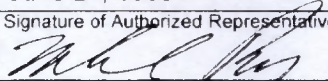




NOTICE OF VIOLATION
NORTH DAKOTA PUBLIC SERVICE COMMISSION
 SFN 18099 (10-91)

| | | | |
|--|-----------------------|--|-----------------------------------|
| Name of Permittee Dakota Westmoreland Corporation | | N.O.V. Number 0802 | |
| Address PO Box 39 | | City Beulah | Permit Number KRSB-8603 |
| Telephone Number 701-373-4333 | Mine Beulah | State ND | Zip Code 58523-0039 |
| Name of Operator (if other than permittee) | | | |
| Address | | City | State Zip Code |
| Date of Inspection June 4, 2008 and June 10, 2008 | | Time of Inspection From: 9:40 & 10:00 <input checked="" type="checkbox"/> a.m. <input type="checkbox"/> p.m. To: 12:00 <input type="checkbox"/> a.m. <input checked="" type="checkbox"/> p.m. | |
| <p>Under the authority of North Dakota Century Code Chapter 38-14.1, the undersigned authorized representative of the Commission has conducted an inspection of the above mine on the above date and has found a violation of the statute, rules, permit condition(s), or section(s) of the approved operations and reclamation plan listed on page 2 of this Notice of Violation.</p> <p>You must abate this violation within the designated abatement time.</p> <p>The undersigned authorized representative finds that cessation of surface mining activities <input type="checkbox"/> is <input checked="" type="checkbox"/> is not expressly or implicitly required by this Notice of Violation.</p> <p>This Notice of Violation shall remain in effect until it expires as provided on the reverse side of this page, or is terminated or vacated by written notice by an authorized representative of the Commission.</p> | | | |
| Print Name of Person Served Jesse Noel | | Print Title of Person Served Manager | |
| Method of Service <input type="checkbox"/> Personal <input checked="" type="checkbox"/> Certified Mail | | Date of Service June 24, 2008 | |
| Signature of Person Served | | Signature of Authorized Representative  | |

| Nature of Violation |
|---|
| <p>Dakota Westmoreland failed to protect undisturbed areas adjacent to the main haulroad from deposition of sediment and contamination by water transported sediment. In a portion of the area, runoff from the main haulroad was directed to two concrete drop structures; however, appropriate measures were not taken to control sedimentation at or near the outlet of these structures as outlined in Section 3.2 of Permit KRSB-8603. In addition, Dakota Westmoreland failed to take the appropriate measures to prevent and control materials on disturbed areas from becoming windblown and deposited on undisturbed native grassland topsoil.</p> <p style="text-align: center;">(if applicable, include the extent to which the violation cannot be corrected)</p> |

Distribution: Public Service Commission; Permittee/Operator; and, OSM Field Office

Provision(s) of the Statute, Rules, or Permit Violated

NDCC 38-14.1-24(4) which requires mine operators to protect all surface areas affected by surface coal mining to effectively control erosion and attendant air and water pollution.
 NDAC 69-05.2-16-08(1)(d) which requires mine operators to use appropriate sediment control measures to minimize the deposition of sediment on undisturbed areas.
 NDAC 69-05.2-24-01(2)(a) which requires mine operators to control or prevent erosion and siltation from haulroads.
 Sections 3.1(D)(1)(b) and 3.2 (C) and (E) of Permit KRGC-8603 which describe alternative stabilization and sediment control measures that will be used by the mine operator.

Portion of the Operation to which this Notice Applies (Include legal description)

Areas within Permit KRSB-8603 along the main haulroad in Sections 14 and 15 and the undisturbed topsoil area adjacent to the soil removal area in the SE¼SE¼ of Section 18, T143N, R88W, Mercer County.

Remedial Action Required (including interim steps, if any)

Immediate Steps: Remove sediment (both water transported and windblown) from undisturbed areas while minimizing disturbances to underlying topsoil.

Long Term Plan: Submit more specific plans for preventing sediment laden runoff from flowing across undisturbed and reclaimed areas. This may include the installation and maintenance of sumps, silt fences, dikes, diversions, and other methods necessary to control runoff and sedimentation. Also plans must be submitted to prevent materials from disturbed areas from becoming windblown and being deposited on undisturbed areas.

