



Mark Gordon, Governor

Department of Environmental Quality

To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.



Todd Parfitt, Director

MEMORANDUM

TO: Todd Parfitt, Director

FROM: Kyle Wendtland, Administrator LQD *KW 9/14/22*

DATE: September 9, 2022

TOPIC: **Recommendation, Black Hills Bentonite, LLC, Keyhole State Project, Permit Application, TFN 7 1/018**

I have prepared this report and recommendation in accordance with the requirements of W.S. 35-11-406(q). This report is organized to provide a general project overview (Section A), Public Objections and Concerns (Section B), and Administrator Review and Recommendations (Section C).

The Land Quality Division (LQD) received 26 written objection letters from 23 individuals by the close of the comment period on August 13, 2022. These comments have been summarized and are addressed further in this report and recommendation. The individuals that provided written objections within the comment period are considered a "party" in regard to this action as detailed in W.S. 35-11-406(q)(iii). The LQD also held a listening session at the Pine Haven Community Center on August 31, 2022, at 6:00 pm to hear the concerns of the greater Pine Haven community. This meeting was recorded and is being transcribed. The LQD has also received information from individuals through hand delivered letters, the governor's office, and by telephone calls further detailing individual concerns. The LQD has developed a matrix of these concerns and listed them by those individuals that are a party to this action, and those that are not considered a party under the provisions of W.S. 35-11-406(q)(iv).

Section A, General Project Overview

Black Hills Bentonite, LLC (BHB) is proposing a bentonite surface mining operation in Section 16, Township 50 North, Range 66 West in Crook County, Wyoming. The proposed permit area will cover 317 acres and BHB intends to affect approximately 140 acres within the permit boundary. The Keyhole State Project is located approximately 2.5 miles to the southeast of the Pine Haven community.

The LQD received the application submitted by BHB on May 10, 2021, and was assigned a Temporary Filing Number (TFN) 7 1/018. The LQD determined that the application met the requirements of W.S. 35-11-406(e) and deemed the application complete. Per W.S. 35-11-406(g), the LQD notified BHB on June 15, 2021, to publish a notice of the filing of the application once each week for two (2) consecutive weeks in a newspaper of general circulation in the locality of the proposed mining site. BHB completed the required publications on July 1 & 8, 2021 in the Sundance Times and Moorcroft Leader. The affidavit of the newspaper publication was received by the LQD on September 3, 2021.

The LQD completed the round one technical review and sent the request for additional information to BHB on September 23, 2021. BHB submitted responses on April 8, 2022. The LQD completed the round two technical review and sent the request for additional information to BHB on May 4, 2022. BHB submitted responses on May 23, 2022. Based on the two rounds of technical review, the LQD determined that the application met the requirements of 35-11-406(h) and Noncoal Rules and Regulations Chapter 2 and deemed the application technically complete. Per W.S. 35-11-406(j), the LQD notified BHB on June 9, 2022, to publish notice of the application in a

200 West 17th Street, Cheyenne, WY 82002 · <http://deq.wyoming.gov> · Fax (307)635-1784

ADMIN/OUTREACH (307) 777-7937	ABANDONED MINES (307) 777-6145	AIR QUALITY (307) 777-7391	INDUSTRIAL SITING (307) 777-7369	LAND QUALITY (307) 777-7756	SOLID & HAZ. WASTE (307) 777-7752	WATER QUALITY (307) 777-7781
----------------------------------	-----------------------------------	-------------------------------	-------------------------------------	--------------------------------	--------------------------------------	---------------------------------

DEQ 11 - 0001

DEQ Exhibit 11

newspaper of general circulation in the locality of the proposed mining site once a week for four (4) consecutive weeks.

BHB completed the required newspaper publications on June 23 & 30, 2022; and July 7 & 14, 2022 in the Sundance Times and Moorcroft Leader. The affidavit of notice and filing was received by the LQD on July 11, 2022. Pursuant to W.S. 35-11-406(q)(i), any interested person had the right to file written objections to the application with the director within thirty days after the last publication of the notice. This thirty-day comment period started on July 14, 2022, and closed on August 13, 2022. The affidavit of the newspaper publication was received by the LQD on August 11, 2022.

Pre-mine Land Use:

Pre-mining land uses as described in Appendix D-1, Volume II, have been grazing land and wildlife habitat, along with some pastureland and recreation activities such as target shooting and off-road vehicle travel. In addition, past bentonite mining activities have taken place in the southwest and eastern portions of the permit area. These mining activities occurred prior to mining laws being in effect.

Cultural Resources:

A Class III Cultural Resource study was conducted which included record searches of State Historic Preservation Office (SHPO) files and field surveys of areas not previously inventoried. No cultural issues were noted and BHB has received concurrence from SHPO to proceed with mining activities.

Climate:

The climate of the permit area, as described in Appendix D-4, Volume II, is steppe, or semiarid. Annual average precipitation is 14.92 inches. This climate data has been collected from the nearby weather station in Upton, WY which is approximately 15 miles south from the proposed permit area.

Geology:

Information on the geology of the proposed permit area can be found in Appendix D-5 in Volume II. The average depth of bentonite to be mined is 35 feet. The bentonite bed to be mined has an average thickness of 32 inches.

Overburden:

Overburden materials are described in Appendix D-5 in Volume II. Overburden sampling occurred in January, 2021 with sample analyses conducted following procedures outlined in Table I-1 of LQD Guideline 1. Results of the overburden drilling program indicates high SAR values limit the suitability of the deeper overburden material as a suitable root zone material.

Hydrology:

The hydrology of the proposed permit area is described in Appendix D-6 of the Permit document.

Surface Hydrology

Surface hydrology is described in Section 6.2 of Volume II. Seven ephemeral channels run through the permit area including Mule Creek. There are also 5 impoundments located in the permit area. The ephemeral channels proposed to be disturbed and reclaimed by mining are illustrated on Maps MP-1 and RP-1.

Groundwater Hydrology

Groundwater hydrology is described in Section 6.1 of Volume II. Groundwater will not be affected due to shallow mining depths of less than 50 feet. During extensive exploration drilling, no ground water was intercepted and is not anticipated to be intercepted during mining operations.

Soils:

Soils information can be found in Appendix D-7, Volume II, of the permit document. The soils covering the permit area were sampled, analyzed, identified, and mapped. The average depth of salvageable soils was found to be 18 inches. Soil sample analyses indicated high levels of calcium carbonate and low pH values typical of this type of geologic setting.

Vegetation:

Appendix D-8, Volume II, provides the data for the composition of the vegetation found within the permit area. The vegetation communities for the permit area include Bentonite Badlands (14.9%), Big Sagebrush Shrubland (54.3%), Ponderosa Pine Woodland (6.8%), Reclaimed Bentonite Pit (21.3%), Lowland Grassland (0.6%) and Upland Grassland (0.5%). The ridge to the north of the proposed permit boundary and associated trees are not planned to be disturbed.

Wildlife:

Wildlife are discussed in Appendix D-9 in Volume II. An extensive wildlife survey was conducted in 2020. No wildlife issues were noted in the survey. The permit area is not within 2 miles of sage grouse lek and is not in or near a big game wildlife migration corridor. A concurrence letter from the Wyoming Game and Fish Department (WGFD) dated January 21, 2020, confirmed that the permit application addressed WGFD's terrestrial wildlife and aquatic concerns. The letter from the U.S. Fish and Wildlife Service dated April 7, 2021, states that based on the information provided by BHB, it is unlikely that the proposed work will adversely affect any threatened or endangered species such as long-eared bats.

Wetlands:

Appendix D-10, Volume II, provides the wetlands delineation for Keyhole State Project. A total of 3.04 acres of aquatic resources were identified within the permit area. These wetlands are associated with tributaries of Mule Creek and off-channel reservoirs. BHB does not intend to disturb these wetland areas.

Mining Schedule:

The Mine Plan found in Volume III of the permit, meets the requirements of state statutes and the Noncoal Rules and Regulations Chapter 2. The mining schedules are discussed in Section 4.5 of the Mine Plan in Volume III. Mining and reclamation activities are scheduled to be conducted Monday through Friday from 7:00 a.m. to 5:00 p.m. BHB commits to properly salvage, stockpile, and redistribute topsoil throughout the life of the mine. Overburden removal will occur from November through June. Once the overburden is removed and the bentonite is exposed, bentonite field-drying activities will occur from June through September. Bentonite hauling from the mine site is expected to occur one to two months each year, with an estimated four truckloads per day leaving the mine site. BHB plans to begin mining activities in October of 2022. Mining and reclamation activities are projected to continue through 2040.

Reclamation:

The Reclamation Plan is found in Volume III of the permit, meets the requirements of state statutes and the LQD Noncoal Rules and Regulations Chapter 2. Lands affected by mining will be reclaimed to re-establish the pre-mining land uses of livestock grazing and wildlife habitat. Reclamation is proposed to start after field-drying activities conclude in early September. BHB will backfill and slope the mining area to closely reflect the original topography of mined areas. Topsoil is generally applied during the late summer or early fall, immediately prior to the seeding phase. Seeding will be drilled to the appropriate depths with a native seed mix. The seed mix is provided in Table RP-1.

Section B, Public Objections and Concerns

During the statutorily required 30-day comment period, the LQD received a total of 26 comments from 23 individuals citing their objections and/or concerns of the proposed Keyhole State Project TFN 7 1/018. The LQD

also held a listening session at the Pine Haven Community Center on August 31, 2022, at 6:00 pm to hear the concerns of the greater Pine Haven community. The LQD has also received information from individuals through hand delivered letters, the governor's office, and by telephone call further detailing individual concerns. This section of the report is divided into three subsections in order to address the concerns raised by the public: Subsection I, Additional Permits Required Prior to Commencing Mining Operations; Subsection II, Concerns that are Within the LQD Statutory Authority; and Subsection III, Concerns that are Outside of the LQD Statutory Authority.

