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March 25, 2014

Mr. Jeff Frohlich
Manager, Engineering & Environment
Dakota Westmoreland Corporation
Beulah Mine
P.O. Box 39
Beulah, ND 58523-0039

Dear Mr. Frohlich:

The Reclamation Division has completed a technical review of the application for Revision 27 to Surface Coal Mining Permit KRSB-8603. The following items must be adequately addressed before further action can be taken on the revision application. The items listed in our recent midterm review letter dated February 18, 2014 may be addressed with your response for Revision 27 or by filing a separate revision.

Table of Contents

1. Please update the Table of Contents to include subsection "M" in Section 2.5, Wildlife Inventory and Plan. (GAW)
2. Please include Exhibit 2.7.4, Premining and Postmining Land Use Acres, as an exhibit in Section 2.7 in the Table of Contents. (GAW/RLK)

Section 1.1 - Application and Support Documents

3. The Revision Narrative and Listing of Revised Information for Revision 28 to KRSB-8603 dated August 8, 2013 on page 42 of Subsection I. (Application History) of Section 1.1 is not the version that was approved with Revision 28. Please replace the version dated August 8, 2013 with the approved version dated October 10, 2013. (WTG)

Section 1.4 – Business Entity Information

4. The application of significant Revision 27 to KRSB-8603 was evaluated by the Office of Surface Mining (OSM) Applicant/Violator System (AVS) following its completeness approval to determine if any violations were associated with the applicant that may hinder revision approval. The evaluation returned 18 outstanding violations for which the Commission requested an evaluation narrative report from the OSM-AVS Office that researched the effect of settlement agreements on the evaluation results. The evaluation narrative report stated that all violations had

been resolved through settlement with the Island Creek Corp. and were linked to Dakota Westmoreland by Robert P. King of the Westmoreland Coal Company. A copy of the evaluation narrative report is enclosed. Although the 18 violations have been resolved to the Commission's satisfaction, any future AVS evaluations of Dakota Westmoreland permit applications will return the same violations while Mr. King has an ownership or control relationship with Dakota Westmoreland. The listing of these resolved violations with each AVS evaluation may cause unwarranted concern for the Commission that could be alleviated by an explanation in Permit KRSB-8603 (and KRSB-8802 with Revision 29). We therefore request that a new exhibit (presumably titled Exhibit 1.4.8) be inserted into Section 1.4 of the permit that explains the circumstances of Mr. King's former ownership or control relationship(s) with companies associated with the resolved violations and describes relevant facts of the Island Creek Corp. settlement in a format similar to Exhibit 1.4.7, Jesse General Trucking Corporation. (WTG)

Section 1.4 - Part B - Property Interests

5. As required by NDAC 69-05.2-06-01(1)(a), please review and revise as necessary the inconsistency between the surface and coal ownership of the E½E½ of Section 30 listed as Lyle and Patricia Winkler on page 1.4.19 of Section 1.4, and the surface and coal ownership of the E½E½ of Section 30 listed as P. and C. Winkler on Exhibit 1.4.1 (Surface and Mineral Ownership Map). (WTG)
6. As required by NDAC 69-05.2-06-01(1)(a), please provide the names and addresses of the owners of record of surface and coal subsurface rights contiguous to the permit area extending one-quarter mile from the permit boundary. Several contiguous owners appear to be absent from the existing list on pages 1.4.20-21 in Section 1.4 if they are not also surface or coal owners within the permit area, e.g., Lyle and Patricia Winkler. Please also update the heading on page 1.4.20 to clarify that the list includes ownership within and contiguous to the permit area. (WTG)
7. On page 1.4.21, in the Names and Addresses of Apparent Surface and Subsurface Owners of Record of Section 1.4, please review the name Weigel, Janice P. Janice's last name is listed as Ziegler in the ownership, in the Public Notice and she signed the lease as Zeigler. Please review and revise as appropriate. (ZAB)
8. Please review the Right of Entry and Operation Information table found on page 1.4.27 and update to include the acreage being added with Revision 27. (ZAB)
9. Please update the Surface Owner Notification Table on page 1.4.28 to include surface owners of the acreage being added with Revision 27. (ZAB)
10. Please add bookmarks to the 1.4 narrative that include titles such as Business Entity Information and Coal and Surface Ownership. Also please include a bookmark for the Public Notice for each Revision. (ZAB)

Section 2.1 – Geological Inventory

11. Please update the Structure narrative on page 2.1.7 to describe the structural low/synclinal feature and resultant dipping of the Beulah-Zap bed in the SW1/4 of Section 20, with continuation into Sections 29 and 30, just outside the permit area. Please note if these structural features will have

any effect on planned mining operations or pit water handling issues in that area of the proposed Iron pits. (BEB)

