



Public Service Commission  
State of North Dakota

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June 5, 2014

Mr. Jeff Frohlich  
Manager, Engineering & Environment  
Dakota Westmoreland Corporation  
Beulah Mine  
P.O. Box 39  
Beulah, ND 58523-0039

Dear Mr. Frohlich:

Enclosed is Notice of Violation No. 1401 that has been issued to Dakota Westmoreland Corporation that pertains to two water management related matters at the Beulah Mine. Also enclosed is inspection report for the May 28, 2014 inspection when these issues were noted during a routine inspection.

If you have any questions, please contact this office.

Sincerely,

James R. Deutsch  
Director  
Reclamation Division

Enclosures

cc: John Sieving, OSM-Casper w/enclosures

Minedata/Beulah/Violations/2014/NOV-1401\_cvr\_ltr\_6-5-14

CERTIFIED MAIL



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

			N.O.V. Number 1401	
Name of Permittee Dakota Westmoreland Corporation (DWC)			Permit Number KRSB-8603	
Address P. O. Box 39		City Beulah	State ND	Zip Code 58523
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 May 28, 2014		Time of Inspection From: 8:45 <input checked="" type="checkbox"/> a.m. <input type="checkbox"/> p.m. To: 12:00 <input type="checkbox"/> a.m. <input checked="" 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 Jeff P. Frohlich		Print Title of Person Served Manager - Engineering and Environment	
Method of Service <input type="checkbox"/> Personal <input checked="" type="checkbox"/> Certified Mail		Date of Service June 5, 2014	
Signature of Person Served		Signature of Authorized Representative <i>Guy Welch</i>	

**Nature of Violation**

The mine operator failed to properly implement and maintain water management plans at the Beulah Mine. The operator failed to install a culvert in a re-constructed road and this resulted in runoff from about 9 acres of disturbed land to go off the permit area without being passed through a sedimentation pond. Some sediment was deposited on undisturbed land as a result of this failure. (continued P. 4)

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

**IMPORTANT - PLEASE READ THE REVERSE OF THIS PAGE**

Provision(s) of the Statute, Rules, or Permit Violated
NDAC 69-05.2-16-04 (1) (a) requires that all surface drainage from disturbed area, including disturbed areas that have been graded, pass through a sedimentation pond or other approved sediment control measures before leaving the permit. NDAC 69-05.2-16-08 requires appropriate sediment control measures be designed, constructed and maintained using the best technology currently available.

Portion of the Operation to which this Notice Applies (Include legal description)
Runoff from portions of grade approvals Silver_1_2013 and Silver_2_2014 is directed to undisturbed land located in the S1/2 of Section 18, T143N, R89W rather than to sediment pond 95. A berm located in the S1/2 of the SE1/4 of Section 16, T143N, R89W failed and pumped pit water carrying heavy sediment load flowed over reclaimed land in the SE1/4 of Section 16.

Remedial Action Required (including interim steps, if any)
Install a culvert in the reconstructed county road located between the SE1/4 of Section 18 and NE1/4 of Section 19 to ensure runoff from disturbed land will pass to sedimentation pond 95, place a ditch block on the west side of the inlet to the culvert and install a properly constructed silt fence and small sump in the reconstructed road ditch at the disturbance boundary. Reconstruct the temporary diversion located in SE1/4 of Section 16 in accordance with NDAC 69-05.2-16-06 (1) so that runoff passes to the red pit sump located in SW1/4 of Section 15. Clean out the sump located north of the 480 dragline site and install a silt fence along the north side of sump. Respread additional topsoil on the reclaimed drainage below 480 dragline sump, stabilize respread soil with fabric and seed site to appropriate seed mixture.

Time for Abatement (including interim steps, if any)
The culvert and ditch block in the reconstructed county road between Sections 18 and 19 must be installed within 20 days of receipt of this notice. The sump and silt fence located in the road ditch between Sections 18 and 19 must be installed within 5 days of receipt of this notice. The berm that diverts runoff to the red pit sump must be temporarily repaired within 5 days of receipt of this notice and a properly designed diversion must be constructed within 20 days of receipt of this notice. The sump and silt fence located northeast of the 480 dragline must be reconstructed within 5 days of this notice. The drainage way below the 480 dragline sump and silt fence must be respread with topsoil, stabilized with fabric and seeded to the appropriate seed mixture within 30 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.

Nature of Violation – Continued from Page 1

At another location, a berm installed for water management purposes failed and this resulted in sediment laden water being pumped from the pit to flow across a reclaimed area. Sediment was deposited on a reclaimed tract that had been respread with topsoil and seeded.



# Public Service Commission

## State of North Dakota

### COMMISSIONERS

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### INSPECTION REPORT

DATE OF INSPECTION: May 28, 2014

TYPE OF INSPECTION: Partial

PERMITTEE - MINE: Dakota Westmoreland - Beulah Mine

PERMITS INSPECTED: KRSB-8603, KRSB-8802

PERSONS ACCOMPANYING INSPECTORS: Joe Osborn

INSPECTION CONDITIONS: The inspection was conducted between 8:45 a.m. and 12:00 p.m. CDT. Skies were overcast with rain occurring after about the first hour of the inspection. The temperature was near 75° F. Access was limited due to muddy conditions.

### GENERAL

Rain began to fall after about 9:30 a.m. which hindered and limited access during the inspection.

### OVERBURDEN/COAL REMOVAL

Coal was being hauled from Ramp 1 of the Silver Pit which is located at the east end of the pit, and the dragline was operating in the N1/2 of Section 22, Permit KRSB-8603. No truck/shovel and scrapper operations were observed at the time of this inspection.

### SUITABLE PLANT GROWTH MATERIAL REMOVAL/RESPREAD

Subsoil was noted as having been respread on part of the Silver 2 grade approval request area.

