



# Public Service Commission

## State of North Dakota

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June 20, 2023

Mr. Dave Traverso  
General Mine Manager  
Westmoreland Beulah Mining LLC  
Beulah Mine  
P.O. Box 39  
Beulah, ND 58523-0039  
[DTraverso@westmoreland.com](mailto:DTraverso@westmoreland.com)

Dear Mr. Traverso:

The Reclamation Division has completed a technical review of Revision No. 35 to Surface Coal Mining Permit KR5B-8603 at the Beulah Mine. The following items must be adequately addressed before Revision No. 35 can be recommended for Commission approval.

### **Section 1.1 – Application and Support Documents**

1. Please update the bookmarks in Section 1.1 such that the information provided with Revision 35 is bookmarked, similar to how other permit revisions have been bookmarked. (GAW)
2. The Certificate of Liability Insurance will be expiring July 1, 2023. Please consider including a copy of proof of Liability Insurance after July 1, 2023. (GAW)

### **Section 1.4 – Business Entity Information**

3. Sharon Winkler has verbally informed us that she owns the NW $\frac{1}{4}$  of Section 21 and the W $\frac{1}{2}$  of the SW $\frac{1}{4}$  of Section 16 and that her sister Joan owns the NE $\frac{1}{4}$  of Section 21 and the E $\frac{1}{2}$  of the SW $\frac{1}{4}$  of Section 16 but the information in Section 1.4 indicates the property is jointly owned with undivided interests. Please review the property ownership of these tracts on file with the Mercer County Recorder's office in Stanton, ND, and update if necessary. (GAW)
4. Please update the addresses for the following landowners in Section 1.4 since the addresses listed in the permit are incorrect: Michael and Tina Schirado, Darla (Schmidt) Ratzak, and Carmen Eslinger (MJF/SMN).

### **Section 1.5 – Compliance Information**

5. The list of revised information for Revision 35 indicates that changes have been made to Section 1.5, Compliance Information, but no strike-through or highlighted language is shown and none of the pages include a date or revision stamp as required by NDAC 69-05.2-05-02(6). Please revise to provide clarity. (GAW)

### **Section 2.2 – Surface Water Hydrology Inventory & Monitoring**

6. Please update the 1<sup>st</sup> paragraph of Section B.2.a, NDPDES Discharge Points, to state that Ponds 109, 110, and 111 will not be constructed due to the shortened life of the mine. (JAR)
7. Please add Pond 109 to Section C, Probable Hydrologic Consequences of Mining, to indicate that Pond 109 will not be constructed due to the shortened life of mine. (JAR)

### **Section 2.7 – Land Use**

8. WBM has not planted the native grass mix on reclaimed land in the NE¼ of Section 19 because the surface owners Casey and Julie Voigt, reportedly have requested additional cropland acreage on this tract. Please review this issue with the surface owner and update the permit if post-mining land use plans have changed for this tract. This would include updating the narrative in Section 2.7, the land use boundary on the Post-Mining Land Use Map, Exhibit 2.7.1, and the Pre-Mining and Post-Mining Land Use Acreage Table, Exhibit 2.7.4. An updated Land Use Preference statement from the surface owner would also be needed in Exhibit 2.7.2. (GAW)

### **Section 3.1 – General Mining Plan**

9. Please update the Pit Layout and Facilities Map, Exhibit 3.1.2, to include sediment ponds P112 and P113 and remove Pond 85 Sump since it no longer exists. (GAW)
10. Please update the Pit Layout and Facilities Map, Exhibit 3.1.2, to include the sump located in the NW¼SW¼ of Section 15. Narrative on page 3.8.9, Variance Area No. 7, suggests that the area associated with this sump is being used to store spoil for the reclamation of Pond 86. This spoil pile should be depicted on the Pit Layout and Facilities Map and a volume should be provided for this pile. (GAW)

