



Public Service Commission

State of North Dakota

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February 26, 2009

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

Dear Mr. Friedlander:

The Reclamation Division has conducted a technical review of application for Revision No. 7 to Permit NACT-0201, which was submitted in response to a pre-renewal review of the permit. The following items will need to be addressed prior to revision approval.

Section 1.3.2 – Current Permits and Permit Applications

1. Please add the information for Otter Creek, LLC and Permit Application NAOC-0802 to Section 1.3.2 as required by NDAC 69-05.2-06-02(1). (SAS & MDB)
2. Please update Section 1.3.3, Schedule of Violations, as NOV-0803 issued to The Falkirk Mining Company was terminated on December 12, 2008. NDAC 69-05.2-06-02(3). (MDB)

Section 1.5.1 – Permit Area Surface and Coal Interest

3. The hyperlinks for Tracts 6A and 81A do not work. Please enable or repair these hyperlinks. (SAS)
4. Tract 23A indicates that the federal coal is leased, but the ownership map indicates otherwise. Please correct. (SAS)

Section 1.5.2 – Adjacent Surface and Coal Ownership and Leasehold Information

5. The coal ownership in Section 1.5.2 for Lots 3, 4, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 1, T144N, R89W, indicates Garland Wiedrich and Janelle Wiedrich own 50% but the ownership map lists only Garland Wiedrich. Please review and correct. (SAS)

Section 3.0 – Operations

6. Please update Section 3.1.1.2 to include a scheduled date (e.g., one year after removal of the dragline) of reclamation for the dragline erection site per NDAC 69-05.2-09-11(1). The narrative on page 9 indicates that the storage site will also serve as the erection site; however, the discussion on page 10 indicates that the erection site will be located in Section 26. Please correct this inconsistency. (MDB)
7. The haulroad locations on the Extended Mining Plan Map, Section 3.1.4, do not correspond with those shown on the Pit Layout and Facilities Map, Section 3.1.3. Please update accordingly. (MDB)
8. Please depict the 2008 areas as being mined out on the updated Extended Mine Plan Map, Section 3.1.4. (MDB)
9. The narrative for Pond P-W26-02, Section 3.3.17, states that after discharging through the emergency spillway, water will flow through two 36 inch culverts under a mine access road into West Antelope Creek. However, no access road is shown on Sections 3.3.2 and 3.1.3 to the west of the pond. Please clarify this issue. Discharges through these culverts are also nearing 8 feet per second. Please include an explanation on how the outlets of these culverts will be stabilized to prevent erosion. (MDB)
10. Since there is not surplus subsoil in this permit area, please indicate that the subsoil used in constructing the embankments of the ponds will serve as subsoil stockpiles (inventoried subsoil) and will be identified as such. (MDB)
11. Several items were noted on the Surface Water Management Plan Map, Section 3.3.2, regarding the location of several ponds and stockpiles within these watersheds. Please address the following items. (MDB)
 - a. It appears that an overburden and SPGM stockpile will interrupt flow from the southern portion of the watershed of Pond P-W26-03. This also appears to be a concern with Pond P-W26-05; however, design plans for this pond are not submitted yet so the exact location is unknown. If the stockpiles cause the flow of water to be directed to a different pond, then those ponds will need to be sized accordingly.
 - b. The dragline erection site as well as an SPGM stockpile appears to disrupt the flow of the watershed into Pond P-W26-03.
 - c. A SPGM stockpile and potential scoria crushing and screening area appears to disrupt the flow from the upper reaches of the watershed of Pond P-W03-01.
12. The design plans for Pond P-W02-10, Section 3.3.17, indicate that a berm will be constructed on the northern side of the pond near Topsoil Stockpile TS-623. The design plans indicate that the topsoil stockpile is located within the drainage area of the pond, but the berm will preclude water from entering into the pond in this direction. Please address this issue by changing the watershed boundary to show the topsoil stockpile is

not contained by the pond or by allowing water to flow into the pond from the entire drainage area. There is a small area located between the pond embankment and the topsoil berm, and it is suggested that a field engineered diversion be placed from the edge of the embankment to the edge of the topsoil berm to ensure that any water that may concentrate along this area flows to the pond. (MDB)

13. The Surface Water Management Plan Map, Section 3.3.2, indicates Pond P-W26-04 will be constructed on top of an abandoned underground mine. NDAC 69-05.2-13-06 states surface coal mining activities may not be conducted closer than five hundred (500) feet of an underground mine, unless the activities result in improved resource recovery, abatement of water pollution, or elimination of hazards to public health and safety. Placing a pond at this location does not appear to achieve any of the above mentioned as well as creates a greater possibility of violating NDAC 69-05.2-16-18. (MDB)
14. In the Dragline Erection Site narrative on page 10 of Section 3.1.1.2, please discuss why it is necessary to place the dragline erection site outside the coal crop line and mining disturbance limits. Consideration should be give to placing the dragline erection site on an area that will be mined or otherwise disturbed such as a future SPGM stockpile location site in order to minimize disturbances. Please address this issue in accordance with NDAC 69-05.2-13-06 which states that “all surface coal mining and reclamation operations must be conducted to minimize disturbances on lands where coal is not removed and utilize the best technology currently available”. (GAW)

Section 4.0 – Postmining Land Use Plans

15. Please include the tract numbers and boundaries on the Post-Mining Topography and Land Use Map since this is how the acreage is identified on the Pre and Post-Mining Land Use Table, Section 4.1.3. It is not possible to decipher or apply the information on the Pre and Post-Mining Land Use Table to the Post-Mining Topography and Land Use Map without the tract areas being delineated on the map. In addition, this is needed because tract boundaries have changed since the permit was approved and the tract numbers listed on the Pre-Mining Land Use Map are no longer valid. NDAC 69-05.2-05.2(1). (GAW)
16. Follow-up to midterm review item no. 21: Please update Section 4.2, Revegetation Procedures, Establishment and Management, to discuss the revegetation plans for western snowberry for compliance with NDAC 69-05.2-09-11(6). (GAW)
17. Tract 2 has been assigned 8.7 acres of roads, which seems excessive for a half mile of road with 75 feet of right-of-way. Please review and correct if necessary. (GAW)
18. Tract 30 has been split to include Tract 30A. All 11.1 acres of pre- and post-mine wetland acreage are being applied to Tract 30. This does not appear to be correct since most of the drainageway is located in Tract 30A. Please review and update as necessary. (GAW)

Mr. Joe Friedlander
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You are reminded that Permit NACT-0201 expires April 14, 2009 and that Revision No. 7 must be approved prior to permit renewal. Also, it would be appreciated in future revisions that when changes are made to Sections 1.5.1, 1.5.2, and 1.5.3 that the specific changes made are listed so that the entire ownership listings do not have to be completely reviewed to find one or two minor changes.

If you have any questions, please contact this office.

Sincerely,

A handwritten signature in cursive script, appearing to read "James R. Deutsch".

James R. Deutsch
Director
Reclamation Division