

## Jangula, Esther A.

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**From:** Gunnerson, Bill T.  
**Sent:** Wednesday, June 28, 2017 2:56 PM  
**To:** jnoel@westmoreland.com  
**Cc:** Moos, Dean K.; Brinkman, Zanna A.; Jangula, Esther A.; Welch, Guy A.; Johnson, Bruce A.  
**Subject:** PSC approval to publish the newspaper notice for the application of Revision No. 31 to Permit KRSB-8603.  
**Attachments:** NOV-1701\_signed\_4-3-17.pdf

Jesse:

I'm following-up to our telephone conversation today during which we discussed the application of Revision No. 31 to Permit KRSB-8603 at the Beulah Mine. Dakota Westmoreland's June 12<sup>th</sup> responses to the completeness review for the application have addressed the items in our May 19<sup>th</sup> letter. The Reclamation Division deems the application complete and grants approval to begin newspaper notice publication. NDCC 38-14.1-18(1) specifies the notice publication requirements as follows: "*... At the time of filing an application ... The permit applicant shall place such advertisement in the official newspaper of each county wherein land to be included within the permit area lies and in other daily newspapers of general circulation in the locality of the proposed surface coal mining operation at least once a week for four consecutive weeks from the date of filing the application for a permit.*" Notices published in the Beulah Beacon (currently the official Mercer County newspaper) and the Bismarck Tribune (general circulation) will satisfy the newspaper outlet requirements. We understand that notice publication will begin on Thursday July 6<sup>th</sup>. As required by NDAC 69-05.2-10-01(4), please ensure that a copy of the application is available for public inspection at the Mercer County Courthouse by the first date of notice publication (as well as subsequent changes to the application during the technical review when they are submitted to the commission). Please submit the affidavits of publication when complete as required by NDCC 38-14.1-18(1). A letter confirming that the application is complete will be forthcoming next week.

As we also discussed, please maintain all highlighted text, strike-through, underscore, etc., indicating the proposed permit changes with Revision No. 31 with the application DVD's provided to the county auditor and the commission, with the exception of the Section 1.4 comments margin that should be removed, and please ensure that the Table of Contents hyperlinks are operable. Although we didn't discuss this item, please ensure that Section 1.4 (Business Entity Information) and Section 1.5 (Compliance Information), e.g., NOV-1701, are updated to reflect current Westmoreland Coal Company information. Westmoreland Coal Company submitted business entity information to the Applicant/Violator System office on June 21<sup>st</sup> that must be reflected in Section 1.4. It should be noted that the 21 pages of Section 1.5 appear to be duplicated as pages 36 to 56 in Section 1.4. Please submit 10 copies of the DVD application to the commission by July 10<sup>th</sup>.

With regard to our discussion of the remaining required remedial action for NOV-1701 (copy attached), please formally submit a draft version of the haul road runoff control narrative and design plans proposed for addition to the Revision No. 31 application during the technical review. NOV-1701 will be terminated when the haul road runoff control narrative and design plans (and other remedial actions) are deemed adequate.

Please let us know if you have any questions.

Bill Gunnerson  
Environmental Scientist  
Reclamation Division

ND Public Service Commission  
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Bismarck ND 58505-0480  
328-4100 [bgunners@nd.gov](mailto:bgunners@nd.gov)

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

			N.O.V. Number 1701	
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 March 22, 2017		Time of Inspection From: 9:20 <input checked="" type="checkbox"/> a.m. <input type="checkbox"/> p.m. To: 2:45 <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 Jody Mann		Print Title of Person Served President and General Manager		
Method of Service <input type="checkbox"/> Personal <input checked="" type="checkbox"/> Certified Mail		Date of Service April 3, 2017		
Signature of Person Served		Signature of Authorized Representative <i>Bill Cunningham</i>		

**Nature of Violation**

Uncontrolled runoff from a haul road segment caused an erosional gully to develop in adjacent undisturbed land and resulted in siltation of an intermittent stream.

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

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

Notice of Violation Number 1701
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Provision(s) of the Statute, Rules, or Permit Violated
NDCC 38-14.1-24(15): Failure to control erosion from a haul road.
NDAC 69-05.2-24-01(2)(a): Failure to maintain haul road to control or prevent erosion and siltation.
NDAC 69-05.2-24-01(5): Failure to maintain road to meet the performance standards of Chapter 69-05.2-24.

Portion of the Operation to which this Notice Applies (Include legal description)
The haul road segment in the S½SW¼ of Section 15, Township 143 North, Range 88 West of Mercer County, North Dakota in Permit KRSB-8603.

Remedial Action Required (including interim steps, if any)
Repair or reconstruct the haul road drainage system to control and convey haul road runoff to Pond 85.
Repair and stabilize the erosional gully on the north side of the haul road.
Add haul road runoff control narrative and design plans to Permit KRSB-8603 with Revision No. 31.

Time for Abatement (including interim steps, if any)
Repair or reconstruct the haul road drainage system to control and convey haul road runoff to Pond 85 within fifteen (15) days of the receipt of this notice.
Repair and stabilize the erosional gully on the north side of the haul road within sixty (60) days of the receipt of this notice.
Add haul road runoff control narrative and design plans to Permit KRSB-8603 with Revision No. 31 within ninety (90) days of the 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.