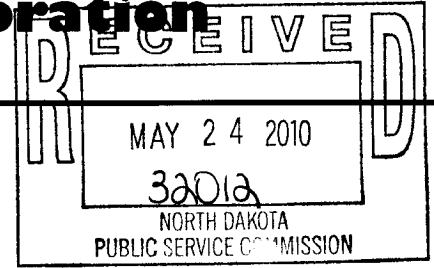


Dakota Westmoreland Corporation



Beulah Mine – P.O. Box 39, Beulah, North Dakota 58523-0039
Phone: (701) 873-4333 • Fax: (701) 873-7784

May 21, 2010

FROM DIRECTOR - RECLAMATION DIV.

Date: _____

Action: _____

Info. Only: _____

Info & File: _____

Mr. James R. Deutsch
Director, Reclamation Division
Public Service Commission
600 E Boulevard Ave., Dept. 408
Bismarck ND 58505-0480

Dear Mr. Deutsch:

Re: Revision No. 25, KRSB-8802
Technical Deficiency #3 Responses

The following information is submitted in response to the technical questions dated May 10, 2010. Individual comments are set forth below followed by Dakota Westmoreland's responses and a list of revised information. Four copy sets are enclosed.

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)
 - The new subheading was added to Section 3.1 in Table of Contents.

Section 2.7 – Land Use

2. DWC is now proposing to disturb the pre-mine shelterbelt located in the SE¼ 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)
 - On Exhibit 2.7.1, the portion of the shelterbelt in the SE¼ of Section 24 that is projected to be unaffected by mining activities has been approximated using the projected disturbance boundary related to topographic changes. Narrative and the postmining land use acreage table in Section 2.7 have been updated accordingly. We anticipate that the shelterbelt vicinity will be the last area disturbed for final grade work. Consequently, the projected disturbance in this vicinity may be much less extensive than portrayed on the exhibit, i.e., shelterbelt disturbance may be greatly reduced. The landowner's express desire is that no trees (woody plants) be replaced on this property (see page 49d of Exhibit 2.7.3). We intend to follow this preference. We believe that efforts that include wetland replacement, pond

retention, and establishment of non-replacement woody plantings fulfill the requirements of NDAC 69-05.2-09-17, as was stated in similar fashion when this issue was addressed for the permit area in revision No. 15.

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.
 - Pond 12 is now listed as a permanent structure on page 2.7.5. The duplicate sentence has been removed from page 3.2.19. The narrative has been updated to indicate pond 12 as being permanent.
 - 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.
 - Pond 51 has been removed from Exhibit 2.7.1 and the list of permanent structures on page 2.7.5.
 - 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.
 - Diversion 63E was not reclaimed in 2007 and that reference has been removed from Section 3.2.
 - d) Diversion 64S is listed as a permanent structure on page 2.7.5, but is named Diversion 64W on page 3.2.55.
 - The listing on page 2.7.5 has been changed to Diversion 64W.

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)
 - The revision and page number have been updated on the bottom of page 3.2.63.
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)

- Pond 50 will remain as a permanent structure and Pond 51 is a temporary structure. Before final reclamation, the side wall of pond 51 will be laid back at a 4 to 1. It will also be made cattle accessible. The annual yield calculations were added as requested.
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)
- Exhibits 2.7.1 and 3.4.1 have been modified to illustrate the intended reclamation of pond 51. The disturbance boundary on Exhibit 3.4.1 shows the current disturbance limits. The preceding projected disturbance boundary was primarily intended to define the pertinent overburden test hole sites and deemed obsolete given the pending closure and limited future disturbance.