### **Section 3.2 – Surface Water Management Plan**

11. The legend for Exhibit 3.2.1, Water Management Plan, has labels for Intermittent and Perennial Streams but they are not depicted on the map. Please revise the map accordingly. (JAR/SMN)
12. In Section 3.2, the Diversion Ditch D107NR narrative states that a disturbed area of 11.3 acres downstream of the diversion will be captured in a sump that is depicted in a wooded draw near the permit boundary in Exhibit 3.2.1. Please revise the Water Management Plan Map, Exhibit 3.2.1, to show that this sump will be constructed at a low point within the existing disturbance boundary rather than in an undisturbed wooded draw. (GAW)
13. Please provide a design plan for the sump that is to be constructed downstream of Diversion D107NR or otherwise demonstrate that the surface water runoff from the disturbed area will meet DEQ effluent limitations as required by NDAC 69-05.2-16-04(1)(c). (GAW)
14. Please depict the sump that is located in the NW¼SW¼ of Section 15 on the Water Management Plan Map, Exhibit 3.2.1, and identify the watershed associated with this sump. Please also include a discussion about this sump as a water management feature (it is an old pit that was retained for water management purposes). (GAW)
15. Please revise Exhibit 3.2.1, Water Management Plan Map, to show where culverts have been placed under reconstructed County Road No. 12 and the existing primary haul road. This is needed to fully realize how runoff from the entire watershed above each sediment pond is being managed. The Reclamation Division is aware that culverts are in place under the haul road and County Road No. 12 in the watershed above P86 but these culverts are not depicted on the map. In addition, the Water Management Plan Map shows culverts 113, 114, 115, 118, and 120 parallel to the haul road rather than through the haul road which is confusing and culvert 117 is depicted in an undisturbed drainage. Please review and revise the map to provide clarity. (GAW)
16. Please review the watershed boundaries and the contour lines depicted in the Water Management Plan Map, Exhibit 3.2.1, to ensure the map accurately shows the watersheds used when the ponds were designed. Please depict the watersheds above sediment ponds P82 and P83 and the watershed of the sump that is to capture runoff northeast of Diversion D107NR. (GAW/SMN)
17. Table 2.3.7 in Section 2.3(D), Probable Hydrologic Consequences (PHC), indicates that the watershed area above P108 will increase from 53.6 acres to 73 acres (36.19%). The hydrology calculations, shown in Exhibit 3.2.52 table, indicate that the pond was designed for a 55.7-acre watershed. Please review the

design of this pond to ensure it is capable of handling the runoff expected in the post-mine setting.  
(GAW/SMN)

18. According to the Revision Summary list, Exhibits 3.2.50, 3.2.50 table, and 3.2.51 were removed, but they were not removed. However, if it was your intention to remove these exhibits, do not remove these sections because historical information regarding water management features should be retained in the permit. These sections can be updated by revising the narrative and/or creating a new exhibit if the design plan needs to be changed. (GAW)

### **Section 3.8 – Time Schedules**

19. Language on page 3.8.10 incorrectly states that reclamation has been completed on Special Variance Zone No's. 11 and 13 in the Silver Pit. Please revise to clarify that the final pit in the NE¼ of Section 19 has not yet been reclaimed and provide a timeline for completing reclamation on this tract. The permit should state that this portion of the Silver Pit will be reclaimed prior to WBM owned lands in Section 20. (GAW)
20. In Section 3.8, please provide the Revision 35 variance area acreage associated with the Gold Pit, Silver Pit, and Iron Pit Areas. The final pits in the Gold Pit Area are not included in an existing variance area, and areas in previous variance areas have been reclaimed. A new variance area map should be provided that clearly depicts areas where WBM is requesting a variance from contemporaneous reclamation requirements. Haul roads, sediment ponds, diversions, access corridors, overburden piles, and SPGM stockpiles may be excluded from the variance areas. The portions of Special Variance Area No. 7, that are not being used to support mining and reclamation operations, should be included in a variance request. (GAW)

Attached are comments from the ND Department of Environmental Quality and the ND Department of Water Resources in response to Revision No. 35. Please address DEQ's comments in your next response.

If you have any questions, please contact this office.

Sincerely,



Zanna A. Brinkman  
Director  
Reclamation Division

Enclosures

cc via email only w/ enclosures: Jesse Noel (jnoel@westmoreland.com)  
Nettie Ore (NOre@westmoreland.com)  
Todd Briggs (tbriggs@westmoreland.com)

June 1, 2023

Zanna Brinkman  
ND Public Service Commission  
600 East Boulevard, Dept 408  
Bismarck, ND 58505-0480

Dear Ms. Brinkman:

This is in response to your request for a review of the environmental impacts associated with the Westmoreland Beulah Mining LLC - Revision No. 35 to Surface Coal Mining Permit No. KRSB-8603 at Beulah Mine.

