

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

September 25, 2009

FROM DIRECTOR - RECLAMATION DIV.

Date: _____

Action: _____

Info. Only: _____

Info & File: _____

Mr. James R. Deutsch
Director, Reclamation Division
ND Public Service Commission
600 East Boulevard
Bismarck ND 58505-0480

Dear Mr. Deutsch:

Re: Revision No. 22, KRSB-8603

The following information is submitted in response to the concerns brought forth in your letter of September 15, 2009. 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.

Section 1.1 – Application and Support Documents

1. Follow-up to July 10, 2009 deficiency No. 1. The links to the exhibits in the narratives in many sections (e.g. 1.6., 2.1, 2.4, 2.7, 3.7, and 3.8) do not work. Exhibits in these sections cannot be accessed even when the "allow" button is pressed. These links must be fixed so the linked exhibits can be viewed. DWC's response as stated in the June 3rd letter and reiterated in the August 17th response is insufficient, and incorrectly states the links work when the "allow" button is pressed. The hyperlinks in Sections 2.2, 2.3, 2.5, 2.6, 2.9, 2.10, 2.11, 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, and 3.9 do work when the security warning "allow" button is pressed. (GAW & WTG)
 - The links have been fixed. We still believe this is a software glitch with Adobe Acrobat 9. We have talked to technical support at Adobe and they do not know how to fix the problem. We have provided a Table of Contents in the form of a word document. All the links work in the word document without the security message pop-up. This may be cumbersome but it does work. The disadvantage of the word document is that you lose the ability to move forward and backward when checking exhibits. Please bear with us on this issue.

Section 1.4 – Business Entity Information

2. Please update the Preliminary County Road Relocation Plan Map in Exhibit 1.4.4 and Subsection H of Section 1.4 to reflect the most recent road closure and relocation plans. We understand that plans for the new county road segment for the section line between Sections 22

and 23 to the north, and Sections 26 and 27 to the south, have been withdrawn with the county's approval. (GAW & WTG)

- Exhibit 1.4.4 has been updated with the most recent County Road Relocation Map.

Section 2.2 – Surface Water Hydrology Inventory and Monitoring

3. Follow-up to July 10, 2009 deficiency No. 5. The information provided in the PHC narrative assumes the sediment ponds will remain in place (remain as permanent ponds); however, not all of these ponds will remain permanent, and the ones which will remain permanent may have an impact on downstream landowners, such as a shortage of water in stock dams. Please address the impacts to all watersheds (not just the area being added to the permit) in accordance with NDAC 69-05.2-08-04(4). (MDB)
 - Pond #96 will be the only pond that will remain as permanent. Pond #96 will control runoff from approximately 49 acres. The discharge, controlled or uncontrolled from Pond #96 would eventually enter Coyote Creek and then the Knife River. Coyote Creek is approximately 4300 feet from the principal spillway of Pond #96. Recent aerial photos show no impoundments or dugouts between Pond #96 and Coyote Creek. There are also no impoundments or dugouts between where the outflows from Pond #96 enter Coyote Creek to the Knife River (approximately 2 miles).

Section 2.3 – Groundwater Hydrology

4. Please revise the first sentence in the paragraph on page 19 that describes the permanent or temporary status of Ponds 81 and 86. The word "likewise" conveys the impression of similar status when it actually differs. Replacing "likewise" with "however" would alert the reader to the contrasting status between the ponds. (WTG)
 - The word "likewise" has been replaced with "however" as recommended.

Also, per telephone request from Bruce Beechie on 9/15/09, the permit reference error in the legend on Exhibit 2.3.1 has been corrected to reflect permit KRSB-8603.

Section 2.7 – Land Use

5. Follow-up to July 10, 2009 deficiencies No. 15 and 27. Please edit the third paragraph on page 4 of Section 2.7 and the third paragraph on page 6 of Section 3.7 to clearly state that the conservation shelterbelt will be planted at a distance away from the replacement planting such that each planting is clearly a separate and distinct shelterbelt. It appears the revised language was just another way to state that the outside row of the replacement planting will be a conservation planting. Exhibit 2.7.1 will need to be revised accordingly. (GAW)
 - Language has been added to Sections 2.7 and 3.7 to clarify that the conservation shelterbelt will be physically separated from the replacement shelterbelt. Exhibit 2.7.1 has been modified to display the separation.

Section 3.1 – General Mining Plan

6. As required by NDAC 69-05.2-09-02, please make the following additions or modifications to Exhibit 3.1.6 – Facilities Area Map:
 - a. Depict the locations of the recently installed substation for the BE 1570 dragline in Section 16 and the power line that feeds the substation. Please also depict the locations of all other substations located within the permit areas and add a substation symbol to the legend;
 - b. Add section, township and range, and county lines and numbers or names; and,
 - c. Move the text block for the “current fiber optic line” label to somewhere off the permit area so that it doesn’t obscure the permit boundary of land added with Revision 22.
(WTG)
 - Township, range and section lines have been added. The text block “current fiber optic line” has been moved outside of the proposed permit. The substations and power lines have been added to exhibit.

