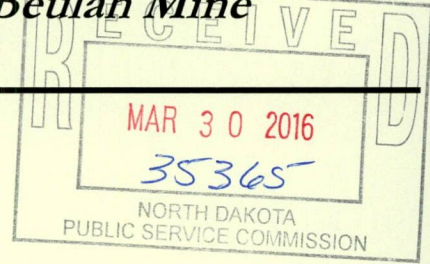




Dakota Westmoreland Corporation - Beulah Mine
A Subsidiary of WESTMORELAND COAL COMPANY



March 28, 2016

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

Dear Mr. Deutsch:

Re: Renewal No. 6 and Revision No. 30
KRSB-8603

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 CD's of the revised permit are also enclosed.

The following are narrative responses to the Commission's pre-renewal letter of January 13, 2016.

Section 1.4 – Business Entity Information

1. As required by NDCC 38-14.1-14(1)(e) and NDAC 69-05.2-06-01(1)(e) and (f), please update the ownership and control information, and organizational structure, presented on pages 2 through 12 of Section 1.4. Please provide affirmation for the updates to ownership and control information as now required by NDAC 69-05.2-06-01(2). (WTG/ZAB)
 - The ownership and control information has been updated to reflect AVS information as submitted through February 2016. The ownership and control information now consists of pages 1.4.2 through 1.4.32. An Officer's Certificate providing affirmation for the AVS data is enclosed. The information regarding DWC was updated and approved December 14, 2015.
2. As required by NDCC 38-14.1-14(1)(f) and NDAC 69-05.2-06-02(1), please update the information for coal mining permits in any state held during the previous five years presented on pages 13 through 14 of Section 1.4. (WTG)
 - The list has been updated as requested, however this information is now found on pages 1.4.26 through 1.4.29. Pages 1.4.32 and 1.4.33 contains the list of pending surface coal mining operation permit applications.
3. As required by NDCC 38-14.1-14(1)(h) and NDAC 69-05.2-06-02(2), please add a statement to Section 1.4 of whether the permit applicant, any subsidiary, affiliate, or persons controlled by or under common control with the permit applicant, has ever held any federal or state mining permit during the previous five years that has been suspended or revoked, or has had a mining bond or similar security deposited in lieu of bond forfeited and, if so, a brief explanation of the facts involved. (WTG)

The same statement as was provided for permit KRSB-8802 has been added to subsection F., Federal Reclamation Fees, page 50.

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Revision application filed to update mining and reclamation plans for the next five-year permit term





4. If any changes have occurred, please update the surface and subsurface ownership listings within the permit area and adjacent areas on pages 1.4.15 through 1.4.19 as required by NDAC 69-05.2-06-01 and NDCC 38-14.1-14. Any changes to either of these sections must also be reflected on Exhibit 1.4.1 – Surface and Mineral Ownership Map. (ZAB/WTG)
 - Only two landowner changes were made. Leona Weil and Martha Gunsch are now deceased. Appropriate changes were made to the ownership listings and Exhibit 1.4.1.
5. If any changes have occurred, please update the addresses of the surface owners of record on pages 1.4.20 - 1.4.23. (ZAB)
 - Changes have been made as requested.
6. Please revise the narrative in the first paragraph on page 1.4.28 to affirm that DWC not only has the right to mine, but also has right of entry to carry out all reclamation activities required for bond release on the lands heretofore described if any coal lease has expired. NDCC 38-14.1-14(1)(k) (ZAB)
 - The same statement as was provided for permit KRSB-8802 has been added to subsection C., Right Of Entry And Operation Information, page 47.
7. Please add a copy of Lease KR-248B between DWC and Coyote Partners for the S1/2NW14 of Section 14 to Exhibit 1.4.2. A new lease that includes this tract was recently added to Permit KRSB-8802 with Revision 30. (ZAB)
 - The lease that was added to permit KRSB-8802 does not include lands in permit KRSB-8603.
8. As required by NDAC 69-05.2-06-04, please update as appropriate the list of other licenses and permits that have been issued to Dakota Westmoreland Corporation as presented on pages 30 and 31 of Section 1.4. (WTG/ZAB)
 - No additional licenses or permits have been added to permit KRSB-8603. All *other* required permits are in good standing.
9. Please remove the metes and bounds corner numbers of former permit boundaries or permit acreage additions from Exhibit 1.4.1 (Surface and Coal Ownership Map). (WTG)
 - The metes and bounds corner numbers have been removed as requested

