

**COMPLAINT
TO THE EFTA SURVEILLANCE AUTHORITY CONCERNING
FAILURE TO COMPLY WITH EEA LAW**

1. Surname and forename of complainant:

Førde kommune (The Municipal of Førde)

2. Where appropriate, represented by:

Ordførar Olve Grotle (Mayor Olve Grotle)

Rådmann Ole John Østenstad (Chief Executive Ole John Østenstad)

3. Nationality:

Norway

4. Address or registered office:

Postbox 338, N-6802 Førde, Norway

5. Telephone/fax/e-mail address:

Mayor Olve Grotle: +47 57 61 27 00 / +47 95 20 79 29

og@forde.kommune.no

Chief Executive Ole John Østenstad: +47 57 61 27 01 / + 47 90 17 92 83

ojo@forde.kommune.no

6. Field and place(s) of activity:

7. EFTA State or public body alleged by the complainant not to have complied with EEA law:

8. Fullest possible account of facts giving rise to complaint:

On 17 April 2015, the Norwegian government (Ministry of Climate and Environment) granted Nordic Mining ASA permission under the Pollution Control Act to extract the mineral rutile from the Engebø mountain in the municipality of Naustdal. Nordic Mining was also given permission to establish a subsea fill of mine waste material in the Førdefjord. On the same day, the Ministry of Local Government and Modernisation approved the municipality's zoning plan for the extraction area. The mountain, the processing area and the disposal site are situated in Førde's neighbouring municipalities, whereas the head of the fjord is in our municipality.

On 23 April 2015, the executive board of Førde municipality made the following decision:

"In the opinion of Førde's municipal executive board, the Norwegian government's decision to permit the dumping of tailings into the Førdefjord in connection with Nordic Mining's proposed mining project in Engebø, Naustdal municipality, is not in compliance with the contents of the EU Water Framework Directive.

The executive board therefore asks ESA to consider to what extent the Norwegian government's permission to use the Førdefjord as a disposal site for mining waste in connection with Nordic Mining's proposed mining activities in Engebø, Naustdal municipality, is acceptable under the EU Water Framework Directive."

9. To the extent possible, please specify the provisions of EEA law (*EEA Agreement, Protocols, Acts referred to in Annexes to the Agreement*) considered to have been infringed by the EFTA State concerned:

10. Details of any earlier contacts with the EFTA Surveillance Authority (if possible, please attach copies of correspondence):

None

11. Contacts already made with national authorities, whether central, regional or local (if possible, please attach copies of correspondence):

11.1. Administrative actions, such as complaints to relevant national administrative authorities (whether central, regional or local) and/or to national or regional ombudsman:

11.2. Recourse to national courts or other legal procedures such as arbitration or conciliation. Please state whether a decision or award has already been adopted and, if appropriate, attach a copy:

12. Specify any evidence or documents supporting the complaint, including any national measures (if possible, please attach copies):

Links and attachments (texts in Norwegian):

- a. Map
- b. Extract of the minutes from the meeting of the executive board of Førde municipality on 23 April 2015.
http://innsyn.e-kommune.no/innsyn_forde/wfdocument.aspx?journalpostid=2015006442&dokid=164341&version=2&variant=P&
- c. Letter dated 17 April 2015 from the Ministry of Climate and Environment to Nordic Mining ASA
https://www.regjeringen.no/contentassets/d64de37507d347f0b2ea6beaf6f8b288/oversendelse_tillatelse_nordic_mining_asa.pdf
- d. Draft discharge permit pursuant to the Pollution Control Act
https://www.regjeringen.no/contentassets/d64de37507d347f0b2ea6beaf6f8b288/tillatelse_nordic_rutile_asa.pdf
- e. Draft permission for mining activities in the Engebø mountain
https://www.regjeringen.no/contentassets/d64de37507d347f0b2ea6beaf6f8b288/avgjorelse_soknad_utslippstillatelse_nordic_mining_asa.pdf
- f. Link to the Norwegian government's information on mining operations in the Engebø mountain
<https://www.regjeringen.no/nb/aktuelt/fakta-engebo/id2408725/>
- g. Letter from the Ministry of Local Government and Modernisation to the County Governor of Sogn og Fjordane, in which the ministry approves the zoning plan
https://www.regjeringen.no/contentassets/19f834d2c70c4892a96596f9e7a1c87a/avgjerd_motsegnssak.pdf

13. Confidentiality (please tick one of the boxes):

☒ 'I authorise the EFTA Surveillance Authority to disclose my identity in its contacts with the authorities of the EFTA State against which the complaint is made.'

14. Place, date and signature of complainant/representative:

Førde, 08.05.2015


Olve Grotle
Ordfører


Ole John Østenstad
Rådmann