



**Westmoreland Beulah Mining - *Beulah Mine***  
A Subsidiary of Westmoreland Mining LLC

March 31, 2023

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

Dear Ms. Brinkman:

The following is in response to your letter dated March 29, 2023, regarding Revision 35 for Permit KR5B-8603. The updated permit has 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 Affairs  
Westmoreland Mining LLC

Cc: David Traverso  
Nettie Ore

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Response to Revision 35 Completeness Review 3 Letter  
Westmoreland Beulah Mining LLC  
Jesse Noel



March 31, 2023

**Comment/Response to March 29, 2023 PSC Letter  
Revision 35**

**Section 1.4 – Business Entity Information**

1. Follow-up to Item No. 4: The surface ownership in the SW1/4 of Section 16 has been in question for quite some time. Her name is highlighted in the last few revision applications. In Revision 35, the surface owners are listed as Joan and Charles Miller, Sharon Winkler, and Faye Keogh. Faye Keogh was not listed as a surface owner of this tract in the permit transfer, nor was she listed as a surface owner in the permit prior to Revision 32. The lease documents do not indicate she is a surface owner on this tract. Please review and correct the surface ownership of this tract. WBM is reminded that the burden of providing accurate surface and mineral ownership in the permit is on the mine. WBM's response that no surface owners have requested an address change and none of your letters have been returned is not sufficient. NDCC 38-14.1-18(2) requires the permit applicant to conduct a search of the records of the county recorder for each county for land within the proposed permit area and to supply the commission with a list of names and addresses of all owners of surface rights of land within the proposed permit area and a list of all subsurface mineral owners within the proposed permit area, and the lists must be submitted to the commission along with the application for a permit or permit revision." Please review your leases and conduct a search of the county recorder records and update the surface and subsurface ownership information. (ZAB, SMN, MJF, JWE)

**Response:** After a review of the records, Faye Keogh should not have been included as a lessee for the SW1/4 of Section 16. We will continue to review our leases as required under NDCC 38-14.1-18(2). The Section 1.4 Narrative has been updated accordingly.

**Section 3.2 – Surface Water Management Plan**

2. Please update Section 3.2, Water Management Plan, to address the changes proposed with diversion D107N. The Water Management Plan map, Exhibit 3.2.1, shows that Westmoreland is planning to move this diversion westward with Revision 35 and it is not clear how runoff will be managed between the new location of the diversion and the disturbance boundary to the east. A design plan should be provided for the new diversion D107N if the watershed is greater than approximately 40 acres. Diversion D107N may be designed as a field engineered diversion if the watershed is less than 40 acres in size. Please update the narrative discussions for sediment ponds P112 and P113, and diversion D107N to address any changes that have occurred or are being proposed with Revision 35, and any other water management changes to the approved permit. (GAW)

**Response:** The watershed for diversion D107N is 34.8 acres. The diversion has been renamed D107NR, and the narrative has been updated. The watershed for diversion D107S is 31.9 acres. The diversion has been renamed D107SR, and the narrative has been updated. Ponds 112 and 113 have not changed since revision 34; no other water management changes have been made since revision 34. Both the Section 3.2 Narrative and Exhibit 3.2.1 have been updated to reflect the changes.