June 30, 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 technical review dated June 18th, 2021, of the application for Revision 32 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

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Company response to fourth technical review letter
Dakota Westmoreland Corporation
Jesse Noel

June 30, 2021

Comment/Response to June 14, 2021 PSC Letter
Technical Review of Revision 32

Table of Contents

1. Within the table of contents, the link to *3.9 Reclamation Cost Estimates and Performance Bond* is linked to the wrong pdf. There are two narrative files the directory "Section 3.9 Reclamation Cost Estimates and Performance Bond" ("_Narrative 3 9.pdf" and "_Narrative 3.9.pdf"). Both of these files are date stamped "May 2021" in the page footers; however, one of these files appears to be the same version as the previous submittal. Please remove the outdated file, update the date stamps with the latest version, and update the link in the table of contents. (SMN)

Response: The Table of Contents has been updated and everything now points to the correct file.

Section 2.2.7 – Surface Water Hydrology Inventory and Monitoring

2. Follow-up to Item No. 4 of our letter dated May 25, 2021: Please update the topography of the Gold Pit on the Surface Water Monitoring Map, Exhibit 2.2.7, so that it is consistent with Exhibit 3.5.3, Post Mining Topography. (GAW)

Response: Exhibit 2.2.7 is now consistent with Exhibit 3.5.3.

Section 2.7 – Land Use

3. Follow-up to Item No. 4 of our letter dated May 25, 2021: Please update the topography depicted on the Post Mining Land Use Map, Exhibit 2.7.2 so that it is consistent with Exhibit 3.5.3, Post Mining Topography. (GAW)

Response: Exhibit 2.7.1 (which is believed to be Exhibit referred to above in place of Exhibit 2.7.2) is now consistent with Exhibit 3.5.3.

Section 3.1 – General Mining Plan

4. Please update the Pit Layout and Facilities Map, Exhibit 3.1.2, to accurately depict the "projected disturbance" boundary. The "life of mine approximate disturbance" boundary on the Post Mining Topography map, Exhibit 3.5.3 could be used as the "projected disturbance" boundary. (GAW)

Response: The projected disturbance boundary in Exhibit 3.1.2 has been updated.

Section 3.2 – Water Management Plan

5. Follow-up to Item No. 4 of our letter dated May 25, 2021: Please clarify how runoff from the N1/2 of Section 22 will be routed to sediment pond P112. According to the post-mining

topography, runoff from the N1/2 and a portion of the SE1/4 of Section 22 will drain to sediment pond P113 rather than P112 without the aid of a diversion. If a field engineered diversion is planned, it should be described in the narrative description of the sediment pond and depicted on the Water Management Plan Map, Exhibit 3.2.1. (GAW)

Response: A field-engineered diversion will need to divert a portion of the reclaimed area southward towards pond 112. Text has been added to Section 3.2 to describe this ditch, which will be constructed concurrent with the excavation of pond 112. The approximate alignment, designated as the P112 ditch, is shown on Exhibit 3.2.1.

6. Follow-up to Item No. 4 of our letter dated May 25, 2021: Sediment pond P112 has been designed to control runoff from 209 acres in the E1/2 of Section 22 but the watershed above this pond includes land in the SE1/2 of Section 21, the NE1/4 of Section 28 and the NW1/4 of Section 27 that is not accounted for in the design. Please revise the design to include the expected runoff from the entire watershed. (GAW)

Response: The Exhibit is resubmitted herein (Exhibit 3.2.70). The drainage boundary for Pond 112 has been revised based on this comment. As shown on Exhibit 3.2.70, the drainage area of Cropland has been increased to 138.0 acres using the best topographic data available. We see no evidence that any portion of Section 28 is contributory to this area. Also, see response to comment No. 7 below.

