

ZONING: PF CREAGE: 51

+/- acres PARCEL ID: See

Application (multiple

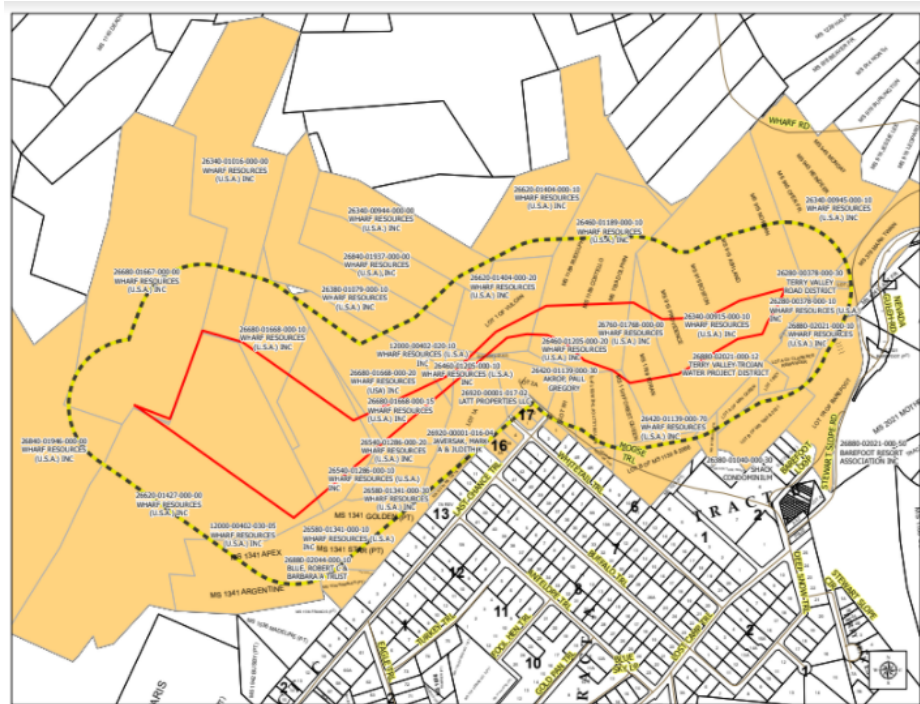
parcels included) **ACTION**

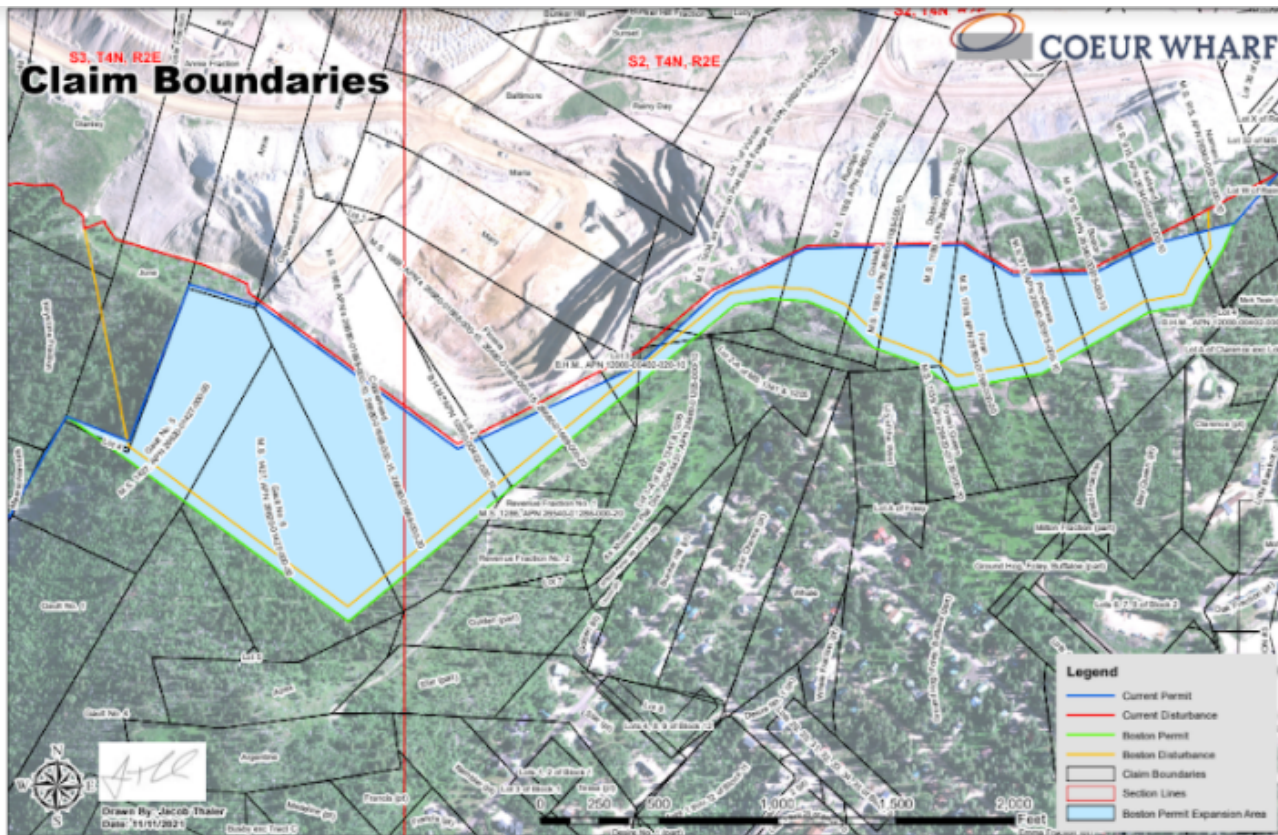
REQUIRED:

