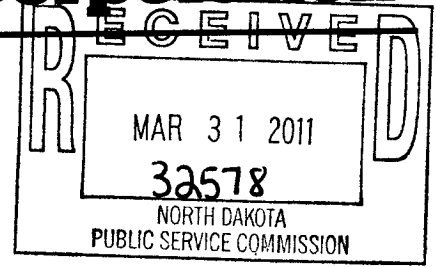


Dakota Westmoreland Corporation

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



March 30, 2011

FROM DIRECTOR - RECLAMATION DIV.

Date: _____

Action: _____

Info. Only: _____

Info & File: _____

Mr. James R. Deutsch
Director, Reclamation Division
ND Public Service Commission
600 E Boulevard Ave, Dept 408
Bismarck ND 58505-0480

Dear Mr. Deutsch:

Enclosed are an Application For Renewal Of Permit and an Application For Revision Of Permit, a revision summary, public notice and accompanying map. Three CD copies of the permit are enclosed. The following are narrative responses to the Commission's pre-renewal review letter of February 4, 2011.

Electronic Permit Formatting

1. We suggest that the electronic permit HTML file could be renamed to something more informative or descriptive, such as "KRSB-8603 Electronic Permit". As currently named (Table of Contents), it may not be clear to the general public how to access the electronic permit. (WTG)
 - The table of contents has been renamed to "KRSB-8603 Electronic Permit". DWC is going to eliminate the .html table of contents and only use the *Microsoft Word* table of contents. Due to factors beyond DWC's control, software updates to Internet Explorer and Adobe no longer allow the links to work in this format. The links to exhibits continue to work.

Table of Contents

2. Please update the page footer on the Table of Contents Word document for the next permit revision (currently reads Revision 22). (WTG)
 - The footer on the table of contents has been updated.
3. Please review and correct as necessary the following items in the Table of Contents: (1) it appears that Subsection I. Application History should be added to Section 1.1; (2) it appears that Subsection F. Shelterbelts should be inserted in Section 2.6 and the existing subsections that follow should be subsequently renamed; and, (3) it appears that the listings for Area Slope Maps Sheet 1 of 2 and 2 of 2 for exhibits in Section 3.5 may be explanatory notes that could be removed because the hyperlinks to the maps that follow are descriptive and functional. (WTG)
 - The table of contents has been updated as recommended.



Section 1.4 - Business Entity Information

4. Please correct the previous revision updates shown by color or strikethrough on pages 1.4.3, 1.4.6, 1.4.9, and 1.4.27. (MDB)
 - The business entity section has been updated as requested.
5. Please update Subsection A - Identification of Interests, specifically the ownership and control information, as necessary. (WTG and MDB)
 - The ownership and control information has been updated as has been filed with OSM.
6. Please update Subsection B - Property Interests (surface and coal ownership) as necessary, and also update Exhibit 1.4.1 - Surface and Coal Ownership Map to reflect any changes. (WTG)
 - No new changes have occurred for this section that we are aware of.
7. Please update Subsection C - Right of Entry and Operation Information as necessary, and update Exhibit 1.4.2 - Copies of Certified Leases and Agreements to reflect any changes. (WTG)
 - The readjustment for the BLM lease that was previously listed as pending has been received and has been added to Exhibit 1.4.2.
8. We noted that Dakota Westmoreland has not been including the proposed newspaper advertisement for significant revisions in the electronic versions of Permit KRSB-8603. Instead, paper copies have been submitted when the applications are filed. NDCC 38-14.1-14(1)(i) requires that a copy of the newspaper advertisement be part of a permit application. We are therefore requesting that Dakota Westmoreland include these newspaper advertisements in Subsection I - Permit Application Advertisement of the electronic permit. The electronic versions of permits need to be complete and include copies of all required documents. In addition to the newspaper advertisement for the fifth renewal and associated revision application, please also add the newspaper advertisements for previous significant revisions No. 19 and No. 22 to this subsection. (JRD)
 - The public notices for revisions No. 19 and 22 have been added to Section 1.4.

Section 1.5 - Compliance Information

9. As required by NDAC 69-05.2-06-02-3, please update the compliance information in this section to add any notices of violation or other enforcement action which may have been incurred by DWC or other companies owned or controlled by Westmoreland Coal Company during the three year period prior to the renewal revision application. Please also update information in this section to remove any notices of violation which may have been incurred more than three years prior to the renewal revision application. (MDB)
 - The compliance information section has been updated as requested.

Section 1.6 - Relationship of Permit Area to Areas Designated Unsuitable for Mining

10. It does not appear that the hyperlinks to exhibits in Section 1.6 function properly. Please investigate the apparent problem and correct as necessary. (WTG)
 - The links have been fixed in Section 1.6.

