

Dakota Westmoreland Corporation

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JUN 17 2008
#30911
PUBLIC SERVICE COMMISSION

SCANNED

Date 6-18-08

File SB-6-16-08-rsp-57.rw (30911)

June 16, 2008

FROM DIRECTOR - RECLAMATION DIV.

Date: 6-18-08

Action: Mike

Info. Only: _____

Info & File: _____

Mr. James R. Deutsch
Director, Reclamation Division
Public Service Commission
600 E Boulevard Ave, Dept 408
Bismarck ND 58501-0480

Dear Mr. Deutsch:

Re: Revision No. 24, KRSB-8802

The following is submitted in response to the Commission's completeness review letter of May 7, 2008. The individual deficiency comments are set forth below followed by Dakota Westmoreland's responses and a listing of revised information. Four sets of the revised information are enclosed.

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)

➤ The public notice has been updated per your recommendation.

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)

➤ Only one Notice of Intent was needed, specifically the Coyote Partners. It has been signed and is included with this package.

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)

- The DOT does not plan to provide the opportunity for a public hearing as part of their approval process; thus, we concur that the Commission should provide the opportunity for hearing as required by NDCC 38-14.1-07(4) and NDAC 69-05.2-04-01.1(3).

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 2.5, has been updated per your recommendation. Both the narrative of Section 2.5 and Exhibit 2.5.1 has been updated to include the information you have requested.

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)
- Narrative has been added to page 3.1.10 to address the dragline walkway and historical reclamation activities. Page 3.7.6 has been revised to address the time schedule.

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)

- The narrative in Section 3.2 has been updated to address your concerns. Included within the narrative is a statement of qualification, and a summary of culvert sizing. Also, DWC will classify and obtain a NDPDES discharge point for this pond. Pond 12 has indeed changed in both capacity and watershed size due to the dragline walkway. As per KRSB-8802 Revision #2, pond 12's watershed was 82 acres less 19 acres open pit (Blue Pit). The pond 12 watershed has now been delineated as having 27 acres of total drainage area. Pond 12's watershed is shown on Exhibit 3.1.8 as well as Exhibit 3.2.2 (11). A large corridor running adjacent to U.S. Highway 49 was previously included in Pond 12's watershed. The culvert has been sized as a 24 inch CMP. Pond 12's riser as constructed in the early 1980's is a 12 inch diameter CMP.
7. Please update the surface water management narrative for Pond 12, detailing past, present, and future plans. (MDB)
- The narrative within Section 3.2 has been updated to include a summary of Pond 12.

Section 3.8 Reclamation Cost Estimates and Performance Bond

8. Please update the Worst Case Bonding for the additional disturbance. (MDB)
- The Worst Case Bonding has been adjusted on Table 3.8.11 for the additional disturbance. After conversing with J. Deutsch on June 5, 2008, we have agreed to use the original bond rates but include the additional disturbance with this submittal. DWC is currently over bonded in KRSB-8802 by approximately \$2.5 million. DWC does plan to update the Worst Case Bonding with the current rates in the mid-term review due July 2.

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)
- Sections 3.1 and 3.7 have been revised. We do not feel that sections 3.5 and 3.6 need updating for this revision.
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)
- Per your recommendation, all of the exhibits listed have been updated to include the new permit boundary and any other information pertinent to this revision.

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)
 - Information is being gathered on this issue as the vegetation is developing. A response will be forwarded when the technical deficiencies are subsequently addressed.
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)
 - See previous technical response.
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)
 - See technical response #1.

If you have any questions, please contact me at extension 229, or Paula Gores at extension 226.

Sincerely,

Handwritten signature of Jesse Noel in black ink, with a stylized 'J' and 'N' and a vertical line to the right.

Jesse Noel, P.E.
Manager, Engineering & Environment

plg
Encl.