

**Public Service Commission
Reclamation Division**

Memorandum

To: Commissioners Christmann, Kroshus, and Fedorchak
Illona Jeffcoat-Sacco and John Schuh
Darrell Nitschke - Executive Secretary

From: *DKM* Dean Moos, *ZAB* Zanna Brinkman, and Bill Gunnerson *BG*

Date: February 7, 2018

Subject: Approval of Revision No. 31 to Permit No. KRSB-8603 held by Dakota Westmoreland Corporation, Case No. RC-17-88

On February 22, 2017, Dakota Westmoreland Corporation (DWC) filed an application for Revision No. 31 to Permit No. KRSB-8603 to add 313.4 acres to the permit for the Beulah Mine. The added land is located in the N $\frac{1}{2}$ of Section 29, T143N, R88W, in Mercer County. The permit revision provides baseline environmental data and updates mining and reclamation plans for the additional land. The Reclamation Division has completed its review of this revision and respectfully recommends that it be conditionally approved.

The 313.4 acres added to the permit adjoin the southwest portion of the existing permit area as depicted on Figure 1, and increase the total permit area to 3,871.7 acres. The 313.4 acres of privately-owned surface and coal added to the permit will allow continued southward mining in the Iron Pit sequence. Mining and reclamation operations will be similar to those presently approved in the permit. The premining and postmining land uses that will be disturbed in the addition area are hayland and native grassland, as well as about one acre of wetlands that will be replaced with an equivalent acreage that was disturbed.

Mining is nearly complete in the Iron Pit sequence in the S $\frac{1}{2}$ of adjoining Section 20 as pictured on Figure 1, as well as the Gold Pit sequence in the SE $\frac{1}{4}$ of Section 22 and the SW $\frac{1}{4}$ of Section 23. DWC plans to expand mining operations southward into the section line right-of-way common to Sections 20 and 29 for mining the 2018 Iron Pits within the S $\frac{1}{2}$ S $\frac{1}{2}$ of Section 20 and the section line right-of-way as depicted on Figure 1 upon receiving the necessary approvals. Annual Beulah Mine coal production is projected at 450,000 tons through the current KRSB-8603 permit term that expires August 7, 2021 to supply its current R. M. Heskett Station contract that also expires in 2021. DWC has stated its intention to continue mining after 2021 by mining the remaining coal in the S $\frac{1}{2}$ N $\frac{1}{2}$ of Section 29 as depicted on Figure 1, and by submitting a permit revision to add the S $\frac{1}{2}$ of Section 29 to the permit area prior to permit expiration if the R. M. Heskett Station contract is extended to 2026. Reclamation of the 2021 final pit will begin in 2022 if the R. M. Heskett Station contract is not extended beyond 2021.

DWC is requesting a variance from the three-year contemporaneous reclamation requirement for an additional 154 acres for the Gold Pit area in Section 22 with Revision No. 31. The variance would allow DWC time to complete Silver Pit reclamation in Section 20 during 2018, and also allow DWC time to revise the Gold Pit postmine topography in Section 22 to reclaim the final pit. DWC is also requesting a variance from the three-year contemporaneous reclamation requirement for an enlarged Iron Pit variance

11 RC-17-88 Filed: 2/7/2018 Pages: 3
Memorandum

Public Service Commission Staff
Dean Moos, Zanna Brinkman, Bill Gunnerson

area in the S½ of Section 20 and the N½ of Section 29 with Revision No. 31 that extends south midway into the 2020 pits depicted on Figure 1. The variance areas total 196 acres and in part would ensure that sufficient material is available to backfill the Iron Pit worst case reclamation disturbance in 2019, and would also delay Iron Pit reclamation until the Gold Pit is reclaimed. In addition, DWC has requested a general variance from the rule that requires rough grading be completed within 180 days of coal removal. These requests have been adequately justified and the Reclamation Division recommends that the variances be approved as allowed by NDCC 38-14.1-24(14) and NDAC 69-05.2-21-01(2).

DWC's plans to expand Iron Pit mining operations southward with Revision No. 31 into the section line right-of-way common to Sections 20 and 29 for mining the 2018 pits within the S½S½ of Section 20 and the section line right-of-way require section line closure and relocation of Mercer County Road 12 as indicated on Figure 1. DWC petitioned the Mercer County Commission to temporarily close the section line common to Section 20 and Section 29, T143N, R88W, and to temporarily open the section line common to Section 29 and Section 30, T143N, R88W for the purpose of conducting surface coal mining and reclamation operations. The Mercer County Commission approved temporary closure of the section line common to Section 20 and Section 29, T143N, R88W, on June 7, 2017 but to date has not approved the Mercer County Road 12 relocation route recently constructed by DWC on the section line common to Section 29 and Section 30, T143N, R88W as depicted on Figure 1. Special Condition No. 1 is attached to the Revision No. 31 application approval to protect interests of the public and affected landowners by prohibiting surface coal mining operations within 100 feet of the outside right-of-way line on the north and south sides of the section line common to Section 20 and Section 29, T143N, R88W until the road authority's approval of the Mercer County Road 12 relocation route.

