

December 5, 2025

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 October 20, 2025, regarding the midterm review of Permit KRSB-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,



David Kuzara
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Cc: Juris Ore
Todd Briggs

sent via email only

December 5, 2025

**Comment/Response to October 20, 2025 PSC Letter
Revision 36**

Table of Contents

1. *Please add Subsection O, Revision No. 36, to Section 2.5 (Wildlife Inventory and Plan) in the Table of Contents. (AAC)*

Response: Subsection O has been added to Section 2.5 (Wildlife Inventory and Plan) in the Table of Contents.

Section 1.1 - Other Update

Certificate of Liability Insurance has been updated on Page 81.

Section 2.2 – Surface Water Hydrology Inventory and Monitoring

2. *Exhibit 2.2.7 (Surface Water Monitoring Map) has contour elevation lines from an earlier version of Revision 36. Please revise to include the most current version of the post mining topography. (GAW/PJR)*

Response: Exhibit 2.2.7 (Surface Water Monitoring Map) has been updated with the most recent post mining topography.

3. *Ponds 81, 87, and 112 have green hatching that is not defined in the map legend on Exhibit 2.2.7 (Surface Water Monitoring Map). Please update the map legend on Exhibit 2.2.7 to define what the green hatching represents on these three ponds. (JAR)*

Response: The map legend on Exhibit 2.2.7 has been updated with green hatching to represent permanent ponds. Pond 104, Pond 105, Pond 106, and Pond 113 have been revised with the green hatching to show they are also permanent ponds.

Section 2.5 – Wildlife Inventory and Plan

4. *Subsection G, Endangered and Special Status Species, of Section 2.5 (Wildlife Inventory and Plan) appears to be historical information regarding endangered, threatened, and candidate species in the permit area. Please update Subsection G of Section 2.5 with current species information, or provide a narrative stating this is historical information on endangered, threatened, and candidate species and current information can be found in Subsection O, Revision No. 36. (AAC)*

Response: Subsection G 2. Animals, has been updated to include the most recent information from the IPaC study.

5. *Endangered, threatened, and candidate species are missing from Subsection O, Revision No. 36, narrative of Section 2.5 (Wildlife Inventory and Plan). Please include all endangered, threatened, and candidate species found in the permit area in Subsection O (Revision No. 36). (AAC/WWS)*

Response: Section O. Revision 36, has been updated to include the most recent information from the IPaC study.

6. *Table 2.5.12 on page 2.5.69 in Section 2.5 (Wildlife Inventory and Plan) is outdated. Please update Table 2.5.12 to include all endangered, threatened, and candidate species that could be found in the permit area using the USFWS IPaC. (AAC/WWS)*

Response: Section O. Revision 36, Table 2.5.12 has been updated to include the most recent information from the IPaC study.

Section 2.7 – Land Use

7. *Please depict undisturbed and reclaimed wetlands with different colored polylines on Exhibit 2.7.1 (Postmining Land Use) so that one can easily distinguish reclaimed versus undisturbed wetlands. (GAW)*

Response: Exhibit 2.7.1 has been updated to show all reclaimed wetlands in pink. All undisturbed wetlands are shown in blue.

8. *According to Exhibit 2.7.1 (Postmining Land Use), WBM is proposing to convert sediment ponds 105, 106, and 113 into both developed water resources (DWRs) and wetlands. Converting these sediment ponds to wetlands might eliminate the need to reclaim mitigation wetlands SE20-1, SW20-1, SW22-1, SW22-2, and conservation wetland NW22-2W. If the wetland acreage associated with the ponds is equal to or greater than the wetland acreage disturbed, then these mitigation wetlands would not need to be reclaimed. Please revise to classify these ponds as either wetlands or DWRs. (GAW)*

Response: WBM will take this suggestion into consideration and may pursue these changes under a separate revision.

9. *Exhibit 2.7.4 (Premining and Postmining Land Use Acres) lists the premining total for the NE¼ of Section 19 as 2.6 acres, while the postmining total is listed as 91.1 acres. Please review and update the premining total as necessary. (AAC)*

Response: Exhibit 2.7.4 has been updated to show premining total acres for NE1/4 of section 19 as 91.3 acres and postmining total acres as 91.1 acres.

Section 3.1 – General Mining Plan

10. *Please include narrative in Section 3.1 (General Mining Plan) describing WBM's plans for reconstructing the disturbed portions of County Road No. 12 (15th Street SW), 63rd Avenue SW, and 64th Avenue SW. Please describe WBM's plans for reconstructing County Road No. 12 on the section line through the drainage between sediment pond P113 and P85. The narrative should mention if it is necessary to modify the embankment of sediment pond P113 to reconstruct the road and provide information about the precipitation event for which the culvert under the road will be designed. (GAW)*

Response: Section 3.1 D.1.a (Alignment) has been updated to address the re-establishment of County Road No. 12 (15th Street SW), 63rd Avenue SW, and 64th Avenue SW.