Section 2.3 - Groundwater Hydrology

11. Please depict on the Water Supply Locations Map of Exhibit 2.3.7, the location of the Don Schwalbe water supply replacement well that was constructed in the NW¼ of Section 17. Also, any other production wells that were installed or replaced by DWC due to loss of water resources by mining operations should be depicted on the map. Please provide a unique symbol on the map and legend representing the replacement well(s). (BEB)
 - The location of the well for Don Schwalbe has been added to Exhibit 2.3.7.

Section 2.7 - Land Use

12. Please include a table in Section 2.7 that lists the pre and postmining acreage of each land use by surface ownership within each section of land. NDAC 69-05.2-08-08. (GAW)
 - We have examined Section 69-05.2-08-08 of the administrative code and find that the permit application must contain mapping depicting the mapping units within each premining land use unit. Also required is the acreage of each mapping unit for each surface owner. We have provided this information, including the tabulated mapping unit acreages in Exhibit 2.6.11, which readily allows calculation of premining land use acreage by surface owner. However, we do not find in this section or elsewhere in the administrative code a requirement for the pre and postmining acreage of each land use for each surface owner within each section of land. Supplying this information at the requested level of detail, updating, and insuring conformity with other permit sections can entail much work and consequently, we respectfully decline the request.

Section 2.9 - Alluvial Valley Floors Inventory

13. Please update the Alluvial Valley Floor Inventory of Section 2.9 to include the 2009 Coyote Creek Alluvial Valley Floor Study associated with Revision No. 22 to Permit KRSB-8603. Although it would be appreciated, the entire report does not need to be incorporated into the permit. However, a description of the AVF study area location, general summary of the report, and a copy of the Reclamation Division's October 26, 2009, determination need to be placed in the permit. (BEB)
 - A summary of the findings of the AVF Inventory has been provided as Exhibit 2.9.15. A copy of the Reclamation Division's determination has been included in the exhibit.

Section 3.1 - General Mining Plan

14. As required by NDAC 69-05.2-09-01(1), please update Subsection A - Past, Present, and Future Production of coal removal for the next permit term. (MDB)
 - Subsection A has been updated.
15. As required by NDAC 69-05.2-09-01(1), please update the list of Major Equipment in Subsection C - Mining Methods, and update the existing equipment list on page 3.5.2 of Section 3.5, Backfilling and Grading, if necessary. (MDB)
 - Subsection C has been updated.
16. As required by NDAC 69-05.2-07-03, please update Exhibit 3.1.1 Extended Mine Plan and 5 Year Subareas. The changes should include, but not be limited to, showing all mining that has been completed through 2010; changes to the mining plan in the NE¼ of Section 19; changes to the permit boundary for Permit KRSB-8802 for the area added with Revision 24; and, any areas that DWC plans to permit in the future, including any areas east of Highway 49. It appears that a portion of this information is included on Exhibit 3.1.2. (MDB)
 - Exhibit 3.1.1 has been updated. No changes in mining are proposed in the NE¼ of Section 19. Per conversation between Mike Berg and Jeff Frohlich on 2/14/11, Exhibit 3.1.1 will depict mine-wide plans and Exhibit 3.1.2 will depict only the KRSB-8603 area.
17. Please update Exhibit 3.1.2, Pit Sequence and History of Mining, to reflect the current and projected mining schedule including the next 5-year coal removal area. The pit sequence should only include mining within the approved boundary of Permit KRSB-8603 and include the mining sequence change in the NE¼ of Section 19. Also, please include the printable size on the legend at the 1 inch equals 400 feet scale shown, or add a scale bar. (MDB)
 - Exhibit 3.1.2 has been updated. Also, please see the responses to deficiencies nos. 16, 18 and 20. No changes in mining are proposed in the NE¼ of Section 19. A scale bar has been added to this exhibit.
18. As noted in our September 24, 2010, second technical deficiency letter for Revision 23 to Permit KRSB-8603, mined areas are blocked out on Exhibit 3.1.2 but the pit sequence is not shown for these areas on the map. The individual pits should be identified by year of mining for a historical record. (MDB)
 - Exhibit 3.1.2 has been updated to show pit sequences blocked out by year of mining.
19. The purpose of Exhibit 3.1.3, Topographic Map, is not clear for the following reasons: it is not referenced in the Section 3.1 narrative; the topography depicted is a combination of premine, current mining, and post mine as of a certain date; and, it includes some water management features as well as spoil placement areas. NDAC 69-05.2-08-02-3(a) requires the submittal of a premine topographic map, but it does not appear that a premine topographic map for the entire permit area is included in the permit. We therefore request that a premine topographic map for the entire permit area be inserted in Section 3.5, Backfilling and Grading. The exhibit could be named 3.5.3(a) and the existing post mining topography map could be renamed to 3.5.3(b) similar to the naming convention used for the area slope maps. (WTG)

