



Public Service Commission

State of North Dakota

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March 3, 2014

William W. Weaver
President and General Manager
Dakota Westmoreland Corporation
Beulah Mine
P.O. Box 39
Beulah, ND 58523-0039

Dear Mr. Weaver:

The Reclamation Division has conducted a completeness review in accordance with NDAC 69-05.2-05-01(2) of Dakota Westmoreland Corporation's application for Revision No. 29 to Surface Coal Mining Permit No. KRSB-8802 at the Beulah Mine. The revision application was submitted February 10, 2014 with additional application documents submitted as attachments to a February 18, 2014 electronic mail message. The revision application proposes to change the postmining land use from agricultural to industrial for 30 acres of reclaimed cropland/hayland located in the SE $\frac{1}{4}$ of Section 11 and the NE $\frac{1}{4}$ of Section 14 of T143N, R88W, in Mercer County for purposes of developing a transload multi-use facility in portions of Sections 10, 11, and 14. The following items must be satisfactorily addressed before the Reclamation Division can deem the revision application complete.

Application Form SFN 10562

1. The legal description and approximate acreage of property affected by the revision should be described more accurately. Please revise the first sentence of the revision description to clarify that Revision 29 changes the postmining land use on 30 acres of reclaimed cropland/hayland located in the SE $\frac{1}{4}$ of Section 11 and NE $\frac{1}{4}$ of Section 14 from an agricultural land use to an industrial land use. The Commission does not designate land use "districts". The terminology of "agricultural district" and "industrial district" is therefore misleading, and most of the permitted land that will be used for the transload facility in Sections 11 and 14 is already designated as industrial land use. (GAW/ZAB)
2. Please revise the Revision Narrative that is attached to the revision application to include a brief description of all operation and reclamation plans affected by the revision. This description should include re-alignment of the haul road, moving existing SPGM

stockpiles, changing the approved postmine topography, and re-affecting reclaimed lands. (GAW)

1.4 Business Entity Information

Permit Application Advertisement (text)

3. Please include a statement in the first paragraph of the Notice of Application that Revision 29 purposes to modify the existing facilities area and that these activities are not related to the coal mining activities within the permit area. (ZAB)
4. As required by NDCC 38-14.1-18(1), please make the following corrections or clarifications to the last two sentences of the first paragraph of the Notice of Application: *“Revision No. 29 changes the postmine land use for a 30 acre parcel of reclaimed cropland/hayland from ~~an~~ agricultural ~~district~~ to ~~an~~ industrial ~~district~~ in the SE¼ of Sections 11 and the NE¼ of Section 14, T.143N, R.88W, Mercer County, North Dakota. This postmine land use change will facilitate the addition of a transload multi-use facility to be located in portions of Sections 10, 11 and 14, T.143N, R.88W, Mercer County, North Dakota.”* (WTG/GAW/ZAB)
5. As required by NDCC 38-14.1-18(1), please make the following corrections or clarifications to the last sentence of the second paragraph of the Notice of Application: *“The precise location and boundaries of the land affected by the revision and the transload multi-use facility rail loop permit area are depicted on the accompanying map.”* (WTG/GAW)
6. As required by NDCC 38-14.1-18(1), please make the following corrections or clarifications to the first sentence of the fourth paragraph of the Notice of Application: *“Written comments, objections, or requests for an informal conference on the revision application ~~or a petition to designate an area as unsuitable for surface coal mining operation that is within the area proposed to be added to the permit~~ may be submitted by any person with an interest which is or may be adversely affected to the North Dakota Public Service Commission within 30 days of the last publication of this notice.”* (WTG)
7. As required by NDCC 38-14.1-18(1), please make the following corrections to the fifth paragraph of the Notice of Application: *“The legal description and names of the apparent surface and mineral owners of the land affected by the revision ~~within the area applied for~~ are as follows:”* (WTG/GAW)
8. As required by NDAC 69-05.2-10-01(1)(b)(4), please review and revise as necessary the surface and coal ownership listed for the S½ of Section 11 and the N½ of Section 14 because Subsection B.1. (Property Interests - Permit Area) of Section 1.4 updated most recently with Revision 26 to KRSB-8802 lists ownership in addition to or that differs from what is listed for these parcels in the notice. (WTG/ZAB)

Permit Application Advertisement (map)

9. Please replace the revision notice map with a revised version of a previous Beulah Mine revision notice map that meets the requirements of NDAC 69-05.2-10-01(1)(b). It appears that the submitted notice map was prepared for a purpose other than accompanying a revision notice, but rather than request numerous changes to the map we suggest replacing it with a revised map similar to the one published for Revision 27 to KRSB-8603. The map for Revision 29 to KRSB-8802 should include the following additions: (WTG/GAW)
 - a. The map scale should be enlarged to an approximate scale of 1:15,000 (about 4¼ inches per mile) centered slightly below and to the left of the middle of Section 11, with Section 11 and portions of adjacent Sections 1, 2, 3, 10, 12, 13, 14, and 15 depicted and labeled on the map.
 - b. The map should depict and label the KRSB-8802 permit boundary within the map's extent, Coyote Station, the Coyote Station Blue Pit ash landfill, North Dakota Highway 49, the Coyote Station and Beulah Mine access road, 13th Street SW, Brush Creek, Rose Hill Cemetery, and the distance to Beulah from Rose Hill Cemetery.
 - c. The map should depict and label the 30 acre parcel in the SE¼ of Section 11 and the NE¼ of Section 14 for which the revision proposes to change the postmine land use from agricultural to industrial.
 - d. The map should depict and label the transload multi-use facility rail loop in Sections 10, 11, and 14.
 - e. The map title box should be revised as necessary to label Revision 29 to KRSB-8802.