Section 3.2 – Water Management Plan

7. Ponds 95, 96, 97, and 98 have been changed to permanent status but the annual yield calculations for Ponds 96, 97, and 98 indicate that these ponds will have little or no water. Without adequate contributing watersheds to provide adequate water for these ponds, the ponds cannot be retained as permanent structures. Please address. (MDB)
 - Pond #96 will be retained as permanent. DWC feels there will be sufficient inflows to maintain a water source for livestock. Ponds 95, 97 and 98 will be removed from permanent status to temporary.
8. We understand that Sumps 99E and 99W are over-designed; however, there are no stipulations in the regulations allowing a pond or sump to be constructed without a spillway. If it can be shown that the natural drainage will act as a spillway and safely pass the 25-year, 6-hour event that will be acceptable; however, DWC must provide the necessary documentation and calculations. Please address. (MDB)
 - A cross-sectional area shows that the natural low point for Sumps 99E and 99W would handle the required storm event. Exhibit 3.2.38 and Table 3.2.38 were updated to show the emergency spillways added to Sumps 99E and 99W.
9. The narrative for Sumps 99E and 99W states that the incised volume (overburden) will be spread over 40 acres causing a rise of 2-3 feet in the Silver Pit area. It is not clear whether the spoil from each sump will cover 40 acres or if the total of all spoil will cover 40 acres. Please clarify this discussion and also the raise in topography must also be incorporated into the proposed post-mining topography. (MDB)

- We are looking at approximately 70,000 cubic yards to be removed from the two dugouts. The Silver pit will be 6,000 feet long when the dugouts are constructed. If we were to place this yardage in front of the dragline on the SPGM removal buffer (300 feet), the added fill would be 1 foot thick. We are presently building a pad for the 1570 dragline in the Silver pit area. This was not required for the 480 dragline. The volume of overburden in this area would go from 3.73 million cubic yards for two pits to 3.80 million cubic yards with the dugout yardage. This would amount to less than a 2% variance. This negligible amount of variance can also happen with improved coal recovery, or a change in our projected swell. It should also be noted that the volume removed from the dugouts is part of the original volume computations. These dugouts are part of the final Silver pit PMT.
10. The narrative for Sumps 99E and 99W in Section 3.2 still has at least one place in which the sumps are referred to as ponds or vice versa. Please correct the narrative to keep the wording consistent. (MDB)
- Sumps 99E and 99W are now referred to as sumps rather than ponds.
11. Follow-up to July 10, 2009 deficiency No. 21A. With the change in watershed size of Pond 95, it appears as though a portion of the area that is not controlled by the pond is planned to be mined through according to the Extended Mine Plan Map. Please address how this watershed will be controlled when the area is disturbed per NDAC 69-05.2-16-04(1)(a). MDB
- The drainage area of Pond 95 has been revised to incorporate expected disturbances. Diversion 95W has been added as well. The pond 95 drainage area increased from 51.4 acres to 61.9 acres.
12. Follow-up to July 10, 2009 deficiency No. 21C. In viewing Exhibit 3.2.1, the emergency spillway of Pond 100 was not shown therefore it was suggested that a diversion be placed on the south side of Pond 100. However, in reviewing the design of the pond the new diversion location is not acceptable as the pond will “short circuit” (flow in through the diversion and directly out the emergency spillway). Either the spillway will have to be redesigned or the diversion will have to be moved. Please address. (MDB)
- The emergency spillway was moved from the south side to the north side of pond 100 as recommended.

Section 3.5 – Backfilling and Grading

13. Please correct the error on the bottom of page 3.5.16 that states that Pond 86 is a permanent pond at the request of the landowner, when it is actually a temporary pond. (WTG)
- Pond 86 is no longer referred to as a permanent pond in narrative 3.5.
14. Follow-up to July 10, 2009 deficiency No. 24. Please revise the Post-Mining Topography Map, Exhibit 3.5.3, to show extended reaches of secondary drainages where natural drainages meet the mining disturbance boundary. The black lines in the image below show where the Reclamation Division believes that secondary drainages should be extended in the post-mine

topography so that the drainage complements the surrounding terrain as required by NDCC 38-14.1-24(3). (GAW)

