



# Public Service Commission

## State of North Dakota

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### COMMISSIONERS

Julie Fedorchak  
Randy Christmann  
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Executive Secretary  
Darrell Nitschke

600 East Boulevard, Dept. 408  
Bismarck, North Dakota 58505-0480  
Web: [www.psc.nd.gov](http://www.psc.nd.gov)  
E-mail: [ndpsc@nd.gov](mailto:ndpsc@nd.gov)  
Phone: 701-328-2400  
ND Toll Free: 1-877-245-6685  
Fax: 701-328-2410  
TDD: 800-366-6888 or 711

April 8, 2016

Ms. Paula Gores  
Permitting Specialist  
Dakota Westmoreland Corporation  
Beulah Mine  
P.O. Box 39  
Beulah, ND 58523-0039

Dear Ms. Gores:

The Reclamation Division has conducted a completeness review of the applications for Revision No. 30 and Renewal No. 6 to Permit KRSB-8603. The revision is in response to the Reclamation Division's pre-renewal review letter for Permit KRSB-8603 dated January 13, 2016. The items listed below must be satisfactorily addressed before the applications can be deemed complete. Please respond in a timely manner so that publication of the public notice and the more detailed technical review can begin.

### **Revision Application Form (SFN 10562) Attachment**

1. It does not appear that substantive changes were made to Exhibit 3.5.3 (Post Mining Topography) with Revision No. 30 related to reclamation around the power line poles as described in the revision summary. We therefore suggest that the specific reference to postmine topography changes related to reclamation around the power line poles be removed from the revision summary. (BAJ/WTG)
2. Please revise the Revision Summary to remove the reference to updated variance areas because no changes were made to Section C (Special Variance Zones) in Section 3.8 (Time Schedules), nor were any changes made to Exhibit 3.8.2 (Special Variance Zones) with the Revision No. 30 application. It may be more accurate to state that the reclamation schedule was updated with Revision No. 30. (WTG)
3. Please revise the incorrect reference to Revision No. 24 in the last sentence of the Revision Summary. (WTG/ZAB)

### **Section 1.1 – Application and Support Documents**

4. Please update Section 1.1, Application and Support Documents to include a copy of the Renewal Application No. 6, Revision 30 Application and provide a listing of information in the permit that is being revised with Revision 30 as required by NDAC 69-05.2-11-03(5). This information

needs to be included in the permit so that Advisory Committee members and others will know what changes are being proposed by this revision. (GAW)

#### **Section 1.4-B. Property Interests**

5. Please correct the surface and coal ownership listed as Lyle and Patricia Winkler for the E $\frac{1}{2}$ E $\frac{1}{2}$  of Section 30 contiguous to the permit area on page 1.4.38. As labeled on Exhibit 1.4.1 (Surface and Coal Ownership Map), and confirmed by Section 1.5 of Permit NACC-1302, Coyote Creek Mining Company, LLC is the surface owner, while Patience M. Sayler and Calvin K. Sayler (50 percent) and North Dakota Department of Trust Lands (50 percent) are the coal owners. (WTG)
6. Please provide names and addresses on pages 1.4.39-40 as follows for surface and coal owners (or that of contacts) within and contiguous to the permit area extending one-quarter mile from the permit boundary required by NDCC 38-14.1-14(1)(c)(2) and NDAC 69-05.2-06-01(1)(a): Tammy Schmidt, Mike and Cheryl Marshall, Leland and Judy Erickson, Clayton H. Teske, Lysandra Boespflug, Jeffery Sommer, Yvonne Stine, Henry Schmidt, William Schmidt, Sharon Axvig, Roger and Minnie Endreson, Mardee Reich, Merrill and Delores Lewis, and Lyle and Patricia Winkler. (WTG)
7. Please revise the department name for State of North Dakota ownership from the state land department to the Department of Trust Lands on page 1.4.39. (WTG)
8. Please confirm a name for coal ownership in the SW $\frac{1}{4}$  of Section 23. Janice P. Ziegler is listed on page 1.4.36 but Janice P. Weigel is listed on the name and address list of page 1.4.40. (WTG)