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 S½ of Section 12, SW¼ of Section 7 and the E½ 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 SW¼ of Section 7 and other maps that we have on file. (GAW)
- Exhibit 3.5.3 has been updated. The pre-law, '69 and '71, and '73 law periods from the 2009 annual map have been added to Exhibit 3.5.3. The bold red line is the slope analysis boundary for comparing pre- and post-mine topo. The topography underneath the temporary ponds and SPGM stockpiles has been changed to better represent the post-mine topo after these temporary features will be removed. These changes were estimated using old aerial photographs and topography. It was the intent of the permittee during the era of pre-law and early law mining to equal or exceed reclamation regulations. The execution of this intent can be seen in the postmining topography in Sections 7 and 12, which conforms to the regulations existing when mining or initial disturbance occurred. Per permittee policy in effect prior to requirements for soil salvage, even those pre-law areas not subject to regulation were to have all spoil peaks struck off, at a minimum, and all acreage planted with herbaceous or woody species. It is evident that leveling of the pre-law spoils went beyond ridge topping; much of the extensive pre-law acreage has been leveled to the degree that it is a rolling terrain traversable by farm machinery. Many of the pre-law and early law areas in Sections 7 and 12 that have been leveled have not hosted stockpiles. Therefore, we don't think it can be assumed that leveling was performed so that stockpiles could be sited, especially since the leveling policy for pre-law areas existed some time prior to the first soil salvage regulations. Any grading work that was done for re-affected areas, i.e., stockpile

sites, does not seem to have increased slopes beyond gradients acceptable during the applicable law period or gradients that existed prior to redisturbance.

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)
 - The 2050 contour has been relabeled to 2025. The pmt contours have been altered in Exhibits 3.5.3 and 3.5.3a, so that the Pond 71 watershed drains water from the NE1/4 of Section 24. Narrative 2.2 and Exhibit 2.2.7 have been updated to reflect the watershed changes to Pond 71 and Pond 52.
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)
 - Per telephone conversation with Mike Berg on May 12, 2010, the calculations presented are correct. No changes are necessary.

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)
 - As previously stated, a large part of this project will be completed with dozers. During the winter months, all earthmoving activities require ripping. All of the draglines, truck-shovel and scrapers require ripping before any yardages can be moved. This requires our dozers to be in the vicinity of the earthmoving activities.

The actual hours for the last quarter of 2009 and the first quarter of 2010 are shown below. This time frame represents our equipment requirements for our new mine plan. The last quarter of 2009 would have minimal hours listed for overburden ripping. The frost usually doesn't become a problem until around the middle of December. Assisting the draglines and other mobile equipment with overburden ripping would be a major part of the first quarter of 2010. The comparison shows an additional 1400 hours for the first quarter of 2010 compared to the last quarter of 2009. The 1400 hours for the summer and fall quarters would be available for leveling (2800 dozer hours/year). When the equipment is working on this project, it will take 16–20 hours/day, 2 to 3 dozers – for the entire work week. Estimates of the amount of time needed to level this area were computed based on our bonding calculations. The amount of dozer hours has been adjusted based on the push distance. DWC reduced the dozer push distance from a maximum of 600 feet to 300 feet. This reduced our dozer hours to 5,764.1 hours or 2.05 years. The cubic yards taken from the dozers will be picked up by our scraper fleet.

657 Scraper Summary: six 657 scrapers
 75% availability
 240 working days/year, assume 10 weather related "no work" days
 two 8-hour shifts
 16,560 available hours/year

Continued Operation Requirements, and Contemporaneous Reclamation Requirements/Year

Assumptions: 3 million tons/year –annual sales
 180 acres of new disturbance for 3 million tons

180 acres SPGM removal @ 4 feet	5,800 hours (3900 hours for 2010)
180 acres SPGM respread @ 2.5 feet	3,600 hours
Finish leveling 180 acres @ 3 feet	2,900 hours
Ramps, walkways assist stripping historical	3,800 hours
<u>Coal production historical</u>	<u>2,600 hours</u>
Total	18,700 hours

Note: In 2010 our SPGM removal requirements are less than the 180 acres, due to acres removed in 2009 (estimate 120 acres).

Note : In 2010, SPGM respreading from stockpiles is required due to the "no soil mixing" agreements for Sections 17 and 15, T. 143 N., R. 88 W. This creates an additional equipment demand that is above and beyond our normal annual requirements. In 2011 we should be able to start 'direct respread' again. Our goal would be to direct respread half of SPGM removal in 2011. This allows an additional 1800 hours for final reclamation. In 2012 we plan to be operating in a direct respread mode. This would allow approximately 3600 hours annually for final reclamation in permit 8802.