11. *The last sentence regarding the dragline dismantling site on page 3.1.13 of Section 3.1 (General Mining Plan) appears incomplete or the text is obscured by the blue highlight. Please complete the sentence by stating the dragline dismantling site is shown on Exhibit 3.1.2 (Pit Layout and Facilities Map) if that is intended, or otherwise revise to provide clarity. (GAW)*

Response: Page 3.1.13 of Section 3.1 has been revised as requested.

12. *The last sentence regarding the dragline dismantling site on page 3.1.13 of Section 3.1 (General Mining Plan) states the dragline will be dismantled in the SW¼ of Section 16. The Reclamation Division's March 6, 2024 dragline dismantling approval letter states the dragline will be dismantled in the SE¼ of Section 16. Please review the narrative in Section 3.1 to ensure the appropriate dragline dismantling area is referenced. (AAC)*

Response: Page 3.1.13 of Section 3.1 has been revised as requested.

13. *The Reclamation Division's March 6, 2024 dragline dismantling approval letter states plans should be included in the permit for the dragline dismantling, including a completion timeline. Please update Subsection D (Mining Support Facilities) of Section 3.1 (General Mining Plan) to include a narrative regarding dragline dismantling operations that includes a completion timeline. (AAC/PJR)*

Response: Subsection D of section 3.1 has been updated to include a completion timeline.

Section 3.2 – Water Management Plan

14. *Please depict the Sump in Section 15 on Exhibit 3.2.1 (Water Management Plan Map). A feature labeled Drainage 86 Sump is depicted immediately southeast of the Section 15 Sump, but it is not clear what this Drainage 86 Sump is supposed to represent. Please also provide storage calculations for the Section 15 Sump to determine if it can manage surface water runoff from the watershed south of the dragline decommissioning site. If the Section 15 Sump can manage surface water runoff from the dragline site and adjacent area, then WBM could reclaim Diversion 81W and sediment pond P86 sooner than otherwise allowed. WBM would need to demonstrate that sediment pond P81 can manage the expected runoff from the reclaimed watershed without sediment pond P86. (GAW)*

Response: Sump 86 and the associated drainage boundary is depicted on Exhibit 3.2.1 (Water Management Plan Map), as requested. Page 3.2.14 of Section 3.2 has been updated to provide storage calculations of Sump 86. Sump 86 was not designed to replace Pond 86. Once the dragline is removed and the dismantling site is soiled and seeded, Pond 86 and diversion 81W will be reclaimed.

15. *The last paragraph on page 3.2.7 in Section 3.2 (Water Management Plan) contains outdated information regarding the removal of sediment ponds in the Gold Pit and Silver Pit. The narrative specifies that Gold Pit ponds will be removed by 2025 and Silver Pit ponds will be removed by 2024. Please update the pond removal years in Section 3.2 for the Gold and Silver Pits to the year that WBM expects to remove ponds in those pits. (JAR)*

Response: Page 3.2.7 in Section 3.2 has been updated as requested.

16. *The last sentence of the last paragraph on page 3.2.7 in Section 3.2 (Water Management Plan) states there are 3 permanent ponds that will not be reclaimed. Please update the narrative on page 3.2.7 in Section 3.2 to include sediment ponds 104, 105, 106, 112, and 113 as permanent structures. (JAR)*

Response: Page 3.2.7 in Section 3.2 has been updated as requested.

17. *Exhibit 3.2.1 (Water Management Plan Map) depicts sediment ponds 104, 105, and 106 as temporary structures. Please update Exhibit 3.2.1 to depict sediment ponds 104, 105, and 106 as permanent structures. (JAR)*

Response: Page 3.2.7 in Section 3.2 has been updated as requested.

18. *Please depict the diversion along the north side of the dragline dismantling site on Exhibit 3.2.1 (Water Management Plan Map), and clarify how surface water runoff from the dragline site is being managed in an applicable section of the narrative in Section 3.2 (Water Management Plan). (GAW)*

Response: Exhibit 3.2.1 has been updated to show the diversion along the north side of the dragline dismantling site. Page 3.2.14 of section 3.2 has been updated to clarify runoff from the dragline decommissioning site reports to Sump 86.

