



Public Service Commission

State of North Dakota

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September 26, 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 technical review of Dakota Westmoreland Corporation's application for Revision No. 29 to Surface Coal Mining Permit No. KRSB-8802 at the Beulah Mine. The following items must be satisfactorily addressed before the Reclamation Division will recommend Commission action on this application.

Table of Contents

1. Please remove the reference to a map for the entry of Exhibit 1.4.12 (Mercer County Planning Commission) or add the applicable map to the exhibit. (WTG)
2. Please add Exhibit 3.1.3B - Haul Road Design (Charlie Pit Ramp #2) that currently exists in the approved KRSB-8802 permit as indicated in a related deficiency in Section 3.1. (WTG)
3. Please revise the exhibit number for Exhibit 3.1.3B (Beulah Full Service Transloading Facility Temporary Haulroad Plan) submitted with the Revision 29 application as Exhibit 3.1.3C as indicated in a related deficiency in Section 3.1. (WTG).
4. Please add Exhibit 3.1.7A as indicated in a related deficiency in Section 3.1. (WTG)
5. Please remove the yellow highlight in Section 3.2.A indicating an update for the design narrative of Pond 1 because no design narrative changes were made with Revision 29,

and please add yellow highlight to Pond 30 because changes were made to the pond's design narrative with Revision 29. (WTG)

6. Please remove the duplicative Volume 7 heading on page TOC-9. (WTG)
7. Please remove the two additions of Pond No. 10 and Pond No. 17 Design Details (Exhibits 3.2.2(9) and 3.2.2(15) respectively) because the exhibit and table for each pond are listed on the Exhibit 3.2.2 (Pond Drawings and Tables) title sheet rather than in the permit's Table of Contents. (WTG)
8. Please add Exhibit 3.2.4A as indicated in a related deficiency in Section 3.2. (WTG)

Section 1.1 Application and Support Documents

9. The list of permit revision changes attached to the permit revision application and each successive revision review response is required by NDAC 69-05.2-11-02(4)(a), a standard permit condition, and the application form instructions (SFN 10562) to provide a historical reference for approved permit changes. Upon Revision 29 approval, the list must present an accurate and complete summary of all approved permit revision changes. To accomplish this requirement, the list should be maintained as a master list of permit revision changes and be updated cumulatively by describing each change and its date with each successive review response. Please update the master list to identify the February 10th, February 13th, and April 25th changes, and identify successive technical response changes and dates on the master list rather than submitting a separate list with each review response. Please also add appropriate headings (permit number, revision number) to the master list such that it can be incorporated into the permit revision record as a stand-alone document following revision approval similar to what was done for Revision 27 to Permit KRSB-8603. (WTG)
10. Please update the list of permit revision changes to list the design narrative changes in Section 3.2.A for Pond 30 with Revision 29. (WTG)

Exhibit 1.4.9 Traffic Impact Study Letter

11. Please revise the letter to correct the dozen or so text and spacing errors that were apparently caused by file conversion or an object character recognition application. (WTG)

Exhibit 1.4.13 Sand Transloading Facility Approval

12. Please add a title to Exhibit 1.4.13. (WTG)

Section 2.7 Land Use

13. At your discretion please remove the references to a permit volume number while referencing an exhibit or permit section in the narrative added with Revision 29 because it does not appear that this reference convention has previously been used in the permit narrative. (WTG)
14. Please reference an exhibit (presumably Exhibit 3.1.3B - Beulah Full Service Transloading Facility Temporary Haulroad Plan) (to be retitled as Exhibit 3.1.3C) at the close of the Proposed Facility narrative on page 2.7.16 directing the reader to a map of the service facility. (WTG)
15. Please reference Exhibit 3.1.3B (Beulah Full Service Transloading Facility Temporary Haulroad Plan) (to be retitled as Exhibit 3.1.3C) following the first sentence of the last paragraph on page 2.7.16 directing the reader to a map of the rail loop-haul road intersections. (WTG)
16. Although it does not appear that exhibit references are necessary following the close of the Track System narrative on page 2.7.17, please remove the incorrect reference to Exhibit 2.7.1 (Postmining Land Use) and replace it with a reference to Exhibit 3.1.3B (Beulah Full Service Transloading Facility Temporary Haulroad Plan) (to be retitled as Exhibit 3.1.3C) if the exhibit references will be retained. (WTG)
17. Please reference Exhibit 1.4.9 (Traffic Impact Study Letter) at the close of the first paragraph of the Crude Oil Loading System narrative on page 2.7.17. (WTG)
18. Please remove the incorrect reference to Exhibit 2.7.1 (Postmining Land Use) in the second sentence of the first paragraph of page 2.7.18 and replace it with a reference to Exhibit 3.1.3B (Beulah Full Service Transloading Facility Temporary Haulroad Plan) (to be retitled as Exhibit 3.1.3C). (WTG)
19. Please reference Exhibit 3.1.9 (Rail Loop Plan View with Culverts) following the third sentence of the Sand Business narrative on page 2.7.19 directing the reader to the location of the planned sand transloading facility. Please also reference and summarize Exhibit 1.4.13 (Sand Transloading Facility Approval) at the close of the Sand Business narrative on page 2.7.19. (WTG)
20. Please reference Exhibit 3.1.3B (Beulah Full Service Transloading Facility Temporary Haulroad Plan) (to be retitled as Exhibit 3.1.3C) following the first sentence of the Tesoro Pipeline Opportunities narrative on page 2.7.20 directing the reader to the location of the Tesoro Pipeline. (WTG)
21. Please change “*Then*” to “*The*” to begin the second sentence of the secondary containment bullet item on page 2.7.22. (WTG)

