



Public Service Commission

Sheri Haugen-Hoffart

Randy Christmann

Jill Kringstad

600 East Boulevard Ave
Dept. 408
Bismarck, ND 58505-0480
701-328-2400
ndpsc@nd.gov

sent via email only

September 17, 2026

Mr. David Kuzara
Manager, Environmental & Regulatory Affairs
Westmoreland Beulah Mining LLC
Beulah Mine
PO Box 39
Beulah, ND 58523-0039
dkuzara@westmoreland.com

Dear Mr. Kuzara:

The Reclamation Division has completed a technical review of the application for Partial Bond Release No. 4 to Surface Coal Mining Permit KRSB-8802. Reclamation Division staff reviewed the clean copy version of the application submitted to our office on July 6, 2026. The following issues must be resolved prior to this office recommending Commission approval.

General

1. Please fix the bookmark hyperlinks so that one can navigate to various sections of the application without paging through the entire document and label the bookmark subsections consistent with language in the Table of Contents. (GAW/JAR)
2. Please review the Reclamation Division's August 13, 2026, inspection report for areas that may need to be reshaped, filled, tilled, or reseeded prior to bond release. (WWS, TLD, JAR, GAW)

Partial Bond Release Application (SFN 19812)

3. Page 1 of the Partial Bond Release Application (SFN 19812) is dated May 26, 2026, but Juris Ore signed the application on October 23, 2025, and David Kuzara's Notary Public seal expired December 31, 2025. Please provide an updated page 2 of the application to certify that the information provided on May 26, 2026, is true and correct. (GAW, AAC)

Exhibit I-1 – Stage 1 and 2 Bond Release 4 Areas Map

4. Beulah Mine Annual Mine Maps from the 1980s and 1990s show subsoil stockpile 4-04-2 on most of the area depicted as Undisturbed Area No. 9 in Exhibit I-1 (Stage 1 and 2 Bond Release 4 Areas Map). The 1985 Annual Mine Map indicates the pile was seeded in 1985, and the 1992 Annual Mine Map provides that the pile contained 126,446 cubic yards of soil. Please review your records and revise the bond release application to include the area affected by subsoil stockpile 4-04-2 as a pre-law area used to support current law mining activities. (GAW)

Attachment II – Metes and Bounds Description

5. Undisturbed Areas 6, 7, 8, 9, and 10 are listed and labeled on all maps as undisturbed areas. Although not disturbed by mining activities subject to any reclamation laws, portions or all of these areas were all disturbed by mining activities prior to North Dakota's first reclamation law. Please consider changing the name of these areas to orphan spoil to avoid confusion and aid in interpretation. The naming convention would need to be revised on all of the maps included in the bond release application. (GAW)

Attachment IV – Letters to Affected Parties

6. Please update the list of surface landowners in the bond release in the table on page 45 of Attachment IV in accordance with updates provided by Mr. Kuzara in an email dated July 10, 2026. Ownership name and/or address changes were made to the Abbey Family Partnership, William and Miles Heth property, Bertha, Faye and Faith LLC, Erickson Life Estate, and Karen Heth properties. Surface ownership discrepancies were also noted during our bond release inspection on August 13, 2026. Surface ownership changes may also need to be made on Exhibit I-1 (Stage 1 & 2 Bond Release 4 Areas Map) and Exhibit V-1 (Stage 1 & 2 Bond Release 4 As Built Post-mine Topography). (GAW, WWS)
7. Exhibit I-1 (Stage 1 and 2 Bond Release 4 Areas Map) indicates that a portion of the SW¼ of Section 12 is included in the bond release application but the surface owners (Coyote Partnership) are not included in the list of surface landowners in the bond release area on page 45 of Attachment IV. Please correct this error. (GAW)

