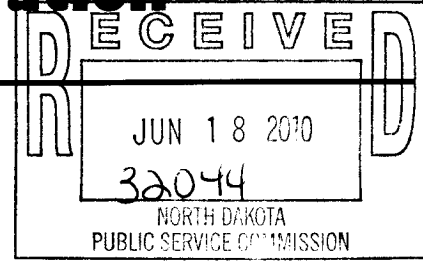


Dakota Westmoreland Corporation

Beulah Mine – P.O. Box 39, Beulah, North Dakota 58523-0039
Phone: (701) 873-4333 • Fax: (701) 873-7784



June 18, 2010

FROM DIRECTOR - RECLAMATION DIV.

Mr. James R. Deutsch
Director, Reclamation Division
Public Service Commission
600 E Boulevard Ave., Dept 408
Bismarck, ND 58505-0480

Date: _____

Action: _____

Info. Only: _____

Dear Mr. Deutsch:

Info & File: _____

RE: Notice of Violation #1002
Permit KRSB-8603

Pursuant to the remedial actions required for NOV #1002; all repairs and cleanup had been completed by June 1 as documented in my email to the PSC on June 8.

Sediment was removed with minimal disturbance as shown on the attached pictures. The area was reseeded with the approved seed mix. The silt fence around the sump was repaired. The berm was replaced across the access trail. Runoff will be channeled to the concrete drainage control structure that takes runoff from the road to the sump.

Attached is Dakota Westmoreland's *Berm Maintenance* procedure incorporating a check control with the Pump Foremen. This procedure will be explained to the foremen and posted.

Should you need additional information, please contact me at extension 208.

Sincerely,

A handwritten signature in black ink, appearing to read "J P Frohlich".

Jeff P. Frohlich
Manager,
Engineering and Environmental

Plg

Enclosures: DWC's *Berm Maintenance* procedure
June 8, 2010 email copy and pictures

c: Randy Becker
Larry Schnaidt
Perry Voegele
Bill Weaver



BERM MAINTENANCE

Pursuant to remedial action required for the abatement of Notice of Violation #1002, dated June 15, 2010; the following Dakota Westmoreland Policy will be followed:

If any berms are breached in order to gain access to a sump or water control structure, the individual(s) involved is (are) responsible to restore/maintain the berm to a functional condition.

The Pump Foreman is to be aware of this remedial action and is to follow-up on any berm activity within 24 hours of project completion.

Date of Inspection: May 27, 2010 by the North Dakota Public Service Commission

Nature of Violation: Dakota Westmoreland failed to protect undisturbed areas adjacent to the main haul road from deposition of sediment and contamination by water transported sediment. A berm constructed of road gravel and scoria along the haul road was improperly maintained, and as a result a precipitation event on the night of May 25, 2010, led to erosion on a constructed ramp along the embankment of the haul road, and deposition of road gravel and scoria onto undisturbed areas adjacent to Brush Creek.

Provisions of the Statute, Rules, or Permit Violated: NDAC 69-05.2-16-08(1)(a)(d): Appropriate sediment control measures must be designed, constructed, and maintained to prevent, to the extent possible, additional contributions of sediment to streamflow or to runoff outside the permit area; and minimize the deposition of sediment on undisturbed areas. NDAC 69-05.2-24-01(2)(a)(c): Each road must be constructed and maintained to control or prevent erosion or siltation and maintained to control or prevent additional contributions of suspended solids to stream flow or runoff outside the permit area.

Portion of the operation to which this Notice applies: Haul road berm above Brush Creek in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 14, T143N, R88W, Mercer County.

Remedial Action Required: Remove sediment from undisturbed areas adjacent to the north sump, culvert, and Brush Creek while minimizing disturbance to underlying topsoil. Reseed disturbed portions of the area and repair the silt fence surrounding the sump. Place additional silt fence or other BMP's on the down-gradient side of the access ramp. Institute a company plan for berm maintenance that incorporates a system of checks or controls to ensure the berm is maintained, controlled or replaced during and after access to the ramp.

Time for Abatement: Repair of the affected areas and a berm maintenance/control plan is required to be completed by July 1, 2010.

Gores, Paula

From: Frohlich, Jeff
Sent: Tuesday, June 08, 2010 8:03 AM
To: Moos, Dean K.
Cc: Gores, Paula; Weaver, Bill; Frohlich, Jeff
Subject: WBC haulroad
Attachments: WBCroad erosion May 2010 001.jpg; WBCroad erosion May 2010 002.jpg; WBCroad erosion May 2010 003.jpg; WBCroad erosion May 2010 004.jpg; WBCroad erosion May 2010 005.jpg; WBCroad erosion May 2010 006.jpg; WBCroad erosion May 2010 007.jpg; WBCroad erosion May 2010 008.jpg; WBCroad erosion May 2010 009.jpg; WBCroad erosion May 2010 010.jpg; WBCroad erosion May 2010 011.jpg; WBCroad erosion May 2010 012.jpg

Subject: WBC haulroad sump

I have talked with the pump foreman, and the pumpers concerning the last time they accessed the haulroad sump. They do not remember. We reviewed time sheets for when the pump was fueled. We were unable to come up with a definitive time frame. The ramp was put in place to access the sump with our water truck. We took what we thought to be a pro-active approach and pumped our sumps down when they became full. This created a storage volume for the next storm event. The water was hauled to Pond #5 in permit 8802. The berm across the ramp was replaced after they were done using the ramp. I had Mike Berg at the mine two weeks before. We drove by the sump—everything was working as designed.

We had between 1.4 and 1.9 inches of rain in a very short time frame on the 24th of May. This is when the sediment would have been deposited. I cannot speak for what the conditions were during Bruce Beechie's field inspection. I was on vacation. When I returned on the 1st of June, everything had been repaired. I did take pictures of the repair area. I am including them with this note.

Sincerely

Jeff Frohlich