12. Continuing narrative on page 2.1.7 describes the permit area cropline boundary and notes that it is displayed in the B-Z structure contour map, Exhibit 2.1.8, and a hyperlink is provided; however, updates to this map have eliminated the cropline depiction on the map. Please retain the B-Z cropline on this map and add the Schoolhouse cropline to this same map as required by NDAC 69-05.2-08-05(2)(g). Assuming sufficient information is available, please also add the Spaer cropline to the map, which outcrops to the north in Sections 17 and 18 and to the west toward Coyote Creek. (BEB)
13. As required by NDAC 69-05.2-08-02(1)(i)(j), please note in the Geological Inventory narrative whether or not there are any known locations of abandoned underground or surface mines with the permit addition area and adjacent areas. (BEB)
14. Geomorphology narrative on page 2.1.7 describes steep-sided draws and topographic relief within portions of the permit and adjacent area and a hyperlink to Exhibit 2.1.8 is provided, which is the structure contour map of the top of the Beulah-Zap Bed. We believe the intent of this narrative was to provide a link to Exhibit 2.1.7, Geologic Cross-Sections Map, which more clearly and accurately depicts topographic relief within the permit and adjacent areas. Please redirect the hyperlink to Exhibit 2.1.7 if that is your intent. (BEB)
15. Exhibit 2.1.1 provides the required geophysical logs for the permit area; however, there are no bookmarks associated with the geophysical logs for Revision No. 22 or Revision No. 27 in this section. Please provide bookmarks for these approximate 50 logged holes so that they can be quickly retrieved without having to search the entire document. (BEB)
16. Please provide bookmarks for Exhibit 2.1.2, Test Hole and Monitoring Wells Lithologic Logs. Currently, the bookmark location is labeled as "DAKOTA WESTMORELAND CORPORATION". (BEB)
17. Please provide bookmarks for Exhibit 2.1.3, Overburden Analyses, for all of the listed overburden drillholes. Also, narrative on the first page of this exhibit indicates that Revision No. 27 adds 982.2 acres to the permit area, and this should be changed to state that the revision adds 892.2 acres to the permit. (BEB)
18. Coal analyses narrative for Revision No. 27 on the first page of Exhibit 2.1.4 describes the addition of the new coal analyses data for Revision No. 22 and should be revised to state the addition of new coal analyses data for Revision No. 27. Similarly to the deficiencies described above, there are no bookmarks in this exhibit to enable the reader to navigate through the several hundred pages of documents that are provided. Please provide bookmarks for this data. (BEB)
19. Surface contour elevation numbering on the Sampling Locations Map, Exhibit 2.1.7, is virtually impossible to read in the electronic format that is provided. Please change the font style or size so that surface elevations provided on this map are legible. (BEB)
20. NDAC 69-05.2-08-02(1)(d) requires that elevations of drill holes used for collecting geologic, ground water, and overburden information be depicted on a map. Please depict the surface elevations of all the drill holes that are shown on Exhibit 2.1.7. Simply adding the surface

elevation (ft.) under the drillhole number is generally how this information is presented. Although not required, we ask that you provide drillhole ID, location, depth, and elevation information in table format, in addition to providing the elevation information on a map. (BEB)

Section 2.2 - Surface Water Hydrology – Inventory & Monitoring

21. Please include the symbol for the stream types in the map legend on the Surface Water Monitoring Map, Exhibit 2.2.7. The current version only lists the label for the stream type but no accompanying symbol is provided. (RLK)
22. Section 2.2, Surface Water Hydrology – Inventory & Monitoring: Please include water quality samples from the developed water resources in or near the mine disturbance proposed in Revision 27 or plans to obtain such samples as required by NDAC 69-05.2-08-07(3)(6). The permit should also include some basic physical information on each pond or dugout such as surface area, approximate depth, and useable season. The developed water resources of interest include the dugout in the NE1/4 of Section 20, pond in the SW1/4 of Section 20, pond in the SW1/4 of Section 21, dugout in the SW1/4 of Section 22, dugout in the SE1/4 of Section 22, and pond in the SE1/4 of Section 22. (RLK)

Section 2.3 – Groundwater Hydrology

23. Narrative on page 2.3.3 in Hydrogeology of the General, Adjacent and Permit Area, describes that monitoring wells 2030-2037 were installed to monitor the area added in this permit revision and the sentence should be changed for future clarification to state that the wells were installed to monitor the areas added with Revision No. 27. (BEB)
24. Table 2.3.3 on page 2.3.17 describes a total of 19 water supply wells within the permit and adjacent area; however, the Water Supply Locations Map, Exhibit 2.3.7, either does not depict the locations for, or improperly labels, the Reich/Unruh Fox Hills domestic well and the Reich No. #2 stock well. Please review and update as necessary. (BEB)
25. Known Uses of Groundwater on page 2.3.19 states that Fetch Wells No. 2 and 3 (Schoolhouse) are located up-gradient of the permit area; however, they are now located within the permit area and it may be more appropriate to state that the wells are now positioned upgradient of planned coal removal operations within the permit, if that is the case. For clarification, please specify in the narrative whether the upgradient classification is intended to mean topographically or hydraulically, meaning hydraulic gradient, or both. (BEB)
26. Pleasant Valley Farmstead water well narrative describes planned house removal at the farm and removal of PVF wells No. 1 and 2 as mining moves through the area. Please update the narrative if these plans have changed. (BEB)
27. We ask that you review and update if necessary, all of the narrative provided in the permit for the water wells, seeps and springs in Section 2.3C, Known Uses of Groundwater. In most cases, distances of the wells and springs to the permit area have now decreased than what is described because of expansion of the permit area boundary to the south. Also, if any impacts have been documented to any of the wells and springs from what is described in the permit, please provide those updates. (BEB)

28. *Reclaimed Land Saturated Zones* narrative on page 2.3.16 contains language describing that reclamation monitoring wells on reclaimed land will consist of two nested wells, one in the base of spoils and one in the next lowest significant aquifer below depth of mining and this language is proposed to be struck from this section with Revision No. 27. Please retain this language because this paired-well post-mining system of ground water monitoring is a reclamation requirement. (BEB)
29. Please update the narrative in Section 2.3E, Ground Water Monitoring Plan, to account for new monitoring wells 2030-2037 that were added in 2012 for Revision No. 27, and also update Table 2.3.5 to account for the recently added wells, in addition to any other changes or updates that may be required. (BEB)
30. Please provide your plan describing restoration of approximate recharge capacity as required by NDAC 69-05.2-16-15. (BEB)
31. Please add bookmarks to Exhibit 2.3.2, Well Completion Summaries, for monitoring wells 2020-2037. Also, the bookmarks for wells 949A and 949B do not work. Please address. (BEB)
32. Please provide bookmarks in Well and Spring Certifications, Exhibit 2.3.8, to help navigate through the 100+ pages of documents that are provided. (BEB)
33. Probable Hydrologic Consequences narrative, Section 2.3D on page 2.3.29, adequately describes the presence of intermittent streams in portions of the Revision No. 27 area with streamflow headwater locations in Sections 21, SW1/4 of Section 22 and SE1/4 of Section 22. Continuing narrative describes the source units of the many seeps and springs supporting intermittent flow in these reaches; however, no additional information is provided regarding these seeps/springs. Their locations need to be shown on the Water Supply Locations Map in Exhibit 2.3.7 and if any of the springs have been developed, certification information needs to be provided in the permit. Please address these issues. (BEB)

