



# Public Service Commission

## State of North Dakota

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### COMMISSIONERS

Kevin Cramer  
Tony Clark  
Brian P. Kalk

Executive Secretary  
Darrell Nitschke

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15 January 2009

Mr. Allen C. Hoberg  
Office of Administrative Hearings  
1707 North 9<sup>th</sup> Street, Lower Level  
Bismarck, ND 58501

Re: Dakota Westmoreland Corporation  
Notice of Violation 0804 Issued to Dakota Westmoreland  
Case No. RC-08-927

Dear Mr. Hoberg:

Enclosed is a request for an Administrative Law Judge for an Informal Conference in the above captioned case. The Informal Conference is Tuesday, February 10, 2009, at 2:30 p.m. CDT, in the Commission Hearing Room, 12th Floor, State Capitol, Bismarck, North Dakota.

The Notice of Informal Conference has been issued and is attached. The Administrative Law Judge will conduct the conference and issue recommended Findings of Fact, Conclusions of Law, and Order. The Informal Conference will be tape recorded. Any party may request to have a court reporter present. The party requesting the court reporter is responsible for making the arrangements for the court reporter and paying the costs of the court reporter.

If you have any questions, please contact me. Thank you.

Best regards,

  
Illona A. Jeffcoat-Sacco  
General Counsel

Enclosures

c: Jesse Noel  
Dakota Westmoreland Corporation

6 RC-08-927 Filed: 1/15/2009 Pages: 3  
Letter to OAH with Request for ALJ



**REQUEST FOR ADMINISTRATIVE LAW JUDGE--APPEAL, APPLICATION, OR PETITION**  
 NORTH DAKOTA OFFICE OF ADMINISTRATIVE HEARINGS  
 SFN 17819 (Rev. 03-2001)

Name of Agency, Board, or Commission  
 North Dakota Public Service Commission

The above named agency, board, or commission requests designation of an administrative law judge from the Office of Administrative Hearings for the Dakota Westmoreland Corporation - Notice of Violation Issued to Dakota Westmoreland  
 Case No. RC-08-927

(e.g., application of [name], appeal of [name], petition of [name]). Authority for the administrative action is found in \_\_\_\_\_ (North Dakota Century Code and/or North Dakota Administrative Code).

Please attach related documents and correspondence.

The administrative action is more fully described as follows:  
 The Administrative Law Judge will conduct the conference and issue recommended Findings of Fact, Conclusions of Law, and Order.

It requests designation of an administrative law judge (please check one):

- To conduct the hearing and issue recommended findings of fact, conclusions of law, and order.
- To serve as a procedural administrative law judge only (no recommended decision). The agency head will be present at the hearing as required by NDCC 54-57-04(6).
- To conduct the hearing, issue findings of fact, conclusions of law, and a final order.

**PLEASE MAKE A REQUEST FOR AN ADMINISTRATIVE LAW JUDGE AT LEAST ONE MONTH BEFORE THE HEARING.**

Please list parties, including the agency if it is a Party, and Representation [attorney (or other)] if known, or Agency Contact: (Attach separate list if necessary.)

AGENCY Reclamation Division, PSC	Address	Telephone Number 701-328-2251
Representation	Address	Telephone Number
PARTY Dakota Westmoreland Corporation	Address PO Box 39 Beulah, ND 58523	Telephone Number 701-873-4333
Representation	Address	Telephone Number
PARTY	Address	Telephone Number
Representation	Address	Telephone Number

Additional Comments  
 The Informal Conference is Tuesday, February 10, 2009, at 2:30 p.m. CDT, in the Commission Hearing Room,  
 12th Floor, State Capitol, Bismarck, North Dakota.

(For agencies required to use OAH, notice of hearing will be issued by the administrative law judge, unless a procedural administrative law judge is requested. Other requesting agencies and agencies requesting a procedural administrative law judge should first contact OAH about scheduling a hearing. If notice has already been issued, attach a copy of the notice.)

Typed or Printed Name and Title of Requesting Person Illona A. Jeffcoat-Sacco, General Counsel	Date January 15, 2009
Signature of Requesting Person X Illona A. Jeffcoat-Sacco	Telephone Number 701-328-2407

**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

**Dakota Westmoreland Corporation  
Notice of Violation No. 0804  
Violation**

**Case No. RC-08-927**

**NOTICE OF INFORMAL CONFERENCE**

**January 14, 2009**

**Preliminary Statement**

On December 16, 2008, the Reclamation Division of the Public Service Commission issued Notice of Violation No. 0804 to Dakota Westmoreland Corporation. The violation was issued for failure to utilize a pre-blast warning and all-clear signal that can be heard within a range of one-half mile from the blast site when conducting blasting operations.

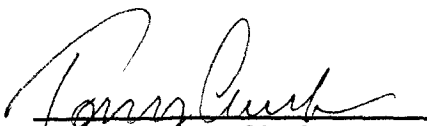
On December 31, 2008, the Commission received a request for an Informal Conference from Dakota Westmoreland Corporation.

**Notice of Informal Conference**

Notice is hereby given that the captioned matter is set for an Informal Conference, commencing at 2:30 p.m. CST, on February 10, 2009, in the Public Service Commission's Hearing Room, 12<sup>th</sup> Floor, State Capitol, Bismarck, North Dakota.

If you require any auxiliary aids, such as readers, signers, or Braille materials, please notify Darrell Nitschke, Executive Secretary, Public Service Commission, at (701) 328-2400, or Relay North Dakota TTY: 1-800-366-6888 at least 24 hours prior to the hearing.

**PUBLIC SERVICE COMMISSION**

  
**Tony Clark  
Commissioner**

  
**Kevin Cramer  
President**

  
**Brian P. Kalk  
Commissioner**