



Public Service Commission

State of North Dakota

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May 10, 2010

Mr. Jeff P. Frohlich
Manager, Engineering and Environmental
Dakota Westmoreland Corporation
Beulah Mine
P.O. Box 39
Beulah, ND 58523-0039

Dear Mr. Frohlich:

The Reclamation Division has reviewed DWC's response to our September 16, 2009, technical review of Revision 25 to KRSB-8802. The following issues must be addressed prior to this office recommending Commission action. Considering the renewal and associated revision that needs to be submitted for this permit and the need to begin grading work in the final pit area, please respond to this letter no later than June 1, 2010.

Table of Contents

1. Please insert a new subheading titled "2. Dragline Walkway" under "D. Mining Support Facilities" in Section 3.1 - General Mining Plan of the Volume 6 Table of Contents. (WTG)

Section 2.7 – Land Use

2. DWC is now proposing to disturb the pre-mine shelterbelt located in the SE $\frac{1}{4}$ of Section 24 with the topographic changes proposed by with this revision. Please revise the Post-Mine Land Use Map to show that portion of the shelterbelt that is not going to be disturbed by mining activities and identify where the disturbed acreage of shelterbelt is going to be replaced. The tables and narratives in Section 2.7 will also need to be updated accordingly. This pre-mine shelterbelt has habitat value for wildlife and its value must not only be replaced but enhanced as required by NDAC 69-05.2-09-17. Please update the permit accordingly. (GAW)
3. Please correct the following inconsistencies between the table that lists all permanent water management structures on page 2.7.5 in Section 2.7, what is shown on Exhibit 2.7.1 – Post-Mining Land Use, and the structure's description in Section 3.2 - Water Management Plan: (WTG)

- a) Exhibit 2.7.1 correctly shows Pond 12 as a developed water resource in the area that had been bond released, but was then added back to the permit with Revision 24. Pond 12 is not listed, however, on page 2.7.5 as a permanent structure, nor is its addition back into the permit described on page 3.2.19. Please also correct the duplicate sentence that begins the third paragraph on page 3.2.19.
- b) Pond 51 is listed as a permanent structure on page 2.7.5 and shown on Exhibit 2.7.1, but is described as a temporary structure on page 3.2.34.
- c) Diversion 63E is listed as a permanent structure on page 2.7.5, but is described as being reclaimed in 2007 on page 3.2.55.
- d) Diversion 64S is listed as a permanent structure on page 2.7.5, but is named Diversion 64W on page 3.2.55.