Time for Abatement (including interim steps, if any)

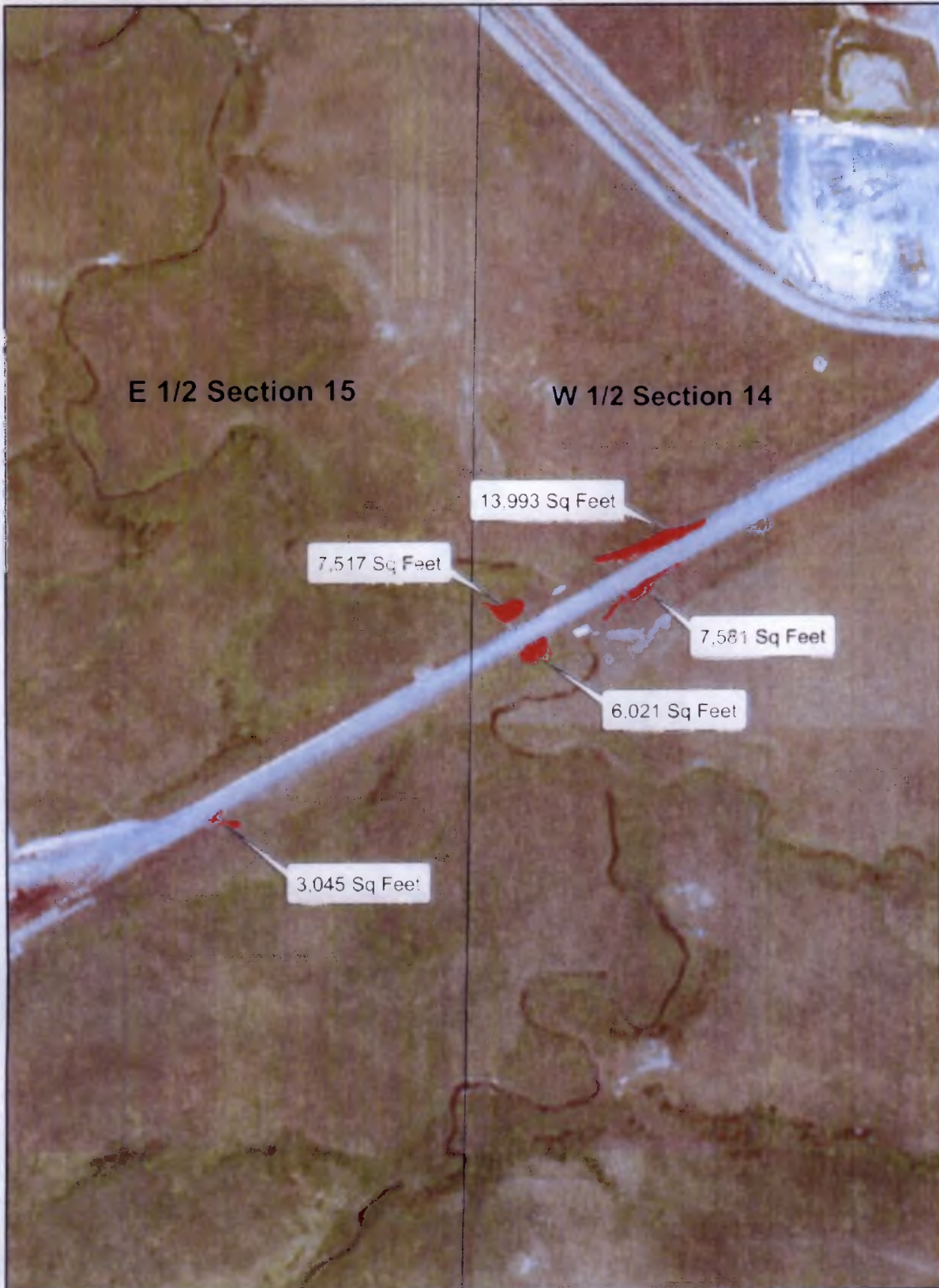
The immediate steps specified in the Remedial Action Required Section of this NOV must be completed within ten (10) days of the receipt of this notice or as soon as weather and site conditions allow. Sediment removal on the south side of the haulroad can be delayed until the haulroad is widened if the area is to be affected by the widening of the haulroad.


The long term remedial plans must be submitted within twenty (20) days of the receipt of this NOV and must be implemented upon approval by the Commission. Appropriate measures must be taken along the south side of the haulroad even though sediment does not need to be removed immediately.