Section 2.4 – Soils Inventory

34. Please correct the overlapping text that appears in the Soils Capabilities narrative on page 2.4.3. (RLK/WTG)
35. Please review the 326.4 acres listed for Fetch et al. ownership in the S½ of Section 21 in Table 2.4.1 of Section 2.4 (Soils Inventory) and revise as necessary because it appears that the acreage should not exceed 320 acres. (WTG)
36. As required by NDAC 69-05.2-10-01(3), the Commission provided the Natural Resources Conservation Service with the prime farmland reclamation plan submitted under NDAC 69-05.2-09-15. The agency's response (copy enclosed) provides the following comment for Subsection B (Soils Capabilities) on page 2.4.3 that needs to be addressed: (WTG)
The narrative of Section 2.4, Page 2.4.3 states "Amor soils are often subject to cropping because they have few limitations. A IIe unit is assigned to the 0-6% slope category and IIIe is characteristic of the 0-6% slopes". The last sentence should read "... IIIe is characteristic of the 6 -9% slopes."

37. As required by NDAC 69-05.2-05-02(1) and NDAC 69-05.2-09-15(5) for the approval to mix prime farmland and non-prime farmland subsoil for reclaiming prime farmland, please revise the last paragraph of page 2.4.5 in Subsection C (Prime Farmland Investigation) of Section 2.4 as follows (and also revise related exhibits): (WTG)
- a. Add a reference to Exhibit 2.4.11 for a summary of the topsoil and subsoil analysis data discussed on page 2.4.5, and also add a reference to Exhibit 2.4.2 for the complete listing of soil pedon analysis data for the permit area.
 - b. Although a general comparison of prime and nonprime soil characteristics in the S½ of Section 21 is appropriate because no mining is proposed in the parcel, the comparison of prime and nonprime soil characteristics in the S½ of Section 22 Gold Pits should be more specific. Assuming that Gold Pit soil salvaged from Terence Schmidt property in the adjoining NE¼ of Section 22 and W½ of Section 23 will continue to be handled separately, the comparison of prime and nonprime soil characteristics in the S½ of Section 22 should be limited to the dominant nonprime soil map units in the mining disturbance area that would be salvaged with the 2.1 acres of prime farmland. As measured on Exhibit 3.5.3 (Post Mining Topography), the mining disturbance area for the S½ of Section 22 includes about 105 acres. Please note that the pedon analysis summaries presented in Exhibit 2.4.11 will require revision to reflect the dominant nonprime soil map units in the mining disturbance area by removing Krem samples 22-1 and 22-2, while adding Flaxton samples 101 and 23-14, and also using Williams sample 100 to represent sampled map unit delineations that extend into the S½ of Section 22. The narrative on page 2.4.5 should be revised as appropriate to reflect the revised data summaries. Mention should be made to soil map unit 81E with an explanation that no subsoil will be salvaged from this map unit as indicated on Exhibit 2.4.7. While revising Exhibit 2.4.11 please also review the SAR value of 3.05 ascribed to Flaxton topsoil samples 22-5 and 22-6 that is not supported by analysis data in Exhibit 2.4.2. It appears that the averaged SAR value should be listed as less than 1.
38. Please review and revise as necessary the following inconsistencies between the soil map unit numerical legend on page 4 of the 2010 soil survey report (Exhibit 2.4.10) and the corresponding 2010 soil survey soil map unit legend listed on the Composite Soil Survey map (Exhibit 2.4.7): (WTG)
- a. Map unit 57B, Flaxton sandy loam, 3 to 6 percent slopes of the 2010 soil survey report is listed as map unit 57B Flaxton sandy loam, 1 to 6 percent slopes on the Composite Soil Survey map.
 - b. Map unit 59, Parshall sandy loam, 1 to 3 percent slopes of the 2010 soil survey report is not listed on the Composite Soil Survey map.
 - c. Map unit 120B, Flaxton Variant sandy loam, 3 to 6 percent slopes of the 2010 soil survey report is listed as map unit 120B Flaxbar sandy loam, 3 to 6 percent slopes on the Composite Soil Survey map.
39. Please review and revise as necessary the following apparent errors of topsoil or subsoil salvage thickness labels on two soil map units in the SW¼ of Section 22 on the Composite Soil Survey map (Exhibit 2.4.7): (WTG)
- a. The subsoil salvage thickness label of 50 inches for soil map unit 81E in the N½SW¼ appears to be in error. The 2007 and 2005 soil survey reports state that subsoil thickness ranges from 12 to 15 inches for soil map unit 81E.
 - b. The topsoil salvage thickness label of 10 inches and the subsoil salvage thickness label of 50 inches for soil map unit 113 in the E½SW¼ appear to be in error. The 2007 soil survey

report states that there is no suitable plant growth material salvage for soil map unit 113 because of salinity and a high seasonal water table.

40. Please review and revise as necessary the following apparent errors related to Cabba clay loam soil map units in the 2010 soil survey report (Exhibit 2.4.10): (WTG)
 - a. A soil map unit description for 81D (Cabba clay loam, 9 to 15 percent slopes) is absent from the report. Please insert footnotes for the numerical and alphabetical soil map unit legends on pages 4 and 5 of the report referring the reader to the 2007 soil survey report (Exhibit 2.4.9) for an 81D soil map unit description if the correct soil map unit description is not available for insertion in the report.
 - b. The soil map unit description for 81E Cabba clay loam, 15 to 40 percent slopes (page 13) describes a subsoil thickness ranging from 51 to 56 inches but the labels for 81E soil map units in the SW¼ of Section 23 list no subsoil salvage, and the 2007 and 2005 soil survey reports state that subsoil thickness ranges from 12 to 15 inches for soil map unit 81E.