7. Please revise the design of sediment pond P113 so that the principal spillway can handle expected runoff from the entire watershed, including the watershed above sediment pond P112 since these ponds are in series and clarify how runoff from the emergency spillway will pass through County Road No. 12. Please also demonstrate that sediment pond P113 can handle the expected runoff from the entire reclaimed watershed excluding the area impacted by sediment pond P112. This is needed so that sediment pond P112 can be reclaimed a year or two prior to the removal of sediment pond P113. (GAW/SMN)

Response: The Exhibit is resubmitted herein. As shown on Exhibit 3.2.71, the drainage area for the 25-year storm has been revised in the summary table. As noted, both Ponds 112 and 113 were modeled in series using SEDCAD. When the 25-year storm is evaluated, both ponds are assumed to be brim full prior to the start of this storm. Thus, the entire storm is routed through both spillways without storage. No physical changes to the spillway have been made, as the prior design is more than adequate to handle these flows. In fact, the emergency spillway is never even activated under these conditions. Both the 10-year -24 hour and the 25 year-6 hour SEDCAD model results are enclosed. Finally, it is expected that both Pond 112 and 113 will be removed and reclaimed concurrently. This is expected to occur in 2024.

8. Follow-up to Item No. 4 of our letter dated May 25, 2021: Please review the design of sediment pond P108 and diversion ditches D108E and D108W to ensure they are properly designed to handle runoff from the revised Post Mining Topography. (GAW)

Response: The Pond 108 design as presented on *Exhibit 3.2.52 table* and the associated exhibits appears to have been based on the topography at the time of the design, rather than the postmining topography provided for R32 topography. We have reanalyzed the postmining hydrology for flows into Pond 108 and the associated ditches. A SEDCAD analysis for the postmine Pond 108 and ditches is included with this submittal. The drainage area into the pond has decreased, from 81.2 acres to 55.7 acres, and the total runoff volume to Pond 108 for the 10 year event has also decreased from 7.6 acre-feet to 7.0 acre feet. Likewise, the peak flow has also decreased from 54.3 cfs to about

43 cfs. The associated ditches contained in the original design utilizing 12-foot trapezoidal ditches at 0.5 percent slopes and 3H:1V side-slopes also appear to be adequate for the post-mine case.

9. Original design information for sediment ponds P105 and P106 is being replaced with new reconstruction design information. Please retain the original design information of these ponds in the permit, Exhibits 3.2.68 and 3.2.69, and add the new reconstruction design information into the permit while retaining historic information. Perhaps reconstructed sediment ponds P105 and P106 should be labeled with an "R" to signify reconstruction, P105R.

Response: The original designs for P105 and P106 have been placed into new Exhibit 3.2.72. A sentence has been added to the narrative in the each of the ponds regarding a link to the Exhibit.

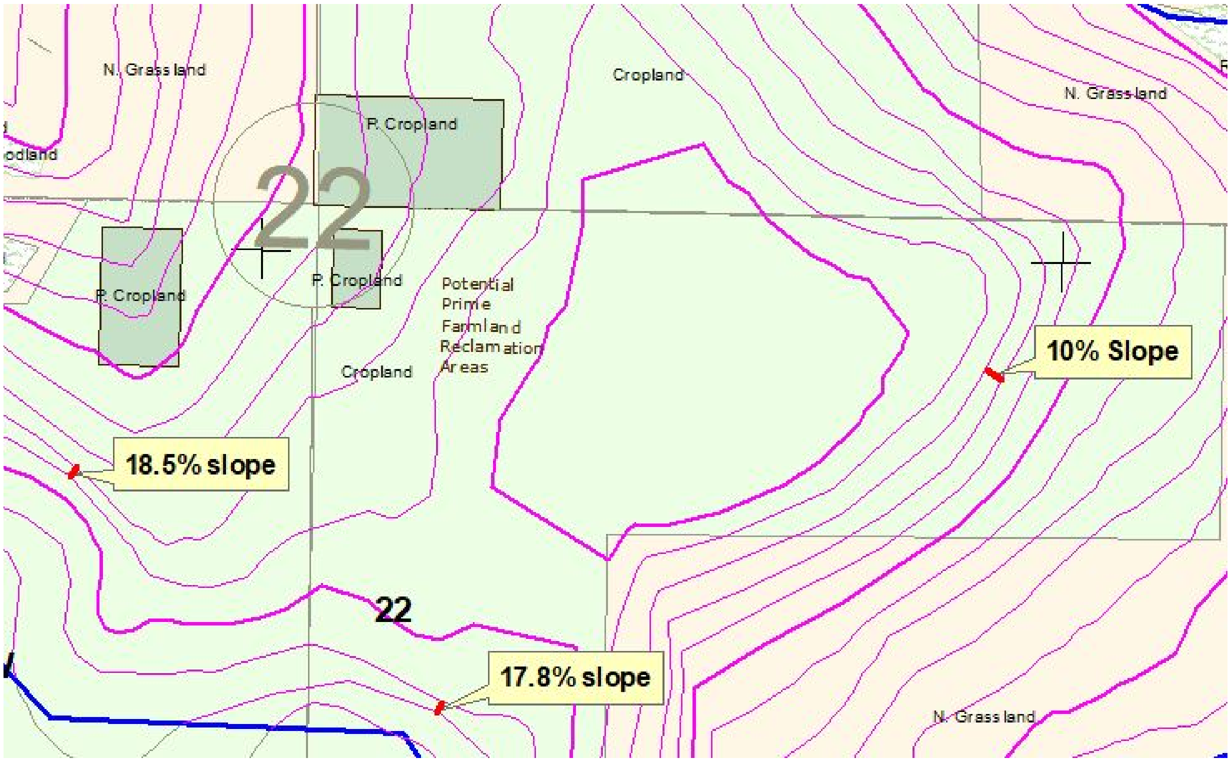
10. The design information for diversions D105N, D106E and D106W is being removed from the permit and replaced with "collector ditches". Please retain the original design information of these diversions in the permit and provide information showing how the collector ditches will route runoff to sediment ponds P105 and P106 while the post-mining topography is achieved. (GAW)

