

STATE OF SOUTH DAKOTA

LAWRENCE COUNTY

BOARD OF COUNTY COMMISSIONERS

IN THE MATTER OF THE APPLICATION OF WHARF RESOURCES (U.S.A.) INC. FOR A LARGE-SCALE EXTRACTIVE INDUSTRY CONDITIONAL USE PERMIT.	CUP NO. 470 FINDINGS AND DECISION
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The application (“Application”) of Wharf Resources (U.S.A.) Inc. (“Wharf Resources”) for a large-scale extractive industry Conditional Use Permit (“CUP”) came on regularly to be heard before the Lawrence County Planning and Zoning Board (“Planning and Zoning Board”) and the Lawrence County Board of County Commissioners (“Board of County Commissioners”). The Board of County Commissioners having considered the Application, and the testimony and evidence admitted, and good cause appearing therefore, hereby enters the following:

FINDINGS

1. The CUP Application was filed with the office of the Lawrence County Planning and Zoning Director (“Director”) on November 8, 2021. The Application is for the expansion of the existing Wharf Mine (the “Boston Expansion”).
2. The \$10,000 application fee was paid by Wharf Resources on November 8, 2021.
3. The Application contains all required and requested information.
4. The Application is complete in all respects. The Application is incorporated in its entirety herein by this reference.
5. On December 2, 2021, the Planning and Zoning Board held an informational meeting regarding the Application.
6. Notices of the Application and all hearings thereon were published, posted and mailed as required by law.

7. Notice of the January 6, 2022 Planning and Zoning Board public hearing on the Application was published in the *Black Hills Pioneer* on December 23, 2021.

8. On December 17, 2021, Wharf Resources mailed, by certified mail - return receipt requested, notice of the January 6, 2022 Planning and Zoning Board public hearing on the Application to each person on the property owners list prepared by the Planning Department. The mailed notice indicated the type of conditional use proposed, and the date, place and time of the public hearing.

9. Wharf Resources filed copies of all the notice letters and the white receipts with the Planning Department prior to the public hearing.

10. On December 3, 2021, on a notice of public hearing sign furnished by the Planning Department, Wharf Resources posted notice of the January 6, 2022 Planning Department public hearing on a public road at a site designated by the Director.

11. Buffer zone waivers from Paul Gregory Akrop, Western Communications, Inc., Ross A. and Amber A. Determan, and the Terry Valley – Trojan Water Project District were recorded in the office of the Lawrence County Register of Deeds, and copies were filed with the Director.

12. Wharf Resources filed a socio-economic impact study with the Application.

13. The socio-economic impact study addresses all required and requested Boston Expansion impacts and areas.

14. The socio-economic impact study is complete in all respects.

15. The Boston Expansion is located south of, and immediately adjacent to, the existing Wharf Mine. The CUP area, and the areas of disturbance, are as shown on the maps filed with the Application.¹

16. The Boston Expansion area encompasses approximately 47.4 acres of private land owned by Wharf Resources.²

17. A total of 48.7 acres of new disturbance is proposed, including 40.6 acres outside the existing permit boundary and 8.1 acres of new disturbance that is within the existing permit boundary but outside the current approved disturbance boundary.³

¹ P. 12

² P. 12

³ P. 12

18. 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. The ore produced in the Boston Expansion will be processed at the existing Wharf Mine by heap leaching with a dilute cyanide solution.⁴

19. Both gold and silver ore will be mined in the Boston Expansion.⁵

20. It is anticipated that mining in the Boston Expansion will increase Wharf Resources' life-of-mine by approximately 1-3 years, extending the mine life from 2027 to 2028 or 2030.⁶

21. Wharf Resources presently employs 257 persons. To conduct mining operations in the Boston Expansion, and also continue its present operations, Wharf Resources anticipates the continued employment of approximately 257 persons.⁷