IMPORTANT - PLEASE READ CAREFULLY

1. **MINESITE HEARING.** A Notice of Violation which requires cessation of surface mining activities, expressly or by necessary implication, shall expire within thirty (30) days after it is served unless an informal public minesite hearing has been held at or near the minesite within that time or the hearing has been waived. On the reverse of this page, an authorized representative has made a finding as to whether this Notice requires cessation of surface mining activities. If cessation of mining is required, an informal public minesite hearing will be automatically scheduled by the North Dakota Public Service Commission and will be held within thirty (30) days of the service of this Notice, unless you or your agent waive that hearing in writing.
2. **INFORMAL CONFERENCE.** Notwithstanding the informal minesite hearing provided for in paragraph 1, you must apply for an informal conference with the North Dakota Public Service Commission within thirty (30) days of issuance of this Notice in order to preserve your appeal rights. You may apply for an informal conference by submitting a written request for an informal conference to the North Dakota Public Service Commission within thirty (30) days of issuance of this Notice to you or your agent. The informal conference will be held in the locality of the mine if requested. A stenographic record will be made of the informal conference unless waived by all parties.
3. **FORMAL PUBLIC HEARING.** If you do not desire an informal conference, you may apply for a formal hearing regarding this Notice by submitting a written request for a hearing to the North Dakota Public Service Commission within thirty (30) days of issuance of this Notice to you or your agent. If you do not request an informal conference or a formal public hearing within thirty (30) days, your right to appeal will be forfeited. Please note that you will also have the opportunity to request a formal hearing within thirty (30) days of the decision on the informal conference held under paragraph 2.
4. **TEMPORARY RELIEF.** You have the right to request temporary relief from this Notice pending completion of any investigation and hearing procedures being conducted. A request for temporary relief must be in writing as set forth in subsection 4 of North Dakota Century Code Section 38-14.1-30 and filed with the North Dakota Public Service Commission. The request for temporary relief must include a detailed statement giving reasons why such temporary relief should be granted. The request for an informal conference or a formal public hearing will not stay enforcement of this Notice unless temporary relief is requested and granted.


