



June 23, 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. 30  
KRSB-8802

Enclosed are an Application For Renewal Of Permit and an Application For Revision Of Permit To Engage In Surface Coal Mining And Reclamation Operations, a revision summary, public notice and accompanying map. Three complete sets of the revised materials are enclosed.

The following are narrative responses to the Commission's pre-renewal letter of May 1, 2015.

**Section 1.4 – Business Entity Information**

1. Please update the ownership and control information on pages 1.4.2 through 1.4.11 as required by NDAC 69-05.2-06-01. (BEB/ZAB)
  - The ownership and control information has been updated to reflect AVS information as submitted to OSM effective June 9. The ownership and control information now consists of pages 1.4.2 through 1.4.20. The registered agent address has been updated on page 1.4.1.

The entire section is being submitted for pagination purposes due to the additional data.

2. If necessary, please update the listing on pages 1.4.12 of current surface coal mining permits held by Westmoreland Coal as required by NDAC 69-05.2-06-02. (BEB/ZAB)
  - Pages 1.4.21 through 1.4.24 have been updated as requested. Pages 1.4.25 and 1.4.26 contains the list of pending surface coal mining operation permit applications.
3. If necessary, please update the surface and subsurface ownership listings within the permit area and contiguous ownerships on pages 1.4.14 through 1.4.18 as required by NDAC 69-05.2-06-01 and NDCC 38-14.1-14. Any changes to either of these sections should also be reflected on Exhibit 1.4.1 – Surface and Mineral Ownership Map. (BEB/ZAB)
  - The only change made to the ownership listing was to cross-hatch “& Rose” regarding any reference to William, Miles & Rose Heth.



4. If necessary, please update the addresses of the surface owners of record on pages 1.4.20 and 1.4.21, as this information will be required for future bond release notification. (BEB/ZAB)
  - Rose M. Heth's address has been eliminated from the list of addresses on pages 1.4.33 and 1.4.34. We are not aware of any other changes.
5. If necessary, please update the listing of other permits held by DWC on page 1.4.32 as required by NDAC 69-05.2-06-04. (BEB/ZAB)
  - One county conditional use permit and a renewal date has been added. This information is now on page 1.4.45.
6. Many of the leases within this permit are automatically renewed so long as coal is being produced; however, coal production has ceased from this permit area. Since many of these same coal leases also provide right of entry, please review the leases to verify that DWC has the necessary right of entry for the next permit term. The narrative in the first paragraph on page 1.4.30 needs to affirm that DWC not only has the right and power to strip mine the lands heretofore described, but also has right of entry to complete all reclamation activities until bond release is granted. NDCC 38-14.1-14(1)(k) (ZAB)
  - This narrative is now located on page 1.4.43. A statement was added to the referenced narrative for the renewal no. 4 application submitted July 23, 2010; to affirm that all leases have been maintained and are in full force and effect. A copy of page 2 of DWC's July 23, 2010 response letter (see item #9) is enclosed for your reference. We believe the statement, as is approved, is accurate.
7. In Exhibit 1.4.2, please review the Permit or agreement (page 269) between Knife River and MDU (acting on behalf of the Coyote Partners) that expired in 2010. Provide documentation that this agreement has been renewed and will be effective for the next permit term. If this agreement is no longer valid, then please provide the document(s) that DWC bases its right of entry for these tracts on. NDCC 38-14.1-14(1)(k) (ZAB)
  - A new surface lease, covering the same area as the expired agreement, has been entered into between the Co-owners of the Coyote Station and DWC. A copy of said lease is enclosed. This lease must be certified with the Mercer County Recorder. Once that information is available, the new lease will be appropriately paginated and provided for Exhibit 1.4.2. The Exhibit 1.4.2 cover page has been updated to reflect the name reference of Coyote Partners.
8. The Table of Contents references Exhibit 1.4.4, Waivers and Road Closings, but this Exhibit is missing in the PSC copy of the permit. Please provide a copy of this Exhibit. (GAW)
  - Three copies of this exhibit are being provided for ease of review.

#### **Section 1.5 – Compliance Information**

9. Please update this section with current information as required by NDAC 69-05.2-06-02 (3). It appears that most, if not all of the listed violations are more than 3-years old and therefore may be removed from the permit. Violations issued within the last three years should be added to Section 1.5, including NOV's 1201 and 1401 issued to the Beulah mine. (BEB/ZAB)

- Section 1.5 is being provided in entirety as additional mine properties have been added.

