

Jeffcoat-Sacco, Illona

From: JJ England <jj@baumstarkbraaten.com>
Sent: Thursday, February 19, 2015 4:53 PM
To: Jeffcoat-Sacco, Illona; 'Brian R. Bjella'
Cc: Derrick Braaten
Subject: 2009 DWC AVF determination as a late-filed exhibit
Attachments: determination_ltr_10-26-09.pdf

Counsel-

Since the Reclamation Division's final permit for NACC-1302 incorporates by reference the document Jim sent this morning (2009 AVF determination for revision 22 to mining permit KRSB-8603), for ease of briefing I think it would be best for everyone if this document is in the record. Therefore, I'm writing to request that the parties agree to stipulate to admission of this document as a late-filed exhibit (Casey Voigt Exhibit # 18). If we all agree, I will send a request to Judge Mann requesting that this document be admitted. Please let us know.

Thanks,
JJ

JJ England
BAUMSTARK BRAATEN LAW PARTNERS
109 North 4th Street, Suite 100
Bismarck, ND 58501-4003
Phone: 701-221-2911
Fax: 701-221-5842
jj@baumstarkbraaten.com
www.baumstarkbraaten.com

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From: Deutsch, James R. [<mailto:jdeutsch@nd.gov>]
Sent: Thursday, February 19, 2015 8:13 AM
To: jj@baumstarkbraaten.com
Cc: Jeffcoat-Sacco, Illona; Derrick Braaten (derrick@baumstarkbraaten.com); Brian R. Bjella (bbjella@crowleyfleck.com); Mann, Wade C.
Subject: RE: 2009 DWC AVF determination

JJ,

Attached is a copy of the Reclamation Division's October 26, 2009 letter that was sent to Dakota Westmoreland with a negative AVF determination, including part of the Coyote Creek valley, for areas associated with Revision 22 to Permit KRSB-8603 for the Beulah Mine.

Jim Deutsch
Director, Reclamation and AML Divisions
North Dakota Public Service Commission

104 RC-13-850 Filed 02/19/2015 Pages: 3
Request to admit Oct. 26, 2009 AVF Determination as late filed exhibit
Casey Voigt
JJ England, Baumstark Braaten

(701) 328-2251 / jdeutsch@nd.gov

From: JJ England [<mailto:jj@baumstarkbraaten.com>]
Sent: Wednesday, February 18, 2015 6:06 PM
To: Deutsch, James R.
Subject: 2009 DWC AVF determination

Jim,

I noticed that we don't have the PSC's final 2009 AVF determination for Dakota Westmoreland Corporation's (DWC) revision 22 to mining permit KRSB-8603 on file (probably a letter like the one I've attached to this email). Is that something that you could email to me?

Thanks,

JJ England
BAUMSTARK BRAATEN LAW PARTNERS
109 North 4th Street, Suite 100
Bismarck, ND 58501-4003
Phone: 701-221-2911
Fax: 701-221-5842
jj@baumstarkbraaten.com
www.baumstarkbraaten.com

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State of North Dakota

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Executive Secretary
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600 E. Boulevard Ave. Dept 408
Bismarck, North Dakota 58505-0480
Web: www.nd.gov/psc
E-mail: ndpsc@nd.gov
Phone 701-328-2400
Toll Free 1-877-245-6685
Fax 701-328-2410
TDD 800-366-6888 or 711

October 26, 2009

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

Dear Mr. Frohlich:

The Reclamation Division has conducted a review of Dakota Westmoreland Corporation's October 15, 2009 response to technical review deficiencies of the Coyote Creek Alluvial Valley Floor Study associated with proposed additional mining areas at the Beulah Mine with Revision No. 22 to Surface Coal Mining and Reclamation Permit KRSB-8603. The responses to technical review deficiencies were deemed adequate.

The Reclamation Division has completed its review and evaluation of the possible presence of alluvial valley floors within the AVF study area. Based upon review of your investigation information, as well as information obtained during a field investigation conducted by several members of the Reclamation Division on June 11, 2009, we have determined that those areas included within the East and West Segment Study Areas, as well as the valley of Coyote Creek within the study area, do not constitute an alluvial valley floor as defined in NDCC 38-14.1-02 and as outlined in NDAC 69-05.2-08-13.

As required by the Reclamation law and rules, please incorporate a copy of this determination into the final version of the application for Revision 22 to Permit KRSB-8603.

If you have any questions, please contact this office.

Sincerely,

James R. Deutsch
Director
Reclamation Division