Subsection I, Additional Permit Required Prior to Commencing Mining Operations:

Air Quality:

The public expressed concerns regarding potential impacts to the air quality from the proposed mining operation. Citizens adjacent to the operation, the Town of Pine Haven, and areas near the Keyhole State Project expressed concerns regarding the potential for fugitive dust blowing into the community and out of haul truck beds causing health issues or exacerbating existing health conditions such as asthma and Chronic Obstructive Pulmonary Disease. In order to address these concerns, BHB will be required to have an approved Air Quality Division (AQD) permit prior to commencing mining operations.

Water Quality:

The public expressed concerns that the proposed mining operations will affect the nearby surface water bodies, including Keyhole Reservoir. BHB will be required to have an approved Mineral Mining General Permit authorization and associated Storm Water Pollution Prevention Plan with the Water Quality Division (WQD) prior to commencing mining operations.

Subsection II, Concerns Within the LQD Statutory Authority

Land Adjudication:

Three land adjudication concerns were raised by the public. These items included Bureau of Reclamation lands, State of Wyoming Lands (see location paragraph below), and neighboring private lands. The approval and access authorization for Bureau of Reclamation Lands was completed on September 28, 2021. A copy of this letter and approval is included in Appendix A of this report. The second concern was from a neighboring land owner to the west. The landowner noted that there was a potential land ownership change resulting from a recent sale/purchase of private land. The proposed mining activities do not affect or overlap the private land boundary to the west of the permit boundary. The third question was associated with a potential for ingress and egress from the property to the south of the proposed mine operations. The proposed mine operation will be accessed from the northwest corner of the proposed permit boundary. There is no proposed access for the southern boundary of the proposed permit. Please reference Section C of this report, Administrator's Review and Recommendations for additional information related to this item.

Location of Mine Operations:

BHB LLC is proposing a bentonite surface mining operation in Wyoming State Land Section 16, Township 50 North, Range 66 West in Crook County, Wyoming. The proposed permit area will cover 317 acres and BHB intends to affect approximately 140 acres within the permit boundary. The Pine Haven Community is located approximately 2.5 miles north and west of the proposed mine operations. The predominate wind directions are from the north, west, and south west of the proposed operations. Additionally, the proposed mine affected area is greater than 300 feet from the nearest occupied structure as required by W.S. 35-11-406(m)(vii). The proposed permit complies with location restrictions set forth in statute, rule, and regulation.

Additionally, BHB has a current and valid lease from Office of State Lands and Investments (OSLI). The lease is in good standing with the OSLI.

Wildlife:

Wildlife concerns were noted by the public regarding sage grouse and waterfowl in and around the proposed Keyhole State Project. Wildlife issues are discussed in Appendix D-9 in Volume II. An extensive wildlife survey was conducted in 2020 with no wildlife concerns noted in the survey area. The permit area is not in “core area” and is not within 2 miles of a sage grouse lek. The proposed permit is not in or near a big game wildlife migration corridor. Additional concerns were raised regarding the recent potential listing of Long-Eared bats by the U.S. Fish and Wildlife Service. The LQD contacted both the Wyoming Game and Fish Department (WG&FD), and the U.S. Fish and Wildlife Service (USFWS) on September 8, 2022, regarding this item. The WG&FD confirmed that its concurrence letter dated January 21, 2020, addressed terrestrial and aquatic wildlife concerns including the long-eared bat. The USFWS also confirmed that their letter dated April 7 2021 remains valid, and confirmed that the proposed operation is unlikely to adversely affect any threatened or endangered species.

Topsoil Stripping Restrictions:

Topsoil salvage and stabilization concerns were noted by the public. The proposed permit details the topsoil salvage and stabilization requirements. As part of a Settlement Agreement to Notice of Violation Docket Number 5377-14 issued by the LQD to BHB in 2014, a requirement was placed on BHB to not salvage topsoil during frozen ground or muddy conditions. The LQD reviewed the permit application and noted that the Settlement Agreement language had not been incorporated into the permit application. The LQD will require BHB to revise the permit application to include this required topsoil salvage language prior to conducting any mining operations. Please reference Section C of this report, Administrator’s Review and Recommendations for additional information related to this item.

Company Compliance:

BHB is currently in compliance with LQD Noncoal Rules and Regulations and applicable state statutes. LQD does not have any outstanding Notice of Violation actions pending against the company. The company has received a total of 18 LQD Notice of Violation actions in the company’s history (1947). The last Notice of Violation was issued to BHB on November 21, 2018.

Subsection III, Concerns Outside of the LQD Statutory Authority

Property Values:

Community members near the proposed mine operations expressed concerns that the mine would negatively affect nearby property values and economic opportunities related to tourism, hunting, fishing and outdoor recreation. Crook County does not have any zoning ordinances that prohibit the proposed mine operation. The LQD does not have regulatory authority over local county planning & zoning. These regulatory requirements reside under the jurisdiction of Crook County.

Public Land & Recreation:

The proposed mine operation is located on Wyoming State Land which provides public recreation to nearby community members. Concerns have been made by the public that the mining activities would affect public access to these Wyoming State Lands. The Office of State Lands and Investments has approved BHB’s request to mine through Lease No. 0-43470-KNOWN. The regulatory requirements and lease issuance reside under the jurisdiction of Office of State Lands and Investments. Please reference Section C of this report, Administrator’s Review and Recommendations for additional information related to site security of the proposed mine operations.

Mineral Tax Allocations:

Citizens raised concerns with the costs to maintain infrastructure such as county road maintenance and state highway maintenance. The allocation of mineral royalties received by government entities is managed through the

Office of State Lands and Investment and Department of Revenue. The LQD has no regulatory jurisdiction over mineral royalty payments.

Traffic:

The public raised concerns related to heavy truck traffic on the Old Sundance Highway and Pine Ridge Road related access to the proposed mine operations. Citizens stated maintenance of the Old Sundance Highway is not up to standards with delayed snow plowing and general maintenance during the winter months. Citizens also raised concerns related to the safety of students and school bussing them to and from schools in Moorcroft, WY. The LQD has no authority over truck traffic outside of the proposed permit boundary. Maintenance of state highways is the responsibility of the Wyoming Department of Transportation. Maintenance of county roads is the responsibility of Crook County Road and Bridge Department and Crook County Commissioners. Enforcement of traffic laws is the responsibility of local law enforcement such as the Crook County Sheriff's Department.

Additional concerns related to mine traffic included over the road trucks tracking mud onto roadways, and windblown fugitive material potentially contaminating the roadway. Because of the high moisture content of the bentonite windblown fugitive material from the trucks will be minimal. Please reference Section C of this report, Administrator's Review and Recommendations for additional information related to trucks tracking material off of the proposed mine site.

Noise Pollution:

The public expressed concerns with possible noise of mining activities and truck traffic that may cause a public nuisance to community members. Section 5.3 of the Mine Plan in Volume III states that typical mining activities will be conducted Monday through Friday from 7:00 A.M. to 5:00 P.M., normal business hours. The mine operation as proposed is intermittent in nature (one mining cut per year).

Tourism:

The LQD has no authority over the regulation of tourism. As noted above, the LQD does not have regulatory authority over local county planning & zoning. These regulatory requirements reside under the jurisdiction of Crook County. Additionally, the LQD did not receive any comments from Wyoming State Parks and Historic Trails regarding this proposed action.

Section C, Administrators Review and Recommendations

Wyoming Statute W.S. 35-11-406(q)(ii) directs the LQD Administrator to review all objections, and forward a report and recommendations on the objections to the Director. I, as the Administrator, recommend approval of the proposed mine permit TFN 7 1/018 action with the following recommendations.

- 1) Air Quality Permit: An Air Quality permit from the AQD will be required prior to the initiation of construction and operation of the mine site.
- 2) Water Quality Permit: A Mineral Mining General Permit authorization and associated Storm Water Pollution Prevention Plan (SWPPP) will be required from the WQD prior to the initiation of construction and operation of the mine site.
- 3) Land Adjudication: It has come to my attention that the original application did not contain documentation from the Bureau of Reclamation (Bureau) permitting the construction and use of an access road across federal lands at Keyhole Reservoir. The LQD failed to identify this omission during its completeness review process. BHB supplied additional documentation to the LQD on September 6, 2022, that contains the Bureau's approval of a Supplemental Use Permit for the construction and use of the road across federal lands. The Supplemental Use Permit was granted on September 28, 2021. This documentation was technically required in the original application. However, the deficiency associated with the absence of this documentation has been rectified with BHB's subsequent submission. The Bureau does not appear to have

been harmed by the omission of this documentation in the original application, since it had knowledge of the construction and access issue, and since permitted construction and access to the project has existed for nearly a year since the time the Bureau approved the permit. Furthermore, none of the interested parties were prejudiced or harmed by the omission, as the subject access runs on federal land, and the Bureau has consented to such construction and access. I acknowledge the documentation was omitted and that the LQD failed to identify the omission, but I determine that the subsequent submission of the information does not constitute a significant modification of the original application that requires me to recommend denial of the permit to the director for the reasons stated herein.