Table of Contents

10. Please include a complete Table of Contents for inclusion into the permit revision. Information presently included at the bottom of page 2 will be lost if page 3 is not also updated at this time. The Revision No. and date should be listed at the bottom of each page of the document as has been done in the past. (GAW)

Section 3.1 General Mining Plan

11. Please include maps, plans and narrative in Section 3.1 for the control of coal haulage through the railroad loop construction area. The plans must address traffic control of the haul trucks and other equipment, depict the locations of temporary crossings over the existing railroad tracks, and discuss the best-management practices that will be used for the control of surface water runoff in the construction area required by NDAC 69-05.2-24-01(2). Exhibit 3.1.3 needs to be updated to depict the temporary and permanent re-alignment of the haul road. (BAJ)
12. Please update Subsection C.1. (Mining Methods - Topsoil Handling) to discuss SPGM salvage operations within those areas zoned industrial land in Sections 10, 11, and 14. The Composite Soil Survey (Exhibit 2.4.7) does not provide any soil survey information for these areas presently zoned Industrial Lands so it is not clear if all of these areas have

been previously affected by mining activities, or if portions of these areas were previously reclaimed in some manner under North Dakota's early reclamation laws. (GAW)

13. Subsection C.8. (Mining Methods - Mine Site Facilities) of Section 3.1 has been revised to state that Exhibit 3.1.6 (Facilities Area Map) illustrates the full service transloading facility including the rail loop, but this exhibit has not been updated. Please include an updated copy of Exhibit 3.1.6. (GAW)
14. Exhibit 3.1.6 (Facilities Area Map) depicts overhead power lines, a dragline erection site, a storage yard site, and an explosives storage site in the area where the transloading facility is to be constructed. We are also aware of a coal stockpile site in this area. Please revise Section 3.1 to discuss how each of these mining support facilities will be affected by construction of the transloading facilities. (GAW)

Section 3.4 Suitable Plant Growth Material Handling Plan

15. Please revise Section 3.4 to describe how much topsoil and subsoil was respread on the reclaimed hayland/cropland located in the SE $\frac{1}{4}$ of Section 11 and NE $\frac{1}{4}$ of Section 14, and also describe the SPGM respread depths on any reclaimed industrial located in Sections 10, 11, and 14. Please depict these respread depths on Exhibit 2.4.7 (Composite Soil Survey) so that the SPGM salvage depths are known on areas to be re-affected by this revision. (GAW)
16. The last paragraph on page 20 of Section 2.7 (Land Use) states that 82,735 cubic yards of topsoil and 117,000 cubic yards of subsoil will be salvaged from all areas to be affected by the rail loop. Exhibit 2.4.7 (Composite Soil Survey) does not depict any soil mapping units in the area to be affected by the rail loop. Please provide details how these amounts were determined since most of this area was disturbed prior to the requirement to salvage soil. (GAW)
17. Please update Section 3.4 to discuss moving SPGM stockpiles 1-04-1, 1-03-2, and 1-02-1 outside of the transloading facility area and discuss if these piles area going to be immediately respread or stockpiled. If these piles are going to be relocated, the stockpile sites will need to be depicted on Exhibit 3.4.3 (Materials Storage). (GAW)

Section 3.5 Backfilling and Grading

18. Please update Section 3.5 to account for the changes proposed with Revision 29. Language on page 20 of Section 2.7 (Land Use) states that 367,029 cubic yards of overburden will be hauled to an active reclaim area. Please discuss this plan in Section 3.5 and update Exhibit 3.5.3 (Post Mining Topography Map), Exhibit 3.5.3a (Postmining Topography Final Pit Area), and Exhibit 3.5.5 (Slope Analysis of Post Mining Topography Map) to account for topographic changes as necessary. Please also address temporary overburden stockpiling that may be necessary during rail loop facility construction. Proposed topographic changes associated with construction of the transloading feature and associated facilities should be depicted on Exhibit 3.5.3 (Post

Mining Topographic Map) because this area contains topographic changes to areas already mined and reclaimed. (GAW/BAJ)

Section 3.7 Time Schedules

19. Please review, and revise if necessary, the reclamation time schedules in Section 3.7 to account for hauling 367,029 cubic yards of overburden to the final pit area located in portions of Section 19 and 24 as described on page 20 of Section 2.7 (Land Use). (GAW)

Also, the following technical review item was noted during the completeness review. You can either address this item with the completeness response or wait until our full technical review is conducted.

20. DWC is proposing an SPGM storage area for the transloading facilities in the N½ of the SE¼ of Section 11 on Exhibit 3.4.3 (Materials Storage); however, this area is listed as an area with abandoned underground mines “limits unknown” on Exhibit 3.1.3 (Topographic Map and Haul Roads) and this area is to be reclaimed to cropland/hayland. Please either accurately depict the limits of abandoned underground mines in this area and depict the SPGM storage area outside of these limits, or find a new site to store this SPGM. Perhaps the stockpile area could be limited to that portion of this area that was actually mined. Although page 20 of Section 2.7 (Land Use) mentions that this material will be available for reclamation of mine related facilities, we believe that all SPGM salvaged from these industrial areas should be retained for reclamation activities within the industrial areas of Sections 10, 11, and 14, most of which were disturbed prior to North Dakota’s first, or during North Dakota’s early, reclamation laws. Ideally, the SPGM stockpile storage site would be placed on industrial lands owned by DWC, rather than on lands that are to be reclaimed to an agricultural postmine land use. (GAW)

As of today, March 3, 2014, 99 days of the Commission’s 120 day review period remains. The 120-day review period is suspended until all of the items listed above have been satisfactorily addressed. If you have any questions, please contact this office.

Sincerely,



James R. Deutsch
Director
Reclamation Division

cc: Brad Lewis
Jeff Frohlich