



# Public Service Commission

## State of North Dakota

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July 11, 2011

Jeff P. Frohlich  
Manager, Engineering and Environmental  
Dakota Westmoreland Corporation  
Beulah Mine  
PO Box 39  
Beulah, ND 58523-0039

Dear Mr. Frohlich:

The Reclamation Division has reviewed DWC's June 28, 2011 response to our June 23, 2011 technical deficiency letter on the applications for Revision No. 24 and Renewal No. 5 to Surface Coal Mining Permit KRSB-8603. The following items must be satisfactorily addressed before we recommend Commission approval of these applications later this month:

### **Section 1.4 -Business Entity Information**

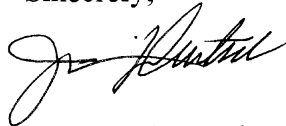
1. Several issues were noted on the updated coal and surface leases in Exhibit 1.4.2 as follows: (MDB)
  - a. In the surface mining lease executed on December 29, 2010 between Casey and Julie Voigt and DWC, the notary statement indicates that both Casey and Julie signed on January 5, 2010. We believe this date to actually be January 5, 2011.
  - b. In the surface mining lease executed on December 29, 2010 between Donald Voigt, Shawn Voigt, Kenneth Voigt, Kari Trappen, Karmen Eslinger, Dean Voigt and DWC, the notary statement indicates that William Weaver of DWC signed on December 30, 2011. We believe this date to actually be December 30, 2010.
  - c. In the surface mining lease executed on December 29, 2010 between Patience Saylor and DWC, the notary statement indicates that William Weaver of DWC signed on December 30, 2011. We believe this date to actually be December 30, 2010.

### **Section 3.5 - Backfilling and Grading**

2. Follow up to Item No. 9: A conference call was held during the week of June 27<sup>th</sup> to discuss updating the permit narrative to clarify the change in topography beyond the coal removal boundary in the N $\frac{1}{2}$ S $\frac{1}{2}$  and the S $\frac{1}{2}$ NW $\frac{1}{4}$  of Section 20. Rather than updating the appropriate narratives in the permit as discussed, DWC updated Exhibit 3.1.2, Pit Layout and Facilities Map, to depict no mining south of the drainage in the N $\frac{1}{2}$ SE $\frac{1}{4}$  of Section 20 or in Section 21. Exhibit 3.1.1, Extended Mine Plan and 5 Year Subareas, however, depicts mining south of the current permit boundary and within a portion of the currently permitted area in Sections 20 and 21 during the next permit term in 2014, 2015 and 2016. While this is acceptable, please be aware that we plan to condition the approval of Revision 24 to limit mining/coal removal to those only areas depicted on Exhibit 3.1.2. We are aware that DWC plans to develop mining plans (including water management plans) for the 2015-2016 areas within the current permit area when additional area to the south of the current permit boundary is added to the permit in the future. We also noted that some topographic changes as shown for in areas not currently approved for mining in Sections 20 and 21. We are requesting that DWC add the appropriate narrative to indicate these changes were made in anticipation of future mining and to show how the postmine topography will tie into the areas that have already been approved for mining. However, in the event that these areas are not mined, DWC will need to revise the postmine topography accordingly. NDAC 69-05.2-09-02(3). (GAW,MDB & DKM)

If you have any questions, please contact this office.

Sincerely,



James R. Deutsch  
Director  
Reclamation Division

cc: Mercer County Auditor