- 4) Topsoil Salvage: As part of a Settlement Agreement to Notice of Violation Docket Number 5377-14 issued by the LQD to BHB in 2014, a requirement was placed on BHB to not salvage topsoil during frozen ground or muddy conditions. The LQD failed to identify this omission during its completeness review process. BHB supplied additional documentation on September 9, 2022, to the LQD that contains the required topsoil salvage language. This documentation was also technically required in the original application. However, the deficiency associated with the absence of this documentation has been rectified with BHB's subsequent submission. The topsoil resource has not been harmed and material damage has not been caused by the omission of this additional topsoil salvage language, since no on site construction has occurred or will occur until the LQD, AQD, and WQD permits are issued. Furthermore, none of the interested parties were prejudiced or harmed by the omission, as no topsoil salvage activities have or will occur until all required permits have been issued. I acknowledge the documentation was omitted and that the LQD failed to identify the omission, but I determine that the subsequent submission of the information does not constitute a significant modification of the original application that requires me to recommend denial of the permit to the director for the reasons stated herein.
- 5) Site Security: It is recommended that the company cross-fence the mine operations in order to limit ingress and egress to the site. This fencing is recommended to include three to five years of projected mining cuts in order to provide notification and protection to the public of the mining activities. This is a recommended update to the permit and would not constitute a significant modification of the original application that requires me to recommend denial of the permit to the director for the reasons stated herein.
- 6) Bentonite Debris from Truck Haulage: It is recommended that the company install an aggregate strip "rumble strip" of not less than 100 feet prior to the truck's leaving the permit area to limit the transfer of mud or bentonite debris onto the public roadways. This is a recommended update to the permit and would not constitute a significant modification of the original application that requires me to recommend denial of the permit to the director for the reasons stated herein.
- 7) General Provision: If approval or appeal of the LQD, AQD, and WQD permits results in a substantive delay in mine development, the applicant will be required to update the mine plan sequence to reflect the correct timing of mine development and operation. I have determined that the subsequent submission of the information if necessary, does not constitute a significant modification of the original permit.

Appendix A
Land Adjudication



United States Department of the Interior



BUREAU OF RECLAMATION
Rapid City Field Office
515 Ninth Street, Room 101
Rapid City, SD 57701

IN REPLY REFER TO:

DK-5100
2.1.4.17

September 28, 2021

Mike Thomas, Director of Mining and Safety
Black Hills Bentonite
PO Box 9
Mills, WY 82644

Subject: Special Use Permit for Access Road Construction Across Federal Lands, Keyhole Reservoir, Wyoming

Dear Mr. Thomas:

Enclosed is a fully executed Special Use Permit (SUP) for Black Hills Bentonite permitting the construction and use of an access road across Federal lands at Keyhole Reservoir, Wyoming.

Please refer to the Special Conditions in the SUP for a listing of requirements you need to be aware of during the term of this SUP.

If you have any questions, please feel free to contact me at 605-519-5504.

Sincerely,

JAY
LEASURE

Digitally signed by JAY
LEASURE
Date: 2021.09.28
08:56:24 -06'00'

Jay Leasure
Natural Resource Specialist

cc: Wade Henderson
Wyoming State Parks, Historic Sites & Trails
Keyhole State Park
22 Marina Road
Moorcroft, WY 82721

RECLAMATION

Managing Water in the West



Special Use Permit 21-LM-60-3316

Project: Keyhole Reservoir, Keyhole Unit
Expiration Date: September 1, 2031
Exhibits Attached: Exhibit A, B
Permit Fee: \$100 Application Fee, \$1,709.08
Administrative Fee, \$189.75 Land Use Fee (10 yrs)
TOTAL FEES = 1,998.83

Permittee: Black Hills Bentonite LLC
P.O. Box 9
Mills, WY 82644

Purpose:

Black Hills Bentonite LLC (BHB) proposes to construct a 20' wide road across 450' of Reclamation fee title lands on the south side of Keyhole Reservoir, Wyoming. Currently a 2-track trail exists at this location. The new road will be crowned and ditched for drainage. Ditches will be approximately 12-18" deep. Water turnouts will be constructed along the side ditches in order to disperse runoff and to minimize erosion. Topsoil will be salvaged from the access road area and adjacent ditches to a maximum depth of eighteen (18) inches. Topsoil removed from the access road will be stockpiled adjacent to the access road. Upon completion of mining operations, the access road will be removed, reclaimed and seeded. Total disturbed area, including road and ditches will be 50' x 450'; .5 acres.

Black Hills Bentonite proposes to utilize this newly constructed road to mine and remove bentonite deposits located on Wyoming State lands, located immediately south of Reclamation lands.

Description of Premises:

Exhibit A – Project Location Map - NW1/4NE1/4 Section 16, T50N, R66W;
Exhibit B – Overview Map

Sign name or names as written in body of permit. For co-partnership, permittees should sign as members of firm; for corporation the officer authorized to execute contracts, etc. should sign, with title the sufficiency of such signature being attested by the Secretary and with corporate seal, in lieu of witness.

The Permittee hereby accepts this permit subject to the terms, covenants, obligations, and reservations, expressed or implied herein

Assign/Managing Agency

Permittee(s)

Bureau of Reclamation

Black Hills Bentonite LLC

Signature

Signature

Name/Title

Joseph E. Hall, Area Manager

Name/Title

Director Mining & Spill

Date

22 Sept 21

Date

22 Sept 2021

GENERAL CONDITIONS

This permit is issued as authorized by Reclamation Law, and subject to all conditions contained herein.

1. **Payments.** All payments shall be made to the issuing office of the U.S. Bureau of Reclamation on or before the date of issue by a postal money order or a check made payable to the U.S. Bureau of Reclamation.
2. **Use Limitations.** The permitted use: (a) is limited to the purposes and premises herein specified; (b) does not unless specified in the permit grant any rights to water; (c) does not unless provided for in the permit allow restriction of public entry or uses or to the area; (d) is subject to existing easements, rights-of-way, or reservations; (e) is subject to the right of the Bureau to grant other permits for the same premises upon a finding by the Issuing Officer that the additional use is compatible with the use permitted herein; and (f) shall not impede the Bureau, its agents or assigns from carrying on whatever activities are necessary, to (1) protect and maintain the premises, facilities, and adjacent lands administered by the United States and its agencies and (2) manage all resources located on the premises and other Bureau lands.
3. **Damages.** The United States shall not be responsible for any loss or damage to property arising from the issuance of this permit, including but not limited to damages to growing crops, animals, and machinery; or injury to the permittee or its associates, officers, agents, employees, or any others who are on the premises; or for damages or interference caused by natural phenomena. The United States recognizes that permittee's liability and coverage is subject to the terms and limitations of the Participation Agreement between the Public Entity Pool for Liability and the State of South Dakota and SDCL chapters 3-21 and 3-22.
4. **Operating Rules and Laws.** The permittee shall keep the premises in a neat and orderly condition at all times, and shall comply with all municipal, county, State and Federal laws, rules and regulations applicable to their operations under the permit. Also, the permittee shall take all reasonable precautions to prevent the escape of fires to suppress fires and shall render all reasonable assistance in the suppression of fires.
5. **Responsibility of Permittee.** The permittee, by operating on the premises, shall be considered to have accepted these premises with all the facilities, fixtures, or improvements in their existing condition as of the date of this permit. At the end of the period specified or upon earlier termination the permittee shall give up the premises in like condition as when received except for reasonable wear, tear, or damage occurring without fault or negligence. The permittee will fully repay the Bureau for any and all damage, directly or indirectly, resulting from the permittee's negligence or failure to use reasonable care.
6. **Revocation.** (a) **Violation:** This permit may be revoked on the tenth day following written notice to the permittee upon a finding by the Bureau of Reclamation that the permittee has violated any of the terms herein or made use of the premises for purposes not herein prescribed: Provided: That if said violation or non-prescribed use of the premises ceases within 10 days of receipt of notice, the permittee will be allowed to maintain occupancy under this permit.
(b) **Non-use and project purposes:** This permit may also be revoked with 30 days written notice to the permittee upon a finding by the Bureau of Reclamation that: (1) the permittee has failed to use or discontinued use of the premises, or (2) the premises are needed for project purposes.
(c) **Possession:** Upon any such revocation, the Bureau, by and through any authorized representative may take possession of said premises for its own and sole use in accordance with Section 10.
7. **Cultural Values.** Should evidence of historical, archaeological, or paleontological sites be discovered during use of the premises, the Permittee immediately shall suspend operations and advise the issuing officer.
8. **Compliance.** Failure of the Bureau to insist upon strict compliance with any of this permit's terms, conditions, and requirements shall not constitute a waiver or relinquish of the Bureau's right to thereafter enforce any of the permit's terms, conditions, or requirements.
9. **Termination.** At the termination of this permit, the permittee shall immediately give up possession to the Bureau, reserving, however, the rights specified in Paragraph 10. Upon failure to do so, the permittee shall pay the Government, as liquidated damages, an amount double the rate specified in this permit, for the entire time possession is retained. The acceptance of any fee for liquidated damages or any other act of administration relating to the continued tenancy is not to be considered as an approval of the permittee's possession.
10. **Removal of Permittee's Property.** Upon the expiration, termination, or revocation of this permit, if all rental charges and damage claims due the Government have been paid, the permittee may remove all structures, machinery, or other property, from the premises. Upon failure to remove any of the said property within 60 days of expiration, termination, or revocation, it shall become the property of the United States, and the permittee shall pay the United States for all expenses related to property removal.
11. **Transfer of Privileges.** This permit is not transferable.
12. **Refunds.** All money paid under this permit shall be retained by the Government. If Section 6 (b) (2) is exercised, the fee paid under this permit shall be refunded by a prorata share, as determined by the Bureau of Reclamation.
13. **Official Barred from Participating.** No Member of Congress or Resident Commissioner shall participate in any part of this contract or to any benefit that may arise from it, but this provision shall not pertain to this contract if made with a corporation for its general benefit.
14. **Nondiscrimination in Employment.** The permittee agrees to be bound by the equal opportunity clause of Executive Order 11246
15. **Liability.** The permitted activities shall be conducted so as not to interfere with the operation, maintenance, and administration of Reclamation Projects. Any additional repairs, maintenance, or expense to Reclamation Projects as a result of the permitted activities shall be reimbursed to the United States by the permittee. The Secretary of the Interior's determination of such expense shall be final and binding upon the parties hereto.
16. **Trespass.** Any use of the premises not herein prescribed shall be considered a trespass. Any violation or trespass on any Bureau lands by the permittee shall be cause for revocation of this permit, in accordance with Section 6. (a). The permittee shall be liable for any damages resulting therefrom and an approximate charge as determined by the issuing officer shall be made to the permittee. Any property constructed in trespass shall be considered property of the United States.
17. **Disclosure.** In accordance with the Privacy Act of 1974 (PL 93-579) please be advised that: (a) Participation is voluntary; however, failure to answer all questions fully may delay processing of this application or result in denial of this permit (b) Information will be used as a criteria for the issuance of special use permits and for identification of personnel having special use permits on Bureau lands. (c) In the event there is indicated a violation of a statute, regulation, rule, order, or license, whether civil, criminal, or regulatory in nature, the requested information may be transferred to the appropriate Federal, State, or local agency charges with investigation or processing such violations.
18. **Security Requirements.** In accordance with the Bureau of Reclamation's Commissioner's Memorandum of May 30, 2002, the following security provisions shall be followed and apply: (a) All event activities will be disclosed to the local law enforcement agency via the Facility Manager as to the actual date(s), time, expected number of participants. (b) No individual shall be allowed within 100 feet of the facility and/or mission essential vulnerable areas without the written approval of the Facility Manager. (c) The Reclamation Field Office and administrative area bathroom facilities shall be off limits to all unauthorized individuals – as applicable. (d) The Bureau of Reclamation reserves the right to modify any security measures commensurate with the Office of Homeland Security Advisory System.

