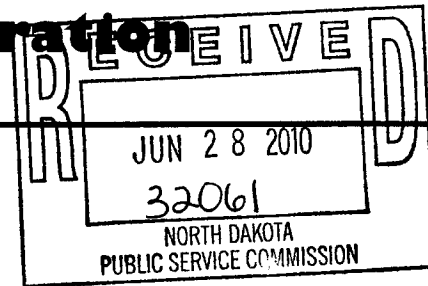


Dakota Westmoreland Corporation



Beulah Mine – P.O. Box 39, Beulah, North Dakota 58523-0039
Phone: (701) 873-4383 • Fax: (701) 873-7784

Date 6.29.10

File SB-623-10-submittal-1tr (32061)

FROM DIRECTOR - RECLAMATION DIV.

Date: 6-29-10

June 23, 2010

Action: Copy

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: Renewal No. 4 and Revision No. 26
Permit KRSB-8802

Enclosed are an Application For Renewal Of Permit and an Application For Revision Of Permit To Engage In Surface Coal Mining And Reclamation Operations, a revision summary, public notice and accompanying map. Four complete sets of the revised materials are enclosed.

The following are narrative responses to the Commission's pre-renewal letter of April 22, 2010.

Section 1.2 - General Information

1. Please update page 1.2.4 Section C, Permit Application Responsibilities. (MDB)

- Permit Application Responsibilities have been updated as requested.

Section 1.4 - Business Entity Information

2. Please update the general business entity information on page 1.4.1. (SAS&MDB)

- This has been updated with recent revision submittals. The highlighting and changes have been left in place.

3. Please update the ownership and control information on pages 1.4.2 through 1.4.13 as required by NDAC 69-05.2-06-01. (SAS)

- This has been updated with the latest information, dated May 2010.

4. If necessary, please update the surface coal mining operation permit application listings (pending revisions do not have to be listed) on page 1.4.14. [NDAC 69-05.2-06-02(1)] (SAS)
 - This information has been updated requested.
5. If necessary, please update the surface and subsurface ownership listings within the permit area and contiguous ownerships on pages 1.4.19 through 1.4.24 as required by NDAC 69-05.2-06-01 and NDCC 38-14.1-14. Any changes should also be reflected on Exhibit 1.4.1 - Surface and Mineral Ownership Map. (SAS)
 - There have been very few ownership changes. Those changes have been made in the narrative and exhibit 1.4.1.
6. If necessary, please update the addresses of the surface owners of record on pages 1.4.25 and 1.4.26 because those addresses are used to contact the owners. (SAS)
 - Several changes have been made to the list of addresses. Those changes are highlighted.
7. Please update the listing of other permits held by DWC on page 1.4.36 as required by NDAC 69-05.2-06-04, especially the last approval date, because many of the permits are issued for only a specified term. (SAS)
 - The list of other permits and approval dates have been updated as requested.
8. The lease listed as KR-074B in Exhibit 1.4.2 does not list the correct areas leased for Section 14. According to the lease on page 120, the NE $\frac{1}{4}$ NW $\frac{1}{4}$ and the NE $\frac{1}{4}$ are covered by this lease. Please correct as necessary including Exhibit 1.4.1. (SAS)
 - The listing on the Exhibit 1.4.2 cover page has been corrected. Exhibit 1.4.1 is correct.
9. Many of the leases within this permit are automatically renewed so long as coal is being produced. Since many of these same coal leases also provide right of entry, a quick review of all the leases within the permit was completed. Please provide documentation that all the following leases (which may not be all inclusive pertaining to this deficiency) are still valid for surface rights or provide the necessary surface leases: KR-049B, KR-066B, KR-068B, KR-184B, KR-172B, KR-181B, KR-173B, KR-182B, KR-168B, KR-169B, KR-056B, KR-247B, and KR-055B. In addition, lease 144461 (page 269) indicates that it is valid through December 31, 2010 for the permitted part and lease KR-192B is valid until November 13, 2010. Please update as necessary. [NDCC 38-14.1-14(1) (k)] (SAS)
 - A statement has been added to page 1.4.32 to affirm that all leases have been maintained and are in full force and effect.

Section 1.5 - Compliance Information

10. Please update this section as required by NDAC 69-05.2-06-02(3). Several of the listed violations are more than 3-years old and therefore may be removed. (SAS&MDB)
 - This information is currently being updated company-wide and will be supplied in the next few days under separate cover.