Section 3.1 General Mine Plan

22. Please retitle Exhibit 3.1.3B (Beulah Full Service Transloading Facility Temporary Haulroad Plan) submitted with the Revision 29 application as Exhibit 3.1.3C because an exhibit numbered Exhibit 3.1.3B currently exists in the approved Permit KRSB-8802. The most recent approved Table of Contents dated March 29, 2010 updated with Revision 25 does not list an Exhibit 3.1.3B and the Section 3.1 narrative does not reference an Exhibit 3.1.3B, but our copy of the permit includes hand-labeled Exhibit 3.1.3B - Haul Road Design (Charlie Pit Ramp #2) (drawn 10/15/05 and received November 15, 2006). Exhibit 3.1.3B was submitted with Revision 23 in response to NOV-0604 issued October 30, 2006 for using a primary haulroad without prior submittal and approval of design plans as required by NDAC 69-05.2-09-06. The revision summary attached to the Revision 23 application states that new Exhibit 3.1.3B is being added to the permit. Please update the Table of Contents to list Exhibit 3.1.3B and devise an appropriate title for the exhibit. We suggest a title similar to Exhibit 3.1.3A (Modification of Ramp #2 Access Road) for the Orange Pit Ramp #2. Please also add references to Exhibit 3.1.3B at two locations on page 3.1.10. Please submit an updated copy of Exhibit 3.1.3B with your review response that lists the exhibit number and title, revision number, and date for historical purposes. Alternatively, please submit a printed adhesive label similar to the DWC title box with the same information that we can affix to Exhibit 3.1.3B to properly label the exhibit. With regard to Exhibit 3.1.3B submitted with Revision 29, please retitle Exhibit 3.1.3B as Exhibit 3.1.3C, update all Revision 29 references to Exhibit 3.1.3B to reference Exhibit 3.1.3C instead, update the Table of Contents to list Exhibit 3.1.3C, and update the list of permit revision changes to indicate that Exhibit 3.1.3B submitted with Revision 29 has been retitled as Exhibit 3.1.3C.
(WTG)
23. Please add a note to explain the reference to former Permit KRSB-8108 that was consolidated into KRSB-8802 at the close of the first paragraph of the Mine Site Facilities narrative on page 3.1.7. (GAW/WTG)
24. Please retitle Exhibit 3.1.7 added with Revision 29 (haul road and railroad track design certification for the transloading facility) as Exhibit 3.1.7A to distinguish it from the existing haul road design certification, and as indicated by the February 10th list of permit revision changes. Please also update the Table of Contents to add new Exhibit 3.1.7A.
(WTG)
25. Please review and revise Exhibit 3.1.9 (Rail Loop Plan View with Culverts) as follows. [NDAC 69-05.2-09-02(1) and 69-05.2-09-02(5)] (BAJ)
 - a. Please depict all culvert locations. Culvert locations are generally depicted as magenta-colored lines on Exhibit 3.1.9 but symbols are not depicted for the locations of culverts P and Q.
 - b. Please depict all access roads. Exhibit 3.1.9 prepared by Earth Work Solutions and dated 1/28/2014 depicts culvert O, R, and S locations in track access roads

but the access roads are not depicted on Exhibit 3.1.9 prepared by Norwest Corporation and revised 2/13/14.

