



June 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

The following are narrative responses to the Public Service Commission's technical review letter of June 9. Three DVDs of the revised permit are enclosed.

General

1. Please consider revising the application so that the permit can be viewed in a more useable fashion. For example, there is no back arrow when opening a section of the permit through the Table of Contents.pdf. Instead one must continuously re-open the Table of Contents.pdf when negotiating from one section of the permit to another. Back arrows exist when Sections 1, 2 and 3 of the permit are opened but the Exhibit's Titles or Names are not provided so extra steps are required to identify the exhibit of interest. Please revise the application to provide the permit information more clearly as required by NDAC 69-05.2-05-02. (GAW)

➤ We believe that the application conforms to the requirements of NDAC 69-05.2-05-02, as it has for many years without comment. We find that document identification and navigation is relatively easy if we open a separate window for just the table of contents. In this way, the table of contents is readily accessible.

Section 2.3 – Groundwater Hydrology

2. Data collection and submittal to the PSC from ground water monitoring wells 2038 through 2042 began in the 4th quarter of 2015 and these wells were installed to provide the required baseline ground water levels and quality information prior to incorporating Section 29 into Permit KRSB-8603. At your discretion, you may update the permit at this time to provide the required information regarding those wells or wait for the formal submittal of Revision No. 31 to this permit. (BEB)

➤ We think it's prudent to wait until Revision No. 31 to incorporate this information.

3. We noted that all references to the two premine wells and three springs in the narrative of Section 2.3 as well as in Table 2.3.6 that are associated with the Pleasant Valley Farming Company (PVF) were changed with Revision No. 30 from PVF to DWC. These changes are puzzling to us; however, if they're retained, the same identification changes need to also be made to all sections



of the permit where PVF is listed as the identification name of those wells and springs. If you plan on keeping this revised naming convention, those identification changes need to also be made to the Water Supply Locations Map in Exhibit 2.3.7; to all of the original baseline Well and Spring Certification forms and information in Exhibit 2.3.8; to the submitted surface water monitoring reports to the PSC; to all PVF bookmarks in the permit; and any other areas of the permit where PVF is listed as the identifier of those wells and springs in the E1/2 of Section 20. Even though DWC is the current property surface owner, it is our recommendation to revert back to the PVF naming convention for those wells and springs to eliminate confusion and retain consistency in the permit. It is our opinion that since the well and spring certification information and the submitted forms were “certified” by private contractors, those original documents (and the well and spring names on these documents) should not be changed. (BEB)

- We have eliminated all previous changes from PVF to DWC.

Section 3.1 - General Mining Plan

4. Follow-up to Pre-Renewal Item No. 25: As originally requested, please revise the Pit Layout Map, Exhibit 3.1.2, to clearly identify areas where DWC has authorization to operate within 100 feet of an intermittent stream. It is not clear why the buffer zone of some intermittent streams are cross-hatched with a fuchsia color and others are not (please note that the intermittent streams are all cross-hatched in fuchsia in the current approved version of this permit). (GAW)

- The cross hatched area has been modified to show only areas that do not have authorization for mining disturbance as requested within our mining permit.

5. The Pit Layout and Facilities Map depicts diversions in the Gold and Iron Pit Areas but the diversions in Sections 15, 16 and 17 are not depicted. Please revise to depict all existing divisions in a similar fashion for the remainder of the permit area. (GAW)

- The locations of the diversions have been added as requested.

6. Please label the individual pits in the Iron, Gold and Silver Pit areas on the Pit Layout and Facilities Map, Section 3.1.2, so that one can determine the reclamation time schedule for the pits as listed in Table 3.8.2. (GAW)

- The Pit Areas text has been made larger.

Section 3.3 – Blasting Plan

7. Exhibit 3.3.2, Blasting Schedule, is being updated with Revision 30 but only one word is being changed in the sentence describing blasting from sunrise to sunset May 15, 2006 through May 14, 2007. It appears this should read 2016 through 2017. Please review and correct as necessary. (GAW)

- This has been corrected as requested.

Section 3.5 - Backfilling and Grading

8. Follow-up to pre-renewal Items No. 34: Please revise the Post-Mining Topography map, Exhibit 3.5.3, to not show topographic changes in areas where mining has not occurred in the two drainages located in the southeast corner of the NE1/4 of Section 22, and extend these two



drainages into the mined area so the topography blends with the adjacent undisturbed lands in a manner similar to that which existed prior to disturbance. (GAW)

- This exhibit has been modified as requested.

Section 3.7 – Revegetation Plan

9. Pre-Renewal 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)

- Exhibit 3.7.13 has been added to address this information.

10. Pre-Renewal 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)

- Historical narrative at the conclusion of new Exhibit 3.7.13 provides details on tracts where seeding has been delayed or reseedings have occurred.

11. Pre-Renewal 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)

- Intentions regarding forage removal in these areas have been added to the narrative.

12. Pre-Renewal 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)

- The narrative at the end of Exhibit 3.7.11 has been expanded to cover the topics mentioned in the comment.

13. Follow-up to Pre-Renewal Item No. 40: Conservation and Mitigation wetlands in the SE1/4 of Section 17 have been labeled with the same identification number, SE17-1, in Table 3.7.3 and on Exhibit 2.7.1. Please revise to use distinct identification numbers for these separate features to aid understanding and interpretation. (NDAC 69-05.2-05-02) (GAW)

- We have modified the labels for all mitigation wetlands on the exhibit and in the table.



