



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

		N.O.V. Number 1901	
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 July 9, 2019	Time of Inspection From: 10:00	<input checked="" type="checkbox"/> a.m. <input type="checkbox"/> p.m.	To: 11:15 <input checked="" 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 Jeff Provenza	Print Title of Person Served Production Superintendent
Method of Service <input type="checkbox"/> Personal <input checked="" type="checkbox"/> Certified Mail	Date of Service July 18, 2019
Signature of Person Served	Signature of Authorized Representative

Nature of Violation

Uncontrolled discharge from Pond P85 exceeded the maximum total suspended solids allowed by the North Dakota Pollution Discharge Elimination System (NDPDES) Permit. The total suspended solids (TSS) of the discharge was 225 mg/L and the maximum TSS allowed by the NDPDES permit is 70 mg/L. In addition, uncontrolled discharge was caused by failure to provide adequate storage in Pond P85 and associated sump to control a 10-year 24-hour precipitation event.

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

Distribution: Public Service Commission; Permittee/Operator; and, OSM Field Office

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

NDAC 69-05.22-16-02: Failure to meet water quality requirements of the North Dakota State Department of Health.
NDCC 38-14.1-24(8)(b): Failure to prevent excessive suspended solids from streamflow.
Section 3.2 (Water Management Plan), Exhibit 3.2.1 (Water Management Plan), and Exhibit 3.2.40 (Pond 85 Sump) of Permit KRSB-8603: Failure to maintain Pond 85 Sump.
NDAC 69-05.2-16-04: Failure to implement water management measures to meet effluent limits.
NDAC 69-05.2-16-08: Failure to construct and maintain appropriate sediment control measures.
NDAC 69-05.2-16-09: Failure to provide adequate storage for sediment and surface water inflows.

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

Pond P85 located in Section 22 of T143N, R88W, Mercer County, North Dakota in Permit KRSB-8603.

Remedial Action Required (including interim steps, if any)

Modify Pond P85 to contain runoff from a 10-year 24 hour rainfall event above Pond P85 as required by NDAC 69-05.2-16-09.

Time for Abatement (including interim steps, if any)

Install approved water management features to contain a 10-year 24-hour precipitation event no later than August 1, 2019.

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.