- c. Please depict the watersheds for each culvert on Exhibit 3.1.9.
 - d. Please insert a legend for Exhibit 3.1.9 that identifies symbols for all structures and facilities depicted on the map (culverts, containment berms, power lines, access roads, and etc.).
 - e. Please submit an E-size print of Exhibit 3.1.9 with your review response.
26. Please add a reference to Exhibit 3.1.9A following the new reference to Exhibit 3.1.4C on page 3.1.10 of Subsection 3.1.D.1.a. (WTG)

Section 3.2 Water Management Plan

27. Please revise the reference to Exhibit 3.1.9A in the last paragraph of page 3.2.52 to reference Exhibit 3.1.9 instead. (WTG)
28. Please insert a page break following the Small Drainage Areas paragraph on page 3.2.53 revised with Revision 29 so that following Subsection D Water Handling and Management will begin at the top of a page at it does on page 3.2.53 in the approved permit. The remaining subsections of Section 3.2 (D through G) following the Small Drainage Areas paragraph on page 3.2.53 will remain unchanged except for page numbers that will presumably become 3.2.54 through 3.2.60 but the revision and date footer should remain unchanged. Please submit Section 3.2 pages 3.2.52 through 3.2.60 with your review response. (WTG)
29. The hydrologic data in Table 3.2.2 (9) for Pond 10 has been revised with Revision 29 in which the watershed acres , CN number, and design rainfall event remain unchanged yet the runoff volume has been reduced from 3.0 acre-ft to 2.4 acre-ft, and peak discharge has been decreased to 10.45 cfs from 14 cfs. Please explain the reason for the changes. Also, the spillway must be routed using the 25 year/6 hour event as required by NDAC 69-05.2-16-09(9). Dam and Spillway Design Data states that the minimum freeboard during the 25 year event is 0.4 ft, and Reclamation Division calculations show that the pond does not have the required 1 foot of freeboard with the emergency spillway flowing at design depth as required by NDAC 69-05.2-16-09(10). Please correct the table as necessary. (BAJ)
30. It appears that there are no changes to Table 3.2.2(20) for Pond No. 30 in the approved permit that has been submitted as Table 3.2.2(20A) for Pond No. 30 with Revision 29 and described as revised table numbering on the list of permit revision changes. If changes have been made to Table 3.2.2(20), the table should retain the same title and be described as updated in the list of permit revision changes. Please also revise the heading of “*SEDIMENTATION POND NO. 10*” on the second page of Table 3.2.2(20A) for Pond No. 30 to reference Pond No. 30 instead if the table has been changed and will be updated with Revision 29 . If no changes have been made to Table 3.2.2(20), the reference to Table 3.2.2(20A) should be deleted in the design narrative changes in

Section 3.2.A for Pond 30 on page 3.2.28, and the list of permit revision changes should be update accordingly. The title for Table 3.2.2(20B) (Sedimentation Pond No. 30 Water Balance) being added to the permit, its reference on page 3.2.28, and its description in the list of permit revision changes should be changed to Table 3.2.2(20A) if Table 3.2.2(20A) in its current form will not be retained in the Revision 29 application. (WTG)

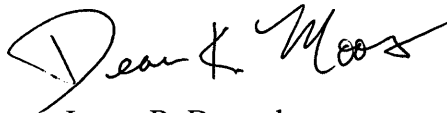
31. Please retitle Exhibit 3.2.4 (impoundment design certification) as Exhibit 3.2.4A to distinguish it from the existing impoundment design certifications. Please also add the title to the exhibit and update the Table of Contents to add new Exhibit 3.2.4A. Please also update the list of permit revision changes to indicate the addition of the new Exhibit 3.2.4A to the permit because the exhibit was described as updated in the February 10th list of permit revision changes. (WTG)

Section 3.5 Backfilling and Grading

32. Please revise the backfilling and grading plan to include a contingency plan for achieving the postmining topography of the final pit areas in Sections 19 and 24 if DWC's plans to construct the transloading rail facility do not materialize. The contingency plan should include specific dates when material from an alternative site will be used if construction of the transloading rail facility is delayed and identify the source of contingency backfill material. If the contingency plan will result in a change to the currently approved postmine topography, then a "Contingency Postmine Topography" map should also be included. The implementation of the contingency plan must begin by March 1, 2015 if construction of the transloading facility has not yet begun by that date. (GAW/WTG)

Please contact this office if you have any questions.

Sincerely,



for James R. Deutsch
Director
Reclamation Division

cc: Brad Lewis
Jeff Frohlich
Mercer County Auditor
Oliver County Auditor