



Public Service Commission

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January 14, 2026

Mr. David Kuzara
Manager, Environmental & Regulatory Affairs
Westmoreland Beulah Mining LLC
Beulah Mine
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Dear Mr. Kuzara:

The Reclamation Division has conducted a third technical review after Westmoreland Beulah Mining LLC's (WBM) December 5, 2025 response for Revision 36 to Surface Coal Mining Permit KRSB-8603 at the Beulah Mine. The following items must be addressed before Revision 36 can be recommended for Commission approval:

Section 2.5 – Wildlife Inventory and Plan

1. Follow-up to item No. 4 of our technical review letter dated October 20, 2025: Subsection G, Endangered and Special Status Species, of Section 2.5 (Wildlife Inventory and Plan) was updated to include the most recent information from IPaC. However, the Pallid Sturgeon is not a listed species for the permit area and does not need to be included in the permit application. The Monarch Butterfly, Western Regal Fritillary, and Suckley's Cuckoo Bumble Bee are proposed species for the permit area, but were not listed in the Insects section of Subsection G. Please revise Section 2.5 accordingly. (AAC)
2. Follow-up to item No. 5 of our technical review letter dated October 20, 2025: The Monarch Butterfly is missing from Subsection O, Revision No. 36, narrative of Section 2.5 (Wildlife Inventory and Plan). Please update Subsection O with a narrative on the Monarch Butterfly. (AAC)
3. According to the USFWS IPaC, the Northern Long-eared Bat is no longer a listed species that could occur in the permit area. The narrative for the Northern Long-eared Bat in Subsection O, Revision No. 36, of Section 2.5 (Wildlife and Inventory Plan) can be removed. The Northern Long-eared Bat may also be removed from Table 2.5.12. (AAC)

Section 2.7 – Land Use

4. Reclaimed lands west of sediment ponds P112 and P113 are being managed as hayland, and it is believed that these areas have never been seeded to the approved native grassland seed mixture. On November 20, 2025, Mr. Ronald Gunsch verbally indicated he would prefer to have as much cropland as possible reclaimed in the NW¼ of Section 22. Please review the cropland/native grassland land use boundary in the NW¼ of Section 22 and revise this boundary if WBM and Mr. Gunsch believe it is necessary. Pending grade approval Gold-4-2025 currently includes only 2.2 acres of cropland west of sediment pond P113 so a land use boundary in this area may affect the

Gold-4-2025 grade approval request. In addition, the Gold-4-2025 grade approval contains a drainage that Mr. Gunsch requested be eliminated or made less prominent, so the Reclamation Division is planning to delay approval of this grade approval request until we are satisfied with the post-mining topography changes proposed with pending Revision No. 36 to KRSB-8603. (GAW)

Section 3.2 – Water Management Plan

5. Follow-up to Item No. 14 of our technical review letter dated October 20, 2025: Please include design information for Sump 86 in Section 3.2 (Water Management Plan) to demonstrate it meets the sediment pond performance standards in NDAC 69-05.2-16-09. Design information is provided in Exhibits 3.2.1 through 3.2.72 for all other ponds and sumps in Permit KRSB-8603. (GAW)
6. Please include design information for the sump created by a pit in the E $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 22 in Section 3.2 (Water Management Plan) to demonstrate it meets the sediment pond performance standards in NDAC 69-05.2-16-09, unless the area is going to be reclaimed in the next few months. This sump is located east of grade approval Gold-3-2015 which is where topsoil stockpile 16-13-1 is located. We apologize for not requesting this information during our initial review. (GAW)
7. Follow-up to Items No. 14 and 19 of our technical review letter dated October 20, 2025: Please depict the boundaries of the watersheds in the S $\frac{1}{2}$ of Section 16, SW $\frac{1}{4}$ of Section 15 and N $\frac{1}{2}$ of Section 21 on the Water Management Plan Map (Exhibit 3.2.1) consistent with the post mining topography. The Water Management Plan Map incorrectly shows a portion of the SE $\frac{1}{4}$ of Section 16 bypassing sediment pond P86, the watershed above Sump 86 is dissected by Diversion 81W, and it is not clear how surface water runoff from the northern portion of the N $\frac{1}{2}$ of Section 21 is being managed. (GAW)

