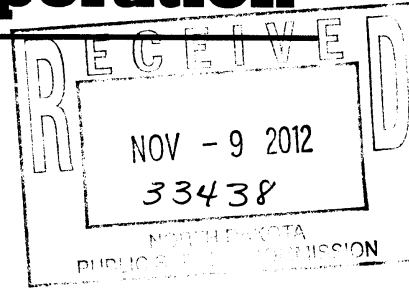


Dakota Westmoreland Corporation

Beulah Mine - P.O. Box 39 • Beulah, North Dakota 58523-0039

Phone: (701) 873-4333 • Fax: (701) 873-7784

November 8, 2012



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

Dear Mr. Deutsch:

Subject: Notice of Violation 1201 – Diversion Ditch Revisions
Permit KRSB-8603

DWC has revised the plans for diversion ditches 98E, 99W-A, and 99E-B per the PSC's recommendation and due to NOV 1201. The revision of diversion ditch 98E reduces the pond watershed to 50.6 acres from 53.2 acres. The revision of diversion ditches 99W-A and 99E-B reduces the combined sump 99E and 99W watershed to 78.7 acres from 90.3 acres. The sump 99E watershed reduced in size to 50.7 acres from 59.4. The sump 99W watershed reduced in size to 28 acres from 30.9. Exhibit 3.2.38, which includes the designs for the revised diversion ditches, is enclosed. DWC will include revised exhibit 3.2.38 with the Revision 27 submittal.

Under the terms for abatement of NOV 1201, the "approved" sedimentation ponds and diversions to protect the (affected) drainage must be constructed within 20 days of receipt of the NOV. DWC received the Notice of Violation 1201 on Thursday, November 1, giving us until November 20 to complete the sumps and ditches. The plan was to have the PC2000 and 777's leave the Charlie pit and start working on Sump 99E on Saturday, November 3, working until completion. I emailed Mike Berg on Thursday, November 1 to ask for an SPGM removal approval stating the above plan.

On the morning of Friday, November 2, an experienced operator (20+ years) was walking the PC2000 to a pass where two old spoil piles had existed. While reclaiming the area, the PC2000 walked through a soft area and fell in. Eventually the equipment dug down 30' before getting the PC2000 unstuck Saturday evening (see attached photos). The PC2000 was extremely muddy and had several broken and dented parts that needed repair for safety concerns. Bill Gunnerson, PSC, viewed the photos and witnessed the work being done on the PC2000 on Tuesday, November 6, while on inspection. The PC2000 was able to start working on sump 99E on Wednesday, November 7. As a result of losing five working days over this incident, DWC is requesting an extension to November 30 to complete the required abatement items for NOV 1201. The Thanksgiving and Veterans Day holidays fall within this time period thus requiring the additional time.

Per DWC's email to the PSC on Friday, November 2, the silt fences and sumps were completed within the 2-day time frame as required for abatement of NOV 1201. If you need additional information, please contact me or Paula Gores.

Sincerely,

Brian E. Lee
Mine Engineer



plg
Enclosures
c: Larry Schnaidt
Perry Voegelé
Bill Weaver

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Request to extend the NOV abatement period by Dakota Westmoreland Corp.
Dakota Westmoreland Corporation
Brian Lee