



Public Service Commission  
State of North Dakota

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COMMISSIONERS

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12 June 2009

Mr. Allen C. Hoberg  
Office of Administrative Hearings  
1707 North 9<sup>th</sup> Street, Lower Level  
Bismarck, ND 58501

Re: Dakota Westmoreland Corporation  
Revision No. 25, Permit KRSB-8802  
Approval  
Case No. RC-08-612


Dear Mr. Hoberg:

Enclosed is a request for an Administrative Law Judge in the captioned case. The Commission has scheduled an informal conference for July 16, 2009 at 1:30 p.m. CDT in the Commission hearing room, State Capitol, 12<sup>th</sup> Floor, Bismarck, North Dakota 58505.

A copy of the Notice of Informal Conference is enclosed. The Administrative Law Judge will serve as a substantive administrative law judge, and will issue recommended findings of fact, conclusions of law, and order. The conference will be recorded.

If you have any questions, please contact me. Thank you.

Best regards,



Illona A. Jeffcoat-Sacco  
General Counsel

Enclosures  
c: w/encl.

Jesse Noel  
Darell Herman

17 RC-08-612 Filed: 6/12/2009 Pages: 4  
Letter to OAH with Request for ALJ



**REQUEST FOR ADMINISTRATIVE LAW JUDGE--APPEAL, APPLICATION, OR PETITION**  
**NORTH DAKOTA OFFICE OF ADMINISTRATIVE HEARINGS**  
 SFN 17819 (Rev. 03-2001)

Name of Agency, Board, or Commission  
 North Dakota Public Service Commission

The above named agency, board, or commission requests designation of an administrative law judge from the Office of Administrative Hearings for the Dakota Westmoreland Corporation, Revision No. 25, Permit KRSB-8802 - Case No. RC-08-612

(e.g., application of [name], appeal of [name], petition of [name]). Authority for the administrative action is found in North Dakota Century Code 38-14.1-19 (North Dakota Century Code and/or North Dakota Administrative Code).

Please attach related documents and correspondence.

The administrative action is more fully described as follows:

On May 8, 2009, the Commission received a request for an Informal Conference from a landowner with concerns about the post-mining topography proposed by the revision application which was deemed complete on March 13, 2009.

It requests designation of an administrative law judge (please check one):

- To conduct the hearing and issue recommended findings of fact, conclusions of law, and order.
- To serve as a procedural administrative law judge only (no recommended decision). The agency head will be present at the hearing as required by NDCC 54-57-04(6).
- To conduct the hearing, issue findings of fact, conclusions of law, and a final order.

**PLEASE MAKE A REQUEST FOR AN ADMINISTRATIVE LAW JUDGE AT LEAST ONE MONTH BEFORE THE HEARING.**

Please list parties, including the agency if it is a Party, and Representation [attorney (or other)] if known, or Agency Contact: (Attach separate list if necessary.)

|                        |         |                  |
|------------------------|---------|------------------|
| AGENCY<br>See Attached | Address | Telephone Number |
| Representation         | Address | Telephone Number |
| PARTY                  | Address | Telephone Number |
| Representation         | Address | Telephone Number |
| PARTY                  | Address | Telephone Number |
| Representation         | Address | Telephone Number |

Additional Comments

The Commission has scheduled an informal conference for July 16, 2009 at 1:30 p.m. CDT in the Commission hearing room, State Capitol, 12th Floor, Bismarck, North Dakota 58505.

(For agencies required to use OAH, notice of hearing will be issued by the administrative law judge, unless a procedural administrative law judge is requested. Other requesting agencies and agencies requesting a procedural administrative law judge should first contact OAH about scheduling a hearing. If notice has already been issued, attach a copy of the notice.)

|  |                              |
|--|------------------------------|
| Typed or Printed Name and Title of Requesting Person<br>Illona A. Jeffcoat-Sacco | Date<br>12 June 2009         |
| Signature of Requesting Person<br>x  | Telephone Number<br>328-2407 |

Mr. Allen C. Hoberg  
Office of Administrative Hearings  
Request for ALJ  
June 12, 2009

|   |   |   |
|---|---|---|
| <b>Agency</b><br>North Dakota Public Service<br>Commission  | <b>Address</b><br>600 E. Boulevard<br>Ave. Dept. 408<br>Bismarck, ND<br>58505 | <b>Telephone Number</b><br>701-258-2400 |
| <b>Representation</b><br>Annette Bendish  | <b>Address</b><br>Same as above   | <b>Telephone Number</b><br>701-328-2421 |
| <b>PARTY</b><br>Mr. Jesse Noel<br>Manager, Engineering &<br>Environment<br>Dakota Westmoreland<br>Corporation | <b>Address</b><br>Beulah Mine<br>P.O. Box 39<br>Beulah, ND<br>58523-0039      | <b>Telephone Number</b><br>701-873-4333 |
| <b>PARTY</b><br>Mr. Darell Herman<br>Personal Representative<br>Marguerite Herman Estate                      | <b>Address</b><br>1605 59 <sup>th</sup> Ave SW<br>Beulah, ND 58523            |   |

**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

**Dakota Westmoreland Corporation  
Revision No. 25, Permit KRSB-8802  
Approval**

**Case No. RC-08-612**

**NOTICE OF INFORMAL CONFERENCE**

**June 3, 2009**

**Preliminary Statement**

On July 25, 2008, the Public Service Commission received the application for Revision No. 25 to Surface Coal Mining Permit KRSB-8802 from Dakota Westmoreland Corporation for the Beulah Mine. This revision proposes to cease mining activities in the mine area just east of State Highway 49 and adds final pit reclamation plans to the permit. The revision application was deemed complete on March 13, 2009 and notices were then published and sent to the affected landowners.

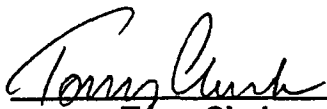
On May 8, 2009, the Commission received a request for an Informal Conference from with a landowner with concerns about the post-mining topography proposed by this revision.

**Notice of Informal Conference**

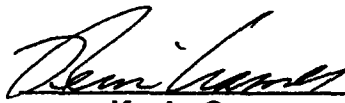
Notice is hereby given that the captioned matter is set for an Informal Conference, commencing at 1:30 p.m. CDT, on July 16, 2009, in the Public Service Commission's Hearing Room, 12<sup>th</sup> Floor, State Capitol, Bismarck, North Dakota.

If you require any auxiliary aids, such as readers, signers, or Braille materials, please notify Darrell Nitschke, Executive Secretary, Public Service Commission, at (701) 328-2400, or Relay North Dakota TTY: 1-800-366-6888 at least 24 hours prior to the hearing.

**PUBLIC SERVICE COMMISSION**



**Tony Clark  
Commissioner**



**Kevin Cramer  
President**



**Brian P. Kalk  
Commissioner**