



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

February 16, 2021

Dean K. Moos
Director Reclamation Division
North Dakota Public Service Commission
600 E Boulevard Ave, Dept. 408
Bismarck, ND 58505-0480

Dear Mr. Moos:

Attached are the responses to the completeness review of the application for Revision 33 (Renewal 7) to permit KNSB-8603. Also, associated changed sections of the permit have been electronically copied (via *Dropbox*) for your review. Please feel free to contact me should you have any questions.

Sincerely,

Jesse Noel, P.E.
Director, Environmental & Regulatory
U.S. Operations
Westmoreland Mining LLC

Cc: Scott Aberle

1 RC-21-95 Filed 02/18/2021 Pages: 11
Revision application filed to renew the permit for another 5-year permit term
Dakota Westmoreland Corporation
Jesse Noel

Mine Data\Beulah Mine (Dakota Westmoreland)\Permits\KRSB - 8603\Revisions\Rev33_Ren7\Rev33_Response_itr_011621



PO Box 39, Beulah, ND 58523-0039 • Phone: (701) 873-4333 • Fax: (701) 873-7784

February 16, 2021

Comment/Response to November 4, 2020 PSC Letter
Completeness Review of Renewal 7, Revision 33

Section 1.2 – General Information

1. Several agency contacts listed on pages 1.2.4 through 1.2.6 have changed. Please update these pages accordingly. (JAR)

Response: Permit application responsibilities as well as consulting firms and contractors have been updated as requested.

Section 1.4 – Business Entity Information

2. 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 42 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). (PJR/GAW/WTG)

Response: The ownership and control information, and organizational structure has been updated as requested.

3. 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. (PJR/WTG)

Response: Pending surface coal mining operation permit applications has been updated as requested.

4. 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. (PJR/WTG)

Response: Page 1.4.1 has been revised to include this statement.

5. If any changes have occurred, please update the surface and subsurface ownership listings within the permit area and adjacent areas on pages 1.4.43 through 1.4.48 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. (PJR/GAW/WTG)

Response: The response to this comment was addressed in Revision #32 to the permit. The response to Revision #32 was completed after comments to Revision #33 (Renewal #7) were issued.

6. If any changes have occurred, please update the addresses of the surface owners of record on pages 1.4.49 - 1.4.50. (GAW)

Response: Surface ownership information has been updated as requested.

7. Please update the narrative in the first paragraph on page 1.4.56 to affirm that DWC will have right of entry to carry out reclamation on the lands where coal leases have expired during the next term of the permit. NDCC 38-14.1-14(1)(k) (GAW)

Response: Section C. Right of Entry and operation information has been updated as requested.

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 58 and 59 of Section 1.4. (WTG/GAW)

Response: Section E., other permits, has been updated as requested.

Section 1.5 – Compliance Information

9. 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(WBM) or other companies owned or controlled by Westmoreland 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. (PJR/WTG)

Response: Section 1.5 has been updated as requested.

Section 3.1 – General Mining Plan

10. 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. (WTG/GAW/JAR)

Response: The response to this comment was addressed in Revision #32 to the permit. The response to Revision #32 was completed after comments to Revision #33 (Renewal #7) were issued.

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

Response: The response to this comment was addressed in Revision #32 to the permit. The response to Revision #32 was completed after comments to Revision #33 (Renewal #7) were issued.

12. 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 2020, changes to the mining plan, and any areas that DWC plans to permit in the future. (WTG/PJR)

Response: The response to this comment was addressed in Revision #32 to the permit. The response to Revision #32 was completed after comments to Revision #33 (Renewal #7) were issued.

13. Please update the Pit Layout and Facilities Map, Exhibit 3.1.2, so that all SPGM and overburden stockpile areas are accurately depicted and labeled. (PJR/GAW)

Response: The response to this comment was addressed in Revision #32 to the permit. The response to Revision #32 was completed after comments to Revision #33 (Renewal #7) were issued.

14. Please update the Pit Layout and Facilities Map, Exhibit 3.1.2, to accurately depict areas of annual coal removal during the current term of the permit in the Gold and Iron Pit Mine Areas and update the map as necessary for mine plan changes that will occur during the next term of the permit. (GAW/JAR).

Response: The response to this comment was addressed in Revision #32 to the permit. The response to Revision #32 was completed after comments to Revision #33 (Renewal #7) were issued.

15. Please update water management features in Section 29 on the Pit Layout and Facilities Map, Exhibit 3.1.2. It is our understanding that DWC is no longer planning to construct sediment Ponds 109-111 and the associated diversions. (GAW)

Response: The response to this comment was addressed in Revision #32 to the permit. The response to Revision #32 was completed after comments to Revision #33 (Renewal #7) were issued.

