

**PSC-01**



**NOTICE OF VIOLATION**  
NORTH DAKOTA PUBLIC SERVICE COMMISSION  
RECLAMATION DIVISION  
SFN 18099 (7-2022)

Name of Permittee Westmoreland Beulah Mining LLC		Notice of Violation Number 2301	
Address P.O. Box 39		City Beulah	State ND
Telephone Number (701) 873-3901	Mine Beulah Mine	ZIP Code 58523	
County Mercer			
Name of Operator (if other than permittee)			
Address		City	State
Date of Inspection 11/09/2023		Time of Inspection From: 10:00	To: 12:00
		<input checked="" type="checkbox"/> a.m. <input type="checkbox"/> p.m.	<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 page 3, or is terminated or vacated by written notice by an authorized representative of the Commission.</p>			
Name of Person Served Juris Ore		Title of Person Served General Mine Manager	
Method of Service <input type="checkbox"/> Personal <input checked="" type="checkbox"/> Certified Mail		Date of Service 12/11/2023	
Signature of Person Served 		Signature of Authorized Representative 	

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

The permittee failed to install appropriate measures to prevent and control water erosion in a portion of a reclaimed drainageway, which was grade approved on June 30, 2023, located in the NE1/4NW1/4SW1/4 of Section 22, T143N, R88W in Permit KRSB-8603. The water erosion has resulted in a large headcut, a rill/gulley, and loss of Suitable Plant Growth Material (SPGM).

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

NDCC 38-14.1-24(4) requires the mine operator to stabilize and protect surface areas to control erosion and attendant water pollution; NDAC 69-05.2-15-04(5) requires appropriate measures to be taken to protect areas from water erosion; NDAC 69-05.2-15-06 requires that rills and gullies deeper than nine inches in respread areas must be filled, graded, and stabilized; NDAC 69-05.2-16-08 requires appropriate sediment control measures to be designed, constructed, and maintained to minimize erosion to the extent possible; and NDAC 69-05.2-22-05 requires that mulching or other stabilizing practices be used on all regraded and topsoiled areas to control erosion.

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

The reclaimed drainageway in the NE1/4NW1/4SW1/4 of Section 22, T143N, R88W in Permit KRSB-8603.

Remedial Action Required (including interim steps, if any)

Westmoreland Beulah Mining, LLC (WBM) must remove topsoil from the reclaimed drainageway to prevent further loss of SPGM. The topsoil must be stockpiled on a stable area that minimizes any loss of the material.

WBM must develop and submit a plan to the Reclamation Division for review to respread the drainageway that will not result in a loss of SPGM and a plan to stabilize the drainageway to prevent erosion.

Time for Abatement (including interim steps, if any)

WBM must remove topsoil from the reclaimed drainageway within 5 days following receipt of this notice of violation.

WBM must submit a plan to the Reclamation Division to respread the drainageway that will not result in a loss of SPGM and a plan to stabilize the drainageway to prevent erosion within 14 days following receipt of this notice of violation.

**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.