



Public Service Commission

State of North Dakota

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December 23, 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 Revision No. 22 to Surface Coal Mining Permit KRSB-8603 for the Beulah Mine in accordance with NDAC 69-05.2-05-01(2). This revision proposes to add 890.4 acres to the permit to extend mining further south in the Silver Pit and further east in the Red Pit. The following items must be satisfactorily addressed before the Reclamation Division can deem the application complete.

General Formatting, Public Advertisement, Application Form, Miscellaneous

1. Most all of the html hyperlinks to exhibits that are provided in the application narrative sections do not work. Please enable or repair the links. (ALL REVIEWERS)
2. Please update the public notice to include the requirements of NDAC 69-05.2-10-01(1)(d) which states that the advertisement must include a notice if the applicant is to conduct mining operations within 100 feet of the outside right-of-way of a public road or to relocate a public road. The public notice must include a statement describing the road, the particular part to be relocated, where the relocation is to occur and its duration. In addition, please include a more descriptive narrative of the changes being made to the permit proposed with the revision. The map included with the advertisement must be updated to include the following: a) the township and range; b) county or township roads; and, c) rivers, streams or other local landmarks. Since newspaper advertisements are not published in color the additional area symbol in the legend should be hatched. Ideally, a broken or dashed line should be used for the addition area boundary while the existing permit area boundary would be a solid line. (GAW)

3. Please include a more descriptive narrative of the changes being made to the permit with the proposed revision and/or reference where additional information regarding the changes being proposed can be found. Is this the purpose of the Summary pdf? (GAW)
4. Please update the Resource Recovery and Protection Plan to include all federal coal tracts proposed for mining. It appears that the following federal coal tracts are not included in the R2P2: the NW $\frac{1}{4}$ of Section 20, NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 20, and the N $\frac{1}{2}$ of the SW $\frac{1}{4}$ of Section 20, T143N, R88W. Please provide our office with a copy of the updated R2P2 information that is submitted to the BLM. (BEB & DKM)

Section 1.4 – Business Entity Information

5. Please include Items B through I of Section 1.4 in the revision application. Currently, only the Identification of Interests (Item A) information is included with the application submittal and Items B through I are missing. Additionally, the Business Entity Information that is provided is footnoted as Revision 24 to KRSB-8802. (BEB & MDB & SAS & GAW)
6. Exhibit 1.4.1, Ownership Map, indicates only one owner in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 20 but the newspaper advertisement shows more. Please correct as necessary. (SAS)
7. The newspaper advertisement lists Janice Siman as a coal owner in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 20 but the notification of intent to mine went to a Janice Sigman. Please correct as necessary. (SAS)
8. Page 2 indicates that the federal coal lease for the NE $\frac{1}{4}$ NE $\frac{1}{4}$ and the S $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 20 is pending. According to the information on Federal Coal Lease NDM 041765 on page 233, these areas are already leased. Please explain or correct as needed. (SAS)
9. Please explain reasons for the second lease referred to on page 216 for the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 20. (SAS)
10. Please update Exhibits 1.4.4, Temporary Roadway & Section Line Closures and Exhibit 1.4.5, 100-Foot Buffer Zone Waivers for the activities planned with this revision to include road closure documentation between Sections 16 and 19, between Sections 17 and 20, which runs east and west, and between Sections 20 and 21 running north and south. Additionally, please address traffic routing plans after road closures. Also, include copies of documents from Mercer County granting approval to mine within 100 feet of the outside right-of-way of the additional public roads within or near the added lands. NDCC 38-14.1-07 & NDAC 69-05.2-06-05(1). (GAW & MDB)

Section 2.0

11. Please update the pre-mine facilities map or other maps that show the location of all surface and subsurface manmade features within, passing through, or passing over the permit area, including electric transmission lines, pipelines, agricultural features, wells, roads, highways, railroads and the other features listed in NDAC 69-05.2-08-02 for the