Work: 38 / File: bureau-2 / NA

SPECIAL CONDITIONS

1. Black Hills Bentonite (Permittee) propose to construct, operate, maintain, and repair at their expense an approximately 450 feet long by 50' gravel-surfaced roadway, with ditches across Federal fee title lands at Keyhole Reservoir section 16, T50N R66W as per the attached proposed maps and plans as shown in Exhibit A&B. Roadway will be 20' wide top. Work will not begin until the CEC (DK-5100-21-34) is finalized. These Federal lands are managed for Reclamation by Wyoming State Parks, Historic Sites and Trails as Keyhole State Park.
2. Project activities that may occur within the road corridor include the construction, operation, replacement, repair, and maintenance of the access road. All work shall occur within the corridor, including staging equipment, and materials, parking, turning equipment around, stacking trees, piling cleared brush, and mulching vegetation debris. Overnight staging of equipment and materials shall be off the Federal land.
3. All access road features located on Reclamation lands; including ditches will be no more than 50' wide. Reclamation and Black Hills Bentonite officials shall reference Categorical Exclusion Checklist Number DK-5100-21-34 for all environmental and trust asset commitments that shall be adhered to. Any projects not referenced in CEC DK-5100-21-34 are subject to additional National Environmental Policy Act and National Historic Policy Act compliance.
4. The Permittee shall be responsible, at their own expense and without cost to Reclamation, for construction, operation and maintenance of proposed access road.
5. This is not an exclusive use permit. Public vehicular and pedestrian traffic is allowed to utilize the access road year-round.
6. The Permittee agrees to clear only that vegetation along the access road as may be needed for construction and maintenance of the access road. Topsoil that is stripped shall be stockpiled separate from the subsoil and will be utilized for road reclamation at the end of the permit term. Following construction or maintenance activities, all lands will be restored to the original contour and reseeded according to Reclamation standards. If straw, hay mulch or its equivalent is used in seeding activities, it shall be from a certified weed-free source. The following seed mixture is approved for this area. Any other proposed seed mixture by the Permittee shall be submitted to Reclamation for review and approval prior to application.

Species	Cultivar	Full PLS Rate	% of Mix Planned	PLS Rate per Acre	Acres	Lbs PLS Needed
Western Wheatgrass	Rosana	6	15%	0.90	0.62	0.56
Slender Wheatgrass	Elbee	6	10%	0.60	0.62	0.38
Bluebunch Wheatgrass	Goldar	7	5%	0.35	0.62	0.22
Needle and thread	Common	6	20%	1.20	0.62	0.75
Prairie sandreed	Goshen	4	20%	0.80	0.62	0.50
Little bluestem	Goldar	7	15%	1.05	0.62	0.66
Prairie coneflower	Common	1.2	5%	0.06	0.62	0.04
Blue flax	Appar	6	10%	0.60	0.62	0.38

Application Rates listed above are for drilled seed application. Rates for broadcast application shall be twice the drilled rate.

Apply straw or hay mulch at the rate of 1.5 Tons/Acre.

7. Permittee shall ensure all equipment moved onto Reclamation land is free of soil, seeds, vegetative matter and other debris that could contain or hold noxious weeds or seeds. Reclamation may request inspection of equipment prior to equipment mobilization. Reclamation's cleaning and inspection manual can be found online at: <http://www.usbr.gov/mussels/prevention/docs/EquipmentInspectionandCleaningManual2012.pdf>
8. The Permittee shall, at their expense, treat all noxious and invasive species/weeds in and around the permitted access road for as long as it may take to complete eradication. The Permittees agree that it will not permit the use of any pesticides on the Federal lands without the prior approval of Reclamation. The Permittees agree to submit 60 days in advance of any pesticide application an Integrated Pest Management Plan outlining their invasive species treatment methods to Reclamation for review and approval. Further, in the use of all pesticides on lands owned by the United States, the Permittees shall operate in accordance with the approved Dakotas Area Office Integrated Pest Management Plan, as amended.

All pesticides used shall be used in accordance with the current registration, label direction, or other directives regulating their use (State Department of Agriculture, Department of Environmental Quality, Environmental Protection Agency, Occupational Safety and Health Administration, etc.) and shall be used in accordance with Reclamation's policies, directives and standards.
9. No signs shall be installed along the new access road that excludes public use.
10. Permittee shall be responsible for costs incurred if future work on the access road is needed, or if Reclamation determines the access road be removed or relocated.
11. Permittee shall be responsible for all compliances with state and Federal laws and regulations and will provide Reclamation with digital copies of all applications, permits, and documentation relating to the project activities.
12. Permittee shall be responsible for repairing or replacing, to an equal or better condition, any fences or fencing material impacted due to access road construction activities.
13. Permittee will be expected to keep off access road under extreme wet conditions. Permittee

will repair any rutted areas or roads as soon as possible. This access road is open for public use and that use takes priority over any other use. Any lands herein or impounded waters will be open to the public for hunting and fishing, subject to applicable state's laws and regulations, and to other recreational use. In the above, public recreational use of the permitted premises shall be limited to pedestrians, except on designated trails, roads, or areas opened in accordance with 43 CFR, Part 420 (Off-Road Vehicle Use).

14. The access road crossing shall be constructed so that it does not obstruct in any manner the flow of water to Keyhole Reservoir, except as required under other Federal or state laws and regulations (e.g. mining permit, storm water pollution prevention permit).
15. Dust Control: The Permittee shall propose dust mitigation control measures to Reclamation for approval. The Permittee shall be responsible for dust control measures on the access road during the permitted activities.
16. Existing Interests - The granting of this SUP is subject to existing leases; permits; easements; and rights-of-way for highways, roads, pipelines, electrical transmission or distribution lines, telephone lines and other linear or nonlinear facilities, structures, agricultural uses, or improvements on, over, under, or across the above described lands, and subject to any surface and/or mineral reservations over any part of the lands described in Premises, and subject to any rights by private parties who have an interest in the lands described in Premises. Prior to using any existing facilities, the Permittee must receive authorization from the owners of the facilities.
17. The proposed access road is also the access road to Keyhole Reservoir Management Unit 5 of 52 acres, more or less, and is permitted for livestock grazing. The Permittee shall exercise best management practices to contain livestock and be responsible for their activities in those areas. The Permittee shall coordinate with the grazing permittee, as necessary.
18. The granting of the SUP does not convey any rights to the Permittees to convey any lands or interests in lands to other parties, nor does the SUP allow the Permittees to make other uses of the land, or to allow other parties to use the lands for purposes other than as specified in the SUP, and as specified in these Special Conditions.
19. Reclamation hereby reserves the right of its officers, agents, contractors, assigns, and employees at any and all times to have reasonable access and ingress to, passage over, and egress from all of its Federal lands and to make investigations of all kinds, emergency situations, to dig test pits and drill test holes, to survey for and construct reclamation and irrigation works and other structures incidental to Federal Reclamation Projects, or for any other purpose whatsoever in connection with its Keyhole Unit. Permittees shall provide to Reclamation, its officers, agents, contractors, assigns, and employees access to this area for activities associated with this SUP as well as complete access to Reclamation lands
20. The Permittees shall indemnify and hold harmless Reclamation and Wyoming State Parks, Historic Sites, and Trails from any and all losses, damages, liability on account of personal injury, death, or property damage, or claim for personal injury, death, or property damage of any nature whatsoever and by whomsoever made, arising out of activities of the recipient, its employees, subcontractors, or agents under the Special Use Permit. In any case, Reclamation liability shall be limited by the Federal Tort Claims Act (28 U.S.C. 2671, et seq.).