Approval/Denial (CC PH:

January 25, 2022 @ 9:00

a.m.)





Portions of the following property:

Gault No. 5, and Gault No. 6 patented lode claims, M.S. 1427, APN 26620-01427-000-00;
 Copperhead and Flossie patented lode mining claims, M.S. 1668, APN's 26680-01668-000-10,
 26680-01668-000-15, 26680-01668-000-20;
 Revenue Fraction No. 1, patented lode mining claim, M.S. 1286, APN 26540-01286-000-20;
 Lot 1-A of Area B revised, a subdivision of M.S. 1205 and M.S. 1341, as shown on Plat Doc.
 2004-5431, APN 26460-01205-000-10;
 Lot 1 of the Vulcan patented lode mining claim, M.S. 1404, as shown on Plat Book 6 page 86, APN
 26620-01404-000-20;
 Rudolph, Costello, and Dolphin patented lode mining claims, M.S. 1189, APN 26460-01189-000-10;
 Forest Queen patented lode mining claim, M.S. 1139, APN 26420-01139-000-70;
 Foran patented lode mining claim, M.S. 1768, APN 26760-01768-000-00;
 Providence, Boston, Ashland, Norman patented lode mining claims, M.S. 915, APN
 26340-00915-000-10;
 Lots 2 and 3, located in Section 2, T4N, R2E, B.H.M., APN 12000-00402-020-10;
 Lot 4, located in Section 3, T4N, R2E, B.H.M., APN 12000-00402-030-05;
 all located in Sections 2 and 3, T4N, R2E, B.H.M., Lawrence County, South Dakota and comprising
 47 acres, more or less.

The project area is located approximately 3 miles west of Lead, South Dakota, in the Bald Mountain Mining District (see Exhibit 1 in Appendix A). The existing Wharf Mine is located in Sections 1, 2,

3, and 4, T4N, R2E, and Sections 25, 26, 33, 34, 35, and 36, T5N, R2E of the Black Hills Meridian (BHM), Lawrence County, South Dakota. The Golden Reward Mine is located in Sections 1 and 12, T4N, R2E, and Sections 6 and 7, T4N, R3E of the BHM. As of January 1, 2021, the permitted affected acreage is 1,480 acres with 1,272 acres disturbed and 266.5 acres reclaimed.

The proposed Boston Expansion area is located to the south of the existing Wharf Mine. The property is accessed by Wharf Road and State Highway 473 (Nevada Gulch Road), which leads west from Lead to the Wharf Mine. The proposed Boston Expansion area encompasses approximately 47.4 acres of private land, including portions in Sections 2 and 3, T4N, R2E of the BHM (see Exhibit 2 in Appendix A).

Mining in the Boston Expansion area will be an open-pit, truck-and-shovel operation, which is the same method used in the ongoing operations at the Wharf Mine. Current facilities are shown on Exhibit 3 in Appendix A. Total production is estimated to be approximately 175 million tons of material (see Chapter 5.0), and both gold and silver will be produced. Mining in the expansion area is anticipated to increase the mine life by 1 to 3 years, thus extending the total mine life until 2028 to potentially 2030.

The proposed project will involve open-pit mining and overburden disposal. Ore extracted from the Boston Expansion area will be trucked to the existing permitted Wharf Mine heap-leaching facility for processing. The operation will not modify any public roads or highways, and the proposed project does not require moving or relocating any processing equipment. Processing gold and silver at the Wharf Mine processing plant will not substantially change as a result of the Boston Expansion project. Ore will continue to be milled at Wharf's crushing plants, and gold will be heap-leached on heap-leach pads. The process solution, percolated through the leach pad that is designed to dissolve the gold, will be a liquid sodium cyanide, as is currently used.