#### **Section 1.4 - I. Permit Application Advertisement**

9. Please insert the word "coal" in the advertisement title so that it reads as "*NOTICE OF APPLICATION FOR REVISION and RENEWAL TO A SURFACE COAL MINE PERMIT*". Please also insert the word "coal" in the first paragraph of the notice as well so that it reads as "... *for Revision No. 30 and Renewal No. 6 to Surface Coal Mining Permit KRSB-8603*". (WTG)
10. Please revise the Revision No. 30 description in the third paragraph of the advertisement to state that Revision No. 30 "... *identifies the coal removal subarea that will be mined during the next 5-year permit term*" as required by NDAC 69-05.2-11-02-1(c). (WTG/ZAB)
11. Please review the coal ownership listed for the S $\frac{1}{2}$ NW $\frac{1}{4}$  of Section 14 and correct the listing as necessary. The advertisement lists only the U.S.A. as the coal owner but Section 1.4-B. Property Interests of the permit lists the U.S.A. and five additional coal owners. (WTG/ZAB)
12. Please review the surface ownership listed for the N $\frac{1}{2}$  of Section 15 and correct the listing as necessary. The advertisement lists Dakota Westmoreland and Coyote Station operating partners for the entire N $\frac{1}{2}$  of Section 15 but Section 1.4-B. Property Interests and Exhibit 1.4.1 (Surface and Coal Ownership Map) of the permit lists Dakota Westmoreland and Coyote Station operating partners for the NE $\frac{1}{4}$  of Section 15 and only Coyote Station operating partners for the NW $\frac{1}{4}$  of Section 15. Please also review the coal ownership listed for the NE $\frac{1}{4}$  and the NW $\frac{1}{4}$  of Section 15 because there are two inconsistencies with the trust listings. (WTG)

13. Please review the surface and coal ownership listed for the S $\frac{1}{2}$  of Section 15 and correct the listing as necessary because there are three inconsistencies with trust listings. (WTG)
14. Please review the surface and coal ownerships listed for both the S $\frac{1}{2}$  and the N $\frac{1}{2}$  of Section 17 and correct the listings as necessary. It appears that three of the four coal owners listed for both the S $\frac{1}{2}$  and the N $\frac{1}{2}$  of Section 17 in Section 1.4-B. Property Interests of the permit were shifted to the surface ownership column in the advertisement. (WTG/ZAB)
15. Please review the surface and coal ownerships listed for the N $\frac{1}{2}$  of Section 19 and correct the listings as necessary. It appears that seven of the eight coal owners listed for the N $\frac{1}{2}$  of Section 19 in Section 1.4-B. Property Interests of the permit were deleted from the coal ownership column in the advertisement. (WTG/ZAB)
16. Please review the surface and coal ownerships listed for the S $\frac{1}{2}$ S $\frac{1}{2}$  of Section 20 and correct the listings as necessary. It appears that State of North Dakota coal ownership listed for the S $\frac{1}{2}$ S $\frac{1}{2}$  of Section 20 in Section 1.4-B. Property Interests of the permit was shifted to the surface ownership column in the advertisement. (WTG/ZAB)
17. Please review the surface ownership listed for the NW $\frac{1}{4}$  of Section 22 and correct the listing as necessary. The surface ownership listed for the NW $\frac{1}{4}$  of Section 22 in Section 1.4-B. Property Interests of the permit was updated with Revision No. 30 but the change in surface ownership was not updated in the advertisement. (WTG/ZAB)
18. Please review the surface ownership listed for the E $\frac{1}{2}$ SW $\frac{1}{4}$  of Section 22 and correct the listing as necessary. The surface ownership listed as Ronald & Janice Gunsch for the E $\frac{1}{2}$ SW $\frac{1}{4}$  of Section 22 in Section 1.4-B. Property Interests of the permit is inconsistent with surface ownership listed as Ron Gunsch in the advertisement. (WTG/ZAB)
19. Please correct the surface and/or coal ownership listed in the newspaper advertisement for the NW $\frac{1}{4}$  Section 23. (ZAB)
20. Please ensure that the advertisement map will be published at scale sufficiently large for local residents to readily identify the permit area and read the labels for rivers, streams, local landmarks, and any other information, including routes, streets, or roads and accurate distance measurements as required by NDAC 69-05.2-10-01(1)(b). (WTG)