21. HAZARDOUS MATERIALS & POLLUTANTS:

(a) The Permittee shall not allow contamination or pollution of any Federal lands, waters or facilities by its employees or agents. The PERMITTEE shall also take reasonable precautions to prevent such contamination or pollution by third parties. Substances causing contamination or pollution shall include but are not limited to hazardous materials, thermal pollution, refuse, garbage, sewage effluent, industrial waste, petroleum products, mine tailings, mineral salts, misused pesticides, pesticide containers, or any other pollutants.

(b) The PERMITTEE shall comply with all applicable Federal, state and local laws and regulations, and RECLAMATION policies and directives and standards, existing or hereafter enacted or promulgated, concerning any hazardous chemicals, toxic chemicals, hazardous substances or hazardous materials that will be used, discharged, produced, transported, stored, or disposed of on or in the Federal lands, water or facilities.

(c) "Hazardous material or substance" means (1) any substance, pollutant, or contaminant listed as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. Section 9601 (14) and (33); (2) oil as defined by the Clean Water Act, 33 U.S.C. Section 1321 (a) and the Oil Pollution Act, 33 U.S.C. Section 2701 (23); (3) thermal pollution, sewage effluent, industrial waste, mine or mill tailing, mineral salts, pesticides, and other solid waste, and (4) any other substance regulated as hazardous or toxic under Federal, state or local law.

(d) Upon discovery of any event which may or does result in contamination or pollution of the Federal lands, waters or facilities, the PERMITTEE shall immediately undertake all measures necessary to protect public health and the environment, including measures necessary to contain or abate any such contamination or pollution and shall report such discovery and full details of the actions taken to RECLAMATION. Reporting shall be within a reasonable time period but shall not exceed twenty four (24) hours from the time of discovery if it is an emergency and the first working day following discovery in the event of a non-emergency. An emergency is any situation that requires immediate action to reduce or avoid endangering public health and safety or the environment.

(e) If violation of the provisions of this Article occurs and the PERMITTEE does not take immediate corrective action as determined by RECLAMATION's authorized representative, the PERMITTEE may be subject to remedies imposed by RECLAMATION's authorized representative, which may include termination of this Agreement.

(f) The PERMITTEE shall be liable for any response action or corrective measure necessary to protect public health and the environment or to restore Federal Project lands, Project waters, or Project works that are adversely affected as a result of such violation, and for all costs, penalties or other sanctions that are imposed for violation of any Federal, state, or local laws and regulations concerning hazardous materials, pollutants or contaminants. At the discretion of RECLAMATION's authorized representative, RECLAMATION may also terminate this Agreement as a result of such violation.

(g) The PERMITTEE shall defend, indemnify, protect and hold RECLAMATION

harmless from and against any costs, expenses, claims, damages, demands, or other liability arising from or relating to the PERMITTEE's violation of this Article.

The PERMITTEE agrees to include the provisions contained in paragraphs (a) through (g) of this Article in any subcontract or third party contract it may enter into pursuant to this Agreement.

22. **INCIDENT REPORTING:** The PERMITTEE will ensure adequate safety, fire, suppression, medical, evacuation, and search and rescue procedures are developed and in place to adequately respond, suppress, or cooperate in incidents. The PERMITTEE will investigate, within its statutory authority, or cooperate within its statutory authority, in the investigation by the agency having jurisdiction of all accidents involving death, serious injury or property damage, hazardous material spills or other incidents of a serious nature within the Reservoir Area. The PERMITTEE will make an initial verbal report on such incidents to RECLAMATION within one (1) working day of knowledge of the incident. The PERMITTEE will submit a written report to RECLAMATION within five (5) calendar days of the verbal notice of any such incidents or occurrences.

In accordance with Federal regulation requirements, the PERMITTEE will provide immediate notification to the National Response Center of any oil discharge to waters of the United States (40 CFR § 110.6) or of any hazardous substance release to the environment in a quantity equal to or exceeding the reportable quantity in any twenty four (24) hour period (40 CFR §302.3 & 302.6) by any person in charge of a vessel, off-shore, or on-shore facility. Additional reporting requirements apply to notification of Local Emergency Planning Committees and State Emergency Response Commissions; contact local agencies for procedures.

23. Each provision of the Special Use Permit, and these Special Conditions, will be interpreted in such manner as to be valid under applicable law, but if any provision of the Special Use Permit and these Special Conditions shall be determined by competent authority to be invalid or prohibited hereunder, such provision shall be ineffective and void only to the extent of such invalidity or prohibition, but shall not be deemed ineffective or invalid as to the remainder of such provision or any other remaining provisions, or of the Special Use Permit as a whole.
24. The term of this permit is for ten years, renewable for another 10-year period at the option of the Permittee and Reclamation. Exercise of this option requires the Permittee to notify Reclamation in writing. Please send all correspondence to:

Bureau of Reclamation
515 Ninth Street, Room 101
Rapid City, SD 57701

Once received, Reclamation will determine if Black Hills Bentonite has adhered to all conditions and extend the permit if satisfactory.

25. The Permittee shall abide by the following environmental commitments:

Reclamation has made a no affect determination for the Northern Long Eared Bat as no

trees will be removed. It is infeasible to plan for potential transient, migrant, or dispersing individuals. However, in the unlikely event that any threatened or endangered species are encountered during natural gas line replacement activities, the Permittee shall contact Reclamation immediately. Reclamation will initiate consultation with the U.S. Fish and Wildlife Service to determine the appropriate steps to avoid any effects to these species, including cessation of construction. If any new endangered, threatened, or critical habitat areas are identified in these project areas, Reclamation would initiate consultations with the Fish and Wildlife Service to determine appropriate steps to avoid any effects to these species.

26. **Paleontological Resources Preservation Act (PRPA)** – The proposed project does not have a high potential to impact nonrenewable paleontological resources. If paleontological resources including any fossilized remains, traces, or imprints of organisms are inadvertently discovered during the course of work under this CEC, all work must cease in the area and the Area Archaeologist notified immediately. A professional paleontologist will be contacted to determine the significance of the find and any mitigation measures will be implemented prior to the project moving forward in the vicinity of the find.
27. **National Historic Preservation Act (NHPA)** – Black Hills Bentonite contracted SWCA Environmental Consultants to complete a Class III survey of the proposed project area on BOR lands. During the survey no cultural resources were discovered. Based on the results of the survey DKAO determined that the project would result in no historic properties affected (36CFR 800.16(1)(1)). On April 24, 2021 DKAO sent the Class III report and determination to the WY SHPO and consulting tribes. On May 3, 2021 the Wyoming SHPO concurred with the determination under project number DBI_WY_2021_206.

As a part of the tribal consultation two tribes responded. On April 24th the Fort Peck THPO responded that they would defer to the Wyoming THPO offices for the project. On June 4th the Northern Cheyenne THPO responded that they had not reviewed the project within the 30 day time frame and asked if they still had time to review the project. In an email response DKAO informed them on June 7th that the project wasn't approved yet and they still could respond to the consultation request. No additional responses were received from the Northern Cheyenne THPO.

If previously undiscovered cultural resources or unanticipated effects on historic properties are found during project implementation all project activities in the vicinity of the discovery shall cease and an Area Archaeologist contacted. The site will be secured and protected. Reclamation shall avoid, minimize, or mitigate the adverse effects to such resources and notify the SHPO and consulting Tribes about the discovery within 48 hours, pursuant to 36 CFR § 800.13. Project activities in the vicinity of the project will not resume until consultation has completed for the discovery.

