



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

		N.O.V. Number 1003	
Name of Permittee The Coteau Properties Company		Permit Number NACT-0401	
Address 204 County Rd 15	City Beulah	State ND	Zip Code 58523-9475
Telephone Number 701-873-2281	Mine Freedom Mine	County Mercer	
Name of Operator (if other than permittee)			
Address		City	State Zip Code
Date of Inspection June 30, 2010	Time of Inspection From: 09:20 <input checked="" type="checkbox"/> a.m. <input type="checkbox"/> p.m.		To: 05:10 <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 Joe Friedlander		Print Title of Person Served Environmental Manager	
Method of Service <input checked="" type="checkbox"/> Personal <input type="checkbox"/> Certified Mail		Date of Service July 8, 2010	
Signature of Person Served 		Signature of Authorized Representative Dean K. Moore for Michael Berg	

Nature of Violation
<p>Water was being pumped from Pond P-N33-01 through a poly pipe at an estimated flow of 1,100 gallons per minute in order to lower the water level in the pond. The outlet of the poly pipe was located approximately 60 feet beyond the marked permit boundary and the outlet was not equipped with any type of energy dissipater. A very small area outside of the permit area was affected by the pond discharge since a small erosion feature was beginning to form at the discharge pipe outlet located in the SW¼ of Section 33.</p> <p style="text-align: center;">(if applicable, include the extent to which the violation cannot be corrected)</p>

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

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

NDCC 38-14.1-25(2) states that the permittee may not locate any part of the surface coal mining and reclamation operations outside the permit area for which bond has been posted.

NDAC 69.05.2-16-10 requires that discharges from sediment ponds be controlled, where necessary using energy dissipaters, riprap channels, surge ponds, and other devices to reduce erosion, prevent deepening or enlargement of stream channels and minimize disturbance to the hydrologic balance.

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

A very small area located off-permit in the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 33, T146N, R87W, Mercer County, ND.

Remedial Action Required (Including interim steps, if any)

The Coteau Properties Company must discontinue all pumped water discharges from Pond P-N33-01 until an energy dissipater is installed at the end of the pipe. Also, Pond P-N33-01 must not be discharged until an alternate location within the existing permit area is proposed and approved for the discharge pipe.

Time for Abatement (including interim steps, if any)

Coteau must immediately discontinue pumped water discharges from Pond P-N33-01. Plans for an alternate pipe outlet location within the existing permit area, including an appropriate energy dissipater, must be submitted within five (5) days of receipt of the NOV.

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.