16. Please review the Pit Layout and Facilities Map, Exhibit 3.1.2, to ensure all sediment ponds and diversions are properly depicted. Sediment Pond 85 and the Pond 85 Sump are not depicted on this map. (GAW)

Response: The response to this comment was addressed in Revision #32 to the permit. The response to Revision #32 was completed after comments to Revision #33 (Renewal #7) were issued.

Section 3.2 – Water Management Plan

17. Follow-up to Item No. 15 of our February 13, 2019 midterm review letter: Please revise Section 3.2, Water Management Plan, to include a table that identifies the year that each temporary sediment pond will be reclaimed. While design information for each pond generally includes construction dates, it does not include a reclamation date as required by NDAC 69-05.2-09-09(1)(d). Section 3.8 does not provide an adequate reclamation date for each temporary sediment pond. (GAW)

Response: The response to this comment was addressed in Revision #32 to the permit. The response to Revision #32 was completed after comments to Revision #33 (Renewal #7) were issued.

18. Please review the design plans for Ponds 104, 105, 106 and 108 and clarify if each of these ponds will be reconstructed exactly as originally designed. If these sediment ponds are not going to be reconstructed according to the original design plans, new design plans must be submitted. Pond 106 is designed such that Ditch 106W, which is the initial box cut adjacent the undisturbed land, functions as the pond's emergency spillway. Ditch 106W has not been maintained to function as planned. Please review and consider alternatives that will expedite reclamation of the watershed. (GAW)

Response: The response to this comment was addressed in Revision #32 to the permit. The response to Revision #32 was completed after comments to Revision #33 (Renewal #7) were issued.

19. Please consider constructing a sediment pond in the valley between Ponds 105 and 106 to facilitate reclamation of this area. Without a pond in this valley, Ditches 106E and 106W will need to be maintained, which will delay timely reclamation of the area. In addition, Ditch 106W does not currently convey runoff water to Pond 106 as depicted on the Exhibit 3.2.69. (GAW)

Response: As mentioned with Revision #32 to the permit, constructing an additional pond will delay reclamation. The updated ditching, as permitted, will allow for the most timely reclamation.

20. Pond 109, Diversion Ditch 109S, and Diversion Ditch 109N will not be constructed because of the shortened Iron Pit sequence in the N½ of Section 29. Please revise pages 3.2.40 and 3.2.52 of Section 3.2 (Water Management Plan) to delete the descriptions of Pond 109, Diversion Ditch 109S, and Diversion Ditch 109N. Please also revise Exhibit 3.2.1 (Water Management Plan) to delete the depictions and labels of Pond 109, Diversion Ditch 109S, and Diversion Ditch 109N. (WTG/GAW)

Response: The response to this comment was addressed in Revision #32 to the permit. The response to Revision #32 was completed after comments to Revision #33 (Renewal #7) were issued.

21. Please discuss the diversion that was constructed along the east side of Ramp 2, east of the Pond 85 Sump, and describe how surface water runoff will be managed when the Gold Pit is backfilled and no longer stores runoff. It is not clear if the Pond 85 Sump was constructed at an elevation that will accommodate reclamation of the surrounding area. (GAW)

Response: The response to this comment was addressed in Revision #32 to the permit. The response to Revision #32 was completed after comments to Revision #33 (Renewal #7) were issued.

Exhibit 3.2.1 – Water Management Plan Map

22. Please revise the Water Management Plan Map, Exhibit 3.2.1, to show coal removal subareas in the Gold and Iron Pit areas during the next term of the permit and accurately depict where coal has been removed during the current permit term. (GAW)

Response: Historically, this information has not been illustrated in Exhibit 3.2.1, Water Management Plan. This question may have inadvertently been placed in this section versus Exhibit 3.1.2 (see question #14 in Section 3.1 above).

23. Please depict the Pond 85 Sump where it was actually constructed on the Water Management Plan Map, Exhibit 3.2.1, and delineate the watershed. (GAW/SMN)

Response: The response to this comment was addressed in Revision #32 to the permit. The response to Revision #32 was completed after comments to Revision #33 (Renewal #7) were issued.

24. Please depict the diversion that was constructed along the east side of Ramp 2 and identify the watershed it was designed to control on Exhibit 3.2.1. (GAW)

Response: The response to this comment was addressed in Revision #32 to the permit. The response to Revision #32 was completed after comments to Revision #33 (Renewal #7) were issued.

25. The Water Management Plan Map, Exhibit 3.2.1, depicts diversions constructed to control surface water runoff when mining operations began. However, some of these features were mined through and “Ditches” along the disturbance boundary were constructed to control surface water runoff, e.g. Ditch 106 East and Ditch 106 West. These Ditches are currently needed for water management and therefore must be depicted on the Surface Water Management Plan Map, Exhibit 3.2.1. Please update the Water Management Plan Map, Exhibit 3.2.1 to show all features and facilities currently being used to manage surface water runoff. Features and facilities that are no longer being used to manage runoff should be depicted differently than features currently being used. (GAW)

Response: The response to this comment was addressed in Revision #32 to the permit. The response to Revision #32 was completed after comments to Revision #33 (Renewal #7) were issued.

