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Comments: We have determined the proposed activity likely does not require Department of the Army authorization because 33 CFR Part 323.4(a)(6) of our regulations states that the following activities are exempt provided you comply with the Best Management Practices (BMPs) identified below:

(6) Construction or maintenance of farm roads, forest roads, or temporary roads for moving mining equipment, where such roads are constructed and maintained in accordance with best management practices (BMPs) to assure that flow and circulation patterns and chemical and biological characteristics of waters of the United States are not impaired, that the reach of the waters of the United States is not reduced, and that any adverse effect on the aquatic environment will be otherwise minimized. These BMPs which must be applied to satisfy this provision shall include those detailed BMPs described in the State's approved program description pursuant to the requirements of 40 CFR 233.22(i), and shall also include the following baseline provisions:

(i)Permanent roads (for farming or forestry activities), temporary access roads (for mining, forestry, or farm purposes) and skid trails (for logging) in waters of the U.S. shall be held to the minimum feasible number, width, and total length consistent with the purpose of specific farming, silvicultural or mining operations, and local topographic and climatic conditions;

(ii)All roads, temporary or permanent, shall be located sufficiently far from streams or other water bodies (except for portions of such roads which must cross water bodies) to minimize discharges of dredged or fill material into waters of the U.S.;

(iii)The road fill shall be bridged, culverted, or otherwise designed to prevent the restriction of expected flood flows;

(iv)The fill shall be properly stabilized and maintained during and following construction to prevent erosion;

(v)Discharges of dredged or fill material into waters of the United States to construct a road fill shall be made in a manner that minimizes the encroachment of trucks, tractors, bulldozers, or other heavy equipment within waters of the United States (including adjacent wetlands) that lie outside the lateral boundaries of the fill itself;

(vi)In designing, constructing, and maintaining roads, vegetative disturbance in the waters of the U.S. shall be kept to a minimum;

(vii)The design, construction and maintenance of the road crossing shall not disrupt the migration or other movement of those species of aquatic life inhabiting the water body;

(viii)Borrow material shall be taken from upland sources whenever feasible;

(ix)The discharge shall not take, or jeopardize the continued existence of, a threatened or endangered species as defined under the Endangered Species Act, or adversely modify or destroy the critical habitat of such species;

(x) Discharges into breeding and nesting areas for migratory waterfowl, spawning areas, and wetlands shall be avoided if practical alternatives exist;

(xi)The discharge shall not be located in the proximity of a public water supply intake;

(xii)The discharge shall not occur in areas of concentrated shellfish production;

(xiii)The discharge shall not occur in a component of the National Wild and Scenic River System;

(xiv)The discharge of material shall consist of suitable material free from toxic pollutants in toxic amounts; and

(xv)All temporary fills shall be removed in their entirety and the area restored to its original elevation.

This determination does not eliminate the requirement to obtain any other applicable federal, state, tribal, or local permits that may be required. In addition, any deviations from the plans for the project, provided as of April 16, 2025 could require additional authorization.

Thank you for your interest in cooperating with requirements of the U.S. Army Corps of Engineers' regulatory program. Please contact me at (307) 772-2300 or by email at mykaila.d.charlebois@usace.army.mil if you have any questions regarding this determination and reference NWO-2025-00571-RWY.