

# Public Service Commission

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June 24, 2024

Mr. Juris Ore  
General Mine Manager  
Westmoreland Beulah Mining LLC  
Beulah Mine  
P.O. Box 39  
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Dear Mr. Ore:

The Reclamation Division has completed a technical review of Revision No. 36 to Surface Coal Mining Permit KRSB-8603 at the Beulah Mine. The following items must be adequately addressed before Revision No. 36 can be recommended for Commission approval. Please note that follow-up items reference the item as numbered in the March 11, 2024 midterm review letter. Enclosed are the responses we received from our advisory committee members.

## **Table of Contents**

1. The Table of Contents pdf provided with Revision No. 36 is labeled "Revision #35" at the top of page 1 and the footnotes at the bottom of each page reference Revision No. 35, November 2022. Please review and correct as necessary. (GAW/AAC/PJR)
2. Follow-up to Item No. 1: The link for Exhibit 2.5.3 (Sharp-tailed Grouse) has been severed into the following two hyperlinks: "Survey Locations for Waterfowl, Breeding Birds, Pheasants and" and "Sharp-tailed Grouse". The "Sharp-tailed Grouse" hyperlink correctly links to Exhibit 2.5.3 but the other link does not. Please combine the two links and have it link to Exhibit 2.5.3. (SMN)
3. The following is a list of hyperlinks that have been identified as not working. Please repair the hyperlinks (SMN/PJR):
  - 1.6 - RELATIONSHIP OF PROPOSED PERMIT AREA
  - Exhibit 1.6.1 – Waiver of 500 Feet Coal Removal Limitation
  - Exhibit 2.1.2 – Test Hole and Monitoring Wells Lithologic Logs
  - Exhibit 2.1.7 – Sampling Locations
  - Exhibit 3.6.5 – Subsurface Investigation – Fill Area
  - Exhibit 3.7.3 – Suitability Groups and Premining Production
4. Exhibit 2.5.7 (NDG&F, 1984 Sharp-tailed Grouse Census Summary) has been updated with new data from 2005. Please update the Exhibit title in the Table of Contents to reflect this update. (AAC)

### **Section 1.2 – General Information**

5. Within subsection E, Government Agencies Contacted, of Exhibit 1.2 (General Information), please replace Zanna Brinkman with Jonathan Emmer as the contact for the ND Public Service Commission. (AAC)

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

6. Follow-up to Item No. 9: The magenta color depicting intermittent streams on Exhibit 2.2.7 (Surface Water Monitoring Map) is identical to the magenta color depicting the topographical contour lines which makes identification of the intermittent streams difficult. Please consider changing the color of the intermittent streams on the map, so they are easily identified. Also, please add labels to the topographical contour lines at the proper intervals. (JAR/AAC/SMN/PJR)

### **Section 2.3 – Groundwater Hydrology**

7. Within subsection D, Probable Hydrologic Consequences, there is no narrative discussion on any possible effects of retaining sediment ponds 112 and 113. Although there is no difference in watershed size acres from pre- to post-mine, there are potential effects to downstream users as sediment ponds 112 and 113 will be retaining a significant amount of runoff. Please revise the Probable Hydrologic Consequences narrative to include a discussion about the probable hydrologic consequences of retaining sediment ponds 112 and 113 as permanent features. (PJR)

### **Section 2.5 – Wildlife Inventory and Plan**

8. A paragraph that states “As of March 2022, WBM is no longer mining coal.....” was copied twice on page 2.5.69 of Section 2.5 (Wildlife Inventory and Plan). Please delete the duplicate paragraph. (AAC)

### **Section 2.7 – Land Use**

9. Follow-up to Item No. 16: WBM is proposing to replace Christianson pre-mine woodlands, SE22-1, on Terrance Schmidt property in the NE¼ of Section 22 because Christianson did not select woodlands as a post-mine land use preference. Disturbed woodlands and wetlands must be replaced on an acre-for-acre basis and should not be replaced on another landowner’s property without their concurrence. Please either depict reclaimed woodland SE22-1 on native grassland in the SE¼ of Section 22 or provide written concurrence from Mr. Schmidt that it is acceptable to replace Christianson pre-mine woodland on his property in the NE¼ of Section 22. Alternatively, reclaimed woodland SE22-1 may be planted on WBM native grassland in Section 20. Please review and revise as necessary. (GAW)
10. Follow-up to Item No. 18: The developed water resource that will exist by retaining sediment pond 112 and the wetland that will exist by retaining a portion of the pool area of sediment pond 113 must be depicted and labeled on the Postmining Land Use map, Exhibit 2.7.1, and the associated acreage must be listed in the Premining and Postmining Land Use Acres table in Exhibit 2.7.4. The Reclamation Division does not believe that sediment pond 113 can be expected to function as a developed water resource after the riser has been removed. The pool area of this pond should be classified as a seasonal wetland if the expected intermittent stream flow is not enough to keep this pond at spill elevation during the summer months. (GAW/PJR)