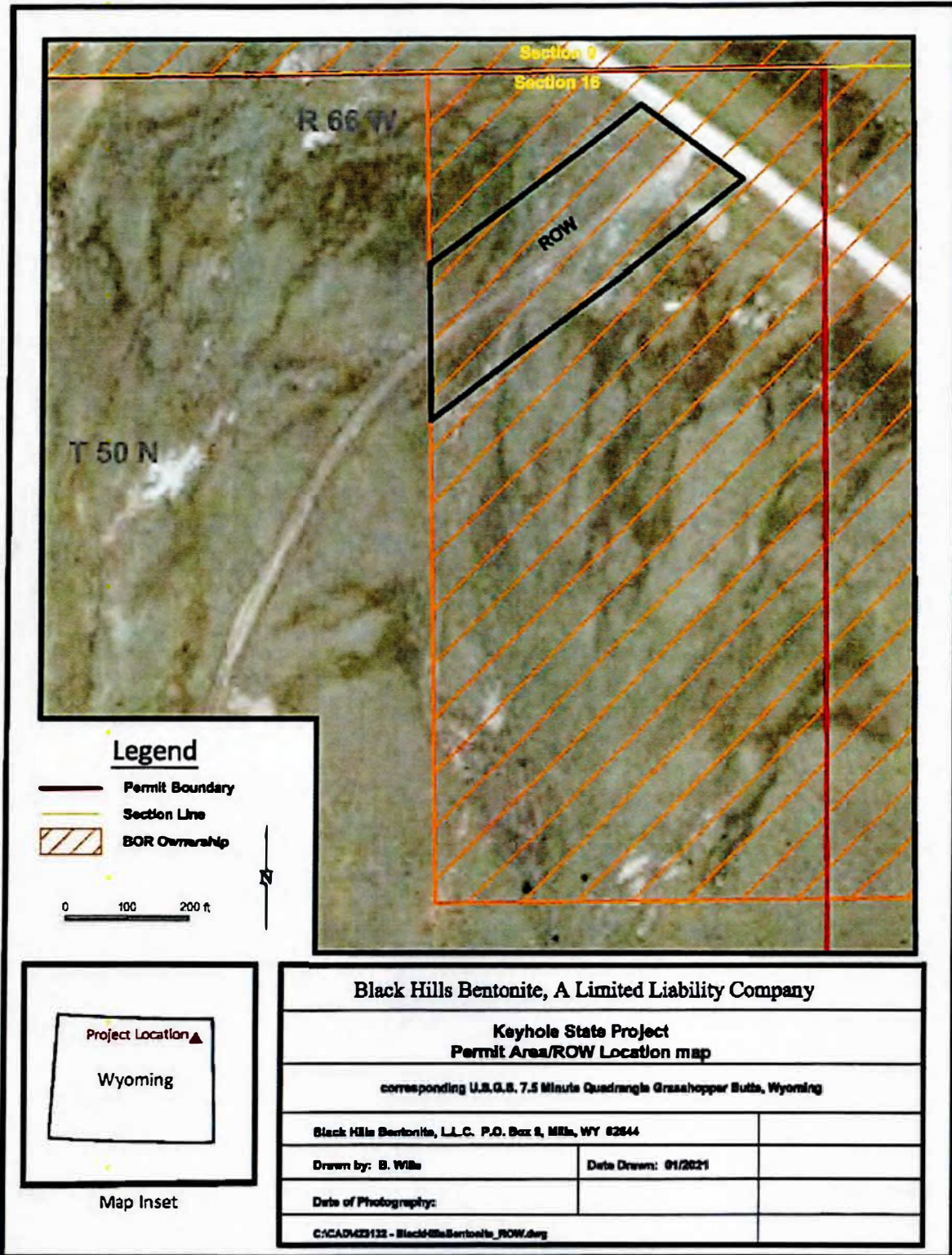


Exhibit A



BUREAU OF RECLAMATION

Black Hills Bentonite Access for Mining Activities

Keyhole Reservoir, Crook County, Wyoming



Legend

- | | |
|----------------------|------------------------------|
| Reclamation Boundary | Management Units |
| Dam Operations | Recreation & Land Management |
| Multiple Use | |

This map was prepared from the best available information and is subject to certain inaccuracies. Created by Bureau of Reclamation, Dakotas Area Office, August 2021

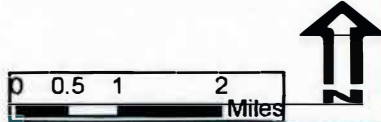


Exhibit B

Appendix B

Topsoil

3.11 Access Control

Due to the remoteness of the area and limited size of this mining operation, no access control features are planned. Any potential hazards to humans, livestock, or wildlife which may develop, will be addressed on a site-specific basis using fencing or other methods determined to be appropriate for the conditions. The mined lands will be completely reclaimed following the completion of mining, which will eliminate potential hazards such as highwalls and open pits.

4.0 MINING METHODS AND SCHEDULE

4.1 Mining Methods

Bentonite mining on the permit area will consist of a series of pits arranged in multiple cut sequences. Topsoil will be removed from all affected areas utilizing scrapers and dozers. Topsoil will be placed in stockpiles for future use in the reclamation of the mined or disturbed lands. In some instances, the topsoil may be spread directly onto backfilled areas instead of being placed in stockpiles.

Following the removal of topsoil, the exposed overburden will be ripped using dozers. The overburden will then be removed from the pit using scrapers. Overburden from the first pit in a multiple cut series of pits will be placed in an out-of-pit overburden stockpile. Overburden from each subsequent pit will be directly backfilled into the adjacent open pit.

Once all the overburden is removed and the bentonite is exposed, the bentonite is either field dried in the pit or on an out-of-pit bentonite stockpiles which will be constructed on the backfilled pit areas and the overburden stockpile.

4.2 Topsoil Removal and Handling

Topsoil will be salvaged prior to overburden removal or construction activities. Topsoil will be salvaged from the following areas if present: 1) overburden stockpile areas; 2) pits areas; 3) roads; 4) equipment parking areas, and any other area where it is deemed necessary to remove topsoil in order to protect this resource. Topsoil baseline salvage depths shall be considered soil depth estimates, and actual salvage depths will be assessed and adjusted during salvage operations to ensure salvage of only suitable materials. In the event that overburden material is encountered that is suitable as a topsoil substitute, this material may also be salvaged and stockpiled at the discretion of the operator.

The removal of topsoil will be accomplished using 6270 push-pull scrapers. In some instances where the topography may be too steep for the safe operation of scrapers, topsoil will be removed and stockpiled using D8R/T dozers. Typically, salvaged topsoil will be placed in stockpiles. If graded and contoured areas exist, the topsoil may be applied directly (live-spread) instead of being stockpiled.

Topsoil salvage under frozen or muddy conditions will not occur. Every attempt will be made to salvage topsoil with scrapers, as control of the depth of topsoil removal is greatly improved with the use of scrapers versus dozers. Typically, salvaged topsoil will be placed in stockpiles. If graded and contoured areas exist, the topsoil may be applied directly (haul back) instead of being stockpiled.

Topsoil will also be removed from the edges of all pits in order to create a topsoil "buffer area" approximately ten to thirty feet wide. This "buffer" is necessary in order to protect the topsoil resources from the possibility of sloughing of high-walls or low-walls on the edges of pits. These buffer areas also facilitate the safe operation of heavy equipment and complete salvage of topsoil along the edges of advancing multiple cut pit sequences.

All topsoil stockpiles will be conspicuously identified with signs. Topsoil stockpiles which will remain in place for more than one year will be seeded with the approved permanent seed mixture. Seeding of stockpiles will be conducted in the spring or fall, whichever season follows the placement of the stockpile.

Topsoil salvage depths on proposed disturbance areas range from zero (0) to fifty-five (55) inches.

[Locations of these stockpiles can be found on Mine Plan Map MP-1.](#)

4.3 Overburden Handling

Overburden removed from the pit areas will be either stockpiled or directly backfilled into previously mined pits in the advancing pit series. Overburden removed from the first pit in a multiple cut pit series will be placed immediately adjacent to the pit to form an out-of-pit overburden/bentonite stockpile. A portion of this material may be returned to the pit areas to complete backfilling, or in some specific instances, all or a portion of the overburden will remain as a permanent reclamation feature.

If overburden conditions warrant it, the top eighteen inches of overburden will be removed with scrapers and stockpiled separately from the remainder of the overburden strata. This material will be identified and signed as "Segregated Overburden". If there is segregated overburden, it will be spread on top of the backfilled overburden prior to the application of topsoil, in order to create an improved plant root zone as well as a buffer between the topsoil and the poorest quality overburden.

If an out-of-pit overburden stockpile is left as a reclamation feature, it will be graded and contoured to blend with the existing topography and all slopes will be reduced to 4(H): 1(V) or less. Overburden stockpiles which will remain as a permanent reclamation feature will have a maximum height of ten (10) feet and will also be oriented in the same direction as nearby

Appendix C

Objections Received within the Comment Period

I AM OPPOSED TO THE BLACK HILLS BENTONITE MINE PLANNED FOR T50 R66 SECTION 16 IN CROOK COUNTY WYOMING NEAR PINE HAVEN AND KEYHOLE RESERVOIR.

I have a lot of concerns about the possibility of this mine being located so close to Pine Haven (less than 2 miles) and within 1 1/2 miles from two major subdivisions and 1/2 mile from Keyhole State Reservoir. I am concerned about dust and respiratory health. I am not happy about the noise we will have to put up with for the next 20 years (see Public Notice). I am also concerned about the additional truck traffic on a road that is also very busy with tourist traffic in the summertime where there are already too many accidents. Will this impact the revenue the State of Wyoming generates from Camping and boating? Less appealing as a recreation area? Heavy rains could cause a great deal of sediment to end up in the lake. This is a poor location and our quality of life will be changed for the worse. Most of us live here for the small town atmosphere and beauty of the Wyoming landscape.

Linda Spath

Barbara Smith

I object to any mining operation being allowed within a minimum of 7 miles of existing homes, ranches or farms. The area proposed is one of many reasons I just moved here. Good air, total quiet and beautiful views. Should a mining operation be allowed in this area, I will no longer have my quiet and beautiful views. I moved from a suburb to this location to get away from noise. My anxiety needs the quiet. The possible health issues as well as the possible impact to the revenue vacationers bring to Keyhole State Park area could turn this whole area into a ghost town. Bentonite is not so hard to find in the state of Wyoming. It's all over and I'm sure it can be found in areas where no one lives. If wildlife is held so high in Wyoming, then I would think the impact on the wildlife in this wildlife abundant area would be a very huge concern. If the current widening of Juniper Hills Road off of Liberty Lane is any indication of the increase in traffic in this sub division, then I'm sure no one in this area will stay and they will not be able to sell their homes either. If this plan is allowed to finalize, I would like to hold the county of Crook, Wyoming and Black Hills Bentonite, LLC totally liable for any and all health issues and costs that may arise because of the mining. Both parties will also be held to total relocation costs of any residents that wish to move due to the mining operations. All costs will be paid by both parties, Crook County and Black Hills Bentonite, LLC, and the residents that move shall move to a location similar to their current location in size. There shall be no limits in time or cost to find a new home. A request to move must be submitted within 12 months of the opening of the mine should the mining be allowed. If my objection is not taken seriously and the mining is allowed to proceed, this comment and requests shall be deemed valid. I DO NOT WANT TO LISTEN TO MINING OPERATIONS ALL WEEK. IF YOU ALLOW THIS TO HAPPEN THEN THOSE THAT ALLOWED THIS SHOULD BE MADE TO LIVE NEXT TO THE MINE. IF YOU DON'T WANT IT NEAR YOU THEN WHAT MAKES YOU THINK WE, IN THIS AREA, WANT TO BE NEXT TO A WORKING MINE WITH ALL THE EXTRA HEAVY TRAFFIC NOISE, POSSIBLE HEALTH ISSUES AND DECREASED PROPERTY VALUES ?!!@ Please do not let this happen!!!