Section 1.5 – Compliance Information

10. As required by NDAC 69-05.2-06-02-3, please update the compliance information in this section to add any notices of violation or other enforcement action which may have been incurred by DWC or other companies owned or controlled by Westmoreland Coal Company during the three year period prior to the renewal revision application. You may also update information in this section to remove any notices of violation which may have been incurred more than three years prior to the renewal application. (ZAB/BEB/WTG)
 - The notice of violations have been updated as requested.



Section 2.1 – Geologic Inventory

11. Please add to the Stratigraphy narrative in Subsection B to briefly describe the stratigraphic position of the Hazen-B coal seam relative to the other described intervals in the narrative. At least one ground water monitoring well in the permit area is screened in the Hazen-B seam and its stratigraphic position in the bedrock sedimentary sequence should be described in the permit. Most authors and publications place the Hazen-B bed below the Spaer bed; however, your stratigraphic nomenclature appears to place the Hazen-B above the Spaer. Please update to provide clarification. (BEB)
 - We agree that the Hazen B bed is below the Spaer bed. A brief discussion of the Hazen B coal bed has been added to the narrative.

Section 2.2 – Surface Water Hydrology – Inventory & Monitoring

12. The surface water narrative on pages 2.2.9 and 2.2.10 of Section 2.2 provides information on the NDPDES discharges points including a list of locations with the date added to the NDPDES permit. Please update this listing or revise to refer directly to the NDPDES permit records that are maintained at the mine and with the NDDH. (RLK)
 - The list has been replaced with a narrative reference to other records.

Section 2.3 – Groundwater Hydrology

13. An entire section and several exhibits within the permit are dedicated to the valley fill area in the SE1/4 of Section 16 and in particular, to the spring collection and drainage system that was approved and installed commensurate with the valley fill in this area. This project was completed many years ago and we request that you update the groundwater Probable Hydrologic Consequences in Section 2.3 to provide current information in the permit regarding the project and whether or not the groundwater collection and drainage system is functioning as designed and predicted in the PHC. It was noted during a routine inspection several years ago that the discharge outlet of the spring collection system was believed to have been buried and a discussion in the permit regarding this is also warranted, if that is the case. (BEB)
 - Moved & updated all discussion of valley fill area to Probable Hydrologic Consequences Section D-1.
14. Please review the narrative and tables in Section 2.3 beginning with Subsection C -Known Uses of Groundwater, and update the narrative and tables to provide relevant and current information in the permit. (BEB)
 - Updated Subsection C narrative and Table 2.3.6 to describe current conditions. Minor changes to labels on Exhibit 2.3.7 have also been performed.
15. Please resolve some inconsistencies in the list of ground water monitoring wells in your monitoring plan as provided in Table 2.3.8. Monitoring well 2008 is labeled on the table as being screened in the Spaer bed; however, static water level reports submitted to the Reclamation Division and the well completion reports in the permit list this well as screened in the Hazen B bed. Separately, static water level reports depict monitoring well 2008-R as being screened in the Spaer bed; however; 2008-R is not listed in your monitoring plan in Table 2.3.8. Please review and update the table as necessary regarding these issues. (BEB)
 - Table 2.3.8 has been updated with the suggested changes.



Section 2.5 – Wildlife Inventory and Plan

16. Please review and update all relevant subsections of the Wildlife Inventory and Plan, Section 2.5, to address all currently listed threatened, endangered, proposed and candidate species. This should include a discussion about whether or not the permit and adjacent area contains any habitat suitable for any of these species and a protection and enhancement plan should be developed and provide if any of these species potentially exist (temporarily or permanently) in the area. (GAW)

- Table 2.3.8 has been updated with the suggested changes.

