



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

		N.O.V. Number 0804	
Name of Permittee Dakota Westmoreland Corporation		Permit Number KRSB-8603	
Address PO Box 39	City Beulah	State ND	Zip Code 58523-0039
Telephone Number 701-873-4333	Mine Beulah	County Mercer	
Name of Operator (if other than permittee) same			
Address	City	State	Zip Code
Date of Inspection December 10, 2008	Time of Inspection From: 09:45	<input checked="" type="checkbox"/> a.m. <input type="checkbox"/> p.m.	To: 12:20 <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 December 16, 2008		
Signature of Person Served	Signature of Authorized Representative 		

Nature of Violation
<p>During a routine inspection of the Beulah Mine on December 10, 2008, the inspector noted a blast in the West Silver Pit area located in the S1/2 of Section 17, Permit KRSB-8603 at approximately 10:45 a.m., CDT. The inspector was located approximately 300 yards northeast of the blast site at the time of the blast detonation. Although the inspector was located relatively close to the blast site, the required pre-blast warning siren was not heard prior to the blast nor was an all clear signal heard after the blast.</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

Notice of Violation Number
0804

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

NDAC 69-05.2-17-05(3) states "Warning and all-clear signals of different character that are audible within the range of one-half mile [0.85 kilometers] from the point of the blast must be given."

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

Blasting operations within the S1/2 of Section 17, T143N, R88W, Mercer County, North Dakota

Remedial Action Required (including interim steps, if any)

Dakota Westmoreland must use a siren or other audible warning system that can be heard within a range of one-half mile in any direction of the blast point under normal weather conditions prior to (pre-blast warning) and after each blast (all clear signal) using different signals for each.

Time for Abatement (including interim steps, if any)

The use of a siren or other audible warning system must be implemented immediately or prior to the next blast following receipt of this Notice of Violation.

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.