



Public Service Commission

State of North Dakota

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INSPECTION REPORT

DATE OF INSPECTION: April 14, 2009

TYPE OF INSPECTION: Partial

PERMITTEE - MINE: Dakota Westmoreland - Beulah Mine

PERMITS INSPECTED: KRSB-8603, KRSB-8802

PERSONS ACCOMPANYING INSPECTORS: Jeff Frohlich

INSPECTION CONDITIONS: The inspection was conducted between 10:20 a.m. and 1:30 p.m., CDT. Skies were mostly sunny. The temperature was near 65° F. Access was limited due to muddy conditions.

OVERBURDEN/COAL REMOVAL

The 480 dragline was removing overburden near the west end of the Middle Silver Pit and the 1570 was sitting idle in the SW¹/₄ of Section 19, Charlie Pit. Coal was being hauled from the North Red Pit. A truck/shovel fleet was uncovering coal in the East Silver Pit and the material was being hauled to the north side of the Middle Silver Pit. Dozers were rough grading spoil at the east end of the Charlie Pit and north of the west end of the Charlie Pit.

SURFACE WATER MANAGEMENT

The ponds listed in the table below were looked at during this inspection and the approximate water elevation in relation to the permanent pool elevation (PPE) marker or spill elevation was noted. Wet and muddy conditions limited access to most of the ponds and not all of the sediment ponds were inspected.

Pond 1 was being discharged at the time of this inspection and the water in the pond looked stained. Thus, a sample of the water was taken at the discharge point at the end of the inspection, but it was not tested as it did not appear to be carrying a silt load (settleable solids). The test result of a sample of the discharge of Pond 1 that was taken on April 2nd was reviewed and the Total Suspended Solids were reported as a value of 12. This pond has been discharging since April 2nd and it was not clear when the last sample had been taken. Apparently there are several days of lag time between when a sample is taken and when the results are available.

Pond	Comments
Pond 1	1.5 feet below top of the riser
Pond 10	3 feet below PPE
Pond 17	Pumping to Pond 30; water level about 3 feet below culvert to Pond 10
Pond 30	1.5 feet below spill elevation
Pond 92	At spill elevation; discharge appeared clear/clean
Pond 93A	A couple of feet above PPE; discharging to Pond 93
Pond 93	10 feet below spill elevation; PPE marker not seen
Pond 90	2 feet below PPE
Pond 86	Appeared to be full when viewed from distance
Pond 55	Appeared to be full when viewed from distance
Pond 56	Appeared to be full when viewed from distance
Pond 52	1 foot below spill elevation
Pond 70	At spill elevation; trickle discharge appeared clear

An erosion gully was noted along the south side of the haulroad located immediately east of West Brush Creek. This feature is located on a steeper portion of the slope below a rock check dam. The gully is about 1-2 feet wide and 1.5 feet deep and runs a length of about 30 feet. The runoff from this site (haulroad and ditch) goes directly into West Brush Creek. Mr. Frohlich indicated that there was a sump above the rock check dam, but the sump had filled with silt and runoff passed around the north side of the rock check dam. This area drains a portion of the haulroad to the east and a small portion of an area stripped of SPGM for the dragline trail. The south side of this haulroad was widened last fall to accommodate the dragline. There was no evidence that the disturbed area had been mulched and the single rock check dam and sump were the only BMP's noticed. The slope below the rock check dam should have been stabilized with erosion control fabric or other BMP's. This issue will be further evaluated to determine if a violation is warranted. Photographs of the area were taken and are on file. A few are shown below.



The re-created drainageway in the N½ of the SE¼ of Section 16, Permit KRSB-8603, was inspected. Significant erosion has occurred in portions of this reconstructed drainageway. Portions of this drainageway were respread with subsoil and topsoil last year and installed BMP's include two large rock check dams, erosion control fabric and a late summer/fall seeding. However, a portion of the

drainageway was not stabilized with erosion control fabric and this is where most of the soil erosion occurred. Gully erosion runs the length of the drainageway between the two rock check dams and the largest features are up to approximately 4 feet deep and 6 feet wide. Runoff was funneled through the rock check dams and it appears the largest gullies occurred where flows were concentrated from gaps in the rock check dam. The portion of the drainageway below the second rock check dam has not been respread with soil so the large gully created at this location is not an issue. Sedimentation Pond 86 is located just downstream of this drainage in the NE¹/₄ of Section 16 and it collected the runoff and the eroded materials. The Reclamation Division is evaluating whether all necessary BMP's were installed or installed properly and whether an NOV should be issued because of the erosion in the drainageway. Photographs of the area were taken and are on file.

Drainageway in N ¹ / ₂ of SE ¹ / ₄ of Section 16	Rock check dam in drainageway
 <p>2009-04-14</p>	 <p>2009-04-14</p>
Topsoil and subsoil erosion between rock check dams, notice border where fabric placed	Recreated drainageway upstream of the rock check dams, erosion blanket fabric protected from erosion
 <p>2009-04-14</p>	 <p>2009-04-14</p>

The drainage channel in the SW¹/₄ of Section 13, where runoff from the Orange Pit spoil flows to sedimentation Pond 52, was inspected. Reclaimed land lies on both sides of the drainage channel on a portion of this area and it appeared that runoff from the Orange Pit spoils has passed over reclaimed land in this area. There appeared to be a layer of gray colored deposition on the reclaimed lands located immediately north of the channel. The deposition appeared to extend a distance about 200 feet north of the drainage on reclaimed land. The ground was too soft and muddy to allow one to

walk to the area where it appeared sediment deposition had occurred. Water was flowing through the drainageway as intended and it was passing through a silt fence in the drainageway. It appears that the silt fence, when functioning properly might have backed water onto the adjacent reclaimed lands or perhaps the snowmelt runoff from the Orange Pit spoils was greater than the drainageway could handle. This area will need to be more closely inspected when conditions dry out and allow access to the area to determine if appropriate BMP'S are in place at the interface between the graded spoil and reclaimed areas. Photographs of this site are on file and a few are shown below.

Drainageway in SW¼ of Section 13, Permit KRSB-8802. Sediment deposition on reclaimed lands.



ROADS

Scrapers were hauling spoil to build up the haulroad where it crosses through the Gold Pit. Apparently water had ponded in this area during spring runoff.

BACKFILLING AND GRADING

A grade approval request area located north of the Middle Silver Pit, S½ of Section 17, Permit KRSB-8603, was inspected. This is a 23.2 acre area that borders lands that were not mined on the north, east and portions of the west sides. No concerns were identified in the field to not approve this grade approval request. The contours of the area appeared to match that as shown on the topography map that was attached to the March 9, 2009 request. Wet areas existed within the grade approval request area where minor shaping might be needed to ensure positive drainage.

WILDLIFE

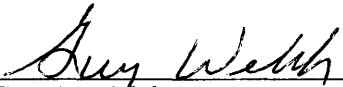
Canada geese and mallards were observed utilizing Pond 1 and Great Blue Herons were seen in trees on Pond 30. A few pheasants were seen during the inspection.

GENERAL

Some water was noted ponding on reclaimed lands adjacent the reclaimed county road in Sections 8, 17 and 18 of Permit KRSB-8802. These features will need to be monitored to ensure they do not create a situation incompatible with the intended post-mine land use.

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A track log of the route traveled during the inspection is on file with the Reclamation Division. A map showing the location of the water management issues discussed above is attached.



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