Section 2.5 – Wildlife Inventory and Plan

41. Please re-organize Section 2.5 so that subsection J, Wildlife Monitoring Studies, which is actually the Annual Wildlife Monitoring Plan, is not located in the middle of this section between original baseline inventory information and the results of inventories completed for the Revisions 16, 22 and 27 addition areas. NDAC 69-05.2-05-02 (GAW)
42. Please include a title and bookmarks in Exhibit 2.5.11 and group the information into subsections by Revision Number. NDAC 69-05.2-05-02 (GAW)

Section 2.6 – Pre-Mining Vegetation Inventory

43. Please include a bookmark title in Exhibit 2.6.2, Range Site and Ecological Site Descriptions, so that a reader can determine which Exhibit is being viewed when opened. NDAC 69-05.2-05-02 (GAW)
44. Please revise Exhibit 2.6.9, Pre-mining Land Uses and Vegetation Map Units, to more clearly identify the boundaries between the various land uses and to label go-back fields and crested wheatgrass and smooth brome areas of influence. The use of similar colors to distinguish different land uses on this map is confusing. For example, green is being used to identify both shelterbelts and old go-back fields. Also please identify the native grassland sampling sites more clearly as the light gray symbols are difficult to see on the air photo background. NDAC 69-05.2-05-02 (GAW)
45. Please revise Exhibit 2.6.13, Range Site and Ecological Site Vegetation Composition so that the information is organized in a clear and understandable manner. This Exhibit should include a title and bookmark subsections. The first page of this Exhibit has been relabeled as Revision 27 but the information on this page pertains to the Revision 16 addition area. Revision 16 information should remain as revised with Revision 16. The actual information for the Revision 27 addition, Rangeland Similarity Index information, has been included on pages 10 through 19 of this 37 page pdf in between Revision 22 and 19 information which is very confusing. This information should be presented in a chronological order. Please revise to meet the requirements of NDAC 69-05.2-05-02. (GAW)

46. Please include a title and subsection bookmarks in Exhibit 2.6.14, Historic Reference Area Data, so the information is organized and understandable. (GAW)
47. Please revise Exhibit 2.6.14 to include species composition information from the past few years to demonstrate that the reference areas are being maintained in acceptable ecological condition. Also, there needs to be a discussion demonstrating that the reference areas adequately represent the land being added with Revision 27. (GAW)

Section 2.7 – Land Use

48. Exhibit 2.7.3, Alternative Postmining Land Use, shows that 1.7 acres of Industrial/Commercial land located in the S1/2 of Section 17 is to be converted to native grassland. Please explain this land use change in Section 2.7 as it appears the county road located along the south side of Section 17 is going to be replaced as it existed prior to mining. Also, no other industrial commercial land is identified on this tract on the pre-mining land use maps. Please review and revise as necessary to clarify. (GAW)
49. A post mine DWR depicted in the SE1/4 of Section 16 on the Post Mine Land Use Map, Exhibit 2.7.1, is not listed in Exhibit 2.7.3 as a change in land use acreage for land owned by M. Gunsch. Please review and revise as appropriate. (RLK)
50. Please revise Exhibit 2.7.1, Postmining Land Use, to more clearly delineate the boundaries between the various land uses. The boundaries between the cropland and native grassland in Sections 21 and 22 and between the native grassland and tame pastureland in Section 23 are not clearly identified. NDAC 69-05.2-05-02 (GAW/RLK)
51. The Pre-Mine Land Use Map, Exhibit 2.6.9, identifies a dugout developed water resource on the Schmidt property in the SW1/4 of Section 22 but the post mine land use map, Exhibit 2.7.1 does not show this feature. The revision does not describe any disturbance to this area. Please describe in the permit why the developed water resource will be removed or revise the exhibit as appropriate. (RLK)
52. Please include bookmarks in Exhibit 2.7.2, Land Use Preference Letters, so that surface owner information can be easily found without paging through the entire section. NDAC 69-05.2-05-02 (GAW)
53. Exhibit 2.7.3, Alternative Postmining Land Use, shows that 3 acres of native grassland will be converted to developed water resources in the NE1/4 of Section 16 but the developed water resource is not shown on the Postmine Land Use Map, Exhibit 2.7.1 or represented on the land use comparison table, Exhibit 2.7.4. Please review and correct as necessary. (GAW/RLK)
54. Exhibit 2.7.3, Alternative Postmining Land Use, shows that 1.9 acres of native grassland will be converted to developed water resources in the SE1/4 of Section 18 and the postmine land use map shows that sediment pond 94 will be retained directly above an undisturbed spring fed dugout. Please revise Section 2.7 to discuss and justify why a third stockpond is going to be developed on this tract when the surface owner did not request an additional pond in his preference statement. (GAW)

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55. The net change in land uses for DWC ownership in Section 20 shown in Exhibit 2.7.3 do not agree with the change in acreage for DWC shown in Exhibit 2.7.4, Pre-mining and Post-mining Land Use Acres. The differences appear to be more than a few tenths of an acre for cropland, hayland, shelterbelts and native grassland. Please review and revise as appropriate. (RLK)
56. The surface water narrative indicates mining will disturb the pre-mine DWRs in the SW1/4 of Section 17 and no replacement appears to be planned in Section 17. Exhibit 2.7.3 does not show a corresponding land use change for the F. Keogh property in the S1/2 of Section 17. The post-mine land use map, Exhibit 2.7.1 and the land use comparison table, Exhibit 2.7.4 indicate the 1.7 acres of DWRs in Section 17 will not be replaced. Please revise as appropriate. (RLK/GAW)
57. The surface water narrative indicates the pre-mine DWR in the NE1/4 of Section 20 will be disturbed by mining and no replacement appears to be planned in Section 20 for this feature. The size of the feature was not found in the permit and an alternate post-mine land use for the DWR area is not listed in Exhibit 2.7.3. Please revise as appropriate. (RLK)

Section 2.10 – Cultural Resources Inventory and Protection Plan

58. The Cultural Resources Inventory listing and significance determination status on page 2.10.4 has not been updated since Revision No. 22. Please update this table with current information regarding investigations, results and correspondence. (BEB)
59. We have been unable to locate cultural resource investigation reports, correspondence, or any other information for lands included in the Revision No. 27 addition area within the S1/2S1/2 of Section 21 and the NW1/4 of Section 23, T143N, R88W. For clarification of the various investigation areas, dates of investigations and depictions of cultural resource site locations, a consolidated map displaying all of this information is requested. Please provide the cultural resource information for these two areas. (BEB)