Section 2.7 - Land Use

17. It appears that an incorrect version of the Postmining Land Use Map, Exhibit 2.7.1, was included with approved Revision 29. This map is different from that which was approved with Revision 27 and no changes were made to this map with Revision 29. For example, a developed water resource is not shown in the SW1/4 of Section 17 even though narrative on page 2 of Section 2.7 states that a dugout will be constructed in the vicinity of sediment pond 93A in the SW1/4 of Section 17. Also, a wetland is shown in the southeast corner of the NE1/4 of Section 22 that was not approved with Revision 29. Please review the Postmine Land Use Map and narratives in Section 2.7 to ensure that the approved map is provided. (GAW)

- Exhibit 2.7.1 has been corrected.

18. The postmine land use preference statement for the NW1/4 of Section 21 indicates that Knife River will convert the pre-mining native grassland on this tract to cropland if the company believes that the soils and topography will support this use; otherwise, the area is to be returned to tame pastureland to coincide with the land use in the vicinity of the pond. The postmining land use map shows that about 25 acres in the southwest corner of this tract will be reclaimed to tame pastureland. Please consider revisiting this issue with the surface owner (Weil et. al.) and evaluate whether or not the soils and topography of this area is suitable as cropland or hayland since all, or nearly all, of this area has been disturbed by mining activities and most has been reclaimed and is being managed as hayland along with the balance of the tract. The criteria listed in NDAC 69-05.2-23-03 will need to be addressed if an alternative land use is planned. (GAW)

- A subsequent preference statement indicated that the landowner wanted to retain pond 87, in part because it could serve as a water source for livestock grazing the tame pastureland. We will keep the present land use plan in place but may visit with the landowner's heir on this issue.

Section 3.1 – General Mining Plan

19. As required by NDAC 69-05.2-09-01(1), please update Subsection A - Past, Present, and Future Production of coal removal for the next permit term. (ZAB/BAJ/WTG)

- This information has been updated as requested.

20. Please revise Subsection B of Section 3.1 to describe the acreage anticipated to be disturbed during the next five-year permit term. (WTG)

- This has been updated as requested.

21. Please revise Subsection C of Section 3.1 to reflect changes that will occur with coal delivery in May 2016 (i.e., DWC will no longer be delivering coal to the Coyote Station). Historical information regarding coal delivery should be retained as well. (WTG)

- The narrative has been updated as requested



22. Please review the Pit Layout and Facilities Map, Section 3.1.2, and revise as necessary for mine plan changes that have and are going to occur during the next term of the permit. The current and projected mining schedule should be updated and the next 5-year coal removal area should be clearly depicted. The pit sequence should only include mining within the current approved boundary of Permit KRSB-8603. Please update the dates of mining for the pits as well as the geometry of the pits (the pits are currently shown on Exhibit 3.1.2 as straight pits for the most part; however, aerial imagery shows that the east portions of pit 49 has a “dogleg”, that is angled to the northeast). The map currently shows a haul road corridor through the NW1/4 of Section 22 but DWC has indicated that plans have changed regarding this road and the pit sequence mining schedule presumably has changed due to Coyote Plant outage during 2015. The map incorrectly shows 2015 mineral removal in the Iron Pit area between Ponds 103 and 104 and SPGM stockpiles exist in the NE1/4 of Section 20 that are not shown on this map. Please also show all overburden piles on this map. (GAW/BAJ/ZAB/WTG)
- The pit layout has been modified to reflect actual pit configuration as of January 1, 2016. The proposed haulroad in Section 22 has been removed. The mining sequence has been adjusted to reflect the extended plant outage for the Coyote Power Plant. The overburden storage pile in Section 20 was added to this exhibit.
23. As required by NDAC 69-05.2-09-01(1), please update the list of Major Equipment in Subsection C - Mining Methods, and update the existing equipment list on page 3.5.2 of Section 3.5, Backfilling and Grading, if necessary. (ZAB/WTG/BAJ)
- The list of existing equipment has been revised.
24. As required by NDAC 69-05.2-07-03, please update Exhibit 3.1.1 Extended Mine Plan and 5 Year Subareas. The changes should include, but not be limited to, showing all mining that has been completed through 2015, changes to the mining plan, and any areas that DWC plans to permit in the future (e.g. Section 29, T143N R83W). (ZAB/BAJ/WTG)
- This exhibit has been revised as requested.
25. It is not clear on the Pit Layout Map where DWC has authorization to operate within 100 feet of an intermittent stream. Please either revise the Pit Layout and Facilities Map, Section 3.1.2, to show where DWC has been authorized to operate within 100 feet of an intermittent stream and reference this map in the Intermittent Stream Buffer Disturbance narrative on page 3.1.6, or reference the map that depicts this information in the intermittent stream narrative discussion in the permit. (GAW)
- DWC has followed the approved mine plan that is clearly depicted on Exhibit 3.1.2. The intermittent streams are also identified on this map. The stream buffers are clearly marked in the field. The streambeds that are designated for mining are clearly shown on Exhibit 3.1.2.
26. The Pit Layout and Facilities map, Section 3.1.2, identifies a proposed scoria storage area in the SW14 of Section 21. Please reconsider the location of this proposed storage area for compliance with NDAC 69-05.2-13-05. The Reclamation Division believes that this storage site should be placed on disturbed land owned by DWC in Section 20 or other lands affected by mining, rather than on this undisturbed private land. (GAW)
- This scoria storage site has been removed. Any new storage areas will be placed on disturbed land as requested.
27. Please revise Subsection D of Section 3.1 to remove haul road construction narrative that was added with Revision No. 27 (Haul Road 3 as depicted and labeled on Exhibit 3.1.8) but has since been reconsidered. (WTG)
- This portion of the narrative has been removed.