Leveling Hours:	2010 – 2800 dozer hours	
	2011 – 2800 dozer hours	– 1800 scraper hours
	2012 – 164 dozer hours	– 3600 scraper hours
	<u>2013 – _____</u>	<u>– 2639 scraper hours</u>
	Totals 5764	– 8039

Historical hourly summaries for the last 6 months for dozers and scrapers:

657 Scraper Hours	4 th Qtr 2009	1 st Qtr 2010
Charlie		
Respread topsoil - from stockpile	0.0	17.0
Clean Coal	10.5	0.0
Red		
Respread topsoil - from direct resp.	209.0	0.0
Respread subsoil - from direct resp.	89.8	0.0
Pre-strip		922.0
Pre-strip - assist 777s	4.0	4.0
Overburden	27.3	118.3
Overburden - assist draglines		3.8
Overburden - assist 777s		1.0
Misc. - Dragline Ramps, Walkways		143.8
Parting		120.0

Clean Coal	2.3	28.3
Road & Ramp Construction	14.5	32.0
Hauling Coal To Tipple (push trucks)	60.0	51.5
Pre-mining & Open Pits	1.0	2.0
Gold		
Remove topsoil - to stockpile		37.0
Respread topsoil - from direct resp.	310.5	0.0
Remove subsoil - to stockpile		55.8
Respread subsoil - from direct resp.	286.8	37.5
Pre-strip		299.8
Overburden	78.8	381.0
Overburden - assist draglines		2.0
Overburden - assist 777s		7.3
Slides/Sloughs		118.3
Misc. - Dragline Ramps, Walkways		8.8
Clean Coal		4.8
Road & Ramp Construction	14.8	0.0
Pre-mining & Open Pits	14.5	3.0
Construct Pond #100	39.5	0.0
Leveling - Gold	5.0	85.3
Silver		
Remove topsoil - to stockpile	123.0	0.0
Respread topsoil - from direct resp.	61.0	0.0
Remove subsoil - to stockpile	429.0	0.0
Overburden	584.5	628.8
Overburden - assist dozers		1.5
Overburden - assist draglines	20.8	2.0
Misc. - Dragline Ramps, Walkways	8.3	70.5
Ash Dragline Pads		12.3
Clean Coal	13.3	10.0
Assist Loading	2.0	8.8
Road & Ramp Construction	122	278.8
Hauling Coal To Tipple (push trucks)	203.8	234.8
Hauling Coal To Stockpile (push trucks)		8.3
Pre-mining & Open Pits	12.0	0.0
Leveling - Silver		181.0
West Mine:		
Road & Ramp Maintenance	53.0	92.3
Scoria Haulroads	135.3	89.0
Ash Haulroads	43.0	75.5
Construct New County Road	897.3	0.0
East Mine:		
Scoria Haulroads	0.5	1.0
Coal Stockpile - level & clean up	3.5	4.5
Common		
General Yard Work	5.5	
Totals	3,885.8	4,182.5

Dozer Projects Hours Summary	4th Qtr 2009	1st Qtr 2010
Gold Pit:		
Remove & direct respread topsoil (w/scrapers)	35.00	
Remove & stockpile subsoil		5.50
Respread topsoil off stockpile		1.00

