



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

		N.O.V. Number 2201	
Name of Permittee Westmoreland Beulah Mining LLC		Permit Number KR5B-8603	
Address P.O. Box 39	City Beulah	State ND	Zip Code 58523
Telephone Number 701-873-3901	Mine Beulah Mine	County Mercer	
Name of Operator (if other than permittee) Same			
Address		City	State Zip Code
Date of Inspection April 28, 2022		Time of Inspection From: 10:15 <input checked="" type="checkbox"/> a.m. <input type="checkbox"/> p.m. To: 2:30 <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 Jerome Gillespie		Print Title of Person Served General Mine Manager	
Method of Service <input checked="" type="checkbox"/> Personal <input type="checkbox"/> Certified Mail		Date of Service May 25, 2022	
Signature of Person Served <i>[Signature]</i> 5/25/22		Signature of Authorized Representative <i>[Signature]</i> 5/24/2022	

Nature of Violation

Failure to provide adequate surface water runoff storage in the Gold Pit watershed. Pumping surface water from the Gold Pit watershed into the watershed controlled by pond 81 caused a breach of the embankment of pond 81 which resulted in an uncontrolled discharge into an undisturbed drainage located in Section 15, T143N, R88W. The uncontrolled discharge exceeded the maximum total suspended solids allowed by the NDPDES permit and caused sediment to be deposited in an undisturbed drainage. The total suspended solids (TSS) of the discharge was 1020 mg/L and the maximum TSS allowed by the NDPDES permit is 70 mg/L.

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

IMPORTANT - PLEASE READ THE REVERSE OF THIS PAGE

1 RC-22-228 Filed 05/25/2022 Pages: 3

Notice of Violation issued to WBM for water management violation
 Public Service Commission

Distribution: White - Public Service Commission Canary - Permittee, Operator Pink - OSM Field Office

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

NDCC 38-14.1-24(8)(b): Failure to prevent excessive suspended solids from streamflow. See also: NDAC 69-05.2-16-02; NDAC 69-05.2-16-08(1)(a); NDAC 69-05.2-16-08(1)(d)

NDAC 69-05.2-16-09(2&3): Failure to provide adequate storage for sediment and surface water for the Gold Pit area.

NDAC 69-05.2-16-04(2): Failure to maintain sediment ponds.

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

The Gold Pit area within Section 22, T143N, R88W, Mercer County.

Sedimentation pond 81 located in the NW¼ of Section 15, T143N, R88W, Mercer County.

Sedimentation pond 82 located in the NE¼ of Section 16, T143N, R88W, Mercer County.

(WBM ceased pumping surface water runoff to pond 81 and pumped to pond 82 and the embankment of pond 82 was also breached).

Remedial Action Required (including interim steps, if any)

Provide adequate storage in the Gold Pit watershed by completing and certifying pond 112 within 90 days and constructing pond 113 within 180 days.

Submit a plan to reconstruct the embankments and spillways of ponds 81 and 82, reconstruct the embankments and spillways of ponds 81 and 82, and, if necessary, remove sediment from ponds 81, 82, and 86 to restore the storage capacities of the ponds.

In the interim, the water levels in ponds 81 and 82 must be kept several feet below the eroded area by pumping water from the pond to prevent any future erosion to the embankment and to minimize uncontrolled sediment discharge

Investigate the cause of the embankment failures of ponds 81 and 82, report the results to the Reclamation Division, and implement additional measures to ensure existing sediment ponds are properly inspected, maintained, and functioning as intended.

Time for Abatement (including interim steps, if any)

Interim measures need to be addressed within 10 days of the receipt of this notice.

An approved spillway must be reconstructed and repairs to the embankments of ponds 81 and 82 must be made within 45 of the receipt of this Notice of Violation.

The report on the investigation of the embankment failures must be submitted to the Reclamation Division within 20 days.

Pond 112 must be completed and certified within 90 days and pond 113 must be constructed within 180 days.

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.