28. Please revise Subsection D of Section 3.1 as necessary to clarify that topsoil was removed from the dragline walkway according to salvage and respread depths identified in Exhibit 3.1.8b but the subsoil was waived. Please also clarify that dragline walkway reclamation will require topsoil and subsoil replacement. (WTG)

➤ The narrative was amended as suggested.

29. Please revise Exhibit 3.1.3 (Premine Topographic Map) to reflect any changes with the placement of sedimentation ponds or diversions that may have occurred since the exhibit was most recently updated with Revision No. 27. (WTG)

➤ This exhibit has been updated as requested.

30. Please revise Exhibit 3.1.6 (Facilities Area Map) to depict the current permit boundary following the approval of Revision No. 27 and to reflect any changes with the status or presence of water management structures and buildings, facilities, utilities, or structures that have occurred since the map was last updated with Revision No. 27. Please also represent the KRSB-8802 permit boundary in the map's legend with the appropriate line type and label. (WTG)

➤ This exhibit has been updated as requested.

Section 3.2 Water Management Plan

31. Please update the design information for Pond 105 on page 3.2.36 and Exhibits 3.2.46 and 3.2.47 where permission was granted in an email dated July 14, 2015 for DWC to move the location of the pond and to construct the pond as a totally incised structure. (BAJ)

➤ Pond 105 has been revised.

32. Please revise the actual or proposed construction dates as necessary for Ponds 103, 104, 105, 106, and 108 in Subsection A of Section 3.2. (WTG)

➤ The construction dates have been added when applicable.

Exhibit 3.4.1 Suitable Plant Growth Material Redistribution Depths

33. Please revise the projected disturbance boundary in Sections 20, 22, and 23 on Exhibit 3.4.1 if necessary to reflect any disturbance boundary expansion that has occurred since the exhibit was last updated with Revision No. 27, or that is projected to occur in the next permit term. Please also label the projected redistribution depth in the NE¼ of Section 19. (WTG)

➤ We do not anticipate further expansion of the permit in Sections 22 and 23 and projections for the limited future disturbance in Section 20 have been adjusted slightly for convergence with the anticipated boundaries in Section 29. The projected total respread depth for the NE19 has been added.

Section 3.5 – Backfilling and Grading

34. The Post Mining Topography map, Exhibit 3.5.3, in the currently approved permit is not the same as the version approved with Revision 27. The Reclamation Division required sinuosity and secondary drainages in the drainageway that is to be reconstructed in the NW1/4 of Section 22 but this approved topography was not carried forward with the Revision 29 version even though no changes were made to Exhibit 3.5.3 as part of Revision 29. Please revise Exhibit 3.5.3 to show the current approved topography as approved in Revision 27, and all other maps generated from the postmining topography, such as Exhibit 3.5.4b. (GAW)



- The approved final topography has been included with this revision. The map was updated to show the most recent approved tracts.

