



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

		N.O.V. Number 1601	
Name of Permittee Coyote Creek Mining Company		Permit Number NACC-1302	
Address 6502 17 <sup>th</sup> Street SW	City Zap	State ND	Zip Code 58580
Telephone Number 701-873-7800	Mine Coyote Creek Mine	County Mercer	
Name of Operator (if other than permittee)			
Address	City	State	Zip Code
Date of Inspection July 12, 2016 and July 18, 2016	Time of Inspection From: 9:30 <input checked="" type="checkbox"/> a.m. <input type="checkbox"/> p.m.		To: 3:30 <input type="checkbox"/> a.m. <input checked="" type="checkbox"/> p.m.
<p>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.</p> <p>You must abate this violation within the designated abatement time.</p> <p>The undersigned authorized representative finds that cessation of surface mining activities <input type="checkbox"/> is <input checked="" type="checkbox"/> is not expressly or implicitly required by this Notice of Violation.</p> <p>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.</p>			
Print Name of Person Served Donn Steffen	Print Title of Person Served Engineering and Environmental Manager		
Method of Service <input type="checkbox"/> Personal <input checked="" type="checkbox"/> Certified Mail	Date of Service July 21, 2016		
Signature of Person Served	Signature of Authorized Representative 		

**Nature of Violation**

Runoff from haul road segments located outside of controlled watersheds resulted in the deposition of sediment on public and private lands outside of the permit area down gradient of several haul road drainage discharge points. There was a failure to provide adequate erosion control measures and practices on areas affected by the haul road to prevent contributions of suspended solids to runoff outside the permit area.

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

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

Notice of Violation Number 1601
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Provision(s) of the Statute, Rules, or Permit Violated
NDCC 38-14.1-24(8)(b): Prevent contribution of suspended solids to runoff outside the permit area.
NDCC 38-14.1-24(15): Prevent damage to public and private property.
NDAC 69-5.2-16-08(1)(a&d): Prevent contributions of sediment to runoff outside the permit area and minimize the deposition of sediment on undisturbed areas.
NDAC 69-5.2-24-01(2)(c): Prevent additional contributions of suspended solids to runoff outside the permit area. Also, plans in the first paragraph on page 2 of Section 3.2.1 of Permit NACC-1302.

Portion of the Operation to which this Notice Applies (Include legal description)
Land affected by the coal mine haul road north of Mercer County Road 12 in Sections 8, 9 and 18, T143N, R88W. Specifically, the haul road discharge point numbers 4, 5, 6, 8, 9, 11, 12, 13 and 14 as identified on the pit layout and facilities map included in Permit NACC-1302.

Remedial Action Required (including interim steps, if any)
Immediately apply mulch at a rate of two tons per acre or higher to the haul road cut and fill slopes.
Adjustments may be made to the application rate for areas that are covered by erosion control fabric or more protective ground cover.
Submit a long term plan for stabilizing graded slopes and drainage outlets along the north haul road for review and approval by the Reclamation Division in consultation with the State Health Department.
The plan must address the following: <b>See Attached Page</b>

Time for Abatement (including interim steps, if any)
Complete the application of mulch to the haul road cut and fill slopes by July 25, 2016.
Stabilize and protect the cut and fill slopes draining to Discharge Point 9 with erosion control blanket and other materials as appropriate by July 27, 2016.
Provide the plan for long-term slope stabilization of all haul road cut and fill slopes and improved water management structures/systems for all haul road discharge points along with engineering design plans for haul road Discharge Points 9 and 12 by August 4, 2016.

Attachment for NOV-1601

Remedial Action Continued

1. Adjustment, improvement and maintenance of sediment control measures to contain settleable solids within the permit area.
2. Stabilizing the cut and fill slopes with erosion control fabric, mulch or other ground cover materials to minimize erosion rates until the vegetative cover is adequate to prevent additional contributions of suspended solids to runoff.
3. Redesign, construction and maintenance of the erosion protection for culvert and pipe outlets along the north haul road.
4. The evaluation, management and/or mitigation for areas of sediment deposition outside the permit area in coordination with the property owners and applicable regulatory agencies.

**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.