19. *Please revise the narrative on page 3.2.40 in Section 3.2 (Water Management Plan) to state that WBM will obtain a landowner maintenance agreement for Pond 113 prior to bond release. WBM has requested that Pond 113 be retained as a permanent pond, but it contains a riser and an emergency spillway which requires a landowner maintenance agreement. (WWS)*

Response: Pond 113 narrative in Section 3.2 has been updated as requested.

20. *Exhibit 3.2.54 (Mitigation Wetland Design for SE1/4 Section 20 (SE20-1)) and Exhibit 3.2.59 (Mitigation Wetland Design for SE1/4 Section 20 (SE20-2)) depict mitigation wetlands SE20-01 and SE20-02, but they appear to be different designs of the same wetland basin. Mitigation wetland SE20-02 is not depicted on the post mining land use map. Please review and revise to provide clarity. (GAW)*

Response: SE20-1W and SE20-2W are within the same drainage of Pond 105. SE20-1W is upstream of SE20-2W. Please refer to Exhibit 2.7.1 (Postmining Land Use) for location and shape of these two wetlands.

Section 3.2 - Other Update

Exhibit 3.2.70, Pond 112, has been updated with the newest As-Built dated May 27, 2025.

Section 3.5 – Backfilling and Grading

21. *Please label the elevations of the major contour lines on lands not disturbed by mining in Exhibit 3.5.3 (Post Mining Topography) so that one can realize how the post-mining topography of mined lands blend into areas not disturbed by mining. (GAW)*

Response: All major contour lines are now labeled on Exhibit 3.5.3 as requested

22. *Please revise Exhibit 3.5.3 (Post Mining Topography) to show the area occupied by grade approval Gold-3-2015, dated August 5, 2015 and revised August 6, 2015, as an area where field approved final regrade has been achieved. This area should be cross hatched as depicted in the legend and the postmining contour lines should reflect the topography that was approved. The 2015 Beulah Annual Mine Map labels this area 2d, meaning an area where grade approval has been approved, subsoil has been respread, and only topsoil remains to be respread. (GAW)*

Response: All grade approved areas have been added to Exhibit 3.5.3 as requested.

23. *Revision 36 is proposing a ridge and drainageway in the southeast corner of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 22 that does not appear suitable for cropland, the intended postmining land use. This drainageway does not tie in well with the adjacent reclaimed cropland to the north. Please revise the topography of this area so that it blends appropriately into the field to the north and has slopes suitable for cropland, meaning not exceeding 9 percent. The previously approved topography in this area appears more suitable for cropland than the topography proposed with Revision 36. (GAW)*

Response: The ridge and drainage contours in the southeast corner of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 22 have been evaluated and adjusted to reduce the slope as much as possible in this area.

24. *Please revise the prime farmland polygon in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 22 in Exhibit 3.5.3 (Post Mining Topography) so that it lies parallel to the contour lines beyond the recreated drainageway. The Reclamation Division believes that prime farmland landscapes should not be bisected by drainageways, which may impede the potential of these land uses. (GAW)*

Response: The prime farmland polygons in section 22 have been relocated out of drainageways as requested.

25. *Similar to Item No. 24 above, WBM is proposing a drainageway in reclaimed cropland in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 22. The Reclamation Division is concerned that a grass waterway may be needed in this drainageway to prevent erosion. It is likely the surface owner would prefer not to have a grass waterway to farm around in this cropland field. Please review the proposed postmining topography of this area and consider eliminating this drainageway or revising as depicted on the January 2025 version of Exhibit 2.2.7 (Surface Water Monitoring Map). Swinging this drainageway to the west will reduce slope length, increase slope length in the bottom of the drainage, and intersect the native grassland in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 22 where steeper slopes are allowed. (GAW)*

Response: WBM is of the opinion that current modern farming practices, including no-till farming, will provide adequate erosion control within the drainageway while preserving additional tillable acreage for the surface owner. Accordingly, WBM is not committing to the installation of a grassed waterway at this time. However, WBM will continue to monitor the area for signs of erosion and will cooperate with the surface owner to implement suitable remedial measures should erosion become evident in the future.

26. *Please revise the post-mining topography to show a suitably sloped drainageway immediately southwest of sediment pond P112. A drainageway in this area is not well defined in Exhibit 3.5.3 (Post Mining Topography), and it appears intermittent stream flow is expected to flow over a slope exceeding 22 percent. (GAW)*

Response: Exhibit 3.5.3 has been updated to show drainage definition in the area around Pond 112.