### BLASTING

A blast was apparently being prepared near Ramp 2 of the Silver Pit and DWC employees were stationed at the top of the ramp to keep people from the area.

## SURFACE WATER MANAGEMENT

### Sediment Ponds

Pond 1 was reportedly the only sediment pond being discharged and wet conditions prevented access to the other sediment ponds. This discharge was clean and clear and the pond was holding water about 6 feet below the top of the riser. The PPE stake was not seen and it was not clear if it was completely submersed by water or simply missing. Pond 17 was holding water about 6 inches below PPE. Pond 70 was holding water at a level that appeared to be above PPE. The sumps by the haul road near Brush Creek were full of water and the associated silt fences appeared to be functioning as intended. The final pit in Permit KRSB-8802 was holding water at a high level as was the sump located in the SE corner of the NE1/4 of Section 19.

### BMP's

The straw bale dike located adjacent the sump that is located northeast of the 480 dragline was noted as having been blown out by a runoff event. Water carrying a very heavy load of silt was passing through the sump and over reclaimed land located in the SE1/4 of Section 16, Permit KRSB-8603. The source of much of this water was found to be pit water that was being pumped at a rate of about 100 gallons per minute. The pumped discharge pipe was located in the NE1/4 of the NE1/4 of Section 21 and this water was passing down a gully that had formed on graded spoil to the haul road where it passed through a culvert and then through a washed out spot in a berm to a drainage way that leads to the sump located northeast of the 480 dragline. This pump was shut down and DWC was informed that the straw bale dike needs to be repaired as soon as possible. The day after this inspection DWC informed the Reclamation Division that a berm located north of the north haulroad ditch had failed which is why the pumped discharge was traveling over reclaimed land. The discharge was apparently supposed to go to the sump located in the SW1/4 of Section 15. The photograph in Figure 2 below shows that this sump failed during a recent rain event.

Grey overburden material was noted as having deposited on reclaimed topsoil located downstream of the previously mentioned sump located northeast of the 480 dragline. It also appears that about 6 inches of topsoil has been eroded away from the drainage way located north of this sump. This erosion obviously occurred over time and is up to 20 feet wide and runs a length of about 100 yards. The reclaimed ground in the drainage way below this sump has been saturated to the point that the alfalfa in the established stand of vegetation has been killed and the remaining grasses, primarily intermediate wheatgrass, appears to be dying due to saturated conditions. This would indicate that the ground has been saturated for quite some time rather than a simple normal rainfall runoff event. This pumped discharge was passing to the clean water sump that has been constructed in the SE1/4 of Section 16 and the runoff passing from this sump was carrying much less silt than that which was entering this pond. A sample of the pumped discharged revealed that it was about 3/4 water and 1/4 silt.

Photographs of this area were taken and are on file with the Reclamation Division. A few are shown in Figure 1 below.

Figure 1: Reclaimed drainageway located northeast of 480 dragline

Sump and bales northeast of 480 dragline	Reclaimed drainage below 480 dragline
 <p>05/28/2014 08:25</p>	 <p>05/28/2014 08:27</p>
Reclaimed drainage below 480 dragline	Deposition and vegetation dying due to saturated conditions
 <p>05/29/2014 08:29</p>	 <p>05/29/2014 08:30</p>

Figure 2: Washed out berm



About one half inch of rain fell during the inspection and surface runoff was passing from portions of Silver 1 and 2 grade approvals southward to the rebuilt county road. This runoff moves westward along the north ditch of the road to the disturbance boundary where it passes under some straw bales to the undisturbed ditch and continues westward off the permit to a secondary drainage of the Knife River. The straw bales were not dug in the ground and are not functioning as the desired best management practice. The Silver 1 grade approval and the water management plan in Permit KRSB-8603 indicate that runoff from this reclaimed land is to be contained by Sediment Ponds 94 and 95. In this case the runoff should be directed to pond 95 by installing a culvert in the county road that was rebuilt by DWC. The road ditch where this runoff water passes off permit is not designated as a NDPDES discharge point. Figure 2 shows how runoff during a rain event is diverted by the reconstructed county road.

Figure 2: Runoff passing westward along north side of undisturbed county road.



Notice of Violation No. 1401 is being issued for failure to implement and maintain proper water management plans.

#### REVEGETATION

The reclaimed lands seeded to the precropland grass legume seed mixture, including those seeded last spring/summer, were supporting dense stands of alfalfa and intermediate wheatgrass that was actively growing. These stands were not closely inspected but they sure looked good when viewed from adjacent trails and roads.

Cattle were seen utilizing reclaimed lands located in the N1/2 of Section 16.

Water was ponding in some low areas on reclaimed cropland or hayland adjacent the reclaimed county road located between Sections 17 and 18 of KRSB-8802. One of these features resembles a seasonal wetland and was being utilized by blue-winged teal and a blackbird.

Beulah Mine Inspection Report

May 28, 2014

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WILDLIFE

An upland sandpiper was seen on the county road along the south side of KRSB-8802. Numerous leopard frogs were heard and a few seen in the clean water sump located in the SE1/4 of Section 16 of KRSB-8603.

MISCELLANEOUS

Very little surfacing material is present on the reclaimed county or township road located between Sections 17 and 18 and 19 and 20 of Permit KRSB-8802. Additional surfacing will probably be needed prior to final bond release approval of these roads.

A GPS tracklog of the route traveled during the inspection is on file with the Reclamation Division as are all photographs taken during the inspection.

  
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Guy A. Welch  
Environmental Scientist

cc: Jeff Frohlich  
Randy Becker  
Perry Voegele  
OSM Casper Field Office  
Mercer County Auditor  
Oliver County Auditor