26. Please depict the diversion in the E1/2 of Section 16 that conveys runoff from disturbed areas to Pond 86. (GAW)

Response: The response to this comment was addressed in Revision #32 to the permit. The response to Revision #32 was completed after comments to Revision #33 (Renewal #7) were issued.

Exhibit 3.4 – Suitable Plant Growth Material Handling Plan

27. As required by NDAC 69-05.2-09-11(5), please update Section 3.4 (Suitable Plant Growth Material Handling Plan) with a current plan for redistribution of suitable plant growth material (SPGM) that provides the volumes, by ownership, of topsoil and subsoil available for reclaiming all disturbed acreage. The plan should include (a), a table with ownership acreage by legal description, postmine land use, available topsoil and subsoil stockpile volumes, or portions thereof, mixing agreement status, and topsoil and subsoil respread depths, and (b), a map depicting and labeling ownership parcels, postmine land use parcels, and topsoil and subsoil respread depths. Projected SPGM respread depths described and depicted in the permit and annual soil handling plans have become irrelevant as contemporaneous reclamation has increasingly lagged behind the permit's reclamation schedule. Although graded spoil properties typically dictate grade approval area total SPGM respread depths, a current plan for SPGM redistribution is necessary to prevent respread depth shortfalls during reclamation. (WTG)

Response: The response to this comment was addressed in Revision #32 to the permit. The response to Revision #32 was completed after comments to Revision #33 (Renewal #7) were issued.

28. Please update the SPGM Stockpiles narrative on page 3.4.5 to clarify DWC's plans for controlling weeds (including noxious weeds) on SPGM stockpiles. (GAW)

Response: Narrative on page 3.4.5 has been updated as requested.

Section 3.5 – Backfilling and Grading

29. 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. (WTG/GAW)

Response: The response to this comment was addressed in Revision #32 to the permit. The response to Revision #32 was completed after comments to Revision #33 (Renewal #7) were issued.

Section 3.7 – Revegetation Plan

30. Please review the weed control narrative on page 3.7.10 of Section 3.7, Revegetation Plan, to address the control of state listed noxious weeds. (GAW)

Response: Narrative on page 3.7.10 has been updated as requested.

31. Table 3.7.3, Conservation and Mitigation Shelterbelts, Wetlands and Woodlands, incorrectly indicates that reclaimed woodland SE17-1 is established. Please provide information showing that this planting is successfully established or include plans for re-planting. (GAW)

Response: The woodlands located in the SE quarter of Section 17 represents the woodlands that were left in place near the boxcut edge. These woodlands were purposely not disturbance when the Silver Pit was opened. They are considered a "planned Conservation" acreage within the permit.

Section 3.8 – Time Schedules

32. Please update Section 3.8, Time Schedules and Exhibit 3.8.2, Special Variance Zones, as necessary to clarify when grading, SPGM respreading and seeding will be completed on all areas remaining to be reclaimed in the Gold, Silver and Iron Pit areas during the next term of the permit. Annual reclamation activities listed

in Subsection B of Section 3.8, Associated Mining Disturbance Schedules, were not accomplished as planned. (PJR/GAW/JAR)

Response: The response to this comment was addressed in Revision #32 to the permit. The response to Revision #32 was completed after comments to Revision #33 (Renewal #7) were issued.

33. Please update the narrative associated with Special Variance Zones, Subsection C of Section 3.8, to clarify when reclamation will be completed on all variance areas not yet reclaimed. Some of the reclamation timing language currently in the permit is outdated. (PJR/GAW)

Response: The response to this comment was addressed in Revision #32 to the permit. The response to Revision #32 was completed after comments to Revision #33 (Renewal #7) were issued.

Section 3.9 – Reclamation Cost Estimates and Performance Bond

34. Please review the Reclamation Cost Estimates and Performance Bond calculations in Section 3.9, to determine if the projected worst-case time-period is correct and update as necessary. Please also update Exhibit 3.9.1, Worst Case Range Diagrams, and Exhibit 3.9.2, Worst Case Topography. Reclamation has not been completed as planned so it appears the worst-case time-period may have changed. The overburden values and acreages needing SPGM respread and revegetation are greater than the amounts assumed when the bond was calculated with Revision 31 or pending Revision 32. Please update the Performance Bond calculations based on the current reclamation schedule and reclamation liability. (PJR/GAW)

Response: The Performance Bond calculations were updated with Revision #32 to the permit. The calculations from Revision #32 been included with this submittal because the permit is being renewed. The reclamation cost estimate and performance bond will be updated and attached to this renewal upon approval of revision #32.