Section 3.1 – General Mine Plan

60. Please revise Section 3.1, General Mine Plan, to include bookmarked subsections (Subsections A, B, C, D, E, and F) so that information can be found without scrolling through the whole section. NDAC 69-05.2-05-02. (GAW)
61. In the narrative provided for intermittent stream buffer disturbance beginning on page 3.1.6, please include pond/sump 99E as an area of past and potential future disturbance within the stream buffer zone. (RLK)
62. The Pit Layout and Facilities Map, Exhibit 3.1.2 and West Haul Road Extension map, Exhibit 3.1.8 show a new haul road route to the east of the Iron pit sequence through undisturbed land in Section 21. The haul road is not discussed in Section 3.1 and it is not clear why the haul road could not be aligned approximately on the section line between Sections 20 and 21 to the present haul road for the Silver pit. Please elaborate on the reasons why the proposed haulroad alignment is advantageous. Also, justify the additional disturbance this proposed haulroad would create in light of NDAC 69-05.2-13-05 that requires minimizing disturbances on lands where coal is not removed. In the light of the increase industrial activity, also please discuss any purpose or function the road could reasonably be expected to serve beyond the coal mining scheduled in this permit. (RLK)

63. The Pit Layout and Facilities Map, Exhibit 3.1.2, shows a proposed scoria storage area in the SW1/4 of Section 21. Please consider locating this storage area on an area of previous disturbance rather than on undisturbed land. NDAC 69-05.2-13-05 (RLK)

Section 3.2 – Surface Water Management

64. Water Management, Exhibit 3.2.44: Please correct the elevation on the elevation/capacity table for Pond 104. The highest elevation value is listed as 1974.1 but the value should be 1984.1. (BAJ)
65. The surface water management plan does not include specific information or plans for controlling sediment from the proposed scoria storage location. If the site cannot be located within a mine disturbance area with stripped drainage to a sediment pond, then a site-specific sediment control plan must be provided for the proposed stockpile location. (RLK)

Section 3.3 – Blasting Plan

66. Exhibit 3.3.1 – Blasting Map: Please revise the Blasting Map so that it complies with NDAC 69-05.2-09-04(8)(b). The maximum permissible weight of explosives to be detonated is established by NDAC 69-05.2-17-05(7). The map must show the maximum weight of explosives by intervals not exceeding four hundred feet [121.92 meters] and continue until the maximum amount specified in NDAC 69-05.2-09-04(1). (BAJ)

Section 3.4 - Suitable Plant Growth Material Handling Plan

67. As required by NDAC 69-05.2-09-15(4), please revise the last sentence of page 3.4.6 extending onto page 3.4.7 of Subsection 6 (Prime Farmland) to state that the potential reclaimed prime farmland locations are shown on Exhibit 3.5.3 (Post Mining Topography). At your discretion you may retain the reference to Exhibit 3.4.1 provided that the locations are retained on Exhibit 3.4.1. (WTG)
68. As noted in a deficiency item in Section 2.4, the Commission provided the Natural Resources Conservation Service with the prime farmland reclamation plan submitted under NDAC 69-05.2-09-15. The agency's response (copy enclosed) provides the following comment for Subsection 6 (Prime Farmland) on page 3.4.7: (WTG)
- The narrative of Section 3.4, Page 3.4.6 appears to represent that NRCS supplied spring wheat yield data. Currently NRCS does not deliver or maintain yield data in North Dakota.*
- Please revise the narrative and associated table on page 3.4.7 by replacing the estimated yield values with productivity indexes.
69. Please replace "In" with "If" to begin the third sentence in the last paragraph of page 3.4.7. (WTG)
70. Please revise the narrative for proposed mixing of prime farmland and nonprime farmland subsoil in the S½ of Section 22 on pages 3.4.7 and 3.4.8 to reflect the revised soil pedon analysis data presented on Exhibit 2.4.11 for the mining disturbance area. (WTG)

Section 3.5 – Backfilling and Grading

71. As required by NDAC 69-05.2-09-15(4), and as noted in deficiency item No. 19 of the February 18, 2014 KRSB-8603 midterm permit review letter, please depict the potential prime farmland respread areas on Exhibit 3.5.3 (Post Mining Topography). (WTG)
72. Please revise the Postmining Topography Map, Exhibit 3.5.3, to not show any topography changes on lands beyond the mineral removal boundary. The Postmining Topography Map shows hills (appear to be the contours of the in-place stockpiles) where the SPGM stockpiles are located in the SE1/4 of Section 21, N1/2 of Section 16, NW1/4 of Section 15 and in Section 17 and the haulroad in Sections 14 and 15 is shown as a postmine feature as are sediment ponds 86, 85, 84, 91 and 93A, all of which must be reclaimed. (GAW)
73. Please revise the major drainage way that is to be reconstructed in the NW1/4 of Section 22 by including secondary drainages and sinuosity to increase slope length and decrease steepness similar to what existed prior to mining as required by NDAC 69-05.2-16-07(4)(b) and (c). Slight changes are being proposed at the north end of this drainage with Revision 27 and we recommend including the details for wetlands that will be replaced in this drainage. (GAW)

