



May 26, 2026

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

Dear Mr. Emmer:

The following is in response to your review letter dated December 19, 2025, regarding the review of Permit KRSB-8802 Bond Release No. 4. Please find responses to your deficiencies below.

### General

1. *The latest version of the Partial Bond Release No. 4 application was submitted to the Reclamation Division on November 6, 2025; however, page 1 of the application indicates that the latest revision was submitted in October 2025. Please ensure the revision date on page 1 of the application matches the actual date of the submittal for future revisions to the application. (MLJ)*

**Response: Page 1 of the following application has the correct month shown, May 2026.**

2. Follow-up to Item No. 1 of our August 25, 2025 review letter. All changes must be made using an underline-strikethrough format. For example, edits were made in Attachment IV (Agency Mailing List) to the North Dakota Department of Water Resources, the North Dakota Soil Conservation Committee, and the State Geologist, but these edits were not marked in any capacity. WBM must ensure all edits made are highlighted and/or underlined as required in NDAC 69-05.2-05-02(6). The Reclamation Division requests that all changes made since the initial application be highlighted and/or underlined in some capacity. Also, all future deleted information must also be retained in the application in a strike-through format (example: ~~deleted~~). The Reclamation Division understands that significant changes have been made to the application since the initial submittal and revising the document to include all previously deleted is unnecessary; however, all future deletions and edits must be retained in the required format. (WWS)

**Response: Changes implemented as part of previous bond release application revisions are provided as Adobe documents providing records of changes between the original application submittal and each subsequent submittal through Revision #3 submitted in October 2025. These documents highlight the changes to text, tables, and figures implemented as part of each bond release application revision. Changes implemented as part of this Revision #4 application are provided in track changes using the format requested by the Reclamation Division. Please see the folder named TrackChanges\_Files\_REV1-3.**

### Attachment III – Public Notice

3. The narrative on page 36 of the application within Attachment III (Public Notice) states that the public notice will be published in the Hazen Star and the Center Republican; however, the table indicates it will be published in “The Beacon”. Please revise the table to state “The Center Republican”. NDCC 38-14.1-17(1)(a) requires the advertisement to be published in the official newspaper of each county where the surface coal mining operation is located. (WWS)

**Response: The table in Attachment III has been revised to include two addresses for The Center Republican newspaper since two addresses are listed for the paper by the publisher, Central Nordak Publishing, on their website (centralnordak.com). Text has been added to Attachment III to clarify that two addresses are listed for this reason. A unique email address for each paper has been added to the contact information listed for each paper to facilitate communication with the appropriate newspaper.**

4. The third paragraph on page 37 within Attachment III (Public Notice) states that the remaining bond will be \$6,125,792.26. However, if the existing bond is \$10,382,986.00 and \$2,806,735.38 is being requested for release, then the total remaining bond should be \$7,576,250.62. (PJR)

**Response: Attachment III (Public Notice) has been revised with the correct bond and bond release amounts.**

5. As requested in Item No. 9 of our August 25, 2025 review letter, Exhibit III-1 (Public Notice Map) was added to Attachment III (Public Notice); however, the boundary of Permit KRSB-8802 is missing from the map. Please include the boundary of Permit KRSB-8802 in Exhibit III-1 so that the bond release area can be realized in relation to the permit boundary. (PJR)

**Response: The public notice Map has been updated to include the permit boundary of Permit KRSB-8802.**

### Attachment IV- Letter to Affected Parties

6. Similar to Item No. 4 above, the third paragraph of each landowner notification letter in Attachment IV (Letters to Affected Parties) states that the remaining bond will be \$6,125,792.26. However, if the existing bond is \$10,382,986.00 and \$2,806,735.38 is being requested for release, then the total remaining bond should be \$7,576,250.62. (PJR)

**Response: All notification letters have been revised to reflect the correct bond and bond release amounts.**

### Attachment V- Stage 1 & 2 Detail Maps

7. Exhibit V-2, Final Grade/Soil Respread Depths Map, in Attachment V (Stage 1 & 2 Detail Maps) indicates that 0.3 feet of topsoil and 1.3 feet of subsoil were respread on 1969 and 1971 Law Liability Areas in the NW¼SW¼ of Section 7. The Reclamation Division does not believe that any topsoil or subsoil was respread on areas subject to the 1969 and 1971 reclamation laws. Please review your records and revise as appropriate. (GAW)

**Response: Exhibit V-2, Final Grade/Soil Respread Depths Map, has been revised by removing the 0.3 feet of topsoil and 1.3 feet of subsoil located within the 1969 and 1971 Law Liability Areas in the NW1/4SE1/4 of Section 7.**