DAKOTA WESTMORELAND CORPORATION

Mine: Beulah Mine
Permit Number: KRSB-8603
Revision No.: 33
Submittal Date: February 16, 2021¹
Revised Date:

Revision Summary

Revision 33 requires updating the permit for the seventh permit renewal, which expires on August 7, 2021.

Listing of Revised Information

<u>Section</u>	<u>Revised Information and Instructions</u>
1.2	Updated Narrative pp 1.2.4 ¹ , 1.2.5 ¹ , 1.2.6 ¹ , 1.2.7 ¹ ,
1.4	Updated Narrative pp 1.4.1 ¹ , 1.4.2 thru 1.4.15 ¹ , 1.4.21 ¹ , 1.4.23 ¹ , 1.4.26 ¹ , 1.4.27 ¹ , 1.4.30 ¹ , 1.4.33 ¹ , 1.4.55 ¹ thru 1.4.57 ¹ .
1.5	Updated Narrative pp 1.4.1 ¹ thru 1.4.7 ¹
3.4	Updated Narrative p 3.4.5 ¹
3.7	Updated Narrative p 3.7.10 ¹



APPLICATION FOR RENEWAL OF PERMIT TO ENGAGE IN SURFACE COAL MINING AND RECLAMATION OPERATIONS

PUBLIC SERVICE COMMISSION
RECLAMATION DIVISION
SFN 10566 (1-2004)

Name of Permittee Dakota Westmoreland Corporation		Date February 12, 2021	
Address P.O. Box 39		City Beulah	Permit Number KRSB-8603
		State ND	Zip Code 58523

The above named hereby makes application for Renewal Number 7 of the above Permit Number in order to continue to engage in surface coal mining and reclamation operations within the area described below in the permit during the period from August 7, 2021 to August 7, 2026.

The reasons for requesting the renewal is attached and any changes to the matters set forth in the approved Permit are particularly described in the accompanying revision application.

The applicable public notice provisions of Section 38-14.1-18 of the North Dakota Century Code have been complied with. A copy of the advertisement is attached and affidavits of publications will be furnished to the Commission prior to issuance of the Permit Renewal.

Bond for surface coal mining and reclamation operations and liability insurance will be provided for the proposed period of renewal. Attached is a statement evidencing that the bond is sufficient and will continue in full force for the renewal period and that liability insurance will be provided for the renewal period.

LOCATION				ACRES
SECTION	TOWNSHIP	RANGE	COUNTY	
14 to 23	143N	88W	Mercer	3,878.2
TOTAL ACRES				3,878.2

Signature of Official <i>Joseph E. Micheletti</i>	Title President
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VERIFICATION

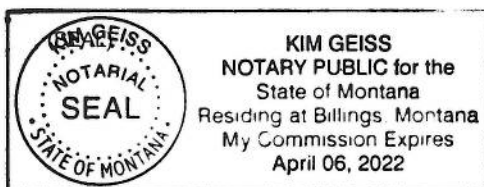
Name of Official Joseph E. Micheletti
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I, the above named, being first and duly sworn, verify that the information contained in the Permit Renewal Application is true and correct to the best of my knowledge and belief.

Signature of Official <i>Joseph E. Micheletti</i>	Title President
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STATE OF Montana)
COUNTY OF Yellowstone) ss.

Subscribed and Sworn before me, this 18 day of February, 2021.



Kim Geiss
Notary Public
My Commission Expires: 4/6/2022

DAKOTA WESTMORELAND CORPORATION

Mine: Beulah Mine
Permit Number: KRSB-8603
Renewal Number: 7
Submittal Dates: February 12, 2021

Renewal Request Narrative

The coal contract has changed since renewal number 6; coal will now be mined through approximately March of 2022. Renewal number 7 updates all respective sections in the permit given that coal removal now has a distinct ending date. Specifically, changes were mainly needed to the Iron Pit because the life of the mine has now shortened.

Surface Coal Mining and Reclamation Bond Narrative

Surface coal mining bond 64S103557512BCM for permit KRSB-8603 is issued on a continuous basis and shall maintained and remain in full force and effect during the ensuing five-year renewal term, in accordance with the provisions of Section 38-14.1-16 of the North Dakota Century Code. The bond amount is sufficient to perform the required work for the worst-case reclamation condition in the permit area.

Dakota Westmoreland Corporation's bonding agent is AON Risk Solutions, 200 East Randolph St., Chicago, IL, 60601.

Liability Insurance Narrative

A certificate of Liability Insurance has been provided to the Public Service Commission for the Beulah Mine and will be maintained during the ensuing five-year renewal term.