



Public Service Commission

State of North Dakota

COMMISSIONERS

Kevin Cramer
Tony Clark
Brian P. Kalk

Executive Secretary
Darrell Nitschke

600 E. Boulevard Ave. Dept 408
Bismarck, North Dakota 58505-0480
Web: www.nd.gov/psc
E-mail: ndpsc@nd.gov
Phone 701-328-2400
Toll Free 1-877-245-6685
Fax 701-328-2410
TDD 800-366-6888 or 711

July 22, 2010

Mr. Joe D. Friedlander
Environmental Manager
Coteau Properties Company
204 County Rd. 15
Beulah, ND 58523-9475

Dear Mr. Friedlander:

The Reclamation Division has reviewed The Coteau Properties Company's July 13th letter that addresses the remedial measures that were taken to abate Notice of Violation (NOV) 1003. In addition, a follow-up field inspection of the site was conducted on July 15, 2010. The Reclamation Division considers Coteau's actions adequate in addressing the abatement measures required by NOV-1003. With completion of the remedial actions, we are terminating NOV-1003 and the termination notice is enclosed.

With regard to your request that the Reclamation Division vacate or amend the NOV to eliminate language that references violating Subsection 2 of NDCC Section 38-14.1-25, we do not believe that is appropriate. The NOV was issued because water flowing from the discharge pipe that was located beyond the permit boundary caused a disturbance (erosion of topsoil) outside of Coteau's permit area. Mine related disturbances outside of the permit boundary are prohibited based on Subsection 2 of NDCC Section 38-14.1-25. With regard to the area affected by NOV-1003, we understand it is very likely no disturbance of that area would have occurred if an energy dissipater had been installed at the end of the pipe prior to the water discharge. While we recommend that discharge pipes not be placed beyond the permit boundary, we do not consider the placement of a poly pipe on the surface of the ground outside the permit a violation of Subsection 2 of NDCC Section 38-14.1-25 provided the area beyond the permit boundary is not physically disturbed when the pipe is put into place, by any subsequent discharge of water, or by other mine related activities.

If you have any questions, please contact this office.

Sincerely,

James R. Deutsch
Director
Reclamation Division

Enclosure

m/Freedom/Violations/2010/NOV_1003/termination_itr_7-22-10