Exhibit V-1 – Stage 1 & 2 Bond Release 4 – As Built Post-Mine Topography

8. Please revise Exhibit V-1 (As Bult Post-Mine Topography) to show the contiguous contour elevation lines on reclaimed lands in the SE¼ of Section 17. Exhibit V-1 currently has several incomplete contour lines that end abruptly. (GAW)
9. Please revise Exhibit V-1 (As Bult Post-Mine Topography) to ensure the contour elevation lines are properly depicted in areas affected by sediment ponds P47, P50, P55, P56, P61 and P62. Exhibit V-1 depicts a pond where sediment pond 50 existed at one time. Heavy black contour lines where sediment ponds P55, P56, P61 and P62 were located appear as major contour intervals. Please review the contour elevation lines where these ponds existed to ensure they are accurate and label the contour elevation as necessary to aid interpretation. (GAW)
10. Please review the contour elevation lines on the areas affected by topsoil stockpiles 11-01-1 and 11-07-1, which are located west of sediment ponds P61 and P51, respectively, to ensure Exhibit V-1 (As Bult Post-Mine Topography) properly depicts the topography in these areas. Exhibit V-1 appears to show hills where these topsoil stockpiles were once located. (GAW)
11. Please review the contour elevation lines on re-disturbed pre-law orphan spoil used to support current law mining activities to ensure Exhibit V-1 (As Bult Post-Mine Topography) properly depicts the topography of these areas. Exhibit V-1 depicts several incomplete contour lines in the NE¼NW¼ and the NW¼NE¼ of Section 18 that abruptly end. (GAW)

12. Please review the contour elevation line near the mining disturbance boundary in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 20 to ensure accurate information is provided. Exhibit V-1 depicts incomplete contour lines on reclaimed and undisturbed land in this area. (GAW)

Exhibit V-2 – Stage 1 & 2 Bond Release 4 – Final Grade/Soil Respread Depths Map

13. Exhibit V-2 (Final Grade/Soil Respread Depths Map) incorrectly indicates that 0.3 and 1.3 feet of topsoil and subsoil, respectively, were respread on areas of pre-law mining disturbance in the S $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 7. No topsoil or subsoil was respread on areas initially disturbed prior to North Dakota's 1973 Reclamation Laws that were used to support current law mining and reclamation activities. Please correct this error. (GAW)
14. Exhibit V-2 (Final Grade/Soil Respread Depths Map) indicates that 0 topsoil and 0 subsoil was respread on a polygon in the northwest corner of the southwest corner of the SW $\frac{1}{4}$ of Section 7 and NW $\frac{1}{4}$ of Section 18 that is subject to North Dakota's 1973 Reclamation Law. North Dakota's 1973 Reclamation Law requires that up to two feet of soil material be salvaged and replaced. Please check your records to ensure that appropriate depths of soil are depicted on this polygon. (GAW)
15. Exhibit V-2 (Final Grade/Soil Respread Depths Map) indicates that 0.5 feet of topsoil and 1.3 feet of subsoil were respread on the final Charlie pit in the W $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 19 and the primary haul road corridors in Sections 13, 18, 19 and 24. NDAC 69-05.2-15-04 requires a minimum of two feet of SPGM respread on areas mined and reclaimed. Please review your records regarding the SPGM respread depths on these areas and revise Exhibit V-2 to show compliance with NDAC 69-05.2-15-04. Correspondence on file with the Reclamation Division from 2020 indicates spoil in the final Charlie Pit and spoil in the primary haul road corridors was sampled and determined to be subsoil quality (other suitable strata). Moreover, there is correspondence that subsoil quality (other suitable strata) was available in Westmoreland's pre-law borrow area in the SW $\frac{1}{4}$ of Section 12. Please review your records and update the SPGM respread depths in these areas accordingly. (GAW)
16. Exhibit V-2 (Final Grade/Soil Respread Depths Map) indicates that 0.61 feet of topsoil and 0.09 feet of subsoil were respread in the pool areas of sediment ponds P50, P55, P56, P61 and P62. Pond removal request correspondence on file with the Reclamation Division dated October 2, 2020, indicates that Heth cropland was to be respread with 8 inches of topsoil and 12 inches of subsoil and that all other land uses, which is primarily tame pastureland, were to be respread with 6 inches of topsoil and 6 inches of subsoil. Moreover, the embankments of these sediment ponds that were used to reclaim the pool areas of these ponds were tested and determined to be subsoil quality (other suitable strata). Please review your records regarding the SPGM respread depths on these areas and revise Exhibit V-2 accordingly. (Note: NDAC 69-05.2-15-04 only applies to areas of mineral removal). (GAW)
17. In accordance with Policy Memorandum 17 to Mine Operators and NDAC 69-05.2-15-04(4)(a)(2)(a), Reclamation Division staff assessed SPGM respread depths on lands included in Bond Release No. 4 in September of 2025. Reclamation Division staff found several instances in which it appeared that the SPGM respread depths were deficient by 6 or more inches compared to the values provided on Exhibit V-2 (Final Grade/Soil Respread Depths Map). The Reclamation Division is finalizing the assessment report and will notify WBM if follow-up actions are required. (TLD)