Revision 22 addition area. NDAC 69-05.2-08-02(1)(d) requires documentation of the location and current use of all buildings on and within one half mile of the permit area. It is not clear in the table of contents where this information can be found. (GAW)

Section 2.2 – Surface Water Hydrology

12. Please update Section 2.2, including the combined surface and groundwater PHC in Section 2.3(D), to account for the acreage being added with Revision 22. Narratives on pages 2.2.3 and 2.2 4 have not been updated to account for the acreage being added. The only information that has been updated in this section is the potential new NDPDES discharge points. NDAC 69-05.2-08-04. (GAW)

Section 2.3 – Groundwater Hydrology

13. Updates to Table 2.3.3 now indicate the Beulah-Zap Sand hydrostratigraphic unit to be the probable source of stock, domestic and even irrigation water for supply wells and springs for half a dozen or so locations within or adjacent to the permit area. Please provide a narrative discussion of this important aquifer unit similar to the narratives already provided for the Twin Buttes, B-Z, Spaer, etc. (BEB)

Section 2.4 – Soils Inventory

14. Please remove the yellow highlights from text on pages 15, 16, 21, and 22 of Exhibit 2.4.8. As submitted with the Revision 22 application, the highlighted text indicates that these portions are new to Revision 22. According to our review, however, the entire exhibit appears to be unchanged from Revision 19. (WTG)
15. As required by NDAC 69-05.2-08-10(2), please submit the chemical and physical analyses reports for properties of suitable plant growth material identified by the 2005 Ken Thompson soil survey for Sections 18, 19, and 20. Although page 4 of Exhibit 2.4.8 states that laboratory analyses were completed, and results shown on included pages, the laboratory analyses do not appear to be included in the exhibit. (WTG)
16. As required by NDAC 69-05.2-08-10, please submit the soil survey completed by Lawrence Haugen for 240 acres in Section 20, and 320 acres in Section 22. Please also submit the chemical and physical analyses reports for properties of suitable plant growth material identified by the soil survey. Please also ensure that the title sheet for Exhibit 2.4.2 accurately reflects the soil survey area completed by Lawrence Haugen. (DKM & WTG)
17. As required by NDAC 69-05.2-08-09, please depict the prime farmland mapping units in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 22 on Exhibit 2.4.7. Although it states on page 2.4.4 in Section 2.4 that the mapping units are shown on Exhibit 2.4.7, our review of the exhibit indicates that they are not shown. (WTG)

Section 2.6 – Pre-Mining Vegetation Inventory

18. Please include the 2007 and 2008 native grassland sampling data that was used to determine range condition, and label the sample sites on Exhibit 2.6.13. NDAC 69-05.2-08-08. (GAW)
19. Please include 2006 and 2007 native grassland reference area sample data for the silty, sandy, shallow and thin upland range sites. The sampling data should be organized so the range condition of the reference areas can be determined. NDAC 69-05.2-08-08. (GAW)
20. Please include a narrative discussing if the existing native grassland reference areas adequately represent the native grassland being added with this revision. NDAC 69-05.2-08-08. (GAW)
21. Please include wetland water quality data for the wetlands being added with this revision. A sentence on page 2.6.33 states that the information has been included in Exhibit 2.2.9; however, the wetland water quality information for the area being added to the permit is not in this exhibit. NDAC 69-05.2-08-08. (GAW)
22. Please include the woodland sampling data that was collected in the Revision 22 addition area. Also, please include cover data for herbaceous species associated with each woodland type. NDAC 69-05.2-08-08. (GAW)
23. The Pleasant Valley farmstead shelterbelt is not being recognized as a shelterbelt. Please provide ample justification as to why this old shelterbelt should not be considered a shelterbelt, or include information as required by NDAC 69-08-08 and our Guidelines Document. Also please explain why the Pleasant Valley farmstead area is not being identified as a separate land use. NDAC 69-05.2-08-08. (GAW)
24. Please update the narrative in Section 2.6, Pre-Mining Vegetation Inventory, to discuss the shelterbelts that are being permitted as required by NDAC 69-08-08(1)(6), (1)(b), (c)(6), (1)(d). The information in Exhibit 2.6.15 provides only part of the required information. NDAC 69-05.2-08-08. (GAW)

