



Public Service Commission

State of North Dakota

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May 19, 2017

Jesse Noel, P.E.
Regional Engineering Manager
Westmoreland Coal Co.
PO Box 39
Beulah, ND 58523-0039

Dear Mr. Noel:

The Reclamation Division has reviewed Dakota Westmoreland Corporation's (DWC) April 25, 2017 responses to our March 23, 2017 completeness review letter for the Revision No. 31 application to Permit KRSB-8603 at the Beulah Mine. Revision No. 31 adds 320 acres to the permit in the N $\frac{1}{2}$ of Section 29 to continue Iron Pit mining progression southward through about 2025. The following items must be adequately addressed before the application can be deemed complete and approval is granted to begin publication of the Revision No. 31 newspaper notice of application. Please note that follow-up items reference the item number in our March 23, 2017 completeness review letter.

Section 1.3 - Legal Description of Property

1. Follow-up to item No. 6: Please revise the following item for the metes and bounds description of the entire Revision No. 31 permit area on page 1.3.1. (WTG)
 - a. Remove the reference to "*said section*" that formerly referenced Section 17 on line number 10 because the west line of Section 16 is now correctly referenced as a distance of 740.0 feet between corner numbers 676 and 501.

Section 1.4 - Business Entity Information

2. Follow-up to item No. 7: Please revise Subsection B - Property Interests adjacent the permit area on page 1.4.61 of Section 1.4 to specify the S $\frac{1}{2}$ of Section 29 as adjacent to the permit area rather than the N $\frac{1}{2}$ of Section 29 that is proposed for addition to the permit with Revision No. 31. (WTG/ZAB)
3. Follow-up to item No. 9: Please revise the S $\frac{1}{2}$ to the N $\frac{1}{2}$ of Section 29 in the surface owner notification table on page 1.4.70 of Subsection C - Right of Entry and Operation Information. (ZAB)

Section 1.4 - Business Entity Information Subsection I - Permit Application Advertisement

4. Follow-up to item No. 12: Please revise the first sentence of the newspaper notice as follows: ...*“for Revision No. 31 and to Surface Coal Mining Permit KRSB-8603.”* Please also revise the last sentence of the newspaper notice as follows: ... *“permit area are is as follows.”* (ZAB)
5. Follow-up to item No. 12d: Please revise the first sentence of the third paragraph of the newspaper notice to state that the section line closure on the north boundary of Section 29 will be temporary rather than permanent. Please also add that the section line will be temporarily closed with the Board of Mercer County Commissioners approval because the board has yet to act on DWC’s petition to close the section line. (WTG)

Section 3.1 - General Mining Plan

6. Follow-up to item No. 28: As required by NDAC 69-05.2-08-02(1)(e), please provide detailed information about the location and current use of all buildings on and within one-half mile of the proposed permit area. The information included on Exhibits 3.1.1 (Extended Mine Plan) and 3.1.6 (Facilities Area Map) provides no information about the buildings that are present and their current use. (GAW)
7. Follow-up to item No. 31: DWC responded to our request to include pit numbers on Exhibit 3.1.2 (Pit Layout and Facilities Map) by stating that pit numbers are included on Exhibit 3.1.1 (Extended Mine Plan) and that this exhibit should be used to cross-reference Table 3.8.2; however, Exhibit 3.1.1 only depicts the pits mined in 2016 through 2030. The pits that are being leveled, respread and seeded have been grayed out on the map. Please depict all of the pits referenced in Table 3.8.2 on Exhibit 3.1.1 or, if you prefer, add a map to Section 3.8 that depicts the pits or portions of pits that have not been reclaimed. Currently, it is very difficult to understand where variances from contemporaneous reclamation requirements are being requested for the pits listed in Table 3.8.2. (GAW/ZAB)

Section 3.2 - Water Management Plan

8. Follow-up to item No. 34: A statement has been included at the beginning of Section 3.2 (Water Management Plan) that the plan has been prepared by, or under the direction of, a qualified registered professional engineer, a qualified registered land surveyor, or qualified professional geologist with assistance from experts in related fields; however, a signed statement with the seal of the professional person certifying the plan has not been included. Please include a signed and sealed certification of the water management plan. [NDAC 69-05.2-09-02] (BAJ)
9. DWC is proposing to delete the design narratives for Sumps 99W and 99E from Section 3.2 (pages 3.2.29 and 3.2.30) and corresponding Exhibit 3.2.28 table (Table 3.2.28 - Sumps 99E & 99W - As Constructed) with Revision No. 31. These sumps control runoff for 142 acres of the Silver Pit that are undergoing reclamation and a portion of which is occupied by SPGM stockpiles. The design narratives and corresponding exhibit table must be retained in the permit. Please remove the strike-through edit for pages 3.2.29 and 3.2.30, reinsert Exhibit 3.2.28 table in Section 3.2, and revise the Table of Contents to match the Revision No. 30 version for entries related to Sumps 99W and 99E. Please also revise Section 3.2 design narratives and exhibits as necessary to describe and depict mineral removal area runoff control required by NDAC 69-05.2-

16-04(1) for the Weil Section Line Road Iron Ramp 1 in the area of the SE¼NE¼ and NE¼SE¼ of Section 20, and the SW¼NW¼ and the NW¼SW¼ of Section 21 depicted on Exhibit 3.1.8 (West Haul Road Extension). (WTG/GAW/ZAB/BAJ)

Section 3.5 - Backfilling and Grading

10. Follow-up to item No. 37: Please revise Exhibit 3.5.3 (Post Mining Topography) to clearly depict the terrain modification boundary for all areas of mineral removal in the permit as was depicted on the Revision No. 30 version of this map in the permit. The Revision No. 31 version of this map does not clarify where post-mining topographical changes have been made. [NDAC 69-05.2-05-02(1), NDAC 69-05.2-09-02(3 and 4), and NDAC 69-05.2-09-11] (GAW/RLK)

Section 3.8 - Time Schedules

11. Follow-up to item No. 38: As previously requested, please use the currently approved version of Section 3.8 from Revision No. 30 that was approved on July 20, 2016. The approved document should serve as the "base" for the Revision No. 31 changes you are requesting, but retain the historical information and provide appropriate justification for any new requests for variances from the contemporaneous reclamation requirements. Each new variance request should clarify if a variance is being requested for the 180 day backfilling rough grading rule (NDAC 69-05.2-21-01(2)) or from the three-year seeding rule (NDCC 38-14.1-24(14)). DWC must also update this section to address short-term reclamation delays as outlined in our January 24, 2017 letter in response to DWC's December 13, 2016 letter in follow-up to our November 22, 2016 meeting. (GAW/ZAB)

Please contact us if you have any questions.

Sincerely,



Dean K. Moos
Director
Reclamation Division

cc: Jody Mann
Mercer County Auditor