### **Section 2.3 – Ground Water Hydrology**

10. If necessary, please update Table 2.3.1 to reflect any destroyed or inactive wells since this table was last updated in 2013. Any changes to this table should be reflected on the Ground Water Monitoring Sites Map, Exhibit 2.3.1 and the Groundwater Monitoring Schedule in Exhibit 2.3.13. Also, you may remove the yellow highlights on several of the wells in Table 2.3.1 that were apparently left over from a previous revision update. (BEB)
  - No wells have been destroyed or become inactive since the last update in 2013. Yellow highlights have been removed from Table 2.3.1.
11. Subsection C – Known Uses of Water that is located on pages 2.3.34 and 2.3.35 describes water resources within and adjacent to the permit area as well as past water replacement waivers and water supply complaint investigations. Please provide a discussion in this section describing the ground water investigation and water supply replacement project that was conducted for adjacent landowner Linc Reinhiller. (BEB)
  - A discussion regarding the Reinhiller water supply replacement project has been added to the narrative.
12. Follow-up to item No. 3: Please update Subsection D – Probable Hydrologic Consequences that begins on page 2.3.35 with a discussion regarding the reestablishment of spring/seep flow from the unmined Schoolhouse lignite seam near the center of Section 20 along the reclaimed highwall within and adjacent to the permit, along with planned remedial measures regarding the reestablished spring flow in this area of the mine. We understand that discussions between DWC and the landowner have been entertained with regard to development of a postmining wetland or developed water resource in this area. Discussions with the landowner regarding this issue need to be finalized at this time and a hydrologic reclamation plan needs to be incorporated into the ground water section of the permit. Relevant postmining landuse sections of the permit will need to be updated as well pending the outcome of discussions with the landowner. Please address. (BEB)
  - The PHC has been expanded with discussion on the seeps that have reestablished on the Heth property.

### **Section 2.7 – Land Use**

13. DWC delineated new wetlands that formed along the reclaimed highwall in the NW1/4 of Section 20 with Revision 29 but an area that appears to also be wetland that has developed along the highwall in the southeast corner of the NW1/4 of Section 20 was not delineated as wetland. Please review and update as necessary to clarify if additional wetland acreage has formed on reclaimed and undisturbed land, and if these features are detrimental to the approved post-mining land use. Landowner concurrence should be included if additional wetlands are to be reclaimed in this area. NDAC 69-05.2-09-13(3) (GAW)
  - We have added a couple of small wetland areas to the exhibit. Most of the acreage is within the undisturbed corridor. Narrative acres have been revised accordingly.



14. Pond 4 is shown as a permanent pond on the Postmining Land Use Map, Exhibit 2.7.1, but DWC submitted a request to remove this pond on December 17, 2014, that included new design contours in the area. Please review and update the Postmining Land Use Map, Exhibit 2.7.1, and the Contour Map of Post Mining Topography, Exhibit 3.5.2, as necessary. (GAW)

➤ Pond 4 has been removed from Exhibit 2.7.1 and Exhibit 3.5.3.

15. Please include a discussion in Section 2.7, Land Use, about reconstructed county and section line roads and landowner access to reclaimed lands. The Reclamation Division encourages reconstruction of the section line road that provided access to the abandoned farmstead site located in the SE1/4 of Section 24, and perhaps a functional section line trail should be constructed along the entire length of the section line between Sections 19 and 24 to allow access to reclaimed lands located in Sections 17 and 18. Obviously, a culvert will be needed on the section line across the reconstructed drainage way above Pond 70 given the size of the watershed being diverted this direction. It appears that section line roads along the section lines common to Sections 12 and 13, 7 and 18, 13 and 18, 18 and 19 and 13 and 24 will be needed. An unsurfaced section line road currently exists between the SE1/4 of Section 17 and the NE1/4 of Section 20 and should logically be continued or extended to the section line between the SW1/4 of Section 17 and the NW1/4 of Section 20. Please revise the permit to indicate that culverts will be installed along all section line corridors as necessary and that differential settling along these corridors will be repaired to allow suitable vehicular access to surface owner's property. NDAC 69-05.2-09-13(1) (GAW)

➤ A discussion has been added to the narrative to address road reclamation. We are committed to replacing constructed roads and installing culverts on section lines where necessary and as is depicted on Exhibit 2.7.1. In areas where constructed or improved roads did not exist prior to mining activities, we expect that trails similar to the premining trails will be formed by users in most locations after vegetation along these corridors has been reestablished.

16. The last two sentences on page 2.7.5 states that a water source for livestock will be provided for the tame pastureland located in the SW1/4 of Section 13 but that the landowner has not decided upon the type of water source. Please review this issue with the landowner so that the appropriate plans can be added to the permit. (GAW)

➤ The status of water source replacement has been clarified in the narrative.

### **Section 3.1 – General Mine Plan**

17. Please revise pages 3.1.10 and 3.1.11 to remove the duplication and renumber the succeeding pages as necessary. (WTG)

➤ The entire narrative is being provided for ease of filing and pagination. None of the narrative has been changed apart from deleting the "future tense" language regarding the dragline walkway as found in the PSC's copy.