Section 2.7 – Land Use

25. Exhibit 2.7.2 which provides Land Use Preference Letters appears incomplete. The only preference statements provided and associated with Revision 22 are from Martha Gunsch for acreage in Sections 20 and 22 and the Keogh Trust for portions of the S $\frac{1}{2}$ of Section 15. Please provide land use preference statements from Terence and Tammy Schmidt for the NE $\frac{1}{4}$ of Section 22, from Donald Voigt for the NE $\frac{1}{4}$ of Section 19, and any others that should be included. If these people did not return land use preference statements, please note that in the narrative. (BEB & SAS)

Section 2.9 – Alluvial Valley Floor Inventory

26. Currently, all AVF narrative subsections (A through G) are missing from the revision application and all of the listed narrative information of Section 2.9 has been replaced by Exhibit 2.9.10 which depicts the mapped locations and direction of color infrared photograph sequences. Please incorporate the required alluvial valley floor inventory information into Section 2.9. (BEB)

Section 3.1 – General Mining Plan

27. Exhibit 3.1.3 indicates that Pond 100 will be constructed; however, no information can be found on this pond in Section 3.2. Please correct the discrepancy by either providing the necessary data for the pond or updating Exhibit 3.2 accordingly. (MDB)
28. The summary page indicates that Exhibit 3.1.8 which contains haulroad information was updated; however, information in the exhibit indicates Revision 21 information, including the permit boundary. Please update accordingly. (MDB)

Section 3.2 – Water Management Plan

29. Exhibit 3.2.1 depicts several SPGM piles located outside of the watersheds of the ponds. These stockpiles, specifically subsoil, need to have a topsoil berm placed around them or other BMP's that are appropriate for water management purposes. If berms are used, they will need to have capacity to contain a 10-year, 24-hour storm event. Please update accordingly. NDAC 69-05.2-16-04(1). (MDB)
30. Please provide a letter of certification for the pond designs per NDAC 69-05.2-09(1)(h). (MDB)

Section 3.5 – Backfilling and Grading

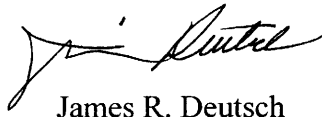
31. The Table of Contents indicates that the narrative in Subsection M of Section 3.5, Backfilling and Grading, provides information concerning the Silver Pit Laydown Area and associated special considerations. Item M was not included with the submittal. Please include this previously approved subsection. (BEB)
32. Exhibit 3.5.2(a) which represents topographic cross sections of the Red-Gold Pits does not display when opened. Please enable or repair the link. (BEB & MDB)
33. New Exhibits 3.5.4(a) and 3.5.4(b) which represent Pre and Post-Mining Slopes respectively do not display when opened. Please enable or repair these links. (BEB & MDB)

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In addition, please provide the Reclamation Division with updated information and a timeline for new ground water monitoring well installations associated with the additional acreage of Revision 22 as was previously discussed for areas in Sections 21 and 22, T143N, R88W. Please discuss the possibility of installing additional well clusters or at least a transfer of the proposed well cluster from the E½ of Section 22 to a new location in the NE¼ of Section 19 and/or the W½ of Section 20 for the B-Z and Spaer downgradient coverage of new areas associated with the proposed Silver Pit extension to the south with Revision 22 to Permit KRSB-8603.

As of today, December 23, 2008, 93 days of the Commissions 120 day review period remain. If you have any questions, please contact this office.

Sincerely,



James R. Deutsch
Director
Reclamation Division