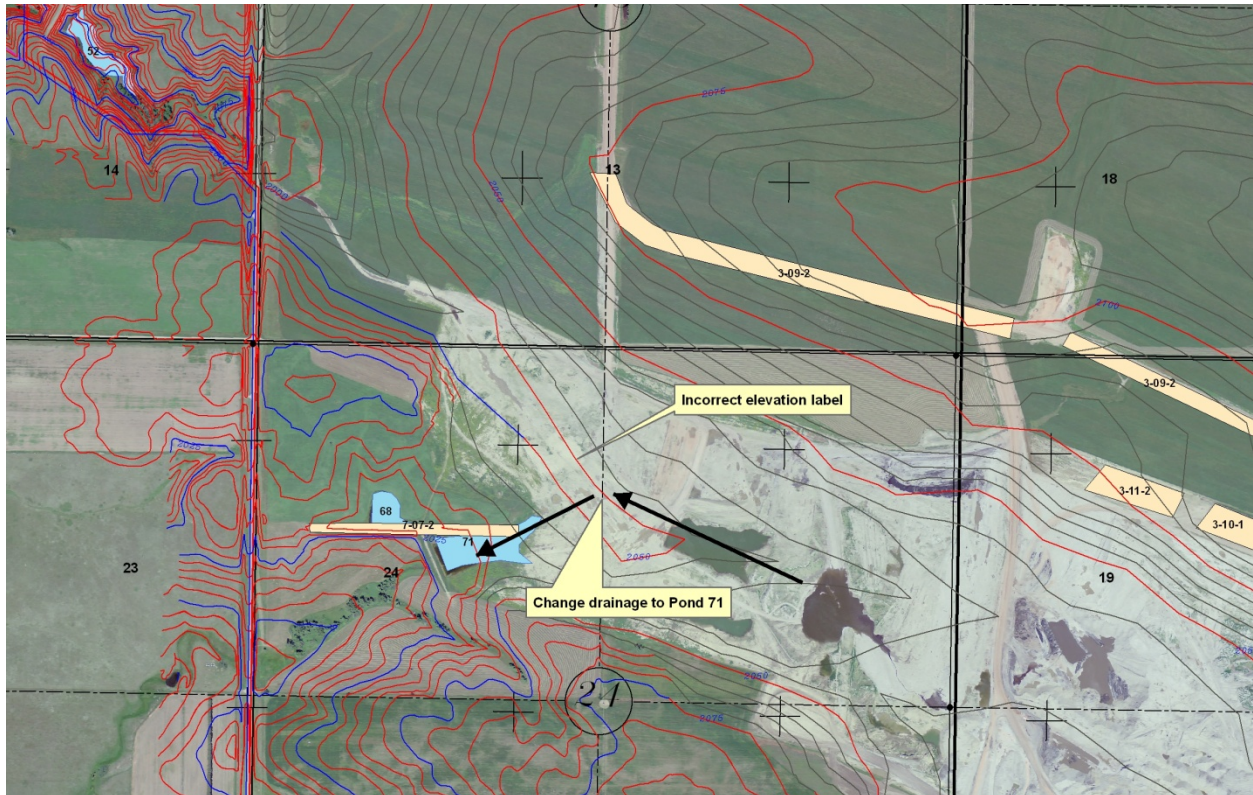
Section 3.2 – Water Management Plan

4. Follow-up to Item No. 6: Please update the Revision No and date at the bottom of page 3.2.63. A number of changes are being made on this page for the wetland designs but the notation at the bottom of the page has not been updated accordingly. (GAW)
5. Ponds 50 and 51 are currently approved as permanent structures; however, in the July 25, 2008, response, Pond 50 was changed to temporary and Pond 51 remained as a permanent pond. In the March 2010 response Pond 50 was changed back to permanent and Pond 51 was changed to temporary status. Please clarify the status of these ponds (see item #3 above) and provide the necessary supporting materials such as annual yield calculations, design plans, and preference statements for those ponds that will be permanent. After being recently cleaned, the Pond 50 side walls are too steep to be retained as a permanent pond, thus the pond will have to be redesigned prior to being allowed to be retained. Please submit the required materials. (MDB)
6. Please adjust Exhibits 3.4.1 and 2.7.1 concerning Ponds 50 and 51 as necessary. The disturbance boundary in Exhibit 3.4.1 should also be adjusted for the additional disturbance areas in Sections 19 and 24. (MDB)

Section 3.5 – Backfilling and Grading

7. Follow-up to Item No. 8: Please revise Exhibit 3.5.3, Contour Map of Post-Mining Topography, to show the correct pre-mine topography of the areas outside of the mineral removal boundary in the S $\frac{1}{2}$ of Section 12, SW $\frac{1}{4}$ of Section 7 and the E $\frac{1}{2}$ of Section 17. The exhibit incorrectly shows the topography of soil stockpiles and temporary ponds. In addition, please revise the topography of all pre-law areas and re-affected areas in Sections 7 and 12 so that the areas are traversable by farm machinery. NDAC 69-05.2-21-02 requires that the topography accommodate the approved post-mine land uses, which in this case is cropland and hayland. Old aerial photographs show spoil ridges in these areas so obviously they were reshaped for use as stockpile sites. Also, please clarify the purpose of the bold red line on Exhibit 3.5.3. It is unclear if this is the mineral removal line or the 1975 law boundary. If it is the 1975 law boundary, it does not agree with the most recent grade approval submitted for the SW $\frac{1}{4}$ of Section 7 and other maps that we have on file. (GAW)

8. Follow-up to Item No. 10: The contour elevation line near the drainageway in the N½ of Section 24 is mislabeled on the Contour Map of Post-Mining Topography, Exhibit 3.5.3, as 2050 when in fact it is 2025. The Reclamation Division believes that runoff from the NE¼ of Section 24 should be directed to Pond 71 rather than towards Pond 52. This will create a watershed break where the long flat channel is proposed and the pre-mine watershed for the undisturbed drainageway in the NW¼ of Section 24 will be more similar to the pre-mining conditions. Please revise Exhibit 3.5.3 and all associated exhibits accordingly. See image below. The surface water PHC may also have to be updated as well. (GAW)



9. A discrepancy was noted in the mass balance calculations shown on Exhibit 3.5.3a for the void calculations for cross sections #41-42 and #42-43. Our calculations indicate a much larger void than is indicated on the mass balance sheet. Please recheck the calculations and cross sections. (MDB)

Section 3.7 – Time Schedules

10. Follow-up to Item 14: The amount of backfilling to be completed each year was increased to 2.25 million yards; however, under this schedule, the backfilling and grading will not be completed for 4 years (2014). Limited justification was provided for the proposed reclamation delay. Please provide a more detailed justification for the proposed reclamation delay or revise the plans for completing the grading within 3 years as we previously suggested. (DKM)

Section 3.8 – Reclamation Cost estimate

11. Please adjust the production rates in Table 3.8.2 as it appears the rates were not adjusted for the variables, but the gross production was used to calculate hours of equipment use. The table below is a list of production rates for a D11 dozer rates with a universal blade. Please incorporate the adjusted rates into the table and recalculate the total hours required. (MDB)

Feet	Gross	Adjusted	Feet	Gross	Adjusted
100	2926	2078	400	798	567
150	2001	1421	450	715	508
200	1528	1085	500	648	460
250	1240	880	550	592	421
300	1045	742	600	546	388
350	905	642	650	507	360
			700	473	336

12. Production rates for the scrapers in Table 3.8.3 and Table 3.8.5 are overestimated and inconsistent throughout the tables, particularly for the NW¼ and NE¼ of Section 19. The production rates for the ponds, roads, and subsoil stockpiles appear to be accurate; however, the values used for the mining area appear to be extremely high in some cases almost double of those used for the ponds with the same haul distance. Please re-evaluate the production rates for the scrapers in the mine area portion of Table 3.8.5 as well as all of Table 3.8.3. (MDB)
13. The production rates for the dozers in Table 3.8.6 need to be addressed in a similar manner as was done in Table 3.8.2. (MDB)
14. Please check the total cost per acre of native grass seed. Our calculations indicated the total should be \$85.61 not \$81.70 as shown. (MDB)

If you have any questions, please contact this office.

Sincerely,



James R. Deutsch
Director
Reclamation Division