

Dakota Westmoreland Corporation

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

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FROM DIRECTOR - RECLAMATION DIV.

Date: _____

February 20, 2009

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. 22
KRSB-8603

The following information is submitted in response to the completeness questions dated February 4, 2008. Individual comments are set forth below followed by Dakota Westmoreland's responses and a listing of revised information. Three CDs containing the revised information are enclosed.

Public Advertisement

1. The coal ownership for the S½ of Section 15 does not agree with the coal ownership listing in Section 1.4, which does not include either of the Robert A. Keogh trusts. In addition, the permit lists Priscilla Keogh, who is not listed on the public notice. (SAS)
 - The public advertisement has been corrected to match the *Permit Area Ownership Table* (which has been updated per question #5) under Section 1.4.B.1.
2. The permit lists only Martha Gunsch as surface owner of the NW¼NE¼ of Section 20; however, the public notice lists 4 surface owners. Please correct as necessary. (SAS)
 - The public advertisement has been corrected to match the *Permit Area Ownership Table* (which has been updated per question #5) under Section 1.4.B.1.

3. Please depict the roads in a different format than the permit boundary. When printed in black and white as the newspaper notice would be, it is difficult to distinguish between the road, the permit boundary, and the section line boundaries. (MDB)
 - The public advertisement has been updated so that the roads, permit boundary, and section line boundaries all have different line types.
4. Follow-up to original item No. 2. Please revise the public advertisement to clarify that the section lines and county road(s) (County Road 12?) located on section lines common to the NE¼ of Section 19 and SE¼ of Section 18, N½ of Section 20 and S½ of Section 17, E½ of Section 20 and W½ of Section 21, E½ of Section 21 and W½ of Section 22, N½ of Section 22 and S½ of Section 15, and NW¼ of Section 23 and SW¼ of Section 14 will be temporarily closed in order to conduct mining operations. The language as written only describes half of the county roads since it is specific to a tract's section line right-of-way. Also, NDAC 69-05.2-10-01(1) requires a listing of the duration of the road closure. The meaning of the phrase "temporarily closed" is an ambiguous statement and the expected duration of the road closure needs to be more descriptive. (GAW)
 - The public advertisement has been updated per your recommendations above.

Section 1.4 – Business Entity Information

5. The listing of surface and coal owners for the permit area (Section 1.4.B.1) needs to be updated to include the area being added to the permit. Currently, the surface and coal owners of the area being added to the permit are provided in Section 1.4.B.2 (Apparent Surface and Coal Owners of Record – Adjacent Area). (DKM)
 - The coal and surface owners for the area being added to the permit have been properly moved to Section 1.4.B.1 in place of Section 1.4.B.2.

Section 2.1 – Geological Inventory

6. Please incorporate the lithologic logs from monitoring well drillholes 2020 through 2029 into Exhibit 2.1.2 (Test Hole and Monitoring Well Lithologic Logs). Assuming geophysical logs are available for these same holes, please incorporate that data into Exhibit 2.1.1 (Geophysical Logs). NDAC 69-05.2-08-06(d). (BEB)
 - Lithologic logs for drillholes 2020 through 2029 have been added to Exhibit 2.1.2. No geophysical logs are available for these holes; thus, no changes have been made to Exhibit 2.1.1.

Section 2.9 – Alluvial Valley Floor Inventory

7. Follow-up to original item No. 26. The Introductory Information for the Alluvial Valley Floor Inventory report which is provided as page 2.9.1 is presented twice at the beginning

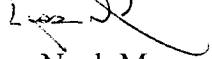
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of the AVF section. Please eliminate one of these pages from the report and replace with the PSC correspondence outlining the negative AVF determination as is shown in the Table of Contents. (BEB)

- The duplicate 2.9.1 page has been removed from the narrative. The negative AVF determination is mentioned in narrative 2.9 under Section G, #9 page 2.9.16. Exhibit 2.9.14 contains the PSC correspondence outlining the negative AVF determination for the Brush Creek Valley.

If you have any questions, please contact this office.

Sincerely,



Jesse Noel, Manager
Engineering and Environmental

Encl/3 cds