27. *Please depict the embankment of Pond 104 DWR in Exhibit 3.5.3 (Post Mining Topography). (GAW)*

Response: *The embankment of Pond 104 has been added into the topography in Exhibit 3.5.3.*

28. *WBM recently requested approval to remove soil from two undisturbed areas above pond P85. Exhibit 3.5.3 (Post Mining Topography) should be revised at this time if WBM is planning to remove overburden from these areas to reconstruct County Road No. 12. (GAW)*

Response: The two undisturbed areas above Pond 85 are now included in the PMT contours on Exhibit 3.5.3

29. *Please review the proposed post mining topography in the NE¹/₄ of Section 19 to ensure the contours are consistent with the Silver-01-2025 grade approval request. Topographical changes should not be proposed in areas not disturbed by mining. Ideally, the contour elevation lines in areas not disturbed by mining would be depicted like the pre-mine topography beyond the disturbance boundary. (GAW)*

Response: The contours on Exhibit 3.5.3 have been updated to reflect actuals.

30. *Please depict the potential prime farmland reclamation areas on Exhibit 3.5.4(b) (Area Slope Map, Post-mining Slopes) to provide a visual analysis that slopes in the prime farmland tracts are less than 6 percent. (GAW/MLJ)*

Response: The Prime farmland on Exhibit 3.5.4(b) have be moved to areas that are less than 6 percent grade.

31. *The Gunch tables on Exhibit 3.5.4(b) (Area Slope Map, Post-mining Slopes) reveal an average post-mining slope steeper than the average pre-mining slope. To the extent feasible, please revise Exhibit 3.5.3 (Post Mining Topography) such that the average post-mining slope does not exceed the average pre-mining slope, or have an average slope percentage value greater than that which was previously approved. Moreover, the Gunsch table for the E¹/₂SW¹/₄ of Section 22 on Exhibit 3.5.4b indicates that 79 percent (17.4/22.1) of the tract has slopes in the 6 to 9 percent slope range but most of the tract is shaded orange on Exhibit 3.5.4b which represents slopes in the 3 to 6 percent slope range. Please review and revise, as necessary. (GAW)*

Response: The slopes for Gunsch land has been reviewed and slopes reduced where possible on Exhibit 3.5.3. The slope table on Exhibit 3.5.4(b) has been revised to reflect the new slopes.

32. *The “slope class” colors on Exhibit 3.5.3 (Post Mining Topography) do not appear to accurately reflect the slope of the post-mine topography (PMT). The entirety of the PMT was not analyzed but there appears to be a large discrepancy between the 0-3% and 3-6% classes. Please recalculate the slopes, replot the exhibit, and update the tables to reflect the updated exhibit. (SMN)*

Response: The slope colors for the contours on Exhibit 3.5.4(b) have been reviewed and changed where necessary. The table values and colors now match.

Section 3.8 – Time Schedules

33. *Please revise Table 3.8.2 on page 6 of Section 3.8 (Time Schedules) to clarify when WBM is planning to reclaim the Special Variance Zone No. 7, the dragline corridor in S½N½ of Section 21, and the haul road through Brush Creek. Please also provide a timeline when WBM is planning to reconstruct the disturbed portions of 63rd Avenue SW and 64th Avenue SW and finish constructing County Road No. 12. (GAW)*

Response: Table 3.8.2 on page 6 of Section 3.8 has been revised to show updated timelines.

34. *Please revise the entirety of Subsection C of Section 3.8 (Time Schedules) to ensure that all remaining variances are properly identified and that the applicable timelines are accurately reflected. (PJR)*

Response: Subsection C of 3.8 has been edited in its entirety as requested.

35. *Please specify a definitive deadline for the dismantling or removal of the dragline in Section 3.8 (Time Schedules). The Reclamation Division approved the designated disassembly area on March 6, 2024. Reclamation efforts in Section 16 are currently being delayed while the dragline remains. (WWS/GAW/PJR)*

Response: Section 3.8 (Time Schedule) has been revised to address when removal of the dragline will occur.

36. *Table 3.8.2 (Time Schedules) states that most regrading, SPGM respread, and seeding will not be completed for the permit area until the years 2030 and 2031. Please provide a detailed narrative explaining why reclamation of these areas is projected to require the next five to six years for completion. According to NDAC 69-05.2-21-01(2), rough backfilling and grading activities are typically required to be completed within 180 days. Furthermore, under NDCC 38-14.1-24(14), all reclamation activities through initial planting on any land within the permit area must be completed by the operator no later than three years following the completion of mining. The Reclamation Division has previously granted multiple extensions for the completion of reclamation activities throughout the mine and we are requesting a more definitive and practicable schedule for approval. (PJR/AAC)*

Response: Section 3.8 (Time Schedule) has been revised to explain that roads, stockpiles, drainages, ditches, and ponds will need to be accessible. Sediment ponds or other sediment control measures may not be removed sooner than two years after the last seeding.

