



Public Service Commission

State of North Dakota

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May 7, 2008

Mr. Jesse Noel, P.E.
Manager, Engineering & Environment
Dakota Westmoreland Corporation
Beulah Mine
P.O. Box 39
Beulah, ND 58523-0039

Dear Mr. Noel:

The Reclamation Division has conducted a completeness review of the application for Revision No. 24 to Permit KRSB-8802 for Dakota Westmoreland's Beulah Mine. The following items were noted in our review and must be addressed before the revision can be deemed complete and publication of the public notice can begin.

Public Notice

1. Please add the following sentence to the end of the first paragraph of the public notice, "The area being added to the permit will be used for construction of a dragline walkway." It is also recommended that the last part of the last sentence of the first paragraph be deleted ("for coal excavation and mining and associated disturbance activities in support thereof") as it implies that the area being added to the permit may be used for excavation. (DKM)

Section 1.4

2. Please provide copies of the notices that were provided to the surface owners as required by NDCC 38-18-06(1). These notices must sufficiently disclose the plan of work and operations to enable the surface owner to evaluate the extent of the land disturbance. These notices were to be provided to the surface owners 30 days prior to the submittal of the revision application as required by NDCC 38-18-06(1). (GAW/DKM)
3. It appears that the Department of Transportation has provided the necessary approvals to cross Highway 49 and to construct the temporary detour. Please indicate if DOT provided the opportunity for a public hearing as part of their approval process. If they did not provide the opportunity for a public hearing, then the Commission will provide the opportunity for hearing as required by NDCC 38-14.1-07(4) and NDAC 69-05.2-04-01.1(3). (GAW/DKM)

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Mike Berg

Section 2.5

4. Please update Section 2.5, Wildlife Inventory and Plan, to mention the Revision 24 addition area, and a new sheet should be added to Exhibit 2.5.1 to show the proposed new permit boundary. The original survey shows a barren area in the addition area. This should be mentioned and updated to reflect the current conditions. Please include a brief discussion about whether the addition area contains any high value wildlife habitat and if annual wildlife monitoring has revealed any species or features (grouse leks, rapture nests, etc) of significance on the addition area. NDAC 69-05.2-08-15 (GAW)

Section 3.1 General Mining plan

5. Please include a narrative describing the dragline walkway, including but not limited to timing and reclamation plans, how subsoil and overburden will be handled, and water management for the stockpiles in accordance with NDAC 69-05.2-09-06(1). The plan should also address redisturbance of previously reclaimed (but not bond released) areas in Section 13. In accordance with Policy Memo No. 22 to Mine Operators, please also provide a summary of the reclamation activities that were previously carried out on the previously bond released land being added. This includes the land use when final bond release was approved, topsoil and subsoil respread thicknesses that were respread, specific revegetation success standards met when bond release was granted and the final Post-Mine Topographic Map, if necessary. This information will need to be placed in the appropriate sections of the permit. (MDB/WTG/GAW)

Section 3.2 Water Management Plan

6. With placement of the dragline trail in the proposed permit addition, Pond 12 will change in size and capacity. It also appears the size of the watershed has changed. Because of these changes a statement needs to be included that the plans were prepared by, or under the direct supervision of a registered professional engineer or qualified registered land surveyor experienced in design of impoundments as stated in NDAC 69-05.2-09-09(h). The culvert sizing for under the proposed dragline trail should also be included. Also, please indicate if Dakota Westmoreland will obtain a NDPDES discharge point for this pond due to the disturbance that will occur for the dragline walkway. (MDB)
7. Please update the surface water management narrative for Pond 12, detailing past, present, and future plans. (MDB)

Section 3.8 Reclamation Cost Estimates and Performance Bond

8. Please update the Worst Case Bonding for the additional disturbance. (MDB)

General

9. Please update Sections 3.5, Backfilling and Grading, Section 3.6, Revegetation Plan and 3.7, Time Schedules, as necessary, to address construction and reclamation of the dragline trail. (NDAC 69-05.2-09-11) (GAW)

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10. Please update the following Exhibits to depict the new permit boundary: Exhibit 1.4.1, Surface and Mineral Ownership Map; Extended Mine Plan & 5-Year Subareas Map; Exhibit 3.1.2, Pit Sequence & History of Mining Map; Exhibit 3.1.3, Topographic and Haulroads Map; Exhibits 3.5.3, Post-Mining Topography Map; Exhibit 3.5.4a, Pre-Mining Topography Map, and Exhibit 3.8.1, Reclamation Bond Area Map. NDAC 69-05.2-09-02 (GAW)

In addition, the following technical items were noted during the completeness review and are included with this letter. These can be addressed at this time or following the technical review of the revision.

1. Although some general language has been added to Section 2.6.42 discussing the vegetation on the addition area, NDAC 69-05.2-08-08 (1)(d) requires a detailed narrative describing the nature and variability of the vegetation in each mapping unit and land use category, based on a thorough reconnaissance and qualitative assessment. Please provide the information required. (GAW)
2. Please include species composition estimates showing the range condition rating for each of the major range sites present on the land being added with Revision 24. (GAW)
3. DWC will need to update the native grassland species list after a thorough reconnaissance of the acreage being added with Revision 24. To ensure all species present have been detected, the area should be inspected at various times during the growing season. Please make arrangements to have this work completed and update the permit to specifically state when the area was inspected to update the species list. This issue may be addressed as a technical deficiency item but we have included this issue in our completeness letter to ensure that the area has been inspected during the early spring growing period. NDAC 69-05.2-08-08 (1)(b) (GAW)

Also, Dakota Westmorland may want to address the items listed in our recent midterm review of Permit KRSB-8802 as part of the Revision 24 changes. This may eliminate the need for a separate significant revision application to address the cessation of mining in this permit. If these changes are added to Revision 24, the newspaper notice will have to be updated accordingly.

If you have any questions, please contact this office.

Sincerely,



James R. Deutsch
Director
Reclamation Division