Section 3.7 – Revegetation Plan

35. Please update Section 3.7, Revegetation Plan, to document the actual native grassland seed mixture that was planted on reclaimed native grasslands since the permit contains language allowing endemic forb species to be added or substituted for native grass included in the approved mix. In addition to species seeding rate, please also include the variety or cultivar selected or species origin if non-varietal (common) seed was selected to ensure the variety/cultivar is properly adapted. (GAW)
- We do not believe that inclusion of historical data such as actual native seed mix planted on each tract should be part of the revegetation plan. It is not specifically required by the administrative rules as part of the mining permit or any other document prior to bond release, which has been the vehicle for such documentation for decades.
36. Please update Section 3.7, Revegetation Plan, to document and clarify instances in which native grass seedings have been delayed and reseedings have occurred in an effort to control invasive non-native species. The Reclamation Division is aware that some reclaimed native grassland has been sprayed and reseeded at least once in an effort to control invasive non-native species. Please document these types of tract specific management activities in the permit. (GAW)
- Again, we don't believe the mining permit is the place for this type of management information, which is not required by regulation nor established procedure going back decades. Rather, we believe recordkeeping of activities is more appropriate in other documents.
37. Please update Section 3.7, Revegetation Plan, to discuss how DWC is planning to manage the reclaimed native grasslands located in Sections 17 and 18 that are dominated with warm season species, primarily switchgrass, to ensure revegetation success. The Reclamation Division has noted that DWC has not hayed, grazed, clipped or implemented any apparent management on these reclaimed native grasslands over the past few years and we are concerned that the lack of management might delay final bond release. Please update the permit to include a detailed management plan for these lands during the revegetation responsibility period as required by NDAC 69-05.2-09-13(1)(b). (GAW)
- We believe that the management techniques that may employed on reclaimed native grassland tracts such as those in Sections 17 and 18 have already been addressed in the permit. We agree that forage cutting would benefit many of these tracts and plan to perform such management on those productive tracts heavily dominated by species such as switchgrass.
38. Please update Section 3.7, Revegetation Plan, to discuss if woodland site SE17-01 was deep ripped prior to planting, actual weed control practices implemented annually, apparent or actual seedling success rates and details regarding replanting or augmentation if any has occurred since planting. (GAW)
- This type of information is in the same category as that requested in comments # 35 and #36. Therefore, we believe that changes would be unproductive.
39. DWC is proposing to replace several pre-mine linear drainageway type wetlands with pothole-like features located on upland sites with small watersheds, and a conservation wetland is shown on hayland in the SW1/4 of Section 17. The Reclamation Division is concerned that these features may interfere with the pre-mine capabilities of the land, and that the watersheds may be too small to allow the features to function as intended. Please revise to place these wetlands back in the bottom of drainages similar to premine conditions, provide justification for the proposed locations of each of these wetlands and include design plans that demonstrate adequate water yield from each contributing watershed. (GAW)



- Design plans and estimated water supply calculations for each pothole conservation and mitigation wetland are currently presented in Section 3.2. Calculations for the annual yield at an 80% level of probability, which appear at the end of the narrative, demonstrate that these wetlands should fill with water in most years, providing for the fluctuating water levels characteristic of ephemeral and temporary wetlands. These wetlands have been located on properties where the surface owner has expressed a desire to enhance the postmining landscape for the benefit of wildlife. Accessibility for management and monitoring was also a consideration. We believe these ephemeral/temporary wetlands can help accomplish the wildlife habitat enhancement goal, a goal that the Reclamation Division has also encouraged us to explore.

40. Please revise Section 3.7, Revegetation Plan, to give each planned reclaimed wetland, shelterbelt, woodland, and conservation tree planting an identification label, provide the size (acreage) of each of these features and label each of these features on the Postmining Land Use Map, Exhibit 2.7.1, to provided clarity regarding DWC's reclamation plans. (GAW)

- The narrative has been revised by adding Table 3.7.3 and Exhibit 2.7.1 has also been revised as requested.

