

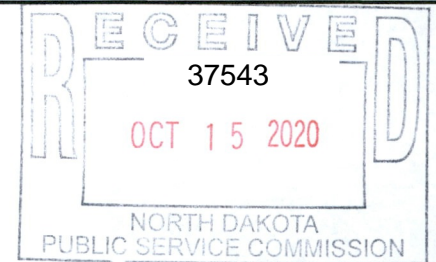
# WESTMORELAND BEULAH MINING LLC

A Subsidiary of WESTMORELAND MINING LLC

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October 13, 2020

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



Permit ID: KRSB-8603  
Revision Type:  
Permitting Action:  
Subject: Application for Transfer Permit

Dear Mr. Moos:

As requested in the deficiency letter received April 16, 2020; Westmoreland Beulah Mining LLC is resubmitting the permit transfer application with information required by NDAC 69-05.2-11-06. Please see the responses to comments received below:

### *Application for Transfer, Sale, or Assignment Rights*

- 1. The Application for Transfer, Sale, or Assignment of Rights, SFN 10579, was completed and signed over a year ago before the Westmorland Mining Holdings LLC entities were entered into the Applicant Violator System (AVS) system. The application was signed and verified by Jeffrey Provenza, General Manager; however, Mr. Provenza is not listed as an officer or the General Manager of WBM in the Business Entity information or in the November 5, 2019 AVS information submitted with the application. Please submit a new application that is signed and verified by the current WBM General Manager Scott Aberle or another Current WBM officer that is also listed in the AVS system. The signature must be acknowledged by a notary public. The Approval by Existing Permittee section of the application must be signed an authorized officer listed in the current AVS files for Dakota Westmoreland Corporation and the signature must be acknowledged.*

**Response:** Please see the Application for Transfer, Sale, or Assignment of Rights. The application was signed by Joseph Micheletti, President Westmoreland Beulah Mining LLC and Jeffrey Stein, Plan Administrator, Dakota Westmoreland Corporation. Mr. Stein is the only legal representative of the old company. Please see the attached document "Case 18-35672 Doc 1457 - Plan Administrator" for verification.

- 2. Please correct the following errors and omissions on the Application for Transfer, Sale or Assignment of Rights, SFN 10579:*
  - a. An application date must be entered in the upper right corner of the application.*
  - b. Enter a date for WBM to obtain all rights granted under Surface Coal Mining and Reclamation or write "see attached" on the date line and attach a brief of the circumstance and include a copy of the final signed Purchase and Sale Agreement (PSA) entered into by Westmoreland Coal Company and Westmoreland Beulah Mining LLC, a subsidiary of Westmoreland Mining Holdings LLC*

- c. *Attach the metes and bound description of Permit KRSB-8603 as indicted on the application.*

Response: Please see the Application for Transfer, Sale or Assignment of Rights. The requested changes have been made.

- a. The date of the application has been added to the upper right corner of the form.
  - b. The date, March 15, 2019, has been entered on the document in which Westmoreland Beulah Mining LLC obtained all rights granted under Surface Coal Mining and Reclamation. The final signed Purchase and Sale Agreement (PSA) entered by Westmoreland Coal Company and Westmoreland Beulah Mining LLC, a subsidiary of Westmoreland Mining Holdings LLC.
  - c. The metes and bounds description of Permit KRSB-8603 has also included with the application.
3. *The secretary's Certificate provided on page 1.4.2 of the Business Entity Information (pages 1.4.1-1.4.3) and in the AVS filing of Identification of Interests and Compliance Information for Westmoreland Mining Holdings LLC entities was issued, dated and signed on November 5, 2019. The AVS ownership/control and compliance information needs to be reviewed. If any changes to the ownership/control or compliance information have occurred, the AVS filing must be updated and a new Secretary's Certificate must be issued. If no changes to the ownership/control or compliance information have offed, the In Witness Whereof portion of the Secretary's Certificate must be dated, signed and acknowledged on or close to the same date that the replacement Application for Transfer, Sale or Assignment or Rights, SFN 10579, is signed to indicate the November 5, 2019 information remains current as of the date of transfer of application. The original signed and acknowledge document needs to be submitted.*

Response: The most recent file AVS document has been included in the submittal, dated August 25, 2020. Joseph Micheletti currently and has been President of Westmoreland Beulah Mining LLC since the new company was established on March 15, 2019.

