



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

N.O.V. Number
 0903

Permit Number
 NAFK-8705

Name of Permittee
 The Falkirk Mining Company

Address
 PO Box 1087

City
 Underwood

State
 ND

Zip Code
 58576-1087

Telephone Number
 701-442-5751

Mine
 Falkirk

County
 McLean

Name of Operator (if other than permittee)

Address

City

State

Zip Code

Date of Inspection
 May 29, 2009

Time of Inspection
 From: 10:00 a.m. p.m.

To: 02:30 a.m. p.m.

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.

You must abate this violation within the designated abatement time.

The undersigned authorized representative finds that cessation of surface mining activities is is not expressly or implicitly required by this Notice of Violation.

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.

Print Name of Person Served
 Joe Clarke

Print Title of Person Served
 Environmental Manager

Method of Service
 Personal Certified Mail

Date of Service
 June 17, 2009 - Hand Delivered

Signature of Person Served

Signature of Authorized Representative

Nature of Violation

Topsoil was removed from a reclaimed area that had received partial bond release prior to approval of a revision application that contains plans for the re-location of a primary haul road through the area.

(if applicable, include the extent to which the violation cannot be corrected)

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

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

NDAC 69.05.2-11-02(3)

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

A small reclaimed area located in the SE¼ of Section 5, T145N, R82W in Permit NAFK-8705.

Remedial Action Required (including interim steps, if any)

Provide an explanation of the circumstances leading to the removal of topsoil from the reclaimed area prior to approval of Revision No. 32 to Permit NAFK-8705 and steps that will be taken to prevent a similar occurrence in the future at the Falkirk Mine. Also, the permittee must ensure that no additional topsoil or subsoil is removed from the site until Revision 32 is approved.

Time for Abatement (Including interim steps, if any)

The explanation required by the remedial actions must be submitted within 15 days of receipt of this notice.

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.