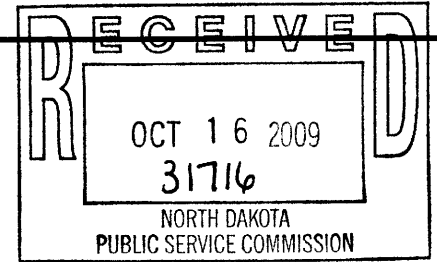


# Dakota Westmoreland Corporation

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



October 14, 2009

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 October 9, 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.

FROM DIRECTOR - RECLAMATION DIV.

Date: \_\_\_\_\_

Action: \_\_\_\_\_

Info. Only: \_\_\_\_\_

Info & File: \_\_\_\_\_

## Section 2.7 – Land Use

1. Follow-up to Item No. 5 of our letter dated September 15, 2009 and Items 15 and 17 of our July 10, 2009 letter: 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 a distance away from the replacement planting such that each planting is clearly a separate and distinct shelterbelt. It appears the revised language is 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. The proposed distance of the strip separating the replacement planting from the conservation planting, 10-20 feet, is a row distance commonly observed in multi-row shelterbelts. (GAW)
  - We have added language to both narratives to make clear the shelterbelts are distinct features. The distance separating the shelterbelts has been increased in Narrative 2.7, Narrative 3.7 and Exhibit 2.7.1.

## Section 3.2 – Water Management Plan

2. Follow-up to Item No. 7 of our letter dated September 15, 2009: The Reclamation Division does not feel that Pond #96 will provide an adequate amount of water for livestock. Annual yield calculations show only 0.08 acre-feet of runoff after evaporation which will be inadequate in terms of quantity. At this time the pond needs to be considered a temporary structure. If the pond proves to provide a stable source of water in the future, it can be revised to permanent status. Also, please update the corresponding reclamation cost estimate. (MDB)

- References to pond 96 as a permanent structure have been removed from the Section 2.7 narrative and the alternate land use table has been modified accordingly. They have also been removed from Narrative 3.2 and Narrative 2.3. The reclamation cost estimate has been updated to match the PSC's October 6, 2009 bond determination letter. The cells highlighted in cyan in Table 3.9.11 have been changed to match the PSC's amount as discussed with Mike Berg thru an email on October 9, 2009.
3. The narrative for Diversions 95W and 95N reference Exhibit 3.2.38; however, it appears the correct reference should be Exhibit 3.2.31. Please update accordingly. (MDB)
    - Narrative 3.2 has been updated to reference Exhibit 3.2.31 for Diversions 95W and 95N.

### **Section 3.5 – Backfilling and Grading**

4. Follow-up to Item No. 14 of our September 15, 2009 review and Item No. 24 of our July 10, 2009 review: Please revise the Post-Mining Topography Map, Exhibit 3.5.3, to depict the lower reaches of secondary drainages where natural drainages meet the mining disturbance boundary in the W½ of Section 20. The proposed post-mine topography of the lower reaches of these two secondary drainages is quite steep (12-15%) when compared to the pre-mine topography (6%). Due to the steepness of these proposed drainages, we have concerns with erosion and long-term stability. Please modify the post-mine topography in these areas such the slopes are longer and less steep. In a related matter, there are three adjacent 2000' contour lines at 2000 feet in the southern part of the NW¼ of Section 20 (only the middle contour line is labeled). This flat area is about 1800 feet long and up to 300 feet wide. Please revise to eliminate this flat area. By cutting the slope back as discussed above, much of this flat area could be eliminated. As presently proposed, the drainage pattern is indistinct in this area with the exception of the secondary drainage channels. Distinct watersheds should be created for each of these three adjacent secondary drainages to ensure the undisturbed portions of these drainages can handle the anticipated future flows from the area. (GAW)
  - Exhibit 3.5.3 has been updated to make the recommended changes. The pmt has been modified with the longer flatter slopes as requested. By reducing these grades, we eliminated the flat area as you requested. The magenta lines represents the flow lines where DWC added secondary drainages. Exhibit 3.5.4b, Slope Comparison Map, was updated to reflect the changes.

### **Section 3.8 – Time Schedule**

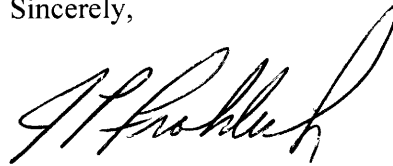
5. Follow-up to Item No. 16 of our September 15, 2009 review: DWC is proposing to delete information pertaining to previously approved variances in Section 3.8 while adding additional variance areas (and using previous variance area numbers) with this revision. This is unacceptable. Information regarding previously approved variances should be retained even if they are no longer valid as it provides a historical record. Please revise the narratives, tables and exhibits in Section 3.8 to add the new information while retaining the historical information. In addition, please modify the paragraph that begins on the bottom of page 3.8.3 that requests blanket approval of a variance from the 3-year seeding rule (NDAC 38-14.1-24). Variances to this rule must be applied to specific areas and each area must have proper justification for a variance and a specific time for completing reclamation. (GAW)

Mr. Jim Deutsch  
October 14, 2009  
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- The previous variances have been added to Section 3.8 along with the new variances as requested. The text has also been modified on page 3.8.3 regarding the blanket approval from the 3-year seeding rule.

If you have any questions, please contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Frohlich", written in a cursive style.

Jeff P. Frohlich  
Manager  
Engineering and Environmental

Pfg  
Encl: 3 CDs