Bruce Lang

This is a high use area for hunting also for target practice. The land has water confinements on it which draws waterfowl as well as a variety of game animals. I am dead set against closing of this land for mining

Cecil and Alma Gingerich

We oppose this permit because:

1. There is already a mine south of I-90
2. There is already a lot of traffic coming and going to the state park on roads that are not maintained by the state or the county as well as these roads are school bus routes.
3. What prevents run-off from going into the lake.
4. Dust and noise from the mining operation will contaminate adjoining properties as most people who live here moved here for the clean air and quiet.

There are many more reasons to oppose this application, but we feel the above points should be enough to deny the permit.

Thank you for listening and giving us a opportunity to comment.

Cecil and Alma Gingerich

Donald Dihle

I am writing today to let you know of my concern regarding the siting of the proposed bentonite mine by Black Hills Bentonite LLC known as the Keyhole State Project. This proposed mine would be located approximately 2 miles southeast of Pine Haven, which also places it very close to Keyhole Reservoir.

The location of this mine is far from ideal for those of us who live in the vicinity. Would you allow mining of this nature two miles from Sheridan or Cheyenne? Absolutely not, the noise, traffic safety concerns, quality of life, respiratory health issues caused by the particulate matter in the air, and other issues would make this highly improbable. For the same reasons, locating this site within two miles of Pine Haven Wyoming should be denied.

As a Crook County resident, I am concerned about the amount of heavy truck traffic and the wear and tear on county roads and resulting safety concerns this operation would bring. The tax revenue the mine will bring to the county may not even cover the cost to replace, repair and maintain the roads that are impacted by this increased traffic.

The noise and dust created by the mining will impact the quality of life of the citizens of Pine Haven and surrounding areas. I would anticipate a decrease in market value of property and a resulting decrease in assessed valuation of nearby homes as a result.

Air quality and resulting health concerns are something I am personally worried about. Living here for several years now, I am aware of how often the wind direction is from the southeast, how much dust that wind can carry from 2 miles away, and a bentonite mine will generate a great deal of dust.

The last concern I will mention is that heavy rains or snowfall will cause a lot of sediment to end up in Keyhole Reservoir. Water quality will suffer, along with the quality of recreation and the livelihood of those who have businesses near Keyhole State Park.

I am concerned that this mining permit if approved, will diminish the quality of life of the nearby residents due to the noise, truck traffic safety concerns and reduced air quality which will exacerbate respiratory issues. It may be costly for the taxpayers of Crook County to maintain the roads damaged by this mining activity. Mining activity of this nature creates a perfect environment for for torrents of mud flowing downstream, and in this case into Keyhole Reservoir just a few hundred yards from the proposed mine site.

For the reasons stated above, I object to the approval of this application and request that Black Hills Bentonite find a more suitable location at a far greater distance from Pine Haven and Keyhole Reservoir that will not have such a detrimental affect on the health, safety, and quality of life of the citizens of my town.

Donald Dihle

This comment addresses the Public Nuisance and Safety section of the Mine Plan submitted by Black Hills Bentonite. Specifically, the first sentence within section 5.1 which reads "Mining activities will not result in a public nuisance or endangerment to public safety, human or animal life, or property."

The above statement is absolutely false and misleading. The noise of the mining activity will be a major public nuisance to the residents of Pine Haven and the surrounding area. The dust created will be a nuisance as well as a major health hazard to those with compromised respiratory systems, which includes many of the retirees in the Pine Haven area. The traffic, especially the haul trucks on Old Sundance Road and Pine Ridge Road with numerous curves and hills will be a danger to those who travel those roads. There is a considerable risk that heavy rains will cause sediment to flow into Keyhole Reservoir and affect the quality of the fishing and recreation as well as those who make their livelihood from visitors to Keyhole Reservoir. The quality of the water released downstream to other states would be compromised as well. I anticipate property values will be adversely affected if this mine is allowed to operate in this location, as a direct result of the public nuisance and reduced quality of life the residents of Pine Haven and the surrounding area will experience.

For the reasons stated above, this permit should be denied. A public nuisance will result if this mine is allowed on this site, along with significant health risks and reduced water quality. Economic and quality of life issues include public recreation for locals and visitors which will be adversely affected, and local property values reduced.

the qualified archeologist will determine appropriate actions to prevent the loss of significant cultural or scientific materials.

4.9 Federal Lands Within the Permit Area

No mining or reclamation activities proposed will be on federal lands within this permit area. A Right of Way application has been submitted to the Bureau of Reclamation for approximately 450 feet of access road that will be located in the permit area. The access road will be constructed in the same manner as previously proposed in this Mine Plan. Once the Right of Way application has been approved, it will be submitted and included into this permit application.

The federal surface ownership within the permit area can be found in Appendix A on Exhibit A-1, Surface and Mineral Ownership Keyhole State Project.

5.0 PUBLIC NUISANCE AND SAFETY

5.1 Procedures to Avoid Public Nuisance and Endangerment

Mining activities will not result in a public nuisance or endangerment to public safety, human or animal life, or property. BHB has been conducting ongoing bentonite mining operations in the area since the 1950's and has no knowledge of any instances where it's mining activities have resulted in a public nuisance or an endangerment to the public, human life, or property. This is primarily due to the rural setting and the remoteness of the site, coupled with the small size and scope of the mining operation. The closest incorporated community or subdivision to the permit area is the town of Pine Haven, Wyoming, located approximately two and 1/2 miles from the northwestern portion of the permit area.

The development of mining activities on the permit area will not change the number of workers needed to mine the permit area as a crew is already mining BHB Permit to Mine 745 and License to Mine 621-L7 located in the same area. The numbers of vehicles entering and exiting the mine site, as well as the amount of machinery operating on the site will be the same as it is for Permit to Mine 745 and License to Mine 621-L7.

Access to the active mining areas can be restricted through signage in the area. Where deemed necessary by BHB, fences may be constructed above highwalls in order to protect the public, wildlife or livestock from the dangers of a fall. No conflicts with grazing are expected to result in conjunction with the development of mining activities.

David Langford

AS A RESIDENT OF PINE HAVEN, I AM VERY CONCERNED WITH THE PROPOSED BENTONITE MINE 2 MILES SOUTH OF PINEHAVEN. THE PROPOSED MINE IS TOO CLOSE TO A RECREATION DESTINATION TOWN THAT IS A WEEKEND DESTINATION FOR THOUSANDS OF WYOMINGITES. THE AIR QUALITY FROM DUST AND DEBRIS THAT WILL FILL THE AIR THAT THE RESIDENTS BREATHE IS A HUGE REASON OF CONCERN. THE POPULATION OF PINE HAVEN IS MADE UP OF MOSTLY SENIOR CITIZENS SOME OF WHICH HAVE BREATHING ISSUES THAT WILL BE COMPOUNDED BY DECREASED AIR QUALITY. THE HEALTH OF OUR NEIGHBORS SHOULD BE THE PRIMARY CONCERN FOR THE DEQ!! NOISE POLLUTION IS ALSO A VERY REAL POSSIBILITY. AGAIN, WITH RETIREES BEING THE MAJORITY OF RESIDENTS, THE NOISE POLLUTION WILL CAUSE UNNECESSARY ANXIETY AND STRESS FOR A GROUP THAT SETTLED IN THE AREA TO ENJOY THE PEACE AND QUIET THAT ONLY LIVING IN WYOMING CAN BRING. THERE ARE ALSO CONCERNS FOR WATER QUALITY ISSUES AS DUST AND DEBRIS WILL NO DOUBT SETTLE IN THE RESERVOIR THAT IS ALREADY STRESSED FROM OTHER POLLUTANTS. WHY ADD TO THE POLLUTION ISSUES THAT KEYHOLE ALREADY HAS TO ENDURE!! PROPERTY VALUES WILL DECREASE SUBSTANTIALLY IN THE AREA AND SHOULD ALSO BE A CONCERN FOR THE DEQ, AFTER ALL, IT IS OUR TAX DOLLARS THAT NO DOUBT FUND YOUR DEPARTMENT. PLEASE CONSIDER HOW THE ADDITION OF THIS MINE WILL IMPACT OUR QUIET COMMUNITY AND RECONSIDER THE APPROVAL OF THIS PERMIT, OUR LIVES AS WYOMINGITES ARE AT STAKE HERE. THANKS, DAVID LANGFORD

Dawn Schafer

I have many concerns regarding this mining project, this is so near the water used for recreational purposes, not to mention the wildlife that will be impacted. This is going to increase traffic on the already highly used road, air quality will be highly impacted. Residents will have increased noise pollution. I am concerned about the safety, re: wildlife habitat, air quality, water quality, hazardous roads, noise pollution.

James Crisp

Because of the close proximity to Keyhole Reservoir, I am seriously concerned that the lake will be detrimentally affected. I realize the importance of bentonite, but I believe the possibility and overwhelming odds of the lake and air quality being contaminated with sediment and dust far outweigh the positives of said mine.