As mining operations continue at the Wharf Mine, waste rock and additional overburden material will be used to backfill previously mined areas within the Boston Expansion area. Neutralized spent ore will be deposited in the permitted localities. No spent ore is currently scheduled to be deposited within the new Boston Expansion area. Wharf's legal right to dispose of spent ore is evidenced by State Mine Permits 356, 434, 435, 450, 464, and 476 and Groundwater Discharge (GWD) Permits GWD 1-88, GWD 1-94, GWD 1-98, GWD 5-88, and GWD 1-11.

The planned post mining land use is a mixture of rangeland and recreation. Wharf Resources (U.S.A.), Inc. (Wharf) has previously reclaimed land for use as rangeland, which has provided beneficial uses including habitat for many species. Recreation will primarily revolve around existing recreational activities in the area and may allow for hiking and cross-country skiing. Disturbed areas will be reclaimed by recontouring, resoiling, and revegetating the land according to accepted reclamation techniques. Further reclamation details are provided in Chapter 5.0 of this application.

Wharf Resources has been mining in Lawrence County since the early 1980's, for a full listing of the County and State Mine permits please review CUP Application on file in the Lawrence County Planning and Zoning Office and Auditor's Office.

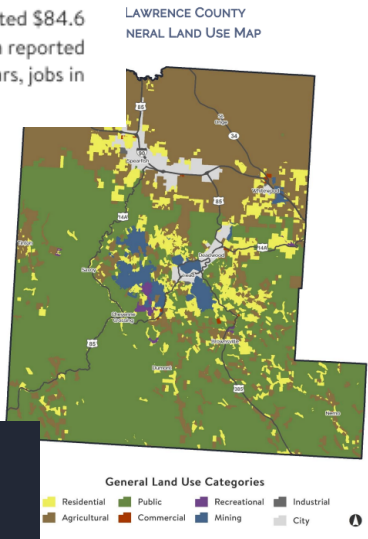
Wharf Resources has been in contact with us on the CUP Application and process of applying for a new CUP

they have provided all of the requested and required information to date.

The 2030 Comprehensive Plan lays out the following re: the mining industry in Lawrence County:

MINING: The Mining, Quarrying, and Oil and Gas Extraction industries combined contributed \$84.6 million to the county's GRP and accounted for \$25.1 million in earnings in 2019. There were a reported 249 jobs in this industry in 2019, with average earnings of \$92,391 per job. In the last ten years, jobs in this industry have increased by around 32%.²

» **MINING:** Areas currently utilized for mineral resource extraction or having the potential for this type of use and typically owned by a private mining corporation.



NATURAL RESOURCES & AMENITIES

2030 COMPREHENSIVE PLAN | 17

VISION

Lawrence County actively partners with local, State, and Federal entities to manage natural resources and recreational amenities.

Residents and visitors alike value the distinctive landscapes that make up Lawrence County and are drawn to the variety of recreational activities, natural areas, and historic resources. Lawrence County, its municipalities, industries, and a number of local organizations have worked diligently to ensure that access to recreational amenities are maintained and expanded. However, the use of public lands for varying types of recreation is not without its issues. Throughout the public input process, for example, many expressed frustrations with motorized vehicle use on and off of recreational trails. Most people recognize such uses should be allowed, but believe there needs to be better enforcement and management to avoid conflicts and damage.

Being stewards of the land and caring for the environment are important values to Lawrence County residents, as identified by the comprehensive planning process. There was much recognition that agencies, organizations, and individuals must all work together to minimize use conflicts and protect natural and historic resources and that the county plays an important role in this. As the use of public lands and resources intensifies and development continues to expand from a growing population and increased tourism to the area, responsible management and preservation of the county's natural, recreational, and cultural resources is needed now more than ever. The goals and action items in this section are intended to help ensure the county's assets and amenities are available for all to enjoy, now and in the future.

2. GOAL: Support sustainable growth in the county’s foundational industries.

ACTIONS:

- » Advocate for policies that will provide continuity to natural resource dependent industries, while at the same time mitigating negative impacts to the environment.
- » Support and foster growth in industry clusters—agriculture, healthcare, outdoor recreation, education, science and research, natural resources, and tourism.
- » Ensure that adequate infrastructure systems are in place to direct and foster industry growth.