Exhibit V-3 – Stage 1 & 2 Bond Release 4 - Soil Respread/Seed Year Map

18. Exhibit V-3 (Soil Respread/Seed Year Map) indicates that the 10-year revegetation responsibility period was initiated on pre-law spoil in the S½SW¼ of Section 7 in the year 2020. Please review your records and update if necessary. The Reclamation Division believes that portions of this area may have become vegetated with volunteer grasses. (GAW)
19. Exhibit V-3 (Soil Respread/Seed Year Map) shows that the 10-year revegetation responsibility period was initiated on an area in the northwest corner of the SW¼ of Section 7 in 2023, but the 2025 Annual Mine Map indicates the 10-year revegetation period was initiated on this area in 2024. Please review and revise if necessary. (GAW)

Exhibit V1 – Mine Area Reference Map

20. Please revise Exhibit V1 (Mine Area Reference Map) to show all areas mined in Section 19 and the NW¼ of Section 24. Mining extended further south in the Orange and Charlie Pits than depicted. Exhibit 3.1.2 (Pit Sequence & History of Mining) in Permit KRSB-8802, and the earlier version of the Beulah Mine Annual Mine Maps, properly depict the extent of mining in Orange and Charlie Pits. Please correct this error. (GAW)

Attachment VI – Reclamation Narrative

21. Please change the word “they” to “mining” in the third sentence of the fourth paragraph on page 1 of Attachment VI (Reclamation Narrative) to improve clarity. (GAW)
22. The last sentence in the fourth paragraph on page 1 of Attachment VI (Reclamation Narrative) mentions the 1969, 1971 and 1973 reclamation law areas. Please clarify why the 1975, 1977, 1978 interim and current law periods are not discussed or depicted on Exhibits I-1, V-1, V-2 and V-3. (GAW)
23. The second paragraph on page 2 of Attachment VI (Reclamation Narrative) states that the bond release area is subject to Pre-law, 1969, 1971, 1973, 1975, 1977, 1978 interim and 1979 reclamation law periods. Please include a brief description of the backfilling, grading and soil salvaging and redistribution requirements of each of these law periods. This information can be found in Appendix B of our Revegetation Success Standards document. (GAW)
24. The first sentence of the third paragraph on page 2 of Attachment VI (Reclamation Narrative) states that Attachment I contains a map of the bond release area showing the designated land categories. Please clarify what kind of land categories are depicted on a map in Attachment I. This sentence should refer to Exhibit I-1 (Stage 1 & 2 Bond Release Areas Map) in Attachment I rather than a map in Attachment I. (GAW)
25. Please revise the Reclamation Description subsection of Attachment VI (Reclamation Narrative) to clarify that mining disturbance outside of the mineral removal boundary (associated mining disturbance) used for stockpile storage areas, sediment ponds, haul roads or other features or facilities subject to 1973 and later reclamation laws were to be shaped to their pre-mine topography. Associated mining disturbance on pre-law orphan spoil and areas subject to North Dakota’s 1969 and 1971 reclamation laws were to be graded to support the approved post-mining land use. Grading requirements under the 1969 and 1971 laws required mined lands to be used

for cropland or hayland had to have slopes no greater than 25 and 20 percent, respectively, and had to be traversable by farm machinery. (GAW)