The proposed project has been reviewed by Department of Water Resources, and the following comments are provided:

- There is a FEMA National Flood Insurance Program (NFIP) regulatory floodplain identified or mapped where this proposed project is to take place. Impacted areas are designated to be in NFIP Zone A. The State of North Dakota has no formal NFIP permitting authority, as all NFIP permitting decisions are considered by impacted NFIP participating communities, which is the community with zoning authority for the area in question. Please work directly with the local floodplain administrator of the zoning authority impacted to achieve NFIP and community compliance.

- In accordance with North Dakota Century Code §61-16.1-38, any new construction or construction modifications on water storage impoundments, including dams or ponds, may require a construction permit from the Department of Water Resources (DWR) based on the storage volume and hazard classification. Similarly, if any dams or ponds are to be removed, we request that the DWR Regulatory Division be notified. Please contact the DWR Regulatory Division at 701-328-4956 if you have any questions.

Thank you for the opportunity to provide review comments. Should you have further questions, please contact me at 701-328-4970 or [stevebest@nd.gov](mailto:stevebest@nd.gov).

Sincerely,



Steven Best  
Planner III

SB:dm/1570

May 5, 2023

Zanna Brinkman  
Director  
Reclamation Division  
600 East Boulevard, Dept 408  
Bismarck, ND 58505

Re: Beulah Mining application for Permit Revision No. 35 Permit KRSB-8603 in Mercer County

Dear Ms. Brinkman:

The North Dakota Department of Environmental Quality has reviewed the information concerning the above-referenced project received at the department on April 24, 2023 with respect to possible environmental impacts.

This department believes that environmental impacts from the proposed construction will be minor and can be controlled by proper construction methods. With respect to construction, we have the following comment:

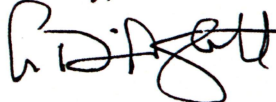
1. We have reviewed Dakota Westmoreland Corporation's application for revision number 35 to Surface Coal Mining Permit KRSB-8603. We have no objection to the revision which modifies reclamation schedules for the Silver, Gold, and Iron Pits. We also have no objection to updates to the water management plan to include newly constructed ponds.

The most recent "Date of Approval" on Narrative page 1.4.33 for the North Dakota Pollutant Discharge Elimination System (NDPDES) permit should include October 1, 2022. The most recent "Date of Approval" on Narrative page 1.4.33 for the Storm Water permit should include January 1, 2020.

The department owns no land in or adjacent to the proposed improvements, nor does it have any projects scheduled in the area. In addition, we believe the proposed activities are consistent with the State Implementation Plan for the Control of Air Pollution for the State of North Dakota.

If you have any questions regarding our comments, please feel free to contact this office.

Sincerely,



L. David Glatt, P.E., Director  
North Dakota Department of Environmental Quality

LDG:csc  
Attach.

## Construction and Environmental Disturbance Requirements

The following are the minimum requirements of the North Dakota Department of Environmental Quality for projects that involve construction and environmental disturbance in or near waters of the State of North Dakota. They ensure that minimal environmental degradation occurs as a result of construction or related work which has the potential to affect waters of the state. All projects must be constructed to minimize the loss of soil, vegetative cover, and pollutants (chemical or biological) from a site.

### **Soils**

Prevent the erosion and sediment loss using erosion and sediment controls. Fragile and sensitive areas such as wetlands, riparian zones, delicate flora, and land resources must be prohibited against compaction, vegetation loss and unnecessary damage.

### **Surface Waters**

All construction must be managed to minimize impacts to aquatic systems. Follow safe storage and handling procedures to prevent the contamination of water from fuel spills, lubricants, and chemicals. Stream bank and stream bed disturbances must be contained to minimize silt movement, nutrient upsurges, plant dislocations, and any physical chemicals, or biological disruption. The use of pesticides or herbicides in or near surface waters is allowed under the department's pesticide application permit with notification to the department.

### **Fill Material**

Any fill material placed below the ordinary high-water mark must be free of topsoil, decomposable materials, and persistent synthetic organic compounds; including, but not limited to, asphalt, tires, treated lumber, and construction debris. The department may require testing of fill material. All temporary fills must be removed. Debris and solid waste must be properly disposed or recycled. Impacted areas must be restored to near original condition.