



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

		N.O.V. Number 1201	
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 Mine	County Mercer	
Name of Operator (if other than permittee) SAME			
Address	City	State	Zip Code
Date of Inspection October 23 and October 25, 2012	Time of Inspection From: <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.	To: <input type="checkbox"/> a.m. <input type="checkbox"/> 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 William W. Weaver	Print Title of Person Served President
Method of Service <input type="checkbox"/> Personal <input checked="" type="checkbox"/> Certified Mail	Date of Service October 30, 2012
Signature of Person Served	Signature of Authorized Representative <i>Guy Welch</i>

Nature of Violation
Dakota Westmoreland failed to construct approved sedimentation ponds prior to removing soil materials from an area to be mined in a portion of the watershed above planned sedimentation ponds 99E and 99W.
(if applicable, include the extent to which the violation cannot be corrected)

IMPORTANT - PLEASE READ THE REVERSE OF THIS PAGE

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1201

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

NDAC 69-05.2-16-04(1)(e) requires sedimentation ponds and other sediment control measures to be constructed and installed according to the plans in the approved permit before beginning surface mining activities in the drainage area to be affected.

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

The watersheds above sedimentation ponds 99E and 99W and associated diversions located in the E1/2 of Section 20, T143N, R88W, Mercer County.

Remedial Action Required (including interim steps, if any)

Install sumps and silt fences at the undisturbed/disturbed interface in the drainages above the location of sedimentation ponds 99E and 99W to protect the adjacent undisturbed land from any sediment deposition and to prevent contributions of sediment to streamflow. Suspend all mining related operations in that portion of the watershed above sedimentation ponds 99E and 99W not presently controlled by the pit until the approval ponds and diversions have been constructed.

Time for Abatement (including interim steps, if any)

Silt fences and sumps must be installed within two days of receipt of this notice. Approved sedimentation ponds and diversions to protect this drainage must be constructed within 20 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.