26. The last two paragraphs on page 2 of Attachment VI (Reclamation Narrative) provide reclamation information for portions of the Gray, Alpha, Bravo and Blue Pits. The Blue pit is not included in this bond release application. Clarify why Blue pit information is relevant in this application or otherwise revise. (GAW)
27. Please revise the second paragraph on page 3 of Attachment VI (Reclamation Narrative) to include additional relevant mining and reclamation information for the Yellow, Charlie and Orange Pits. Please also include a discussion about when sediment ponds, stockpiles, haul roads and other areas of associated disturbance were constructed and reclaimed. (GAW)
28. Please revise the Stage 1 Bond Release subsection on page 3 of Attachment VI (Reclamation Narrative) to mention that one or more truck shovel fleets were used to create a dragline bench, haul overburden/spoil to the pit and to selectively handle high-quality glacial till on rough graded areas. (GAW)
29. The second sentence of the Stage 2 Bond Release subsection on page 3 of Attachment VI (Reclamation Narrative) states that “soils were salvaged prior to mine disturbance after 1973...”. The 1973 Reclamation law became effective July 1, 1973. Please revise the narrative accordingly. (GAW)
30. A sentence near the end of the Stage 2 Bond Release subsection on page 3 of Attachment VI (Reclamation Narrative) states soil replacement and seeding in the bond release area occurred from 1983 until 2021. Exhibit V-3 (Soil Respread/Seed Year Map) shows that the 10-year revegetation responsibility period was initiated on an area in the northwest corner of the SW¼ of Section 7 in 2023. Please review and revise to provide clarity. (GAW)
31. A sentence below Table VI-1 on page 4 of Attachment VI (Reclamation Narrative) states that Exhibit VI is on the following page. Exhibit VI precedes the Reclamation Narrative. Please correct this error. (GAW)
32. The narrative describing the construction of appropriately sized sedimentation ponds during spoil regrading in the 5th paragraph on page 3 of Attachment VI (Reclamation Narrative) is not clear since construction of sedimentation ponds is conducted before mining operations begin and would still be present during spoil regrading. Please update the specified narrative to clarify that all water was directed to a sedimentation pond. (JAR)

Attachment VII – Performance Bond Release Calculations

33. A sentence at the bottom of Table VII-3 on page 20 of Attachment VII (Performance Bond Release Calculations) states “as a result, the new bond coverage would be ...approximately \$2,162,672.98 over the required \$3,572,086.74. Please revise or delete this somewhat misleading statement. The \$2,162,672.98 is being held for reclaimed lands in Permit KRSB-8802 not included in Bond Release No. 4. (GAW)
34. The narrative on page 5 of Attachment VII (Performance Bond Release Calculations) states that all volumes of topsoil and subsoil in storage are presented in Tables 3.8.4 and 3.8.5. However,

Mr. David Kuzara
September 17, 2026
Page 6 of 6

topsoil pile information is not provided in Table 3.8.5. Please provide the topsoil pile information in Table 3.8.5. (JAR)

If you have any questions, please contact this office.

Sincerely,

Jonathan Emmer
Digitally signed by Jonathan Emmer
DN: C=US, E=jemmer@nd.gov,
O=North Dakota Public Service
Commission, CN=Jonathan Emmer
Date: 2026.09.17 11:35:05-05'00'

Jonathan Emmer
Director
Reclamation Division

cc via email only: Juris Ore (jore@westmoreland.com)
 Rylan Sundsbak (rsundsbak@westmoreland.com)
 Todd Briggs (tbriggs@westmoreland.com)
 Bob Smith (rsmith@westmoreland.com)

Beulah Mine (Dakota Westmoreland)\Permits\KRSB - 8802\Bond Release\Bond Release 4\BR4_Tech1_rvw_ltr_9-17-26