

PUBLIC SERVICE COMMISSION
Reclamation Division

Memorandum

To: Commissioners Fedorchak, Christmann, and Kalk
Darrell Nitschke, Executive Secretary
Illona Jeffcoat-Sacco and John Schuh

From: *JDE* Jim Deutsch, *DKM* Dean Moos, and *BG* Bill Gunnerson

Date: September 10, 2015

Subject: Application for Revision No. 29 to Permit No. KRSB-8802 held by Dakota Westmoreland Corporation for the Beulah Mine, Case No. RC-14-61

On February 10, 2014, Dakota Westmoreland Corporation filed the application for Revision No. 29 to Surface Coal Mining Permit No. KRSB-8802 for the Beulah Mine. Revision No. 29 proposes to extend the final reclamation schedule for the Orange and Charlie Pit areas by one year and updates the Land Use, Water Management, and Backfilling and Grading sections of the permit for the Orange and Charlie Pit areas. The Reclamation Division has completed its review of this permit revision application and respectfully recommends its approval.

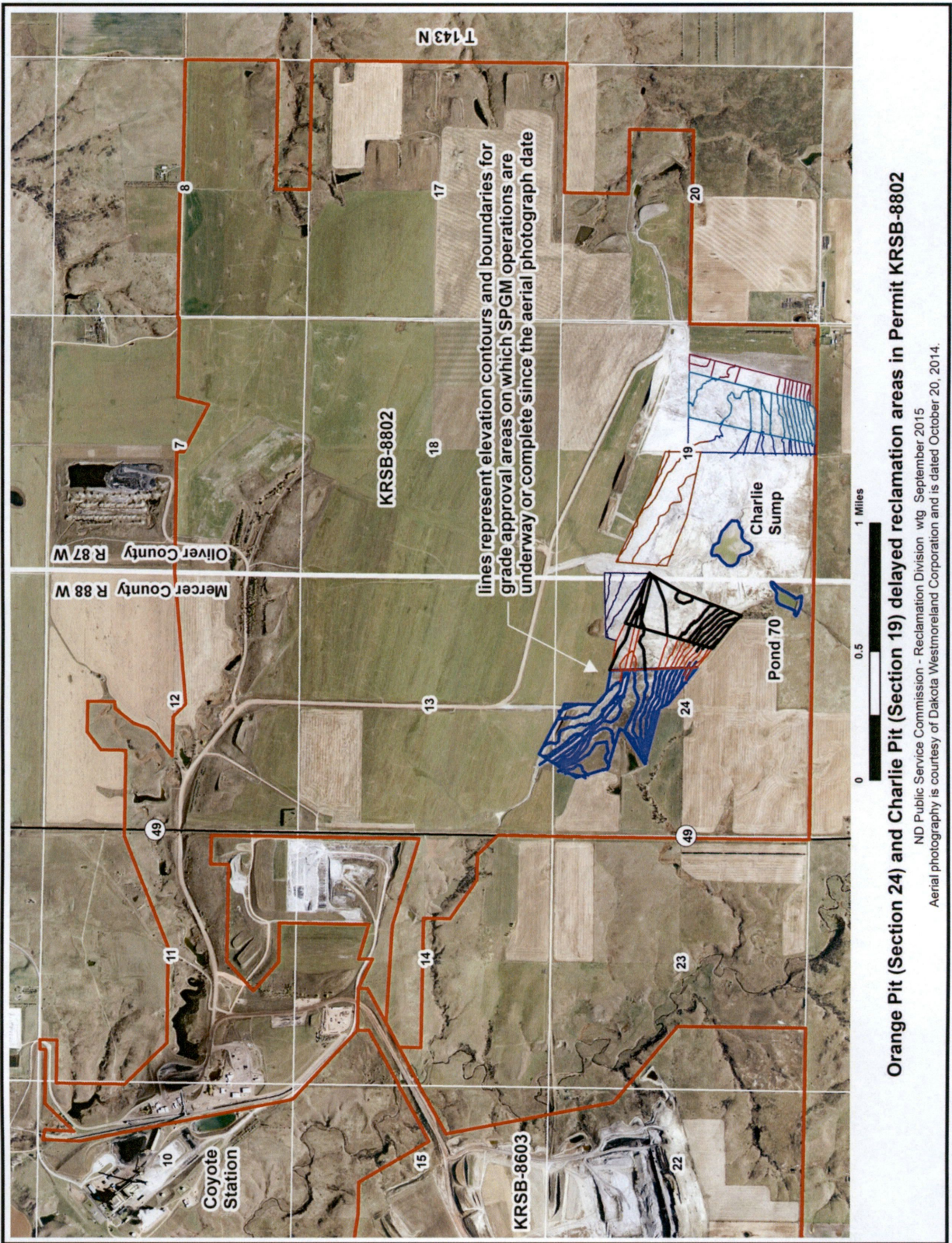
As submitted on February 10, 2014, Revision No. 29 also proposed to revise the postmining land use from agricultural to industrial for 30 acres of reclaimed cropland/hayland located southeast of the Coyote Station and to construct a 100-plus acre transload multi-use rail loop facility. Rail loop construction was expected to require excavation of nearly one-half million cubic yards of overburden that was planned for use as backfill in the final pit areas in the E½ of Section 24, T143N, R88W, Mercer County (Orange Pit), and the W½ of Section 19, T143N, R87W, Oliver County (Charlie Pit) (refer to Figure 1). A reassessment of crude oil industry business activity in early 2015 caused Dakota Westmoreland to withdraw all portions of Revision No. 29 relating to the transload facility on March 5, 2015.

The remaining portions of Revision No. 29 primarily include changes to Section 3.7 (Time Schedules) and Section 3.2 (Water Management Plan) in the permit. Backfilling and grading, soil resspreading, and seeding of the final Orange and Charlie Pit areas has been ongoing since coal removal was completed in 2010. The delay in the reclamation schedule in Section 3.7 allows Dakota Westmoreland to complete seeding in the remaining reclamation area in 2016 rather than 2015. Also, this revision allows Dakota Westmoreland to use a small area of the final pit as the Charlie Sump to retain runoff until reclamation is nearly complete in the Pond 70 watershed (refer to Figure 1). The Charlie Sump will be reclaimed in 2016. Additional fill that may be required to reclaim the Charlie Sump will not be available from the transload excavation as originally proposed with Revision No. 29, but an alternative fill borrow source of pre-law

spoil has been identified in the SW¼ of Section 12 of the permit (refer to Figure 1). The fill borrow source is conveniently located because an existing road and ramp can be used for truck and equipment access to the borrow source and the Charlie Sump.

Revision No. 29 was considered a significant alteration to the permit's reclamation plans and was therefore subject to the notice, hearing, and procedural requirements. Dakota Westmoreland submitted the affidavits of publication for the newspaper notice indicating that it was published in the Hazen Star, Center Republican, and the Bismarck Tribune for four consecutive weeks in July and August of 2014. We notified the appropriate agencies, affected landowners, and the advisory committee members. We received no comments or objections for this revision application. Also, no bond adjustment was required for this permit revision.

Attached for your consideration are the proposed motion, revision approval form, and the revision approval notice that will be published in the appropriate newspapers.



Orange Pit (Section 24) and Charlie Pit (Section 19) delayed reclamation areas in Permit KRSB-8802

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Aerial photography is courtesy of Dakota Westmoreland Corporation and is dated October 20, 2014.