4. *Lease assignments for Permit KRSB-8603 must be submitted with the Application for Transfer, Sale, or Assignment of Rights to prove WBM's of right of entry.*

Response: Lease assignments are included with this submittal.

5. *A draft public notice that includes all current surface and cola owners must be submitted with the Application for Transfer, Sale or Assignments of Rights. The Reclamation Division will notify WBM to begin publication of the public notice when the application is deemed complete.*

Response: A draft public notice is included with this submittal.

6. *WBM must review and update all surface and coal owner addresses and provided the addresses to the Reclamation Division so we may send notices to all surface owners as required by NDCC 38-14.1-18(4)*

**Response:** The surface and coal owner addresses are what is currently in the existing permit.

7. Please provide WBM's Employer Identification Number (EIN) from the Internal Revenue Service and provide a copy of WBM's Certificate of Good Standing from the State of North Dakota Secretary of State to verify WBM is authorized to conduct business in ND.

**Response:** Westmoreland Beulah Mining LLC's EIN is found in 1.4 Business Entity Information included with this application. Also, the Certificate of Good Standing from the State of North Dakota Secretary of State is included.

8. Please include a supporting narrative in the application that address each requirement of NDAC 69-05.2-11-06, including the permit application laws and rules referenced in NDAC 69-05.2-11-06.

**Response:** Supporting narrative is included in this submittal as requested.

*WBM submitted a replacement surety bond and a rider to reduce the current surety bond. Although these items are critical part of the permit transfer application, they will be addressed separately from the application items listed above. It is important to note that WBM used an effective date of January 14, 2020 for both the replacement bond and the rider to reduce the current bond. While this is a common practice when a permittee replaces a bond, it is not done with a permit transfer. For a permit transfer, the Commission must accept the new surety bond and approve the permit transfer before a rider can be submitted to reduce/cancel the old surety bond. The rider to reduce Surety Bond No. 103557522 will need to be re-executed after the permit transfer application is approved. A few minor items to be resolved with the replacement bond documents and the Reclamation Division will continue to work directly with Mc. Dicki Peterson on these items. Please note that DWC will need to submit the new permit transfer application in a timely manner or the replacement bonds will need to be re-executed with a new effective date.*

**Response:** A replacement bond will be submitted during the public comment period to ensure an applicable document.

*WBM also provided a Certificate of Liability Insurance for General Liability Policy 3003-56-24 with the permit transfer application. The Reclamation Division and WBM have been discussing the general liability policy and the umbrella policies submitted by SBM since July 2019. In January 2020, the Reclamation Division conditionally accepted Policy 3003-56-24 (along with an umbrella policy to meet the required aggregate amount) until the end of the permit term. We have determined that the general policy does not meet North Dakota's reclamation law and rules and WBM must obtain a general liability insurance policy that does not contain an SIR or deductible. The new policy must list WBM as the primary insured and must provide a minimum coverage of one million dollars for each occurrence and two million dollars aggregate for the Beulah Mine location. A copy of the new liability insurance policy, a certificate of liability insurance, and a substantive change/cancellation endorsement must be submitted by June 1, 2020 so the new policy can be reviewed and approved before the current policy expires on July 1, 2020. The permit transfer applications cannot be approved until WBM obtains insurance that meets North Dakota's reclamation laws and rules.*

**Response:** The certificate of liability insurance and applicable information as requested are included with this submittal.

Working through this process during a pandemic has been challenging and will continue to be. WBM would like to thank the Department for their time and patience while we work through this process.

If you have any questions, please contact me at (406) 748-5124.

Sincerely,



Dicki Peterson  
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Westmoreland Rosebud Mining LLC  
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cc: Jesse Noel