

**PUBLIC SERVICE COMMISSION
Reclamation Division**

Memorandum

TO: Commissioners Fedorchak, Christmann, and Kroshus

FROM: *DKM 2AB*
Dean Moos and Zanna Brinkman

DATE: October 20, 2021

SUBJECT: Transfer of Permit KRSB-8802 for the Beulah Mine from Dakota Westmoreland Corporation to Westmoreland Beulah Mining LLC, Case No. RC-20-155

On March 23, 2020, Westmoreland Beulah Mining LLC submitted an application for the transfer, sale, and assignment of rights under Permit KRSB-8802 for the Beulah Mine. The application proposes to transfer the existing permit from the current permittee, Dakota Westmoreland Corporation (DWC), to Westmoreland Beulah Mining LLC (Westmoreland Beulah Mining). Westmoreland Beulah Mining will be both the permittee and operator for the Beulah Mine and will assume all the regulatory obligations previously held by DWC. Westmoreland Beulah Mining has now filed all of the required documents for the permit transfer and we respectfully recommend that it be conditionally approved.

Westmoreland Coal Company and the subsidiaries of Westmoreland Coal Company, including Dakota Westmoreland Company that operated the Beulah Mine, filed for Chapter 11 bankruptcy on October 19, 2018. The Purchase and Sale Agreement between Westmoreland Coal Company and Westmoreland Mining LLC was effective March 15, 2019. Westmoreland Beulah Mining LLC is the subsidiary of Westmoreland Mining LLC that was formed to own and operate the Beulah Mine.

Permit KRSB-8802 contains 4,905.9 acres located in Sections 7, 8, 17, 18, 19, and 20, T143N, R87W, Oliver County; and Sections 10, 11, 12, 13, 14, 15, and 24, T143N, R88W, Mercer County as shown on **Figure 1**. The current permit term expires October 23, 2025. Coal removal from this permit was completed in 2009. The permit area east of ND Highway 49 is in reclamation status, but the permit area west of ND Highway 49 contains the office-shop complex, a haul road, and a rail car loading facility used to support mining in Permit No. KRSB-8603.

As part of the permit transfer application, Dakota Westmoreland was required to submit business entity and violation information and replacement bond and liability insurance documents. Records currently in the Office of Surface Mining's Applicant Violator System (AVS) do not indicate that the applicant, nor any affiliated companies, have any unpaid civil penalties, violations that have not been abated within the required time period, or a pattern of willful violations.

Westmoreland Beulah Mining submitted a surety bond in the amount of \$10,382,986.00 for this permit area. This amount is sufficient to cover the worst-case reclamation condition in this permit area. Westmoreland Beulah Mining also provided evidence of adequate liability insurance.

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We recommend that a condition be attached to the permit transfer approval to require Westmoreland Beulah Mining to incorporate the business entity, property ownership and related information into the existing permit by filing a permit revision no later than January 31, 2022.

Dakota Westmoreland published notices of the transfer application in the Bismarck Tribune and Beulah Beacon. We sent notices to the appropriate agencies and landowners. No objections or requests for an informal conference were received on this application.

Attached are the proposed motion, award form, and special condition for your consideration at the October 20, 2021 Commission meeting.

Attachments

Beulah Mine (Dakota Westmoreland)\Permits\KRSB - 8802\Permit Transfer\Permit_Transfer_Apprvl_Memo_10-20-21

Figure 1. Permit KRSB-8802