Document Links: A public view copy of the complete application is available in the Lawrence County Planning and Zoning Office, Auditor’s Office or online at <https://www.lawrence.sd.us/CivicAlerts.aspx?AID=132>

- **doc04231220211108161540.pdf**
- **Compiled CUP Application #470.pdf**
- **2021 Boston CUP Signature & Check to Lawrence County (11-8-21).pdf**

STAFF RECOMMENDATION:

The Comprehensive Plan is the overall guideline of what the County should follow when reviewing any application. The Lawrence County Zoning Ordinance states the specific rules and regulations that the application must meet. The following Chapters apply to this application:

- [§ II-3.001 DEFINITIONS.](#)
- [CHAPTER 6: DISTRICT REGULATIONS](#)
- [CHAPTER 20: EXTRACTIVE INDUSTRY CONDITIONAL USE PERMITS, BUFFER ZONES, AND WAIVERS](#)
- [CHAPTER 21: FEES](#)
- [CHAPTER 22: PROVISIONS OF TITLE DECLARED TO BE MINIMUM REQUIREMENTS](#)
- [CHAPTER 23: GENERAL PROVISIONS](#)

The procedures outlined in [CHAPTER 20: EXTRACTIVE INDUSTRY CONDITIONAL USE PERMITS, BUFFER ZONES, AND WAIVERS](#) are incorporated in the following timeline for consideration of the pending applications:

§ II-20.007 PROCEDURE.

(A) The Planning Department shall review the completed conditional use permit application for compliance with this subchapter. Any application not containing and/or addressing all the information

required in § [II-20.005](#) shall be rejected and returned to the applicant together with the reasons for rejection. ***(Completed by Staff)***

(B) If the Planning Department finds the application in compliance with this subchapter, a Planning and Zoning informational meeting will be scheduled for the next regular meeting. ***(Scheduled by Staff for December 2, 2021 at 1:30 p.m.)***

(C) An informational meeting will be held in front of the Planning and Zoning Board. The Planning and Zoning Board shall schedule an on-site visit to the proposed location. ***(Meeting held on December 2, 2021 at 1:30 p.m.-no onsite scheduled)***

INFORMATIONAL MEETING: CUP #470 - Wharf Resources *LEGAL DESCRIPTION:* Multiple Parcels in Sections 2 & 3, T4N, R2E, *VICINITY LOCATION:* Terry Peak/Wharf Area *SUMMARY:* The applicant is requesting an increase in the CUP boundary to extend mining operation *ZONING:* PF *ACREAGE:* 51 +/- acres *PARCEL ID:* See Application (multiple parcels included). Matt Zietlow presented the proposed Boston Expansion of the Wharf Mine. It will not be a new pit but an expansion of what is already there. They are requesting a new CUP because the boundary of the mine is changing. He informed the Board of the economic benefits of the mine along with Baseline studies, water quality studies, dust control, wildlife survey and socio-economic assessment. He discussed the reclamation plans. They are still waiting on two of the buffer zone waivers needed. Discussion/Set On-Site **PZ PH: January 6, 2022, @ 1:30 pm**

(D) After the informational meeting has been held, a public hearing will be scheduled in front of the Planning and Zoning Board. ***(Meeting Scheduled for January 6, 2022 at 1:30 p.m. at the Deadwood City Hall)***

(E) (1) The Planning Department will prepare the notice of hearing letters and the property owner's list of those persons who own land within 500 feet of the proposed permit area. (Note: the 500-foot buffer zone waiver may be different than the 500-foot notice to adjacent landowners.) ***(Property Owners List prepared by Staff December 7, 2021)***

(2) The Planning Department will notify the applicant when the property owner's list and the notice of hearing letters have been prepared. The applicant must send a copy of the notice of hearing letter to each of the property owners on the list by certified mail with return receipt requested. The notice letters must be mailed no less than seven days prior to the date of the public hearing. The white receipts for certified mail must be returned to the Planning Department prior to the date of the public hearing. The green return receipt cards must be returned to the Planning Department prior to the file being closed. These are retained in the Planning Department as part of the official record to document that the required mailings were completed. If the mailing has not been completed as stated herein, the hearing must be continued to the next Planning and Zoning meeting and the applicant shall be required to re-notify the affected property owners of the rescheduled hearing date. ***(Applicant mailed letters/notice by 12/30/2021 and was sent by certified/return receipt mail; certified receipts will be in office prior to Hearing; green receipts cards will be added as they come back)***

(3) A notice of public hearing sign will be furnished by the Planning Department. The sign must be posted no less than ten days prior to the date of the hearing and must remain posted until final action by the Planning and Zoning Board. ***(Notice of Hearing sign was given at the December 2, 2021 meeting and was posted 12/27/2021)***

(F) The Planning Department will submit legal notice to the local newspaper(s). The notice shall state the date the Planning and Zoning Board will review and consider the conditional use permit application. *(Legal notice was published on December 23, 2021)*

(G) All large-scale applicants, and any small scale applicant required by the Administrator, shall submit proposed written findings, conditions, and recommendations regarding the application to the Planning Department ten days prior to the public hearing. Any interested party shall also be allowed to submit proposed findings up to and at the time of the public hearing. *(Written findings were submitted by December 20, 2021, which is 10 days prior to the schedule hearing)*

(H) The Planning Department shall create a staff report with recommendations to the Planning and Zoning Board for either approval, approval with conditions, or denial of the application. *(Staff report was created on January 3, 2022)*

(I) The Planning and Zoning Board shall consider the conditional use permit application and public comment regarding the application's technical compliance with this title after receiving and reviewing the Planning Department's recommendation. *(Planning & Zoning Public Hearing held on January 6, 2022 at 1:30 p.m.)*

(J) The Planning and Zoning Board shall make a recommendation to approve, approve with conditions, or deny the conditional use permit application within 30 days of the initial hearing of the application. If the action is to deny the conditional use permit application, the reasons for such action shall be stated in the minutes and specific reference shall be made to the requirements not met.