Jane & Faron Patton

I am usually all "for" anything that can supply jobs in the state, but I must ask at what cost! These Chemicals come with their own respiratory/cancer troubles. I think of the water table for our town of Pine Haven. I think of the homeowners and how this will affect their home values. We purchased our home last year, we may not have, had we been aware of this! 2 miles from our homes? From Keyhole? I am stunned it would even be a consideration! We are concerned about the air quality, Noise Pollution, such as Jake Brakes, and traffic on these small roads, will there be increased wear and tear and accidents. We consider this area a little piece of heaven with our views, the wildlife that frequents it, and the Peace and quiet. Is this mine worth destroying the way of life out here? I am sure some would say that this is an overreaction, and we all know that they would be the ones in favor of this mine. Why would anyone even take a chance? This is where we LIVE. Please deny this permit.

Joseph Gingerich

I am concerned with the proximity to Keyhole reservoir. Dust and sediment runoff into the lake and surrounding areas. I'm also concerned with the truck traffic on our roads that the county doesn't maintain now.

Kris Record Nelson

We have been residents of the Pine Haven community for over 30 years and do NOT want a Bentonite Mine in our area! We moved out to the country from Gillette to get away from all the noise of the city and would hate to have the noise of haul trucks and heavy machinery running day and night! We also do NOT like the thoughts of the extra pollution in the air or the possibility of the water of the reservoir being polluted either. Please do not let them mine here!!

Linda MacLaine

Please do not approve application for bentonite mine near Keyhole Reservoir and the town of Pine Haven.

Linda Schroeder

My husband and I feel that allowing this Bentonite mine this close to our town is a detriment to our air quality and our overall quality of life. The dust from this mining operation alone will affect our ability to be outdoors by the air pollution it will create. The noise level will travel and take away our peaceful community by changing it to a noise filled environment. We worry about the affect this will have on the water quality in our lovely lake, potentially hurting the fish and wildlife in our area.

Bentonite seems to be very common in a lot of areas in Wyoming. This is too close to our lake and community to allow. Please help us protect our area!

Mark Stengle

I am opposed to the Bentonite Mine close to Pine Haven and Keyhole State Park for the following reasons.

The proximity to the Belle Fourche River watershed and the tributaries that drain into the river which flows right past Devils Tower National Monument. Any overburden or sludge caused by mining operations could effect the National Forest and cause environmental issues in the Wyoming Black Hills and at the Monument.

Traffic congestion on Old Sundance Road and Pine Ridge Road. Both of these roads are narrow two lane roads with no County or State Maintenance and they are also school bus routes with frequent stops. The added heavy equipment traffic traveling from the proposed minesite to the plant would be overwhelming especially when the State Park is in full swing.

Many of the residents in this area bought land to live in the Wyoming Black Hills close to Keyhole State Park, not mining operations. We could have bought land close to Rawhide or Black Thunder mines if that was our desire. This is akin to a rendering plant in Jackson or a plastic recycling facility in Story. We have driven on Wagner Road and see what the additional equipment traffic would do along with the dust, noise, and exhaust which would degrade the environment of what is intended to be a Summer Vacation and semi retirement community and area. Please realize this is NOT a good location for Bentonite Mining Operations.

Mary Daniels

I want to voice my opposition to this mining permit. I am a resident of Pine Haven. I live on a bentenite lot and I know firsthand how dusty and dirty it is. When the wind blows it's like sand in the air it sifts in everywhere. I hereby protest this permit as it will affect the quality of the air and the quality of life here in Pine Haven and at the state park and the lake. Please do not approve this permit

Norris Lisa

This is not acceptable. To have a bentonite mine so close to a residential area is unsafe. The noise, the pollution and the poison are not welcome in the town of Pine Haven.

Pamela Eastman

I'm against Black Hills Bentonite getting a mining permit. I'm concerned about the increased dust, increased semi trucks using gravel roads & what it will do to my property value. My home & land is close to the proposed site. In addition why haven't land owners been contacted in regards to wanting to put in a mine?

Rachelle Gingerich

I do not agree with the permit for bentonite mining near pine haven and requat that this is seriously looked at. Beyond the heath effects making can create that close to personal dwellings, what is the plan to maintain and improve the county road due to increased and heavier in weight traffic. In addition with the close proximity to keyhole lake what precautions will be enforced to prevent damage to the lake or nearby property? How, as a resident, have i not been officially informed about this permit request? What is the proposed outlook for the state land after the minig is complete? Let's leave the state land alone and in its natural state when it affects nearby property values Residents health and road quality.

Stephanie Langford

As a resident of Pine Haven I was horrified to find out about Bentonite mine 2 miles from my home. The impact that it will have on residence and local wildlife will be permanent. The dust will compromise the air quality and settle in Keyhole Reservoir. The reservoir will be even more stressed by an additional pollutant. The air that residents breathe will be more dust filled and this will cause lung issues. Birds, including a declining sage grouse population, will lose even more precious state lands that provide habitat. The state of Wyoming should protect these habitats instead of strip mining them. Please consider rejecting this permit in order to protect the folks of Wyoming and the native wildlife!

Tammie McGovern

For the love of GOD, please do not allow this permit to go through. This mine will FOREVER change the landscape, wildlife, air quality and scenery that everyone living here has worked so hard to enjoy! I actually work in a Coal Mine in Gillette and I know first hand what I already breathe in at work. I work there to have the beautiful life that I have here in Pine Haven, away from the mess of the mine. I believe the water quality of the lake would corrupted anytime we have heavy rains as well. Bentonite is everywhere in Wyoming, why on GOD's green grass would they choose this location? It's a terrible idea for this location and I pray that you see this through my eyes! This will ruin our way of life in and around Pine Haven! PLEASE HELP STOP THIS

Tara Wineteer

I say no to this. The dust is already an issue with mining and so close to a little town will be horrendous! Would there be money coming from this mining to benefit the town or would it be just people using our services. If this goes through I believe there should be some type of funding to the town since they would surely use our water and deplete our limited resources.

Wendy Neugebauer

If this is the mine that is requesting operation near Keyhole State Park I am against its approval. Bentonite contains a substance that can cause lung disease when airborne. There are many homes in the area, not just Pine Haven, but all around this area. There are visitors to the lake many with small children. Here is one element in bentonite that the CDC states is DANGEROUS. <https://www.cdc.gov/niosh/topics/silica/default.html>. Please do not allow something so hazardous to be part of our community or to visitors to our beautiful Keyhole State Park.

Wendy Neugebauer

I also wanted to provide this webpage to assert my objections to any bentonite mining in the Keyhole area. Please read what this does to ones Lungs.

<https://www.cdc.gov/niosh/topics/silica/risks.html>

aul Langevin

I am concerned about the Bentonite mine at this location...The land in question is state school property and gets hundreds if not thousands of hours of recreational use every year...A mine here would be a disaster for many hundreds of users.....The other concern i have is the closeness to Keyhole state park

The mined area and overburden piles will be an esthetic detriment to the park
potential runoff in to the Lake is another major concern Clearly this mine should not be permitted
an alternate location must be found Keyhole state park is also an adjoining property owner

aul Langevin

A section of this land was mined in the 1970s It was not reclaimed, the land has been trying to heal its self but it still looks like the surface of the moon, no wild life lives there,, Where the new mine would be is the habitat where sage grouse and other valuable wild life live...This mine needs to be located elsewhere there will be too much damage to locate it here

Appendix D
Objection Summary

Date: 9/9/2022

TFN 7 1/018, Black Hills Bentonite LLC, Keyhole Mine Permit Application

Summary of Public Comments Received during Public Comment Period under §35-11-406(q)(i), Grouped by Commenter and Issue of Concern

*26 comments were received by 23 individual commenters during the public comment period.

Number	Commenter Name	Date Received	Issue of Concern												
			Air Quality	Traffic Safety	Noise	Water Quality	Property Values	Wildlife	Public Land	Road Maintenance	Tourism	Location	Quality of Life	Recreation	Tax Revenue
1	Paul Langevin	7/22/2022				x						x		x	
2	Paul Langevin	7/22/2022						x	x			x			
3	Donald Dihle	8/2/2022	x	x	x	x	x			x	x	x	x	x	
4	Wendy Neugebauer	8/2/2022	x								x	x			
5	Wendy Neugebauer	8/2/2022	x												
6	Mary Daniels	8/2/2022	x									x			
7	Lisa Norris	8/2/2022	x	x	x							x			
8	Barbara Smith	8/3/2022	x	x	x		x	x			x	x	x		
9	James Crisp	8/3/2022	x			x						x			
10	Jane and Faron Patton	8/3/2022	x	x	x	x	x	x		x		x	x		
11	Linda McLaine	8/3/2022										x			
12	Linda Schroeder	8/3/2022	x		x	x		x				x	x		
13	Rachelle Gingerich	8/3/2022	x	x		x	x		x	x		x			
14	Tammie McGovern	8/4/2022	x			x		x				x	x		
15	Tara Wineteer	8/4/2022	x			x						x		x	
16	David Langford	8/5/2022	x		x	x	x				x	x		x	
17	Dawn Schafer	8/5/2022	x	x	x	x		x						x	
18	Donald Dihle	8/6/2022	x	x	x	x	x	x			x	x	x	x	
19	Bruce Lang	8/6/2022						x	x					x	
20	Stephanie Langford	8/6/2022	x			x		x	x			x			
21	Joeseeph Gingerich	8/7/2022	x	x		x		x				x			
22	Cecil and Alma Gingerich	8/11/2022	x	x	x	x				x		x			
23	Kris Record Nelson	8/12/2022	x	x	x	x						x			
24	Mark Stengle	8/12/2022	x	x	x	x				x		x	x		
25	Pamela Eastman	8/12/2022	x	x			x					x			
*26	Linda Spath	8/31/2022	x	x	x	x					x	x	x	x	
TOTAL:			20	13	12	17	7	11	4	5	6	22	9	6	3

*Note: Research is pending on whether the receipt of this comment can be considered under §35-11-406(q)(i).