Pre-strip - assist scrapers		66.50
Pre-strip - assist 777's	98.00	165.50
Overburden removal		67.25
Overburden removal - assist draglines		340.25
Overburden removal - assist 777's	143.25	168.00
Overburden removal - assist scrapers	35.25	127.50
Remove slides/sloughs		71.50
Dragline ramps & walkways		13.75
Move dragline cable		26.00
Road & ramp construction		14.50
Rip coal		44.50
Clean coal		43.75
Assist loading		3.00
Drainage	12.25	39.75
Construct Pond #100	44.50	
Leveling	12.00	157.75
Red Pit:		
Remove & direct respread topsoil (w/scrapers)	2.00	
Pre-strip - assist scrapers		303.25
Pre-strip - assist 777's	429.00	408.00
Overburden removal	235.75	132.25
Overburden removal - assist draglines	54.00	483.00
Overburden removal - assist 777's	60.25	36.50
Overburden removal - assist scrapers	18.25	53.75
Remove slides/sloughs		6.75
Dragline ramps & walkways	18.00	73.75
Parting		65.00
Rip coal	32.75	44.50
Clean coal	12.75	54.00
Road & ramp construction	30.25	82.00
Assist loading	16.25	14.75
Hauling coal - push trucks	16.25	
Move dragline cable		3.50
Leveling	259.75	114.50
Drainage	6.50	24.25
Silver Pit:		
Remove & stockpile topsoil (w/ scrapers)	2.50	
Remove & stockpile topsoil (w/ 777's)	12.50	
Remove & direct respread topsoil (w/ 777's)	19.50	
Remove & stockpile subsoil (w/ scrapers)	63.00	
Pre-strip - assist 777's	4.75	
Overburden removal	854.75	1,025.75
Overburden removal - assist draglines	1,137.00	838.50
Overburden removal - assist scrapers	137.75	203.25
Dragline ramps & walkways	26.00	49.50
Remove slides/sloughs	1.50	
Clean coal	136.75	73.50
Rip coal	76.50	47.50
Assist loading		15.25
Road & ramp construction	187.25	91.75
Hauling coal - push trucks	138.50	56.00
Move Loading Shovel cable	14.25	16.50
Drainage	27.00	49.00
Leveling	324.75	286.50

Construct New County Road	269.50	
Common:		
Road Maintenance - West Mine	102.50	218.25
Scoria Haulroads - West Mine	11.75	3.00
Ash Haulroads - West Mine		9.75
Level Coal Stockpile	198.25	311.00
Yard Work	2.50	26.75
Road Maintenance - East Mine	8.25	9.25
Scoria Haulroads - East Mine		11.00
Charlie Pit:		
Respread topsoil off stockpile		9.50
Overburden removal	18.00	
Interburden removal	109.00	
Leveling	52.75	
Drainage	3.00	
Parting		42.00
Rip coal	2.00	4.75
Clean Coal	4.50	
Hauling coal - push trucks		3.50
Totals	5,518.25	6,657.50

We have maintained our labor staff similar to our staffing requirements prior to us moving our mining activities to Permit 8603. The stripping ratio is substantially better since the move. DWC has maintained this staffing level because of this reclamation project. The six employees that previously ran our 480 dragline, have been utilized in the mobile equipment work force. In 2010 an additional 100-ton dump truck (777-F) was added to our truck fleet. This truck will be used to supplement the truck/shovel fleet during long hauls.

We need to keep our active mine areas current and complete the east mine reclamation. DWC respectfully requests four years for leveling and two years for resspreading topsoil and subsoil. The modifications to the final topography have increased the leveling volumes to around 9 million cubic yards. That would be 2.25 million cubic yards/year for leveling. With the additional time requested for leveling activities, attention can be given to field conditions for previously leveled acreage. Subsidence areas can be repaired before the placement of SPGM. Progress can be measured annually and adjustments can be made.

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

- The production rates for Table 3.8.2 have been adjusted to the recommended productivities. Table 3.8.1 has been changed to allocate more yards to scrapers versus dozers. We believe this re-allocation of yards is a better reflection of actual field work.
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)
- The scraper productivities in Table 3.8.3 and Table 3.8.5 have been revised to match the productivities of the ponds and roads in Table 3.8.5. Also, page 3.1.6 has been updated to reflect the addition of a fourth end-dump truck. Accordingly Table 3.8.5 productivities have been increased to reflect this fourth truck. Table 3.8.11 has been changed to reflect the truck loader fleet cost per hour as well.
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)
- The production rates for Table 3.8.6 have been adjusted using the recommended productivities.
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)
- The cost per acre for native grass seed was changed to \$85.61

If you have any questions, please contact me at extension 208.

Sincerely,



Jeff P. Frohlich
Manager,
Engineering and Environmental

plg
Encl.

c: Randy Becker
Larry Schnaidt
Perry Voegele
Bill Weaver