(K) After the Planning and Zoning Board makes recommendations to the County Commission, the Planning Department shall schedule a public hearing in front of the County Commission.

(L) The applicant shall be required to re-notify the adjacent property owners in the same manner as listed in division (E) above. The Planning Department will again submit legal notice to the local newspaper(s).

(M) All large-scale applicants, and any small scale applicant required by the Administrator, shall submit proposed written findings, conditions, and recommendations regarding the application to the Planning Department ten days prior to the public hearing. Any interested party shall be allowed to submit proposed findings up to and at the time of the public hearing.

(N) Within 45 days of the receipt of the Planning and Zoning Board's recommendation, the County Commission shall take action to approve, approve with conditions, or deny the conditional use permit request.

Due to the nature of this application, the extended time spent on reviewing data provided by the applicant and the specific requirements of the process staff has a multi-part recommendation for the Planning & Zoning Board and the County Commission.

- A. Reviewing all of the proposed application, comparing it to the Ordinances above, and following the procedures listed, staff has determined the CUP application to be complete and will meet all of the requirements of the Ordinance.
- B. A recommendation for approval of the applications is warranted based on staff's findings and adoption of the proposed conditions.

C. The County Commission shall make a decision to approve, approve with conditions or deny the request based on the following criteria:

1. Adjacent land use
2. Size of development
3. Access to development
4. Topography
5. Population density
6. Injury or interference with existing use and enjoyment of other property within five hundred (500') of the proposed area of disturbance.
7. Substantial diminishment or impairment of property values within five hundred feet (500') of the proposed area of disturbance.
8. Good faith efforts made by the applicant to adequately compensate landowners within five hundred feet (500') of the proposed area of disturbance for injury or interference with use of their property.
9. The effect of the proposed project upon the population base and tax base of Lawrence County.
10. The effect of the proposed project upon housing, public education, law enforcement, fire protection, public and private water systems, public sewer and solid waste systems, public roads, health services, parks and recreation within Lawrence County.
11. For the purpose of permit conditions only, the cumulative effect of the proposed project when considered with previously approved extractive Conditional Use Permits.

D. If approved, the County Commission shall ensure the following items are specified in the permit:

1. The "permit area" and the area of disturbance.
2. The required buffer zone boundaries.
3. The waste disposal sites within the permit area.
4. The method of processing.
5. Access and haul roads.
6. Permit conditions.

PROPOSED CONDITIONS:

CONDITIONS:

1. In May of each year, Wharf Resources shall file a written annual report with the Lawrence County Planning and Zoning Administrator, setting forth Wharf Resources' compliance with the terms, requirements, and conditions of this Conditional Use Permit as well as an update on the general operations and reclamation of its mining and processing operations. Such report shall address selected key socioeconomic information such as employment, payroll, work force, residency, taxes, anticipated activities, impacts on adjacent lands (that is, drilling, blasting, noise, dust, traffic, etc.) and any additional areas as may be determined by the Lawrence County Commission.