Section 3.8 – Time Schedules

14. Follow-up to Pre-Renewal Item No. 43: Please develop a plan that includes a table that identifies each mining related support feature within the permit area that is not currently being used to support mining activities, such as overburden and SPGM stockpiles, sediment ponds, sumps and diversions and provide a detailed estimated timeline for the removal, reshaping and final reclamation of each of these features as required by NDAC 69-05.2-09-11(4) and NDCC 38-14.1-14(2)(k). For example, please clarify when DWC is planning to remove sediment ponds 82, 83, 88 and 94 and the diversion, and SPGM stockpiles in Section 16 that are not currently being used to support mining activities. We understand that DWC is planning to reopen reclaimed County Road No. 12 along the south sides of Sections 16 and 17 in a few years which will limit access and extend haul distances to reclaim these areas. (GAW)
- Table 3.8.2 has been modified to show estimated time lines for associated disturbance concerns as requested.
15. Please revise the Reclamation Schedule of the Iron Pit in Table 3.8.2, Time Schedules, so that the information is accurate and consistent. Currently, Table 3.8.2 indicates that Iron Pits 1-24 will be respread with SPGM and seeded in 2017 but this same table also shows that Iron Pits 14 through 20 will be mined in 2018 and 2019. (GAW)
- This table has been corrected as requested.
16. Please review the language for Special Variance Areas No. 8 and No. 9 of Section 3.8 and the areas depicted on Exhibit 3.8.2. The language regarding Special Variance Areas No. 8 and 9 is vague and it is not consistent with what is currently listed in Table 3.8.2. For example, Table 3.8.2 shows that a variance from the 3-year seeding rule is not needed in the final pit sequences of the Gold Pit but the language for variance No. 9 and the map, Exhibit 3.8.2, indicate otherwise. The last paragraph on page 3.8.9 talks about a 900-foot buffer behind the active pits but the Silver Pit and Gold Pits will not be active during most of the remaining term of the permit so it is not clear how this applies after mining has ceased in these areas and there is no discussion about a variance from the 180-day backfilling and grading rule for either of these variance areas. Please review and revise to provide clarity regarding the Reclamation Time schedule and variance areas for the Gold, Silver and Iron Pit areas. (GAW)
- The variances in the Silver and Gold have been removed. Any future variances in these areas will be requested annually. This allows DWC a more current view of field conditions. Factors such as weather or changing coal demands can be incorporated into the annual variance requests. A variance (#8) is for the Iron leveling. This will be slightly delayed while we reclaim the final pits in the Silver and Gold.
17. Please review Exhibit 3.8.2 for areas mined in 2012 and 2013 in the Silver pits. The exhibit does not show a variance from the 180 day rule (NDAC Section 69-05.2-21-01(2)) or 3-year requirement (NDCC Section 38-14.1-24(14)) for these areas. A 3-year variance must be requested for the 2012 coal removal area, and if DWC does not anticipate reclamation through initial seeding this year for the area mined in 2013, a variance for the 2013 coal removal area will be needed as well. The exhibit should clearly show what variances are in effect for the areas. Appropriate justification must also be provided for all variance areas. (BAJ)
- DWC requested a variance from the 3 year reclamation time line for acres mined in 2012 in December of 2015. The variance was granted. We are actively reclaiming in these areas as of June 15, 2016.



Our goal is to stay within our 3 year time line. Any areas that do not meet the 3 year reclamation time will be addressed annually. This has been added to the narrative in Sec 3.8.

Section 3.9 – Reclamation Cost Estimates and Performance Bond

18. On Page 3.9.2 Mining Disturbance, Item No. 2. Assumptions, at the bottom of the page states that the Silver Pit will be regraded, respread with SPGM and seeded by May of 2016. From Reclamation Division grade approval records and aerial photos taken in early May of 2016 (Google Earth), the information shows that a large portion of the Silver Pit located in the NE $\frac{1}{4}$ of Section 19, Section 20, and NW $\frac{1}{4}$ of Section 21, T143N, R88W, has not been respread with SPGM. We estimate the size of this area approximately 300 acres. Please include costs in the Worst Case Bond to respread SPGM and seed this area. (BAJ)

- The Silver has been added as requested for SPGM replacement, seeding and other incidental costs associated with these activities.

This will be my last formal correspondence as the Engineering Manager of Dakota Westmoreland. Please address all future correspondence to Jody Mann. Best wishes to all at the North Dakota Public Service Commission.

Sincerely,

Jeff P. Frohlich
Manager, Engineering and Environmental

DAKOTA WESTMORELAND CORPORATION

Mine: Beulah Mine
Permit Number: KRSB-8603
Revision No.: 30
Submittal Date: March 28, 2016
Revised Date: June 27, 2016

Revision Summary

Revision No. 30 updates the permit to reflect changes for the next 5-year permit term and to address changes to the legal and financial sections of the permit. The post-mining topo and reclamation schedule has been updated. In addition, the revision identifies the coal removal subarea that will be mined during the next 5-year permit term. Renewal No. 6 is submitted in conjunction with Revision No. 30 to renew the permit term from August 7, 2016 through August 7, 2021.

Listing of Revised Information

<u>Section</u>	<u>Revised Information and Instructions</u>
2.3	Revised narrative
2.7	Revised exhibit 2.7.1
3.1	Revised exhibit 3.1.2
3.3	Revised exhibit 3.3.2
3.5	Revised exhibit 3.5.3
3.7	Revised narrative and exhibit 3.7.11 Added exhibit 3.7.13
3.8	Revised narrative
3.9	Revised narrative and exhibit 3.9.2