



June 4, 2015

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

Dear Mr. Deutsch:

Re: Revision No. 29  
KRSB-8802

Dakota Westmoreland submits the following in response to the Public Service Commission's review letter of May 8. Individual comments are set forth below followed by Dakota Westmoreland's responses and a list of the revised information. Three copies of the revised information are enclosed.

**Table of Contents**

1. Follow-up to item No. 4: Please include a revised Table of Contents for the permit consistent with the changes proposed with Revision 29. Apparently, Exhibit 3.2.4, Proposed Constructed Wetland, is being removed from the permit with Revision 29; however, it is still included in the Table of Contents. (GAW)
  - The Table of Contents has been revised as requested.

**Section 2.7 - Land Use**

2. Follow-up to item No. 2: Please provide an updated preference statement or include a letter in the permit from Mr. Heth indicating his agreement with DWC's plan to replace pre-mining wetland 19-2 with spring seeps that have developed on the reclaimed highwall in Section 20. Proposed new language on page 2.7.5 indicates that spring seeps in Section 20 "redeveloped" which would lead one to believe that the wetlands that have formed from these spring seeps are simply replacing that which existed prior to mining but the pre-mine land use and wildlife sections of the permit do not show any pre-mine wetland habitat in this area prior to mining. Please revise the new language to provide clarity. Please also update the Post-Mine Land Use Acreage Table on page 2.7.4 to account for the additional wetland acreage that is being proposed with this revision. (GAW)
  - We have added language to the narrative to clarify the premining land use status and rationale for the depiction of land uses.



We are disinclined to honor your request for a document from the Heths agreeing to our postmining wetland placement. We are unable to find a statutory requirement supporting this request and have never had to secure the landowner's approval on postmining land use location over these many years. Since premining wetlands must be replaced, the self-generation of these seeps in the vicinity of premining locations within the reclaimed tame pastureland presents all parties with benefits. In particular, agronomic operations are eased and financial returns increased on the Heth lands by not having a mitigation wetland located within cropland. A letter sent to the Heths in late March explained our intentions to use the seeps to replace the premining wetland. We have not received any objections to our plan. The acreage table has also been revised.

### **Section 3.2 - Water Management Plan**

3. Follow-up to item No. 3: With regard to the Pond 70 Charlie Pit Sump topographic map prepared from the February 5, 2015 survey, elevation capacity curve, and capacity calculations submitted with the March 31, 2015 response, please submit a topographic map for the Pond 70 sump that has legible (i.e., larger) contour elevation labels. We also suggest using a 2 foot contour interval instead of the 1 foot contour interval, and/or another separate map or inset that clearly shows the sump contour elevations. (BAJ)
  - A "Charlie Sump" exhibit, including the elevation capacity curve and capacity calculations, have been added to the permit as part of Exhibit 3.2.2. The contour interval has been changed as requested.
4. Follow-up to item No. 3: With regard to the Pond 70 Charlie Pit Sump topographic map prepared from the February 5, 2015 survey, elevation capacity curve, and capacity calculations submitted with the March 31, 2015 response, please submit an Elevation - Discharge table or Storage - Discharge table for the sump. The tables are necessary to perform routing of the sump and pond. Please also provide a water elevation for the sump that DWC will need to maintain so that Pond 70 can contain the runoff from the design event without spillway outflow. NDAC 69-05.2-16-09(7) (BAJ)
  - A "Charlie Sump" exhibit, including the elevation capacity curve and storage calculations, have been added to the permit as part of Exhibit 3.2.2.
5. Follow-up to item No. 3: The Pond 70 Charlie Pit Sump topographic map prepared from the February 5, 2015 survey, elevation capacity curve, and capacity calculations submitted as reference material with the March 31, 2015 response are used for the sump design data on page 3.2.47 and should therefore be added to the Revision 29 application as Exhibit and Table 3.2.2. Please revise the items to present them as permit exhibit(s) and table(s) according to the two preceding items and also as follows: revise the topographic map title box to add an exhibit number and title with revision number and date; remove the topographic map elevation data points and label the index elevation contours; reduce the topographic map scale (enlarge the view) to include Pond 70; and label accompanying items as exhibit(s) and table(s) similar to the topographic map.