2. All excavations, extraction of materials and minerals, open pits and impounding of waters hereafter established or enlarged shall conform to the approved operating plans and permit conditions of the South Dakota Department of Environment and Natural Resources (DENR) and any applicable United States Environmental Protection Agency (EPA) water discharge permit standards.
3. Copies of all Notices of Violations (NOV's) sent to Wharf Resources from the DANR or EPA shall be transmitted to the Lawrence County Planning and Zoning Administrator within ten (10) days of Wharf Resources' receipt.
4. Reclamation of the land shall conform with the rules, approved reclamation plans and permit conditions of the DANR and in consultation with the Natural Resources and Conservation Service (NRCS). Reclamation will proceed in a timely and orderly fashion as determined by the DANR and the NRCS. All state required annual reclamation reports shall be made available for review by the public upon request.
5. Wharf Resources shall immediately report the release of fuel or chemicals in excess of the "reportable quantity" or in quantities that will be harmful to the groundwater, the public health or the environment or that will contaminate surface water supplies in any way to the DANR, the Lawrence County Commission Chairman, the Lawrence County Planning and Zoning Administrator and the Lawrence County Emergency Management Director pursuant to the Lawrence County Hazardous Materials Emergency Response Plan. If the Lawrence County Emergency Management Director is not available, the Lawrence County Sheriff's Dispatch Center shall be contacted.
6. Wharf Resources will monitor wells within the permit area in compliance with DANR requirements. In the event water quality problems develop in any wells, Wharf Resources will notify the Lawrence County Planning & Zoning Administrator of all mitigative measures taken.
7. Wharf Resources shall be responsible for Lawrence County's portion of the continued operation and annual payments of two (2) stream flow gages which measure stream flow in the vicinity of mining operations near Terry Peak in Lawrence County for the life of the mine. Gage 1 is known as continuous-record gaging station 06430800 located on Annie Creek near Lead. Gage 2 is known as continuous-record gaging station 06432172 located on False Bottom creek near Central City.
8. If an overburden disposal area will affect drainage, Wharf Resources shall install a surface water quality monitoring station below the disposal areas, and shall comply with all Surface Water Discharge Permit requirements. Any confirmed evidence of discharges beyond the DANR's and EPA's standards shall be reported to the DANR and the Lawrence County Planning and Zoning Office within twenty-four (24) hours. Follow-up correspondence shall be forwarded to the EPA as required by Wharf Resources Surface Water Discharge Permits. Results of the monitoring program shall be made available for review by the public upon request.
9. Existing public roads within the permit area will remain intact wherever possible. If existing public roads are disturbed, a suitable alternative access road will be provided as long as active mining and reclamation are in progress.
10. Wharf Resources shall adhere to a dust suppression program to control dust on the following roads: those areas of State Highway 473 disturbed by Wharf Resources' mining operation, the Wharf access road, and all haul roads within the permit area. Wharf Resources shall utilize dust suppression methods

recommended or approved by the Lawrence County Highway Superintendent or the DANR. Should legitimate dust concerns be raised by adjoining property owners, Wharf Resources shall increase its dust suppression activities on affected roads and increase air quality surveillance to ensure compliance with state and federal regulations.

11. Wharf Resources shall cooperate with Lawrence County in regulating employees', contractors', service person's and suppliers vehicle speeds and the observance of traffic signs on all public roads in the vicinity of Wharf Resources Mining Operation.
12. Wharf Resources shall try to schedule normal off-site heavy truck weekday deliveries during daylight hours.
13. Complaints shall be handled in accordance with the complaint, violation and penalty provisions of the Lawrence County Zoning Ordinance then in effect.
14. Wharf Resources shall conduct blasting operations during daylight hours.
15. Blasting parameters shall be as determined by the Bureau of Mines Report of investigation/1980 (R1 8507), unless superseded by a more recent document to establish safe seismic disturbances and air blast limits. During development and operation of the Expansion Project, Wharf Resources shall conduct studies at least annually, or more frequently if required, to quantify the effect of pit blasting on the surrounding area. Results of such testing shall be included in the written annual report. If complaints arise regarding blasting and further investigation is merited, monitoring equipment may be required to evaluate the complaints. Appropriate mitigation measures may be established by the County Commission. All costs associated with monitoring and mitigation shall be at the sole expense of Wharf Resources.
16. If dust due to blasting becomes a problem to local residents, one or more of the following mitigative measures shall be employed:
 - a) Blast parameters shall be revised for possible adjustment.
 - b) Weather conditions shall be monitored and blasting shall be conducted with favorable meteorological conditions (i.e. raining or favorable winds, no inversion).
 - c) Air quality surveillance shall be increased to ensure compliance with state and federal regulations.
17. Wharf Resources shall, to the extent possible, continue to maintain sixty percent of its workforce from within Lawrence County. Should work at the project be contracted out, Wharf Resources shall make every reasonable effort to utilize county residents and/or contractors.
18. Wharf Resources shall continue to make every effort to make initial and recurrent purchases of materials and supplies from within Lawrence County communities first and regional communities secondly, to the extent such items are available at comparable costs, quality and delivery schedules of suppliers outside the area.
19. Wharf Resources shall be allowed to operate a Rubble/Construction and Demolition Debris Disposal site in the areas referenced by exhibit in the application materials as regulated by the State of South Dakota for such operations. This will allow for dumping of materials produced by Wharf Resources associated

with reclamation and general housekeeping of their property only, and shall not extend to materials generated off-premises.