**Exhibit 1.4.1 Surface and Coal Ownership Map**

21. Please add section number labels to the south half of Sections 9, 10, and 11 on Exhibit 1.4.1 (Surface and Coal Ownership Map) to clearly identify surface and coal ownership parcels contiguous to the permit area extending one-quarter mile from the permit boundary as required by NDAC 69-05.2-08-02(1)(a). (WTG)
22. Follow-up to item No. 4: Please correct the Section 19 surface and subsurface ownership listings on pages 1.4.35 and 1.4.37. The surface ownership for all of Section 19 is: Casey and Julie Voigt -46.4286% **and** Casey and Julie Voigt -53.5714% Subject to Contract for Deed from: Shawn and Maria Voigt, Karmen and Craig Eslinger, Donaldva Voigt, and Kenneth Voigt). The subsurface ownership for all of Section 19 is: Patience M. and Calvin K. Saylor - 50.0000%, Casey and Julie

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Voigt - 12.5000%, Kari and Michael Trappen - 6.2500%, Karmen and Craig Eslinger - 6.2500%, Dean Voigt - 6.2500%, Donalda Voigt - 6.2500%, Kenneth Voigt - 6.2500%; and Shawn and Maria Voigt - 6.25%. (ZAB)

23. Follow-up to item No. 4: Please correct the Section 30 surface and subsurface ownership listed on page 1.4.38. Currently page 1.4.38 lists Lyle and Patricia Winkler as the surface and coal owner for the E1/2E1/2 of Section 30 but the ownership map lists Coyote Creek Mining Company as the surface owner and P. & C. Sayler and State as the coal owners. Please update page 1.4.38. (ZAB)
24. Follow-up to item No. 4: Page 1.4.38 does not list the adjacent surface or coal ownership in the W1/2E1/2 or W1/2 of Section 30, but the ownership map Exhibit 1.4.1 incorrectly lists Voigt et al. as both the coal and surface owner. Please remove the ownerships depicted in these tracts from the map ***OR*** provide the correct surface and coal ownership on Exhibit 1.4.1 and in the narrative on page 1.4.38. While the surface ownership for these tracts is the same as that listed for Voigts in Section 1. There are 6 different coal ownership tracts, including some federal and state coal. (ZAB)
25. Follow-up to item No. 5: Please update the address for the Wolff Family Mineral Trust. Rural route numbers were changed to County Road addresses some time ago. (ZAB)

### **Section 1.5 Compliance**

26. Follow-up to item No. 10: The compliance information submitted for Revision 30 to Permit KRSB-8802 and dated October 5, 2015 included no violations for Harrison Resources, LLC but did include 3 violations for Oxford Mining Company – Kentucky, LLC but these two companies are not listed in the compliance section. The Oxford violations occurred in 2014 and 2015 and must be retained. Please review and add appropriate information for Harrison Resources, LLC and Oxford Mining Company – Kentucky, LLC. (ZAB)

### **Section 2.5 – Wildlife Inventory and Plan**

27. Please fix the link to Exhibit 2.5.13, Northern Long-Eared Bat Protection and Enhancement Plan, so the document opens as intended. (GAW)

### **Section 3.8 – Time Schedules**

28. Original Item No. 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)

**Preliminary Technical Review Items – (If possible, please address with the response to the completeness deficiencies listed above.)**

**Section 3.7 – Revegetation Plan**

1. Original Item No. 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)
2. Original Item No. 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)
3. Original Item No. 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)
4. Original Item No. 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)
5. Original Item No. 41: Please re-evaluate the need for additional native grassland reference areas for each surface owner in the permit based upon actual disturbance, include the results of this evaluation in the permit and revise the permit to commit to establishing additional reference areas, as needed. (GAW)

If you have any questions, please contact this office.

Sincerely,



for  
James R. Deutsch  
Director  
Reclamation Division