22. Approximately sixty percent (60%) of Wharf Resources' employees were residents of Lawrence County over the 2016-2020 timeframe.⁸

23. Over the extended mine life, Wharf Resources will pay between \$6.6 million and \$19.8 million in various state and local taxes.⁹

24. Also over the extended mine life, Wharf Resources will spend between \$20.8 million and \$62.4 million in South Dakota.¹⁰

25. Mining in the Boston Expansion will not disturb any part of the active Terry Peak Ski Area, and mining will not interrupt the ski season.¹¹

26. Winter recreation for Terry Peak has grown significantly at the same time that mining activity was visibly taking place nearby.¹²

27. The conditional use proposed in the Boston Expansion, gold and silver mining, is appropriate considering the existing adjacent Wharf Mine and the mining history of the region.

28. The size of the Boston Expansion is appropriate, considering the size of the adjacent Wharf Mine.

⁴ Pp. 1, 22

⁵ P. 1

⁶ P. 1

⁷ P. 16

⁸ App. D, P. 21

⁹ P. 15

¹⁰ App. D, P. 19

¹¹ P. 16

¹² App. D, P. 7

29. The Boston Expansion is easily accessed from the existing Wharf Mine. The access and haul roads are as shown on the maps filed with the Application.¹³

30. The topography in the Boston Expansion is similar to the topography in the existing Wharf Mine, and is appropriate for the requested conditional use, gold and silver mining.

31. Considering the existing Wharf Mine and the area surrounding the Boston Expansion, mining in the Boston Expansion will not be a detriment to the present or anticipated population density.

32. Wharf Resources owns the substantial majority of the lands in the buffer zone. The only other landowners in the buffer zone are Paul Gregory Akrop, Western Communications, Inc., Ross A. and Amber A. Determan, and the Terry Valley – Trojan Water Project District.¹⁴ All of said landowners executed buffer zone waivers which have been recorded. Copies of the recorded buffer zone waivers are on file with the Director.¹⁵

33. The required buffer zone boundaries are as shown on the maps filed with the Application.

34. The buffer zone between disturbed and surrounding lands, considering the filed waivers, reasonably prevents injury or interference with the existing uses and enjoyment of other property within 500 feet of the areas of disturbance, and also reasonably prevents substantial diminishment or impairment of property values within 500 feet of the areas of disturbance.

35. It is anticipated the Boston Expansion will assure the continued employment of approximately 257 persons and the continued payment of state and local taxes by Wharf Resources, thereby having a positive effect upon the population base and tax base of Lawrence County.

36. Regarding the Lost Camp Subdivision, during Wharf Resources' mining operations:

- a. Historically, mining by Wharf Resources has had no measurable effect on property values.¹⁶

¹³ P. 1

¹⁴ App. B

¹⁵ App. C and supplemental filings

¹⁶ App. D, P. 36

- b. Wharf Resources donated the Terry – Trojan water supply system to the subdivision homeowner’s association. This improvement has apparently eased most of the historical water problems experienced by the residential areas.¹⁷

37. Considering that the Wharf Mine has been in operation in its present location since approximately 1982, and further considering that it has employed 210-257 persons over the last several years, and further considering that its gold production has been in the range of 80,000-100,000 ounces per year over the last several years, the continued operation of the Wharf Mine consistent with these historic levels for an additional 1-3 years will have positive and beneficial effects 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.

38. The Planning and Zoning Board recommended to the Board of County Commissioners that the Application be approved.

On motion duly made, seconded and carried, the Board of County Commissioners hereby adopts the foregoing Findings, and makes and enters the following:

DECISION

The Application is approved, as conditioned by the Permit Conditions attached hereto and by this reference incorporated herein.

DATED this ___ day of _____, 2022.

**LAWRENCE COUNTY BOARD OF
COUNTY COMMISSIONERS**

By: _____
ROBERT EWING, Vice Chairman

ATTEST:

Lawrence County Auditor

¹⁷ App. D, P. 36