11. Follow-up to Item No. 18: A wetland is not depicted in portions of the intermittent stream in the W $\frac{1}{2}$  of Section 22 and SW $\frac{1}{4}$  of Section 15. It seems the entire length of the drainageway, minus the developed water resource associated with sediment pond 112, should be depicted as a class III wetland. Please review the amount and duration of the expected streamflow in this drainage and revise as appropriate. Postmining wetland and native grassland acreage adjustments should be reflected in Exhibit 2.7.4, Premining and Postmining Land Use Acres. (GAW)
12. Follow-up to Item No. 19: WBM is proposing to increase the post-mine acreage of cropland in the NE $\frac{1}{4}$  of Section 19 per the surface owner's request. However, the pre-mine acreage of cropland and native grassland is being revised on the Premining and Postmining Land Use Acres table, Exhibit 2.7.4. The pre-mine land use acreages are established at the time of permitting and should not be altered after the land has been affected by mining activities. Please revise the Premining and Postmining Land Use Acres table, Exhibit 2.7.4, accordingly, and provide an explanation of this land use change in Section 2.7 (Land Use). This explanation should mention if the SPGM respread thickness and post-mine topography are suitable for cropland. Please also update Exhibit 2.7.3, Alternative Postmining Land Uses, to show the proposed land use change. (GAW)

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

13. Follow-up to Item No. 24: Please revise the Table of Contents, Section 3.2 (Water Management Plan), and Exhibits 3.2.29, 3.2.54, 3.2.55, and 3.2.57 to provide consistent wetland identification numbers (labels) as described in Section 2.7 (Land Use). Each reclaimed wetland should be depicted and labeled on the Post Mining Land Use Map, Exhibit 2.7.1. Please also include a map with the wetland designs that depicts the entire contributing watershed of each wetland with labeled contour elevation lines. (GAW)

### **Section 3.5 – Backfilling and Grading**

14. Follow-up to Item No. 26: Please depict the Gold-01-2022 grade approval consistent with all other grade approvals on the Post Mining Topography map, Exhibit 3.5.3. The other grade approvals are outlined and cross hatched according to the legend. Please also depict grade approval Gold 3-2015 (Revised) on Exhibit 3.5.3 and review the map to ensure all other grade approved areas are depicted. The pdf version of the Gold 3-2015 grade approval request suggests that portions of the NW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 22 were grade approved in 2013, see Gold 03-2013. (GAW)
15. The scalebar on Exhibit 3.5.4(b), Area Slope Map, Post-mining Slopes, shows 500 feet and 600 feet being the same distance. Please replace the 600 feet label with 500 feet. (SMN)

### **Section 3.7 – Revegetation Plan**

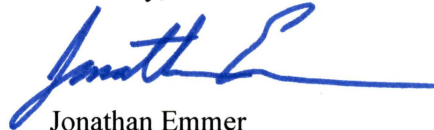
16. Follow-up to Item No. 24: Item No. 24 requested detailed design plans for each reclaimed wetland depicted on the Post Mining Land Use Map, Exhibit 2.7.1. However, WBM has responded by proposing to delete reclaimed wetlands SE20-2W, SE20-3W, NW22-1W, SW22-1W and SW22-2W rather than provide design plans. Wetlands and woodlands must be replaced on an acre-for-acre basis by surface ownership. It might be appropriate to replace the disturbed pre-mine wetland acreage in the NW $\frac{1}{4}$  of Section 22 with the wetland planned with the retention of a portion of the pool area of sediment pond 113. It might also be realistic to expect the disturbed portion of the linear wetland in the SW $\frac{1}{4}$  of Section 22 to be recreated from ground water flow from the Schmit et. al. seep but this needs to be explained in the permit. Table 3.7.4 within Section 3.7 (Revegetation Plan) suggests that an additional 1.02 acres of wetland needs to

Mr. Juris Ore  
June 24, 2024  
Page 4 of 4

be replaced in Section 20 based on the premine wetland acreage. Perhaps the pool area of sediment pond 104 could be converted to a wetland. In any event, please provide design plans and appropriate narratives discussing WBM's wetland replacement plans as previously requested and depict and label all reclaimed wetlands on the Post Mining Land Use map, Exhibit 2.7.1. (GAW)

If you have any questions, please contact this office.

Sincerely,



Jonathan Emmer  
Director  
Reclamation Division

Enclosures

cc via email only:     Jesse Noel (jnoel@westmoreland.com)  
                              Nettie Ore (nore@westmoreland.com)  
                              Todd Briggs (tbriggs@westmoreland.com)  
                              Bob Smith (rsmith@westmoreland.com)

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