In related items, please add a reference to the Pond 70 Charlie Pit Sump exhibit(s) and table(s) on page 3.2.48, add the exhibit(s) and table(s) to the revision application list of changes, and also add the exhibit(s) and table(s) to Exhibit 3.2.2 (Pond Drawings and Tables index). Please note that item No. 20 of our May 1, 2015 KRSB-8802 permit pre-renewal review letter requested an update to Exhibit 3.2.2 to list sedimentation ponds 68, 70, and 71 that were constructed since the sheet was last updated on October 25, 1996. You may choose to submit the updated index to pond drawings and tables with Revision 29 (and add it to the revision list of changes) or submit it with the revision application that will accompany the forthcoming permit renewal application. (WTG)

- As requested, a “Charlie Sump” exhibit, including the elevation capacity curve and capacity calculations, has been added to the permit as part of Exhibit 3.2.2. The requested changes to the previously presented “reference material” were made in the new exhibit. A reference to the “Charlie Sump, Exhibit 3.2.2” has been added to the Pond 70 narrative. The Pond 70 narrative has been condensed to fit on one page so as not to disrupt the entire narrative page numbering. Also, the Exhibit 3.2.2, Pond Drawings and Tables index has been revised as requested and is being submitted with this revision.
6. Please update Exhibit 3.2.1 (Water Management Plan) to use the most recent permit-wide topographic survey as the exhibit’s topographic base. As indicated by a note below the exhibit’s scale bar, the topographic base depicted on the exhibit was prepared 12 years ago in May 2003. (WTG)
- Exhibit 3.2.1 has been revised as requested.

### **Section 3.7 - Time Schedules**

7. Follow-up to item No. 5: Language in the 2015 Schedule of Events states that a 47,000 cubic yard void will be left to serve as a sump at a control elevation of 2035. The “actual existing topography map” suggests that runoff will flow from the sump at an elevation of 2031. We assume the elevation difference is the planned SPGM respread depth but the elevation of the upstream toe of Pond 70 is 2029 feet and the elevation in the drainage way between Pond 70 and the sump at the section line is 2035. Please clarify this issue and include a topographic map that depicts the area where reclamation will be delayed in association with the sump reclamation and include planned cut and fill values for the reclamation delay area. (Please be reminded that the Reclamation Division has not approved altering the topography of the area in Section 24 located east of Pond 70 and the topography of this area should blend appropriately with the adjacent land located in the southwest corner of Section 19.) (GAW)
- The narrative regarding the “Charlie Sump” has been revised. At the present flow line of 2036, the permanent pool is at elevation 2032.3. DWC proposes to lower the flow line to 2035 allowing additional SPGM replacement. At a flow line of 2035, the permanent pool elevation of the Charlie Sump will be 2023.8.

The original elevation of the Pond 70 plunge pool is 2027.2; this will be our control elevation. DWC will assume 2 feet of SPGM will be replaced. This plan closely follows the design and intent of the approved topography.



Much of the drainage area has had topsoil and subsoil replaced. Until vegetation is established, the CN numbers of the newly replaced SPGM is comparable to our worst case design calculations. Elevation 2035 will be the control elevation until the CN numbers can be adjusted.

If you need additional information, please call me at extension 3926 or Jeff Frohlich, extension 3908.

Sincerely,

Paula Koble Gores  
Permit Coordinator

/s/  
Encl/

# DAKOTA WESTMORELAND CORPORATION

Mine: Beulah Mine  
Permit Number: KRSB-8802  
Revision No.: 29  
Submittal Date: February 10, 2014  
Revised Dates: March 5, March 31, and June 4, 2015

## Revision Narrative

Revision No. 29 was submitted to provide plans for a transload facility. Since the original submittal, circumstances have changed (see March 4 cover letter). However, Section 2.7, Land Use, Section 3.2, Water Management, Section 3.5, Backfilling and Grading and Section 3.7, Time Schedules were involved in this revision and require updating.

## Listing of Revised Information

<u>Volume</u>	<u>Section</u>	<u>Revised Information and Instructions</u>
		Revised page 1 of 2, Application for Revision form
All		Table of Contents
6	2.7	Revised pages 2.7.4 through 2.7.14 Revised exhibit 2.7.1
7	3.2	Revised page 3.2.47 Revised exhibit 3.2.1 Revised exhibit 3.2.2, Pond Drawings and Tables index Added exhibit 3.2.2 Charlie Sump Revised exhibit 3.2.4
9	3.5	Replace page 3.5.4 (March 5, 2015)
9	3.7	Replace pages 3.7.7 and 3.7.8