Section 3.7 – Revegetation Plan

74. DWC is proposing to remove prairie sandreed from the native grassland seed mixture with Revision 27 without any explanation. The Reclamation Division will not allow changes that result in the seed mixture becoming less diverse. Please revise to create a more diverse seed mix, provide justification for any changes being proposed, and retain a record of what has already been planted in the permit. (GAW/RLK)
75. Please revise the title or link provided for Exhibit 3.7.4, Prime Farmland Production Estimate, in the Table of Contents since the exhibit is currently titled Estimated Crop Yields (deleted with Revision #19) in the Table of Contents. (RLK/GAW)
76. Please update the annual cropland narrative to account for additional prime farmland in the Revision 27 area and the additional yield standard information provided in Exhibits 3.7.3 and 3.7.4. (RLK)
77. Please revise the description in the first line of the spreadsheet table provided in Exhibit 3.7.3, Premining Production/Unadjusted Technical Standards. The word “Iron” in the first line of the table appears to be in error since the information pertains to the entire permit area. (RLK)
78. In Exhibit 3.7.3, please correct the description and estimated yield information for soil map unit 58D. The soil survey information in Section 2.2 identifies the map unit as Flaxton-Zahl rather than Flaxton-Cabba as listed. (RLK)
79. In Exhibit 3.7.4, the total cropland acreage for R & J Gunsch (ESW22) of 81.4 acres does not agree with the 75 acres of premine cropland listed for the tract in Exhibit 2.7.4 and Exhibit 3.7.3. Please review and revise as appropriate. (RLK)
80. Exhibit 3.7.4 appears to provide the combined prime and non-prime cropland yield estimate for the tracts containing prime farmland rather than providing production estimates specific to prime

farmland as the title in the table may suggest. Please consider revising the title of the table to something similar to *Spring Wheat Production Estimate for Tracts Containing Prime Farmland*. Also please correct "Acres" in the table footnote. (RLK)

Section 3.9 – Reclamation Cost Estimates and Performance Bond

81. Table 3.9.2-Dozer Production Estimate: The Reclamation Division calculates the production for a D11R Dozer should be 2014 cu. yds./hr. instead of 2078 cu. yds./hr. for a 100 ft. push, and 601 cu. yds./hr. instead of 642 cu. yds./hr. for a 350 ft. push. Please correct accordingly. (BAJ)
82. Table 3.9.3-Scraper Production Estimate: The scraper haul distance for the Iron Pit, Section 2 to 3 is listed as 500 feet. The Reclamation Division calculates the distance to be 600 feet. Please correct. (BAJ)
83. Table 3.9.3-Scraper Production Estimate: The scraper haul distance for the Iron Pit, Section 5 to 6 is listed as 600 feet. The Reclamation Division calculates the distance to be 800 feet. Please correct. (BAJ)
84. Table 3.9.3-Scraper Production Estimate: The scraper haul distance for the Iron Pit, Section 6 is listed as 600 feet. The Reclamation Division calculates the distance to be 700 feet. Please correct. (BAJ)
85. Table 3.9.3-Scraper Production Estimate: The scraper haul distance for the Gold Pit, Section 1 to 2 is listed as 700 feet. The Reclamation Division calculates the distance at 800 feet. Please correct. (BAJ)
86. Table 3.9.3-Scraper Production Estimate: The scraper haul distance for the Gold Pit, Section 2 to 3 is listed as 700 feet. The Reclamation Division calculates the distance to be 800 feet. Please correct. (BAJ)
87. Table 3.9.5-Scraper & Truck-Loader Production for Soil Respreading: Please review the acres to be respread for the Gold Pit area. The table lists a total of 102.5 acres that require topsoil and subsoil respread. Table 3.8.2 - Time Schedules show that spoil leveling will be occurring in 2016 for the Gold Pits 36–53. This area will also need SPGM respread. The Reclamation Division calculates that the total mining disturbance area that requires SPGM respread for the Gold Pits is approximately 182 acres. Please correct. (BAJ)
88. Table 3.9.5-Scraper & Truck-Loader Production for Soil Respreading: Please review the acres for the Section 15 Haulroad. Page 3.9.11 of the table lists 9.0 acres requiring SPGM respread. The Reclamation Division calculates the area to be approximately 15.5 acres using a 190 foot road width (110' road surface width plus 90 feet for ditches – widths taken from typical sections). Please correct. (BAJ)
89. Table 3.9.5-Scraper & Truck-Loader Production for Soil Respreading: Please review the acres for the Section 21 Haulroad. Page 3.9.11 of the table lists 12.1 acres requiring SPGM respread. The Reclamation Division calculates the area to be approximately 32 acres using a 190 foot road width (110' road surface width plus 90 feet for ditches). Please correct as necessary. (BAJ)

Mr. Jeff Frohlich

March 25, 2014

Page 13 of 13

90. Table 3.9.5-Scraper & Truck-Loader Production for Soil Respreading: For mining area Iron Section 20 – Topsoil, the 1 way haul distance is listed at 5500 feet. The Reclamation Division calculates this distance to be 6500 feet. Please correct. (BAJ)
91. Table 3.9.7 – Scraper Requirements for Reclaiming Roads & Trails: Haulroad grading for portions of haulroads in Sections 14, 15, 22, and 21 are given in the table and the portion of haulroad reclaimed identified by stations. However, the Worst Case Topography, Exhibit 3.9.2 does not include stationing, making it difficult to identify the portion of haulroad represented in the table. Also, the stationing given in the table does not appear to agree with the stationing shown on a post-construction haulroad certification map for Permit KRSB-8603 submitted on Oct. 9, 2013. Please show the correct stationing on the Worst Case Topography Map, Exhibit 3.9.2. (BAJ)
92. Table 3.9.9 – Revegetation Areas: Seeding acreage for the subsoil piles is shown as 37.3 acres. The Reclamation Division calculates the acreage to be 58 acres. This area calculation is from the 2013 Annual Map. Please correct. (BAJ)
93. Table 3.9.9 – Revegetation Areas: Seeding acreage for the Gold pits is shown as 132.9 acres. The Reclamation Division calculates the acreage to be 182 acres. Please correct. (BAJ)

Enclosed are copies of letters we received from the ND State Water Commission and Natural Resources Conservation Service (NRCS) and the AVS evaluation report dated February 7, 2014.

If you have any questions, please contact this office.