Section 3.1 - General Mining Plan

11. Please update Part A, Past, Present and Future Production, on page 3.1.1 to show tonnage mined in 2008, 2009, 2010 and for the next permit term. (MDB)
 - Part A, on page 3.1.1, has been updated as requested.
12. Please update Part B, Past and Proposed Land Area Disturbance, on page 3.1.2 to current values that will be disturbed during the next permit term. (MDB)
 - Part B, on page 3.1.2, has been updated as requested.
13. Please update page 3.1.6 of Part 7, Major Equipment, if necessary. (MDB)
 - The list of major equipment was updated for revision No. 25.
14. Please update Part D.2, Dragline Walkway, on pages 3.1.10-11 to describe the dragline and shovel move as completed, rather than planned. As part of the update, please describe when the move occurred, when the walkway was reclaimed (rather than the plan to leave it in place), and the topsoil stockpile(s) built to store topsoil for the move. (MDB&WTG)
 - Part D.2 has been updated as requested.
15. Please update Exhibit 3.1.1, Extended Mine Plan and 5-year Subareas, to show the following for Permits KR5B-8802 and KR5B-8603: (1) current permit boundaries; (2) any coal removal sub-areas planned to be mined during the next permit term; (3) areas where mining is completed; and, (4) bond released areas. It was noted that Exhibit 3.1.2, Pit Sequence and History of Mining, depicts the wetland in the SE¼ of Section 19 as being mined through, but Exhibit 3.1.1 indicates the wetland will be mined around. Please make the necessary corrections. (WTG&MDB)
 - Exhibit 3.1.1 has been updated as requested. Exhibit 3.1.2 was updated also.
16. Please update Exhibit 3.1.3, Topographic Map & Haul Roads, to reflect the most recent topography, haul road reclamation, and existing or proposed pit ramps. (MDB&WTG)
 - Exhibit 3.1.3 has been updated using the 2009 topo.
17. If other changes are made, please update Exhibit 3.1.6, Facilities Area Map, to show section, township, and county boundaries and labels on the most recent mine aerial photograph. (WTG)
 - Exhibit 3.1.6 was updated using the 2009 photo.

Section 3.3 - Blasting Plan

18. Please update pages 3.3.7 and 3.3.8 listing the government agencies and land owners who receive the blasting notice. (MDB)
 - The blasting notice information has been updated as requested.

Section 3.4 - Suitable Plant Growth Material Handling Plan

19. Please update Table 3.4.3, SPGM Salvage and Respread Depths, to accurately show the current volumes and conditions. (MDB)
- Table 3.4.3 has been updated to conditions at the beginning of the year.
20. Please update Exhibit 3.4.1, Suitable Plant Growth Material Redistribution Depths, to accurately show the current conditions (the “respreading completed” boundary should be updated if necessary). (MDB)
- Exhibit 3.4.1 was updated with revision No. 25 to show current conditions.
21. Please update Exhibit 3.4.3, Materials Storage, to reflect the following SPGM stockpile activity in 2009: (1) the topsoil stockpile(s) in the N½ of Section 14 were respread on the dragline and shovel walkway; (2) Stockpiles 3-12-1 and 3-13-2 were built in the E½ of Section 24; and, (3) Stockpile 8-11-1 in the SW¼ of Section 7 was redefined and added back into the SPGM inventory. (WTG&MDB)
- The stockpile activities addressed in your comment are reflected in revised Exhibit 3.4.3.

Section 3.6 - Revegetation Plan

22. The last sentence in Subsection B on page 3.6.7 indicates that the unadjusted technical standards are presented in Exhibit 3.6.5. This should actually refer to the unadjusted productivity standards. Please rephrase this sentence and the title page for Exhibit 3.6.5 accordingly. (SAS)
- Two references to the unadjusted standards on page 3.6.9 have been modified, as has identical verbiage in the Exhibit 3.6.5 tables and title page.
23. Please update the Evaluation of Revegetation Success Section to discuss which range sites will be represented by reference areas by reclaimed native grassland surface ownership, and a narrative demonstrating that the reference areas adequately characterize the range sites they propose to represent as required by NDAC 69-05.2-08-08 (2) and the Revegetation Success Standards Guidelines document. This should include recent year’s species composition by weight with an assessment of range condition and ground cover data with relative species composition, and a comparison of reference area actual production with NRCS estimated soil series yield of the reference areas. There should also be a discussion about how the reference area(s) and the reclaimed native grassland are being managed equivalent-in-effect during the 10-year responsibility period. (GAW)
- The narrative has been appended with a discussion of the representational suitability of the Sandy native grassland reference area. Information on production, cover, and range condition has also been added. New Exhibit 2.6.16 provides the historical perspective on total production and cover data. A section on management of reclaimed native grassland, including the relationship with reference area management, has been added to the Section 3.6 narrative.

Mr. James R. Deutsch
June 23, 2010
Page 5 of 5

24. Please update Exhibit 3.6.2, Native 3Grassland Reference Area - Sandy Range Site, to include the soil mapping unit and an aerial photograph background to clearly distinguish the location of the reference area as required by NDAC 69-05.2-08-08(2)(b). (GAW)
- An aerial photo background and map unit boundary have been added to Exhibit 3.6.2.
25. It appears that the Flaxton-Williams mapping unit acres were added into the total acreage twice for DWC hayland in Exhibit 3.6.5. Please correct. (SAS)
- The hayland table entry in Exhibit 3.6.5 has been corrected. Thanks for notifying us about this.