8. Please revise Exhibit V-2, Final Grade/Soil Respread Depths Map, in Attachment V (Stage 1 & 2 Detailed Maps) to clarify that 0.5 feet of topsoil and 0.0 feet of subsoil were respread on areas subject to the 1973 reclamation law standards in the NW<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub> of Section 7. On July 22, 2019, the Commission issued special condition No. 1 to Revision 31 to Permit KRSB-8802 which required Dakota Westmoreland Corporation to respread at least 6 inches of topsoil on areas subject to the 1973 reclamation law and rules in the SW<sup>1</sup>/<sub>4</sub> of Section 7, T143N, R87W, Oliver County. (GAW)

**Response: Exhibit V-2, Final Grade/Soil Respread Depths Map, has been revised only show 0.5 feet, 6 inches, of topsoil and 0.0 feet of subsoil within the 1973 reclamation law standards in the NW1/4SW1/4 of Section 7.**

#### **Attachment VI – Reclamation Narrative**

9. The first paragraph on page 54 within Attachment VI (Reclamation Narrative) states that soil respread depths for each tract were determined using actual graded spoil quality information provided with each grade approval request. This can only be true for those areas reclaimed after the 1987 rule change. Prior to 1987, all available topsoil and subsoil, to a depth of 5 feet, was to be salvaged and replaced. Exhibit V-2, Final Grad/Soil Respread Depths Map, in Attachment V (Stage 1 & 2 Detailed Maps) appears to show that areas reclaimed prior to 1990 were respread with salvaged depths of soil rather than graded spoil properties. Please review and revise the narrative to clarify that areas subject to 1975 and later reclamation laws that were reclaimed prior to 1990 were respread with all available topsoil and subsoil up to a depth of 5 feet. (GAW)

**Response: The narrative has been revised to include the requested text to the referenced paragraph (second paragraph under Stage 2 Bond Release). The inserted text reads “Reclaimed areas subject to 1975 and later reclamation laws that were reclaimed prior to 1990 were respread with all available topsoil and subsoil up to a depth of 5 feet.”**

10. Please delete the last three sentences in the first paragraph on page 54 within Attachment VI (Reclamation Narrative) that discuss projected respread soil depths and Section 3.4-B of the permit. Also, Table VI-1 should be removed from the bond release application as it provides no meaningful information regarding actual topsoil and subsoil respread depths. (GAW)

**Response: The last three sentences in the referenced paragraph have been deleted and Table VI-1 as well as references to this table have been deleted from Attachment VI. Table VI-2 has been renamed to Table VI-1 for consistency.**

#### **Attachment VII – Performance Bond Release Calculations**

11. The first paragraph on page 57 within Attachment VII (Performance Bond Release Calculations) references the Public Service Commission’s Reclamation Cost Estimating Guidelines dated November 1, 2022. Please revise this narrative and the Bond Release No. 4 bond release calculations to reference the July 1, 2025 Reclamation Cost Estimating Guidelines which can be found under Policy Memorandum No. 16 to Mine Operators on the PSC’s website -

<https://www.psc.nd.gov/jurisdictions/coal-mining/>. Also, please clarify what is intended with the reference to the “July 2009 March 2022 annual mine plan update” language. (GAW)

**Response: Bond narrative and bond calculations have been updated with the most recent Reclamation Cost Estimating Guidelines dated July 1, 2025 as requested. The reference to July 2009 and March 2022 annual mine plane update has been removed from the narrative.**

12. Follow up to Item No. 20 of our August 25, 2025 review letter: Please revise the Bond Release Value Summary information on page 74 within Attachment VII (Performance Bond Release Calculations) to clarify how each value depicted was calculated. It is not clear how the values listed in the “BR4 Bond Amounts” or “BR4 Bond Release Summary – per Acre Basis” subsections have been calculated. A disturbed per acre bond amount should be established as was done with the undisturbed acreage. This would allow one to simply multiply the disturbed acreage in the bond release application by the disturbed acreage amount and then by the first and second stage bond release percentages to determine the bond release amount for the application. (GAW)

**Response: The Bond Release Value Summary information has been revised to match an example that was provided by the PSC. This format simplified the summary compared to previous submittals.**

13. Similar to Items No. 4 and No. 6 above, the total remaining bond value at the bottom of page 74 within Attachment VII (Performance Bond Release Calculations) states that the remaining bond will be \$6,125,792.26. However, if the existing bond is \$10,382,986.00 and \$2,806,735.38 is being requested for release, then the total remaining bond should be \$7,576,250.62. (PJR)

**Response: The total remaining bond value has been revised and updated accordingly.**

Please feel free to contact me should you have any questions.

Sincerely,



**David Kuzara**

*Manager, Environmental and Regulatory Affairs*

**Westmoreland Mining, LLC**

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