Sincerely,



James R. Deutsch
Director
Reclamation Division

Enclosures

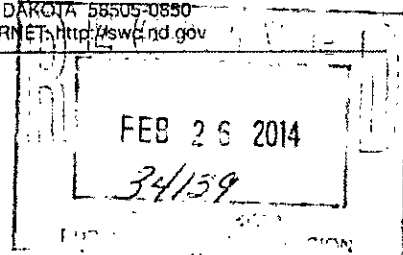
cc: Mercer County Auditor /with enclosures

Minedata/Beulah/Permits/KRSB-8603/Revisions/No.26/Rev26_Tech1_rvw_ltr_3-25-14



North Dakota State Water Commission

900 EAST BOULEVARD AVENUE, DEPT 770 • BISMARCK, NORTH DAKOTA 58505-0850
701-328-2750 • TDD 701-328-2750 • FAX 701-328-3696 • INTERNET: <http://swc.nd.gov>



WATER APPROPRIATION DIVISION
(701)328-2754

February 25, 2014

Mr. James R. Deutsch, Director
Reclamation Division
Public Service Commission (VIA INSIDE MAIL)
State Capitol Building
Bismarck, ND 58505

Dear Mr. Deutsch:

In a February 10, 2014 letter, you requested comments from the State Engineer regarding Revision No. 27 to permit KRSB-8603 for the Beulah Mine. Dakota Westmoreland Corporation (DWC) proposes adding 892.2 acres to the existing permit area for the mine in Mercer County. These acres will be added in Sections 20 through 23 in Township 143 N., Range 88W. The Beulah Mine is located a little over 4 miles southwest of Beulah, about a mile west of Highway 49. The proposed land to be added to the mine is directly south of the existing mined area under KRSB-8603, extending about 0.5 miles south of the existing mine boundary into a generally upland area bordered by the Brush Creek drainage to the east and by the Coyote Creek drainage to the west. A tributary to Coyote Creek originates and runs east to west across the proposed extension area.

Revisions to the discussion of groundwater hydrology in the area are provided in Section 2.3. In anticipation of Revision 27, eight wells were installed in 2012 to monitor groundwater levels near the proposed mining extension area. The narrative and exhibits in Section 2.3 have been updated to incorporate the locations of and new hydrogeologic data available from these eight wells. The impacts to streams and springs in the proposed extension to the mining area have also been discussed.

However, two parts of Section 2.3 do not appear to have been updated for Revision 27. First, in Section 2.3C (Known Uses of Groundwater), three wells and one pond at the Fetch Farmstead are discussed and described as being located up-gradient of the permit area. However, Exhibit 2.3.7 shows these wells and pond as being located in the SW $\frac{1}{4}$ of Section 21, within the area DWC proposes to mine or use for associated disturbance activities in Revision 27. On the other hand, a part of Section 2.3C discussing the Martha Gunsch spring in the NW $\frac{1}{4}$ of Section 22 appears to have been updated. Second, Section 2.3E (Ground Water Monitoring Plan) has not been updated to include the eight wells installed in 2012 in either the narrative or in Table 2.3.5. Perhaps these parts of the document will be updated to include them in a later revision.

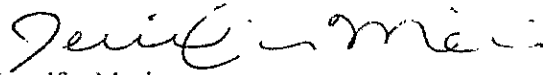
KRSB-8603 Revision 27

February 25, 2014

Page 2

From a groundwater standpoint, the proposed mine expansion area appears to be adequately monitored and potential impacts to most area water supplies have been addressed, though it does appear that some sections of Section 2.3 have not been updated. Perhaps these will be updated in a later revision. The remainder of the Revision 27 appears to be acceptable.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jennifer Morin".

Jennifer Morin

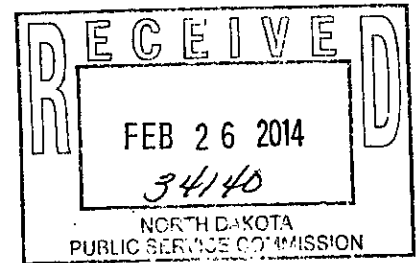
Hydrologist, Water Appropriations Division

JM:jk/1687.07

United States Department of Agriculture



Natural Resources Conservation Service
PO Box 1458
Bismarck, ND 58502-1458



February 19, 2014

James R. Deutsch, Director
Reclamation Division
Public Service Commission
State of North Dakota
600 East Boulevard, Dept. 408
Bismarck, North Dakota 58505-0480

Dear Mr. Deutsch:

This letter is in reference to the review of the Dakota Westmoreland Corporation application for Revision 27 to Surface Coal Mining Permit KR5B-8603 for the Beulah Mine located in Mercer and Oliver Counties, North Dakota.

The Soils Inventory Section 2.4 and Prime Farmland Section 3.4 have been reviewed by the Natural Resources Conservation Service (NRCS). We offer the following comments:

- The narrative of Section 2.4, Page 2.4.3 states "Amor soils are often subject to cropping because they have few limitations. A IIe unit is assigned to the 0-6% slope category and IIIe is characteristic of the 0-6% slopes" the last sentence should read, ".....IIIe is characteristic of the **6-9% slopes.**"
- The narrative of Section 3.4, Page 3.4.6 appears to represent that NRCS supplied spring wheat yield data. Currently NRCS does not deliver or maintain yield data in North Dakota.
- Mixing of prime and nonprime subsoil materials has been allowed in the past. NRCS does not oppose this practice, but is concerned with the projected mixing of prime and nonprime subsoil in the SE ¼ of Section 22 because of elevated SAR values and coarser textures than typically allowed in prime farmland.

Thank you for the opportunity to comment on this issue. We look forward to working with the Public Service Commission in the future.

Sincerely,


MARY E. PODOLL
State Conservationist

ACTING

Helping People Help the Land

An Equal Opportunity Provider and Employer



Application Evaluation

Application Number

KRSB8603 SEQ:11

Applicant Name

150056 Dakota Westmoreland Corp

Date Of Narrative

2/7/2014 4:34:10 PM

Requestor

Bill.Gunnerson

CAUTION: The Applicant/Violator System (AVS) is an informational database. Permit eligibility determinations are made by the regulatory authority with jurisdiction over the permit application not by the AVS. Results which display outstanding violations may not include critical information about settlements or other conditions that affect permit eligibility. Consult the AVS Office at 800-643-9748 for verification of information prior to making decisions on these results.