NOV 0802 Sediment Area



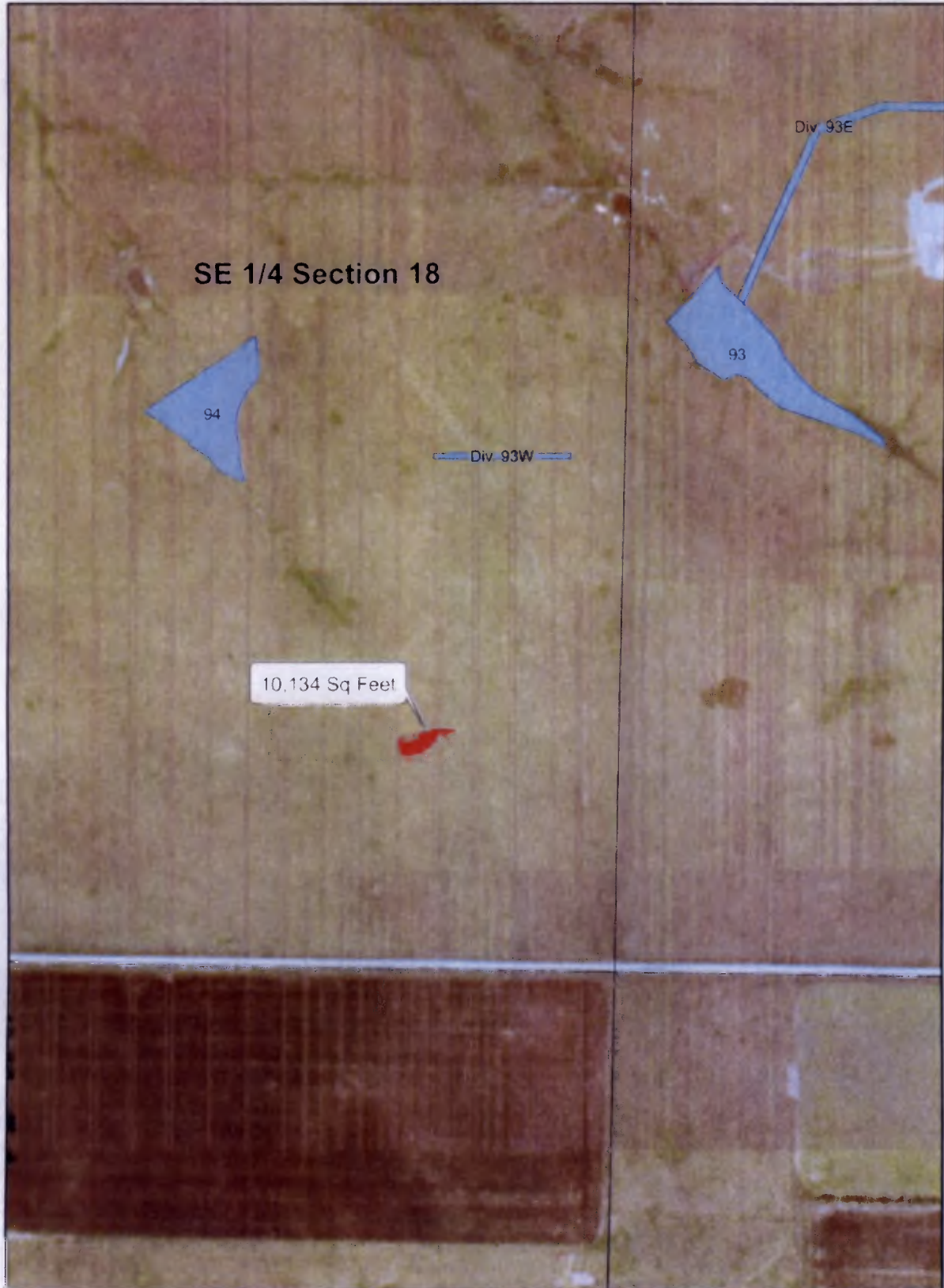
 Sediment


NOV 0802 Sediment Area



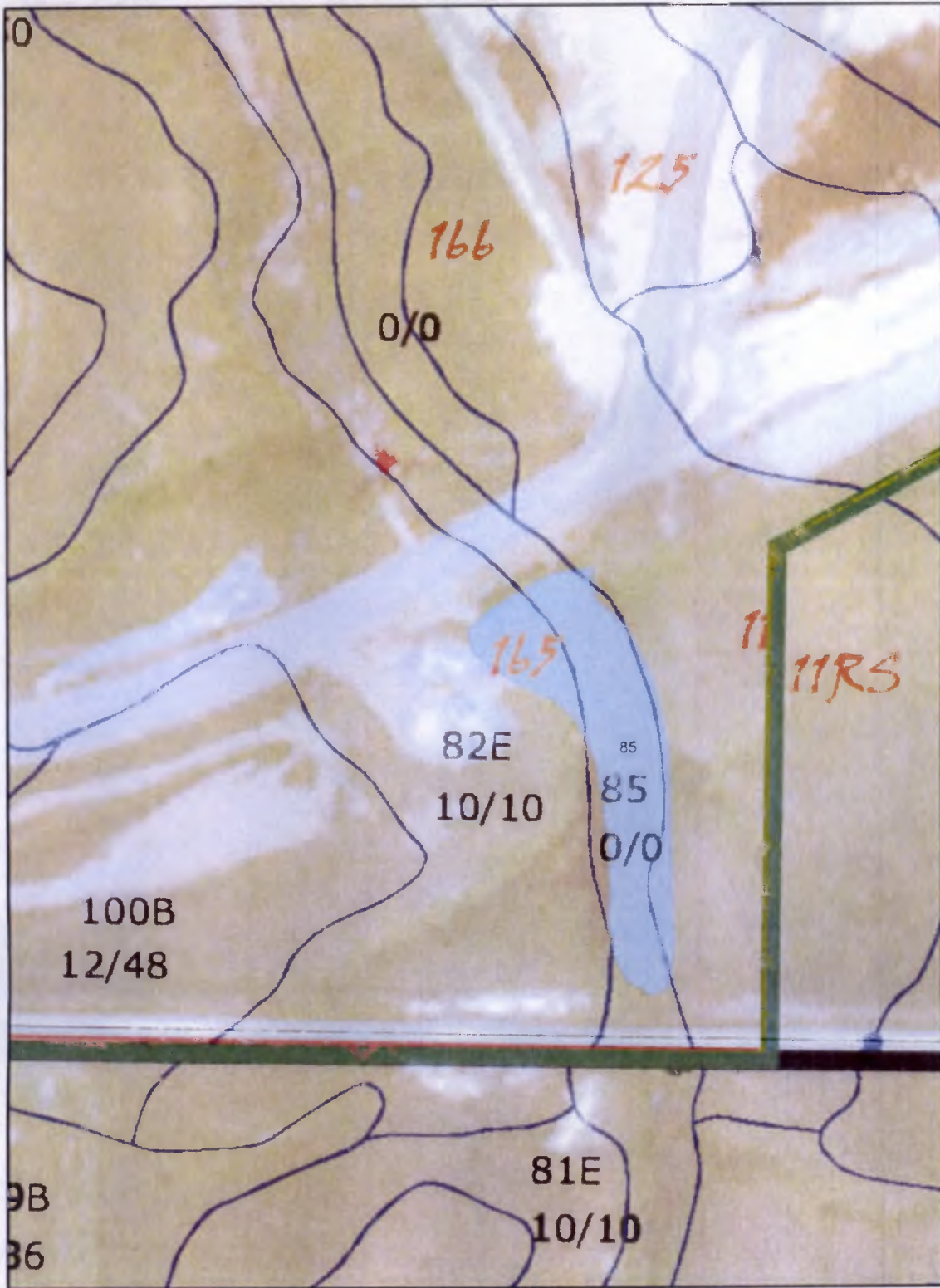
 Sediment


NOV 0802 Sediment Area



 Sediment

NOV 0802 Sediment Area



 Sediment