18. Please update Exhibit 3.1.1, Extended Mine Plan and 5 Year Subareas, to show the KRSB-8603 permit boundary as approved with Revision No. 27; to show the 5-year coal removal sub-areas planned in Permit KRSB-8603; and update the map by delineating areas where mining is completed. (BEB)

- The exhibit has been updated as requested. The mining boundary was updated through December 31, 2014.

19. Item No. 22 of our September 26, 2014 technical review letter for Revision No. 29 noted that the most recent approved Table of Contents dated March 29, 2010 updated with Revision 25 does not list Exhibit 3.1.3B, and the Section 3.1 narrative does not reference Exhibit 3.1.3B. Although the item was written in response to Exhibit 3.1.3B submitted for the transloading facility portion of Revision No. 29 that has since been withdrawn, it pertains to the pre-renewal review because existing Exhibit 3.1.3B submitted with Revision 23 in response to NOV-0604 should have been added to the Table of Contents and referenced in Section 3.1 with Revision 23. Please update the Table of Contents to list Exhibit 3.1.3B and also add references to Exhibit 3.1.3B at two places on page 3.1.8 where other haulroad exhibits are referenced. We also note that our copy of the permit includes hand-labeled Exhibit 3.1.3B - Haul Road Design (Charlie Pit Ramp #2) (dated 10/15/05 and received November 15, 2006) rather than the certified segment of haulroad as Exhibit 3.1.3B received December 15, 2006 as required by NDAC-69-05.2-24-03, and as specified in the Abatement Time Period in NOV-0604. We would appreciate a duplicate of Exhibit 3.1.3B submitted with the December 14, 2006 cover letter to include in our copy of the permit. (WTG)

- Exhibit 3.1.3B has been added to the Table of Contents. Pages affected, from the Table of Contents as submitted with Revision 29 on June 4, are included. The two references to Exhibit 3.1.3B have been added to the narrative as requested. A hard copy of the December 15, 2006 exhibit is being out-sourced for copying and will be provided to the PSC upon receipt.

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

20. Please update the cover sheet for Exhibit 3.2.2 (Pond Drawings and Tables) to list sedimentation ponds 68, 70, and 71 that were constructed since the sheet was last updated on October 25, 1996. (WTG)

- Completed as requested and submitted with the Revision #29 submittal, June 4, 2015.

### **Section 3.4 Suitable Plant Growth Material Handling Plan**

21. Please update Tables 3.4.3 and 3.4.4 in Section 3.4 to reflect current conditions for the remaining acreage requiring reclamation. (WTG)

- Tables 3.4.3 and 3.4.4 have been updated.

### **Exhibit 3.4.1 Suitable Plant Growth Material Redistribution Depths**

22. Please update Exhibit 3.4.1 to reflect current conditions for the remaining acreage requiring reclamation. (WTG)

- Exhibit 3.4.1 has been revised to illustrate the areas that have been respread and those awaiting respreading as of May 1, 2015.

### **Exhibit 3.4.3 Materials Storage**

23. Please update Exhibit 3.4.3 to reflect current conditions for SPGM stockpiles. (WTG)

- Exhibit 3.4.3 has been updated as of May 1, 2015.



**Section 3.5 – Backfilling and Grading**

24. Please revise Subsections J and K, Access and Haulroads and Temporary Impoundments, respectively, to discuss where overburden in haulroads will be permanently placed, and if any overburden will be needed to reclaim haulroads, sediment ponds, sumps and drainage way corridors. Please also discuss and depict on a map how equipment access will be retained to sediment ponds, sumps and drainage way corridors that are to be reclaimed 2 years after their respective watersheds are reclaimed. If access corridors are going to be retained, please show them on a map along with the necessary BMP water management features. NDAC 69-05.2-09-11(4) (GAW)

- Language was added to subsections J and K to address the PSC's concerns.

**Section 3.7 – Time Schedule**

25. Please update Section 3.7 Time Schedules and Table 3.7.1 on page 3.7.2 to account for the changes in reclamation of the Orange and Charlie pits that have occurred. Clarify the size, location and timeline of the reclamation variance that will be needed during the next term of the permit. NDAC 69-05.2-09-11 (1) (BAJ/GAW)

- Table 3.7.1 has been updated as requested.

26. Please update the 2015 Schedule of Events on Page 3.7.7, and if necessary, the Pond Removal Schedule on Page 3.7.8. (BAJ)

- The 2015 and 2016 Schedule of Events was revised with the Revision 29 submittal on June 4, 2015.

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

Sincerely,

Paula Koble Gores  
Permit Coordinator

/s/  
Encl/