18 Violations Found.

1: Bond Forfeiture	<u>2985329</u>	KY	Permit:2985329	Outstanding	5/4/1987
Violator 1:	078176 Adkins & Webb Inc				
2: State Civil Penalty	<u>053004</u>	KY	Permit:2985329	Outstanding	3/27/1986
Violator 1:	078176 Adkins & Webb Inc				
3: Bond Forfeiture	<u>2985332</u>	KY	Permit:2985332	Outstanding	8/19/1988
Violator 1:	108056 J & H Coal Co				
4: State Civil Penalty	<u>053764</u>	KY	Permit:2985332	Outstanding	9/18/1987
Violator 1:	108056 J & H Coal Co				
5: State Civil Penalty	<u>054149</u>	KY	Permit:2985332	Outstanding	3/28/1988
Violator 1:	108056 J & H Coal Co				
6: Bond Forfeiture	<u>4985319</u>	KY	Permit:4985319	Outstanding	1/20/1989
Violator 1:	034732 Price Coal Co				
7: State Civil Penalty	<u>053671</u>	KY	Permit:4985319	Outstanding	5/22/1987
Violator 1:	034732 Price Coal Co				
8: State Civil Penalty	<u>054020</u>	KY	Permit:4985319	Outstanding	4/26/1988
Violator 1:	034732 Price Coal Co				
9: State Civil Penalty	<u>054058</u>	KY	Permit:4985319	Outstanding	11/20/1987
Violator 1:	034732 Price Coal Co				
10: State Civil Penalty	<u>054148</u>	KY	Permit:4985319	Outstanding	3/24/1988
Violator 1:	034732 Price Coal Co				
11: State Civil Penalty	<u>054323</u>	KY	Permit:4985319	Outstanding	6/15/1988
Violator 1:	034732 Price Coal Co				
12: Bond Forfeiture	<u>6985333</u>	KY	Permit:6985333	Outstanding	1/16/1990
Violator 1:	108056 J & H Coal Co				
13: State Civil Penalty	<u>053568</u>	KY	Permit:6985333	Outstanding	6/5/1987
Violator 1:	108056 J & H Coal Co				
14: State Civil Penalty	<u>053757</u>	KY	Permit:6985333	Outstanding	7/6/1987
Violator 1:	108056 J & H Coal Co				
15: State Civil Penalty	<u>053934</u>	KY	Permit:6985333	Outstanding	10/2/1987
Violator 1:	108056 J & H Coal Co				
16: State Civil Penalty	<u>054316</u>	KY	Permit:6985333	Outstanding	3/28/1988
Violator 1:	108056 J & H Coal Co				
17: State Civil Penalty	<u>054442</u>	KY	Permit:6985333	Outstanding	6/15/1988
Violator 1:	108056 J & H Coal Co				
18: State Civil Penalty	<u>504587</u>	KY	Permit:8985157	Outstanding	8/23/1988
Violator 1:	007928 Past Coal Company Incorporated				

Evaluation OFT

Entities: 27

108128 Westmoreland Coal Co - ()
 ---067259 Richard M Klingaman - (Director)
 ---073870 Morris W Kegley - (Vice President)
 ---082914 Thomas G Durham - (Vice President)

---119621 Robert Charles Scharp - (Director)
 ---134273 Robert P King - (Chief Executive Officer)
 ---134273 Robert P King - (Director)
 ---134273 Robert P King - (President)
 ---140598 Jan B Packwood - (Director)
 ---150022 Westmoreland Mining Llc - (Subsidiary Company)
 -----073870 Morris W Kegley - (General Counsel)
 -----150056 Dakota Westmoreland Corp - (Subsidiary Company)
 -----073870 Morris W Kegley - (General Counsel)
 -----082914 Thomas G Durham - (Vice President)
 -----154001 Jonathan Barr - (Vice President)
 -----154092 William W Weaver - (President)
 -----159379 Kevin A Paprzycki - (Director)
 -----246720 Joseph E Micheletti - (Director)
 -----246838 Amy Barnes Rush - (Controller)
 -----246853 Brent Winkelman - (Controller)
 -----246853 Brent Winkelman - (Treasurer)
 -----247461 Mary A Hauck - (Vice President)
 -----247462 Russell H Werner - (Assistant Treasurer)
 -----248580 Jennifer S Grafton - (Director)
 -----248580 Jennifer S Grafton - (Secretary)
 -----253714 Michelle A Dreyer - (Director)
 -----254093 Dondi Kratzenstein - (Corporate Officer)
 -----155097 P K Salitros - (President)
 -----159379 Kevin A Paprzycki - (Manager)
 -----159379 Kevin A Paprzycki - (Vice President)
 -----246720 Joseph E Micheletti - (Manager)
 -----246838 Amy Barnes Rush - (Controller)
 -----246838 Amy Barnes Rush - (Treasurer)
 -----247462 Russell H Werner - (Assistant Treasurer)
 -----247462 Russell H Werner - (Controller)
 -----248580 Jennifer S Grafton - (Manager)
 -----248580 Jennifer S Grafton - (Secretary)
 -----253714 Michelle A Dreyer - (Manager)
 ---154001 Jonathan Barr - (Vice President)
 ---154134 Douglas P Kathol - (Executive Vice President)
 ---159379 Kevin A Paprzycki - (Chief Financial Officer)
 ---159379 Kevin A Paprzycki - (Treasurer)
 ---159688 Keith E Alessi - (Director)
 ---246720 Joseph E Micheletti - (Senior Vice President)
 ---247461 Mary A Hauck - (Vice President)
 ---247462 Russell H Werner - (Controller)
 ---247462 Russell H Werner - (Corporate Officer)
 ---248580 Jennifer S Grafton - (General Counsel)
 ---248580 Jennifer S Grafton - (Secretary)
 ---251417 Gail E Hamilton - (Director)
 ---251458 Jennifer S Barton - (Vice President)
 ---253305 Michael G Hutchinson - (Director)
 ---254355 Craig R Mackus - (Director)

Narrative

2/7/14 - All violations are under Island Creek settlement. Linking entity is Robert King. aw