- The secondary drainages have been devised in order to attain the gentlest topography consistent with adjacent un-mined landscape elements. At the same time other regulatory requirements such as maximum moisture retention and minimum soil losses, in addition to drainage that compliments the surrounding terrain, have been considered in drainage design (NDCC 38-14.1-24(3)). These regulations have been applied in light of postmining land uses to arrive at the secondary drainages shown on Exhibit 3.5.3. The magenta lines represent the flow lines where DWC added secondary drainages.
15. Follow up to July 10, 2009 deficiency No. 25. Please revise the Area Slope Maps, Pre-and Post-Mining Slopes, Exhibits 3.5.4a and 3.5.4b, to include the required information for all of the permit area that has been or will be affected by mining activities and make the map fit on the page so that it can be printed without an excessively large white border. NDAC 69-05.2-08-02(3)(b). The table of contents indicates there are Exhibits 3.5.4 (Sheets 1 and 2) but these exhibits are not included in the permit. Are these exhibits being replaced with Exhibits 3.5.4a and b? (GAW)
- The paper space has been shrunk to better fit the maps. Exhibits 3.5.4, sheets 1 & 2 have been replaced by Exhibit 3.5.4a and Exhibit 3.5.4b. Exhibits 3.5.4a and 3.5.4b have been updated to include the entire permit area affected by mining disturbance.

Section 3.8 – Time Schedule

16. DWC is requesting a variance from the contemporaneous reclamation requirements, Variance Area Zone 1, for the haul road through the Gold Pits Area (Pit 8); however, a variance is not needed for the haul road corridor since it is being used to support active mining. However, you may keep the variance request for this area in the permit since it includes a slightly larger area than the haul road. The justification for a variance for Variance Area Zone 3 is questionable. The variance is requested because material will be used from this area to widen the haul road and because a portion of the area will be temporarily used as a haul road when mining occurs immediately south of the existing haul road (Variance Area Zone 1). The justification for granting a variance for the balance of Variance Area Zone 3 is not sufficient as written. (GAW)
- Variance Area #3 was included with the initial submittal of this revision due to a final topography modification that was pending at that time. The (then) pending grade approval has since been re submitted and approved by your department; thus Variance Area #3 has been removed. Variance Zone #1 was moved from the haulroad to the dragline access road. This variance is required because the dragline will cut off all access to our pits when the dragline is moving to the gold pit. We will have to reroute truck traffic or the dragline to the Variance #1 area. This will involve using the graded trail that was used during the initial dragline move. This detour has slopes that can accommodate truck traffic or the dragline. The elevations of the detour do not correspond with the proposed final topography. Therefore we request a variance from the reclamation time line.

17. The Special Variance Zones narrative on page 3.8.6, subsection c., states that the final pit (8) will be used as a haul road and as a walkway for the 1570 dragline. We understand that this plan changed and the dragline was moved over rough graded spoil to the south. Please edit the narrative accordingly, if necessary. (GAW)

➤ The narrative in Section 3.8 has been updated accordingly.

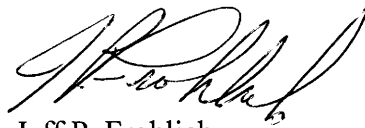
Section 3.9 – Reclamation Cost Estimate

18. The cost of reclaiming Diversion D100S must be included in the reclamation cost estimate used to set the bond amount. (MDB)

➤ Diversion 100S and 95W have been added to the reclamation cost in Narrative 3.9 and are shown on Exhibit 3.9.2.

If you have any questions, please contact this office.

Sincerely,



Jeff P. Frohlich
Manager,
Engineering and Environmental

plg
Encl

DAKOTA WESTMORELAND CORPORATION

Mine: Beulah Mine
Permit Number: KR5B-8603
Revision No.: 22 (Responses to Technical#3)
Submittal Date: September 25, 2009

Revision Narrative

Revision No. 22 adds 890.4 acres to permit KR5B-8603 for future mining in the Red and Silver pit locations. The following information is submitted in response to the technical questions dated September 15, 2009.

Listing of Revised Information

<u>Volume</u>	<u>Section</u>	<u>Revised Information and Instructions</u>
TOC	TOC	Updated to reflect all additions for Revision 22
	1.4	Updated County Road Relocation Map, Exhibit 1.4.4
	2.3	Narrative 2.3 updated
	2.7	Narrative 2.7 and Exhibit 2.7.1 updated
	3.1	Exhibit 3.1.6 updated
	3.2	Exhibit 3.2.1 updated Exhibit 3.2.31 and Table 3.2.31 updated Exhibit 3.2.35 and Table 3.2.35 updated Exhibit 3.2.38 and Table 3.2.38 updated
	3.5	Narrative 3.5 updated Exhibit 3.5.3 updated Exhibit 3.5.4a updated Exhibit 3.5.4b updated
	3.7	The narrative on shelterbelts has been modified
	3.8	Updated Narrative 3.8 Updated Exhibit 3.8.2
	3.9	Narrative 3.9 and Exhibit 3.9.2 have been updated