41. The last paragraph on page 13 of Section 3.7, Revegetation Plan, states that, with one minor exception, Sandy and Silty range sites comprise 50% or more of the acreage in all ownerships that is to be disturbed in the Revision 27 addition area, and this is portrayed in Exhibit 3.7.3. However, Exhibit 3.7.3 shows that a shallow range site is the dominant range site on most land ownerships permitted prior to Revision 27 and that a shallow clayey site is the dominant ecological site that has been disturbed on Christianson's land in the SE1/4 of Section 22 and that sites other than sandy and silty dominate the disturbed native grassland in the SE1/4 of Section 20. Thus, it appears shallow clay, loamy, thin loamy and thin claypan reference sites may be needed to demonstrate revegetation success. Page II-D-6 of our revegetation success document recommends that reference areas be established for all predominant range sites and the data from as many reference areas as possible be utilized. Therefore, please re-evaluate the need for additional native grassland reference areas for each surface owner in the permit based upon actual disturbance and revise to commit to establishing additional reference areas, if needed. Exhibit 2.6.9, identifies a thin upland and shallow reference areas north of the permit in the southwest corner of Section 10, T143N, R88W but these sites have been affected by the Coyote Creek Mine. Please revise Section 3.7 to discuss that these reference areas are no longer suitable. (GAW)

- The statement in the narrative isn't linked to Exhibit 3.7.3, which is based on all premining map units within each ownership. As stated in our response to a similar comment for revision 29, the analysis for revision 27 looked at the actual disturbance to date, concluding that the Sandy and Silty reference areas represented the dominant map units disturbed. As a rule, most of our mining disturbance occurs on the more gently sloping uplands where the Sandy and Silty range sites (Sandy and Loamy ecological sites respectively) dominate. It appears that this holds true for the disturbance that has occurred since approval of revision 27. Narrative regarding the dismissal of the Shallow and Thin Upland reference areas due to construction-related disturbance has been added.

Section 3.8 – Time Schedules

42. Please update the reclamation narrative, tables (particularly Table 3.8.2) and schedules in Subsections A, B and C and Special Variance Zones Exhibit 3.8.2 for the next permit term. The changes should include, but not be limited to, updating reclamation that has been completed through 2015, changes to the reclamation plan to account for reduced coal production, final pit reclamation plans and variances areas that will be necessary for final pit reclamation. (ZAB/BAJ/WTG)

- The narrative has been updated as requested. Exhibit 3.8.2 has been updated as requested.



43. Please develop a plan that includes a table that identifies every mining related support feature within the permit area, such as overburden and SPGM stockpiles, sediment ponds, sumps and diversions, haul roads, access roads, etc., and provide a time line for the removal, reshaping and final reclamation of each of these features as required by NDAC 69-05.2-09-11(4). (GAW)

- DWC conducts field surveys of all mine activities on a monthly basis. This information is incorporated into the annual map. This map represents a "balance sheet" of all reclamation obligations at the Beulah Mine. Section 3.8 attempts to list special items such as time lines for ponds and diversion ditch reclamation. DWC feels that rule 69 05 02 09-11 (4) is properly covered by the above mentioned exhibits.

Section 3.9 - Reclamation Cost Estimates and Performance Bond

44. Please re-evaluate the worst case time period or worst case pits should also be re-evaluated as it appears portions of the Iron pit mine area and reclamation in other areas have not progressed as scheduled. The worst case reclamation costs should be updated with the July 22, 2015 variable costs. (BAJ)

- The costs were updated using the 2015 variable costs. DWC feels that the pit configuration used for Revision 27 represents the "worst case" pit configuration. It has the longest length of pit and the deepest overburden.

In addition, DWC updated pages 3.3.4 and 3.3.7, and Exhibits 3.3.2 and 3.3.4 of the Blasting Plan.

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

Sincerely,

Paula Koble Gores
Permit Coordinator

/s/
Encl/