Response: Response: The original designs for D105N, D106E, and D106W have been placed into new Exhibit 3.2.72. A sentence has been added to the narrative in each of the diversion descriptions regarding a link to the Exhibit.

Section 3.5 – Backfilling and Grading

11. The Reclamation Division has identified three small areas in the S1/2 of Section 22 where the slope of reclaimed cropland exceeds 9 percent. The image below depicts the areas of concern. Please revise the Post Mining Topography map, Exhibit 3.5.3, to reduce slopes in these areas to less than 9 percent. (GAW)

Response: The slopes in the areas of concern have been reduced to less than 9 percent. Likewise, Exhibit 3.5.4(b) (slope contour comparison) has been updated to account for the change in slopes.



12. Please label the elevations of the contour lines on the Post Mining Topography map, Exhibit 3.5.3. (GAW)

Response: Labels have been added to Exhibit 3.5.3.

13. Please label the elevations of the major contour lines of the Gold Pit Area on the Post Mining Slope Contours map, Section 3.5.4b. (GAW)

Response: Labels have been added to Exhibit 3.5.4b; also, see comment #11 above regarding Exhibit 3.5.4b being updated.

Section 3.9 – Reclamation Cost Estimates and Performance Bond

14. Follow-up to Item No. 6 of our letter dated May 25, 2021: The November 2020 variable costs in Policy Memorandum No. 16 to Mine Operators were not used to calculate the reclamation costs in Table 3.9.11, Worst Case and Total Bond Summary. Please update the equipment cost in the table using the 2020 updated variable costs specified in subsection A(1) on page 1 of Section 3.9. (GAW/SMN)

Response: Table 3.9.11 has been updated using the costs specified in subsection A(1) of the narrative (PSC's November 2020 variable costs).

15. Follow-up to Item No. 7 of our letter dated May 25, 2021: DWC responded to our request to revise Table 3.9.11, Worst Case and Total Bond Summary, to show the total dozer hours listed in Table 3.9.2, Dozer Production Estimate, by stating that the amount of work completed in the Gold Pit was inadvertently left off the Table. Please clarify why the hours of work completed in

the Gold Pit are being used in Table 3.9.11 if the worst-case bond timeline is December of 2021. (SMN/GAW)

Response: The topography used to calculate volumes was flown prior to work completed in the Gold Pit. The 500,000 yards of dirt moved represents the dozer work that has been completed since the last survey. The survey was used to calculate volumes. The totals within Table 3.9.2 have been updated to include the rows "Total", "Volume Moved Since Flight", and "Net Total Gold Pit". The change was made within Table 3.9.2 to ensure the volumes were clearly understood.