- Exhibit 3.1.3 has been renamed to Pre-Mine Topographic Map. We have replaced the 2005 topo with a topo from 1992, flown by Horizons, Inc. This topo is the oldest “digital” topo available. A sentence has been added to page 3.1.3 regarding Exhibit 3.1.3.
20. As a follow-up to the above item, we request that a new Exhibit 3.1.2, Pit Layout and Facilities Map, be developed to replace the existing Exhibit 3.1.2, Pit Sequence and History of Mining. Subsection NDAC 69-05.2 -08-02(1) and Section NDAC 69-05.2-09-02 describe general map and operation plan requirements. DWC has addressed some of these requirements for operations with Exhibits 3.1.2 and 3.1.6. The features specified in Subsections 3, 4, 5, 6 and 7 of NDAC 69-05.2-09-02 need to be clearly and concisely illustrated on one map, rather than retrieving several maps to gather this information. Exhibit 3.1.6 should remain in the permit, but the features within the permit area depicted on this exhibit should also be depicted on the new Pit Layout and Facilities Map. Although the map design is a matter of your discretion, we can provide you with examples of Pit Layout and Facilities Maps developed by other operators to use as a guide. (WTG and MDB)
- Exhibit 3.1.2 has been updated as recommended. The map title has been changed to Exhibit 3.1.2, Pit Layout and Facilities Map as requested. Exhibit 3.1.6 was also updated.
21. The statement is made under Subsection D - Mining Support Facilities on page 3.1.7 that “*There is no solid waste disposal within the mining area*”. If DWC does not spoil any type of solid waste materials in mined-out pits, no revision of the statement is necessary. However; if any noncoal waste is currently being disposed of, or there are plans for disposal of noncoal waste within the mining area, the requirements of NDAC 69-05.2-19-04 will need to be addressed. Please revise this section only if necessary. (BEB)
- No changes are necessary to this statement as DWC does not spoil any type of solid waste.

Section 3.2 - Water Management Plan

22. It appears that the hyperlinks in the narrative of Section 3.2 do not function properly. Please investigate the apparent problem and correct as necessary. (WTG)
- The links have been fixed.
23. Exhibit 3.2.1, Water Management Plan, should be based on the premine topography. Currently this map is a mixture of pre and post mining topography. Please make the necessary corrections. (MDB & WTG)
- Exhibit 3.2.1 was updated with the 2005 topography, as discussed between Mike Berg and Jeff Frohlich.

Section 3.5 - Backfilling and Grading

24. With the submission of Grade Approval Silver 03-2010, contours in the Silver Pit have varied from the approved post mining topography. The Reclamation Division understands that this variance is due to power line monuments that were mined around. However, the post mining topography needs to be updated to reflect this change. Please update Exhibit 3.5.3, Post Mining Topography, and associated maps to reflect this change. (MDB)

- Exhibits 3.5.3, 3.5.4a, and 3.5.4b were updated to reflect the changes in the post mining topography.
25. The table on page 3.5.11 compares the premining slopes to the post mining slopes in the Silver Pit area. A 52.7-acre discrepancy exists between the two mining phases. Please review and correct this discrepancy or add a footnote to explain the differences. (MDB)
- The slope comparison table for the silver pit was updated to correct the acreage discrepancy. The Cross Section Volume computations tables were also updated for the Gold and Silver Pits. In doing so the three east west cross sections were removed and six north south cross sections were added to Exhibits 3.5.1a and 3.5.2a. Exhibits 3.5.1b and 3.5.2b were also updated.

Section 3.8 - Time Schedules

26. Narrative on page 3.8.1 states that removal of overburden with scrapers and end dump trucks is necessary prior to the 480W dragline completing the stripping cycle. Please update the narrative to reflect current operations that do not include the 480W dragline. Also please remove or modify the reference to the 480W dragline on page 3.8.6. (MDB)
- The narrative has been updated as requested.
27. Please update Subsection C - Special Variance Zones to include the variance areas granted near the end of 2010. (MDB)
- Exhibit 3.8.2 has been updated in addition to Section C – Special Variance Zones.

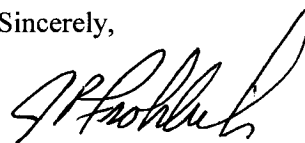
In addition to the above items that require updating or modification by permit revision, please describe your plans for the construction of Ponds 95 and 96. Disturbance has not occurred in the NE¼ of Section 19; however, the watersheds for these ponds extend into the NW¼ of Section 20 where stripping and mining are occurring. Surface water management plans for the watersheds of Ponds 95 and 96 must be approved prior to resuming stripping operations in the spring of 2011.

- Ponds 95 and 96 are staked and ready for construction in the spring of 2011. The mine plan is being implemented as proposed.

Also, as requested in the PSC's correspondence of November 19, 2010; Exhibit 3.1.8, West Haul Road Extension, has been revised. Page 1.2.4 was also updated to reflect KRSB-8802.

If you have any questions, please contact this office.

Sincerely,



Jeff P. Frohlich
Manager,
Engineering and Environmental