20. Wharf Resources shall have a Fire Hazard Mitigation Plan developed and implemented.
21. Wharf Resources shall provide hazard training and work cooperatively with Lawrence County Emergency Management Office to ensure county emergency responders are properly trained to manage any hazard situations that may arise.
22. Wharf Resources shall maintain access to the Terry Peak Cemetery during mining, and will continue to work with the Terry Cemetery Association.
23. Any construction of structures or movement of buildings onto the property shall require a building permit from the Lawrence County Office of Planning and Zoning.
24. All lights used for illumination shall be directed away from any nearby residences, businesses and public roads and shall use “down-throw” lighting.
25. The applicant shall provide a copy of the State Permit and any inspections/violations from the DANR to the Lawrence County Planning and Zoning Office.
26. The applicant shall submit to the Office of Planning & Zoning a person to contact with their telephone number, other than the office’s number, in case of emergencies, violations or for gathering information.
27. Wharf Resources will notify the Lawrence County Planning & Zoning Office of changes in the Mine General Manager and the Operations Manager within 2 business days of such changes.
28. One on-premise sign may be allowed on the property and conform to Chapter 7 of the Lawrence County Zoning Ordinance. This sign will state the name of the company, telephone numbers and hours of operation.
29. All noxious weeds shall be controlled per the Lawrence County Invasive Species Department regulations.
30. Wharf Resources shall, ninety (90) days prior to any planned, permanent closure or long term cessation of mining operation, give notice of said closure or cessation to the Lawrence County Planning and Zoning Commission and the Lawrence County Commission. Wharf Resources shall cooperate with any inspections undertaken by said Planning and Zoning Commission and Lawrence County Commission for the purpose of identifying any impacts on affected roads and compliance with reclamation plans.
31. If State of South Dakota or federal laws, rules or conditions conflict with these conditions, the state or federal requirements shall control.
32. Any change of property ownership, with the proposed transfer of this subject Conditional Use Permit, shall be reported immediately to the Office of Planning and Zoning.
 - a. If any terms, condition or requirement stipulated in the Conditional Use Permit, the Lawrence County Zoning Ordinance or applicable State and Federal regulations are not fully

complied with in all respects, this permit shall be reviewed and may be suspended or revoked.

- b. This permit shall be reviewed on an annual basis or on an as needed basis to assure compliance with the attached conditions, at which time addition conditions may be attached or the permit may be cancelled if deemed necessary for the protection of the public interest.

- 33. Prior to conveying any portion of the real property included within boundaries of Conditional Use Permit No. 470, and prior to conveying any portion of real property now owned by Wharf Resources adjoining or adjacent thereto, Wharf Resources shall submit proposed boundary plat(s) that include said portions to the Lawrence County Planning Commission and County Commission and obtain approval as to size and shape. Factors to consider in determining plat size and shape may include, but not be limited to, topography, geography and naturals, typical, practical or artificial boundaries. This condition shall not apply to such portion of the property that is subject to contractual conveyance obligations between Wharf Resources and Black Hills Chair Lift Co. existing as of the date of the approval of the application for Conditional Use Permit No. 398. This condition shall not apply to the existing Lost Camp Subdivision. Approval of any boundary plat shall be a pre-condition to approval of any preliminary plat(s) submitted for the purpose(s) of subdivision of any of such property.
- 34. During active mining operations, Wharf Resources will provide public rights-of-way across property to provide access from the Stewart Slope Road to the Perkins Road (Richmond Hill Road), and to the Redpath Creek Road. Wharf Resources may change the locations of the public rights-of-way. Wharf Resources will maintain the public rights-of-way across property during its active mining operations. Wharf Resources will not be required to maintain Perkins Road (Richmond Hill Road). During reclamation, the public rights-of-way will be reclaimed as required by ARSD 74:29:07:12, unless a local, state, or federal agency requests that the public rights-of-way remain unreclaimed and agrees to be responsible for future maintenance. ARSD 74:29:07:12(10).

BOARD & COMMISSION RECOMMENDATIONS:

P & Z: January 6, 2022

Allen and Stone left the table due to conflicts with the request for CUP #470.

PUBLIC HEARING: CUP #470 APPLICANT: Wharf Resources

LEGAL DESCRIPTION: VICINITY LOCATION: Terry Peak/Wharf Area **SUMMARY:** The applicant is requesting a new CUP to increase the boundary to extend mining operation **ZONING:** PF **ACREAGE:** 51 +/- acres **PARCEL ID:** See Application (multiple parcels included). Vogt reviewed the staff report, highlighting the 2030 Comprehensive Plans phasing of mining's part of Lawrence County history and responsible use of natural resources. She said the conditions in the staff report are standard for extractive industry CUP's

Proponents: Matt Zietlow, Environmental Manager of Wharf Resources, gave a project overview of the economic benefits of the mine along with Baseline studies, water quality studies, dust control, wildlife survey and socio-economic assessment.

<https://www.lawrence.sd.us/DocumentCenter/View/1187/Wharf-Boston-PZ-Public-Hearing-Presentation-1-6-22?bidId=>

Opponents: Robert Blue, 21179, Mr. and Mrs. Javersak, 21145 and Roger Latt, 21137, all of Last Chance Trail, asked for an interpretation of the buffer zone and mine boundary map. Judy Javersak asked the Board

to consider a handout that she submitted. Regarding air quality, vibrations, weed control, and wind. She had concerns about how much time surrounding property owners get notice of Public Hearings. She said she did not have enough time to submit her handout before the meeting.