Revision No. 31 was deemed a significant revision to Permit No. KRSB-8603 and was subject to the public notice requirements. DWC submitted affidavits of publication of the required newspaper notices. We notified the appropriate agencies, the permit area landowners, and advisory committee members of the revision application. We received no objections or requests for informal conferences on this revision application.

An updated worst-case reclamation cost estimate calculated for the Revision No. 31 permit application totals \$8,158,970. The current surety bonds for this permit area total \$9,485,271 and are sufficient to cover the worst-case reclamation cost estimate; however, the applicant was required to file a stipulation to increase the surety bond area to include the 313.4 acres that is being added by Revision No. 31 to Permit No. KRSB-8603.

Attached for your consideration at the February 14th Commission meeting are the proposed motion, revision approval form, permit condition, and newspaper notice that we must publish following revision approval.

Attachments

Minedata/Beulah/Permits/KRSB-8603/Revisions/No.31/Rev31_apprvl_award_memo_2-7-18

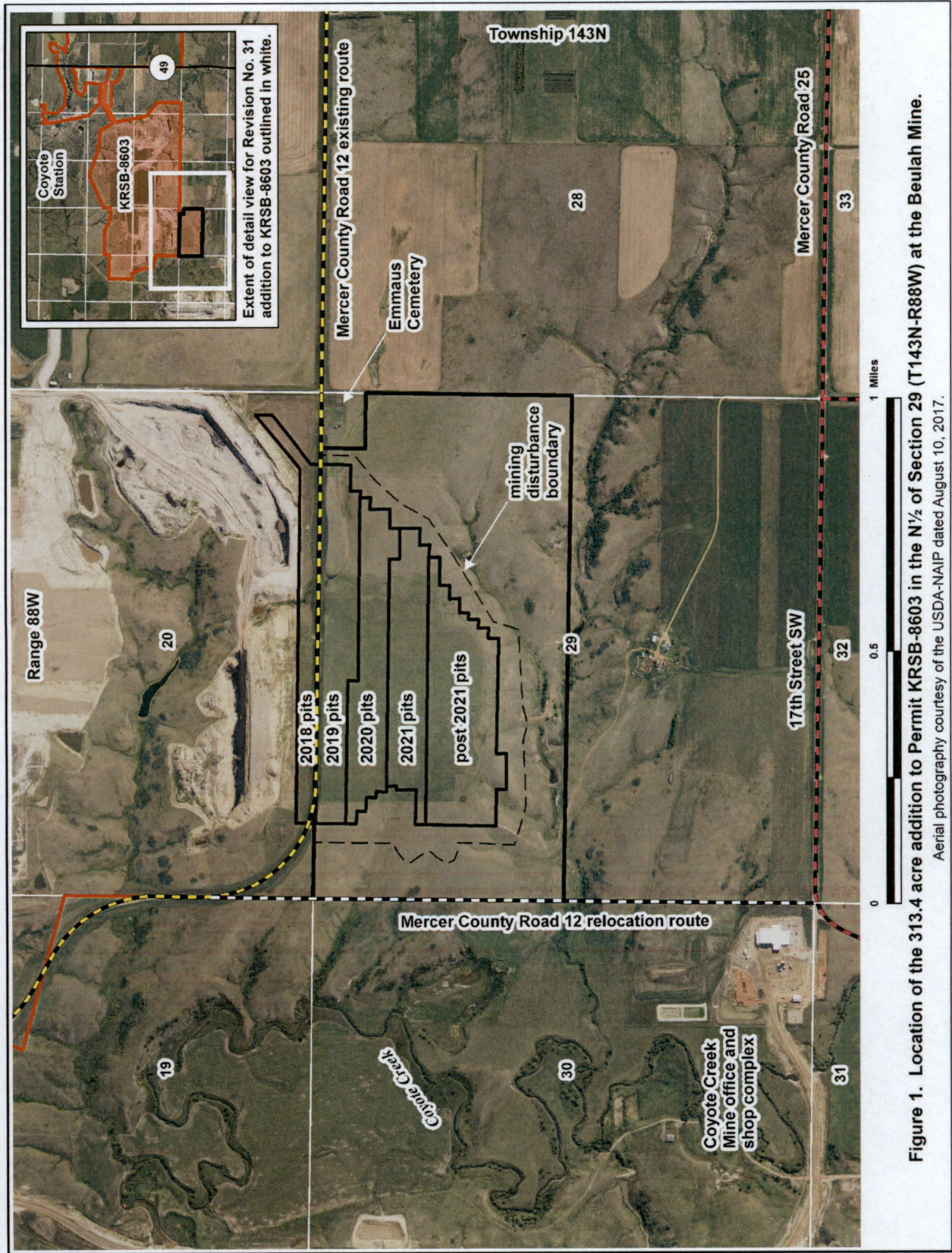


Figure 1. Location of the 313.4 acre addition to Permit KR5B-8603 in the N½ of Section 29 (T143N-R88W) at the Beulah Mine.

Aerial photography courtesy of the USDA-NAIP dated August 10, 2017.