

**Public Service Commission
Reclamation Division**

Memorandum

To: Commissioners Clark, Kalk, and Cramer
Darrell Nitschke, Executive Secretary
Illona Jeffcoat-Sacco and Mark Gruman

From: *DS* Bill Gunnerson, Dean Moos and Jim *JW* Deutsch

Date: July 22, 2011

Subject: Application for Revision No. 24 to Permit No. KRSB-8603 held by Dakota Westmoreland Corporation, Case No. RC-11-101

On March 31, 2011, the Dakota Westmoreland Corporation filed the application for Revision No. 24 to Surface Coal Mining Permit KRSB-8603. This revision identifies the next five-year coal removal subarea and addressees items requested by the Reclamation Division during our pre-renewal review of the permit. This revision updates business entity and right of entry information, and operation and reclamation plans and schedules. The Reclamation Division has completed its review of this revision application and respectfully recommends it be conditionally approved.

Dakota Westmoreland applied for Revision 24 and Renewal No. 5 to Permit KRSB-8603 because mining is expected to continue for many years while supplying coal to the Coyote Station. Exhibit 3.1.1, Extended Mine Plan and 5 Year Subareas, depicts the coal removal subarea labeled by year through the permit term, and unlabeled pits are depicted progressing southward beyond the permit boundary into neighboring Sections 26, 27, 28, and 29. Although Exhibit 3.1.1 depicts the coal removal subarea labeled by year through the permit term, Exhibit 3.1.2, the more detailed Pit Layout and Facilities Map for this permit, only depicts coal removal pits through 2014. Dakota Westmoreland intends to develop mining plans (including water management plans) for the 2015-2016 areas within the current permit area when additional areas to the south of the current permit boundary is added to the permit within the next several years. While this approach is acceptable, it is not without potential concerns. Therefore, a condition is being attached to the approval of Revision 24 to limit mining and coal removal operations to those areas depicted on Exhibit 3.1.2.

This revision application was considered a significant revision application as defined by NDAC 69-05.2-11-01-1(c), and was therefore subject to the public notice requirements. Dakota Westmoreland submitted the affidavits of publication stating that the newspaper notices were published in the Hazen Star on May 19, May 26, June 2, and June 9, 2011, and in the Bismarck Tribune on May 12, May 19, May 26, and June 2, 2011. We also notified the appropriate

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agencies, affected landowners, and the advisory committee members. No objections to this revision application were received.

With the increase to Surety Bond No. 64S103557512BCM approved effective October 28, 2009, the total performance bond amount of \$6,267,847 remains adequate to cover the current worst-case reclamation condition in this permit.

Attached for your consideration is the proposed motion for the July 27th Commission meeting, revision approval form, permit condition, and the approval notice that we will publish in the appropriate newspapers.

Attachments

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