Proponents: Black Hills Energy Account Manager, Jim Keck, offered his support for Wharf Resources, stating that Wharf Resources is a great wind energy project partner, obtaining 48-50% of its energy from wind. Kayla Klein, a resident that works with several non-profits in the Hills, voiced support for the Applicant stating that Wharf is a great supporter of the Black Hills Community. Neighbors to the mine, Jasmine McCauley, 106 Washington St and Justin Phelps, 512 Quincy Ave stated support for the project. Matt Zeitlow explained answers to the boundary line questions.

Opponents: The Javersaks explained in more detail about the dust and air concussions that they presently deal with at their homes. They feel the amount of time it takes to get a response from the company is slow. Zietlow said they could call him to handle these issues and make adjustments.

Discussion: Ewing mentioned that the County Weed Board works with Wharf and that he does not know of any complaints about weeds. Fuller asked if the staff had received buffer waivers needed from the last meeting. Vogt confirmed.

Moved-Seconded (Ewing-Whalen) motion to Approve CUP #470 as presented per Lawrence County Zoning Ordinance Chapter 19. Motion Carried. Stone & Allen not voting.

CC PH: January 25, 2022, @ 10:30 AM

CC: January 25, 2022



DEPARTMENT OF GAME, FISH AND PARKS

Division of Wildlife – Regional Office

4130 Adventure Trail

Rapid City, South Dakota 57702-0303

October 3, 2022

SD/DENR Minerals and Mining Program

Attn. Roberta Hudson

Joe Foss Building

523 East Capitol Avenue

Pierre, SD 57501-3181

Subject: Wharf Mine Boston Expansion Aquatic, Wildlife and Vegetation Survey Contractors

Dear Roberta,

Pursuant to SDCL 45-6B-7(4), this letter represents South Dakota Department of Game, Fish and Parks approval of the following contractors to conduct preliminary wildlife surveys at the Wharf Mine Boston Expansion Project:

- GEI Consultants, Inc
- ICF International
- BKS Environmental.

Should you have any questions regarding this letter please contact me by any of the numbers listed below.

Sincerely,

Stan Michals -Energy and Minerals Coordinator

SD/Game, Fish and Parks

4130 Adventure Trail

Rapid City, SD 57702

Desk (605)394-2589

Cell (605)645-8881

Stan.Michals@state.sd.us

CC:

Crystal Hocking, RESPEC

Matt Zietlow, WRI

"Serving People, Managing Wildlife"

The Division of Wildlife will manage South Dakota's wildlife and fisheries resources and their associated habitats for their sustained and equitable use, and for the benefit, welfare, and enjoyment of the citizens of this state and its visitors.

WHARF RESOURCES (U.S.A.), INC.

LIST OF NOTICES OF VIOLATION

Eight Notices of Violation have been issued to Wharf Resources since 1983.

1. Notice of Violation issued 5/24/84.
Reason:
 - a. Wharf failed to install hypalon liner in the Overflow Pond prior to use.
 - b. Wharf failed to allow a minimum of 2 feet of freeboard in the ponds.
 - c. Wharf failed to report the possible release of cyanide into the environment within 24 hours as required.

2. Cease and Desist Order issued 6/12/84.
Reason: Failed to comply with 5/24/84 Notice of Violation and Order.

3. Two Notices of Violation issued 10/13/95.
Reason: From 8/21/95 through 8/28/95, Wharf discharged inadequately treated cyanide solution into Ross Valley and subsequently into Annie Creek. Two Notices of Violations were issued, one under mining and one under the water pollution laws.

4. Notice of Violation issued 12/12/97.
Reason: Wharf exceeded the nitrate ground water standard in two shallow wells and the total cyanide limit in its surface water discharge permit for Ross Valley and Annie Creek.

5. Notice of Violation issued 5/31/00.
Reason: Wharf exceeded the selenium standard for Annie Creek, exceeded the ammonia standard for the outfall from the Ross Valley denitrification facility and failed an acute whole effluent toxicity test in Ross Valley.

6. Notice of Violation issued 8/7/01.
Reason: Wharf exceeded the selenium standard for Annie Creek and had a failure of the Pregnant Pond Leak, Detection, Collection, and Recovery System (LDCRS) causing process solution to be released to the environment.

7. Notice of Violation issued 1/28/03.
Reason: Wharf exceeded the ammonia standard for Annie Creek, the nitrate standard for Ross Valley ground water, and the nitrate and bacteria standards in the drinking water supply well.

8. Notice of Violation issued 3/20/2008.
Reason: Wharf exceeded the Surface Water Discharge and Mining permits standards 26 times between March 2005 and March 2008.