Section 3.5 – Backfilling and Grading

8. Follow-up to Item No. 25 of our technical review letter dated October 20, 2025: As stated in our November 20, 2025, mine inspection report, Mr. Ronald Gunsch has expressed concerns with several proposed drainages on his property in the W $\frac{1}{2}$ of Section 22. This would include a drainage southeast of sediment pond P113, a drainage immediately west of sediment pond P112 and a drainage southeast of sediment pond P112. Mr. Gunsch said that he believes these drainages will not accommodate farm equipment and he asked if they could be eliminated or made less prominent. Please revise the Post-Mining Topography Map (Exhibit 3.5.2) to address Mr. Gunsch's concerns. (GAW)
9. Follow-up to Item No. 26 of our technical review letter dated October 20, 2025: Please revise the Post-Mining Topography Map (Exhibit 3.5.2) to show a suitable gradient in the drainageway immediately southwest of sediment pond P112. WBM is proposing an 18.6 percent slope in this drainageway, which is unacceptable. WBM must revise the post-mining topography of this drainageway to show that runoff from a 100-year 6-hour precipitation event will not have a stream velocity exceeding 5 feet per second. The pre-mine topographic map (Exhibit 3.1.3) documents that this drainageway had a 3.1 percent slope prior to mining and Exhibit 3.2.70 provides that runoff from about 160 acres will pass through this drainageway. (GAW)
10. The post-mine cropland in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of section 22, contains slopes exceeding 9%. Please adjust these areas, where possible, to minimize the steeper slopes (SMN)

11. Follow-up to Item No. 30 of our technical review letter dated October 20, 2025: 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 the slopes in the prime farmland tracts are less than 6 percent. The prime farmland should also be depicted on the Post-Mining Land Use Map (Exhibit 2.7.1) (GAW/MLJ)
12. Follow-up to Item No. 31 of our technical review letter dated October 20, 2025: The Post-mine Slope Contours Map (Exhibit 3.5.4b), shows areas of 9 to 12 percent slope on cropland in the NE¼SW¼ of Section 22. Please revise the Post-Mining Topography (Exhibit 3.5.2) to eliminate slopes exceeding 9 percent on cropland in the NE¼SW¼ of Section 22. (GAW)
13. On November 20, 2025, Mr. Ronald Gunsch expressed that he would prefer cropland rather than native grassland east of the drainage in the E½NW¼ of Section 22. If WBM is planning any changes to the post-mining land uses in this area, please make those changes with Revision No. 36. It appears that about 25 acres in this area could be converted to cropland with minor topographic changes. (GAW)

Section 3.8 – Time Schedules

14. Follow-up to Item No. 36 of our technical review letter dated October 20, 2025: The response provided does not adequately address the concerns raised regarding the extended reclamation timeline presented in Table 3.8.2 (Time Schedules). The table continues to indicate that the majority of regrading, salvaged topsoil/SPGM respread, and seeding activities will not be completed until the years 2030 and 2031. No substantive justification or detailed explanation was provided to support why reclamation of these areas is projected to require an additional five to six years for completion. As stated in the original comment, North Dakota Administrative Code (NDAC) § 69-05.2-21-01(2) generally requires rough backfilling and grading to be completed within 180 days following mining, unless otherwise approved. In addition, North Dakota Century Code (NDCC) § 38-14.1-24(14) requires that all reclamation activities through initial planting be completed no later than three years following completion of mining. The Reclamation Division notes that multiple extensions have previously been granted for reclamation activities across the mine; however, the current submittal does not provide a definitive, practicable, or enforceable schedule that demonstrates compliance with these statutory requirements or justifies further delay.

During the past couple of years, the Reclamation Division has requested WBM to develop a comprehensive final closure plan and map for the Beulah Mine. During the October 24, 2025 meeting between WBM and the Reclamation Division, WBM presented a final closure map, but this map was not included in WBM's December 5, 2025 response for Revision 36. Please revise Section 3.8 to address the items below (PJR/AAC):

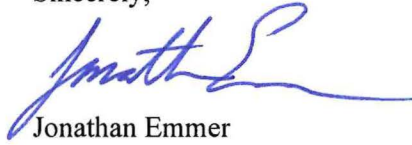
1. Include a comprehensive final closure plan and map for the Beulah Mine, similar to the map presented during the October 24, 2025 meeting, so one can visually realize the sequence and timing of final reclamation. The plan should depict the anticipated sequence of the remaining reclamation activities, with interim milestones, including backfilling, grading, SPGM respread, seeding, pond removal, and road removal.
2. The specific operational, technical, or environmental factors necessitating the extended reclamation timeframe shown in Table 3.8.2.

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3. How the proposed reclamation schedule aligns with or departs from the statutory reclamation timeframes cited above.

If you have any questions, please contact this office.

Sincerely,



Jonathan Emmer
Director
Reclamation Division

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

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