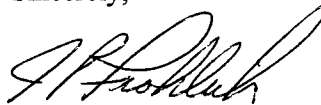
Of note, we have carried the revision No. 25 changes in the Section 3.6 narrative into this revision to help maintain the continuity of changes regardless of the revision approval sequence.

Section 3.7 - Time Schedules

26. Please update Table 3.7.2, Estimated Pit Stripping Table, to reflect current conditions. (SAS)
- The Estimated Pit Stripping Table has been updated as requested.

If you have any questions, please contact this office.

Sincerely,



Jeff P. Frohlich
Manager,
Engineering and Environmental

plg

Enclosures



**APPLICATION FOR REVISION OF PERMIT TO ENGAGE IN
SURFACE COAL MINING AND RECLAMATION OPERATIONS**
PUBLIC SERVICE COMMISSION
RECLAMATION DIVISION
SFN 10562 (Rev. 12-99)

6.29.10
File Rev 16-application (3206)

Date June 23, 2010
Revision Number 26
State ND
Zip Code 58523

Name of Company, Corporation, Partnership, or Individual Dakota Westmoreland Corporation	Permit Number KRSB-8802
Address PO Box 39	City Beulah

The above named hereby makes application for the above Revision Number to: (include a brief description of the surface coal mining and reclamation operation being revised.)

Update the permit to address several administrative changes required as a result of the Public Service Commission's pre-renewal review of this permit.

Attached to this Permit Revision Application are a narrative describing the proposed permit revision, reasons for requesting the revision, and appropriate maps, cross-sections, graphs, construction details, revised reclamation plans and other data which demonstrate compliance with Chapter 38-14.1 of the North Dakota Century Code, Article 69-05.2 of the North Dakota Administrative Code, and the permit conditions of the approved permit. If an incidental boundary revision involving an acreage adjustment is being requested as part of the permit revision application, the following information shall be included (attach a copy of a metes and bounds description):

NAME OF MINE	ACRES	LOCATION			
		SEC.	TWP.	RANGE	COUNTY
ADDRESS					
TOTAL ACRES	NA				

Based upon the proposed changes and any incidental boundary revisions to the permit as stated herein, a new or adjusted bond, or its equivalent, duly executed in accordance with Section 38-14.1-16 of the North Dakota Century Code and Chapter 69-05.2-12 of the North Dakota Administrative Code will be delivered to the Public Service Commission prior to issuance of the surface coal mining and reclamation operations permit herein requested. A check for filing fees, pursuant to Section 38-14.1-13 of the North Dakota Century Code, in the amount of \$ NA, is included with the revision application.

Name of Official Authorized to Represent the Applicant William W. Weaver, President
--

- I, the above named, certify that:
- All information and documents required by Sections 38-14.1-13, 38-14.1-14, and 38-14.1-15 of the North Dakota Century Code and Article 69-05.2 of the North Dakota Administrative Code, are submitted as part of this permit application;
 - Information and documentation contained in the permit application affirmatively demonstrate that:
 - The permit revision application is accurate and complete and all the requirements of Chapter 38-14.1 of the North Dakota Century Code and Article 69-05.2 of the North Dakota Administrative Code have been complied with;
 - Reclamation as required by Chapter 38-14.1 of the North Dakota Century Code and Article 69-05.2 of the North Dakota Administrative Code can be accomplished under the reclamation plan contained in this permit revision application;

- c. An assessment of the probable cumulative impact of all anticipated mining in the general area on the hydrologic balance as specified in subdivision o of subsection 1 of Section 38-14.1-14 has been made and the proposed operation has been designed to prevent material damage to the hydrologic balance both on and off the mine site;
 - d. The area proposed to be affected is not included within an area designated unsuitable for all or certain types of surface coal mining and is not within an area under study for such designation in an administrative proceeding;
 - e. The proposed surface coal mining operation will not interrupt, discontinue or preclude farming on alluvial valley floors that are irrigated or naturally subirrigated and will not materially damage the quantity or quality of water in surface or underground water systems that supply these alluvial valley floors; and
 - f. The permit revision applicant has the legal right to surface mine the land for which this permit revision application is made and all of the requirements of Chapter 38-18 of the North Dakota Century Code have been complied with.
3. The area proposed to be affected is not included within an area where mining is prohibited pursuant to Section 38-14.1-07 of the North Dakota Century Code; unless specifically allowed in accordance with the provisions of Section 69-05.2-04-01 of the North Dakota Administrative Code; and
4. The surface coal mining and reclamation operations contained in this permit revision application will be carried out at all times in a manner which ensures that all of the requirements of Chapter 38-14.1 of the North Dakota Century Code, Article 69-05.2 of the North Dakota Administrative Code, and any permit conditions attached thereto are complied with.

William W. Weaver
Signature of Official

President
Title

VERIFICATION

I, William W. Weaver, being first and duly sworn, verify that the information contained in this Permit Revision Application is true and correct to the best of my knowledge and belief.

William W. Weaver
Signature of Official

President
Title

Subscribed and sworn to before me this 23 day of June, 20 10. My commission expires: 10-30-2013.

Linda Flemmer
Notary Public

