

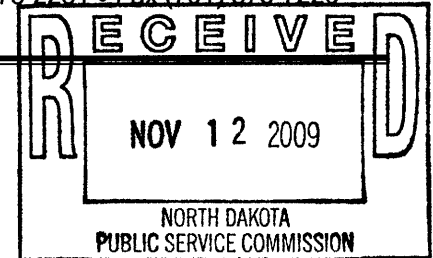
THE COTEAU PROPERTIES COMPANY

A SUBSIDIARY OF THE NORTH AMERICAN COAL CORPORATION

FREEDOM MINE

204 County Road 15
Beulah, North Dakota 58523-9475

(701) 873-2281 • Fax (701) 873-7226



November 10, 2009

Mr. James R. Deutsch
Director Reclamation Division
Public Service Commission
600 East Boulevard Avenue
Department 408
Bismarck, ND 58505-0480

FROM DIRECTOR - RECLAMATION DIV.

Date: _____

Action: _____

Info. Only: _____

Info & File: _____

Dear Mr. Deutsch:

Enclosed are three DVD's containing revised information for Final Bond Release #3 to Permit NACT-9101. Responses below refer to deficiencies in your October 27, 2009 letter:

1. See Attachments IVa, IVb, VIIIb, VIIIc, and VIIIId.
2. See Attachment II.
3. We believe you meant the photograph dates were 2007 and 2008, not 2006 and 2007, and the 2009 date was on the right side of the map, not the left side. Nonetheless, the requested changes were made to Attachment V.
4. If you cannot read a label on a map because it is too small, click on the zoom button on the toolbar at the top of your screen. This enlarges the map, making text and images bigger on the screen. For those that find this process too complex and time-consuming, we have cross-hatched the respread prime farmland areas on Attachment V.
5. The requested changes were made to Attachment V.
6. The mining disturbance line delineates the area of coal removal and spoil placement, as clearly described in the text in Attachment VIIIa : "*The affected area is comprised of the mining disturbance area (coal removal and spoil placement) and associated disturbance areas (sediment ponds, soil stockpiles, mining roads and trails, etc.).*" As you know, prime farmland soils are segregated only within the mining disturbance boundary. This is not a mineral removal boundary. No changes are required to clarify this.
7. The requested changes have been made to Attachment VI.
8. See revised page 1 of Attachment VII.
9. See revised page 1 of Attachment VII.
10. See revised page 3 of Attachment VII.
11. See revised page 3 of Attachment VII.
12. See revised page 4 of Attachment VII.

5 RC-09-652 Filed 11/12/2009 Pages: 3
Response to Deficiency Letter Filed
Coteau Properties Company
Joe Friedlander



13. No changes are being made. The regulation cited in the deficiency is a permit application requirement for preparation of a fish and wildlife resource protection and enhancement plan, not a bond release application requirement. The requested discussion is not necessary for the Commission to evaluate the bond release application, in accordance with NDAC 69-05.2-12-12 (11), as this was not included in recently approved final bond release applications at the Freedom Mine. These serve as an approved template for this and future applications. We do not find this discussion requirement on the checklist attached to the bond release application form. Finally, through numerous inspections of this cropland tract, your staff is very familiar with the area and should not need additional enlightenment regarding the land use and the existence of wildlife enhancement features in the field.
14. See revised page 1 of Attachment VIIIa.
15. No changes are being made. We recommend the reviewer reread all the language under the heading "Liability Period" in Attachment VIIIa, including : "*A request for a variance from the ten year liability period was submitted to the NDPSC on July 16, 2008 for 64.3 acres of ponds...*" Later in this section, we note, "*Based on discussions with the NDPSC during 2008, it was agreed that the 15 acre area redisturbed to improve drainage should be included with the variance request. The NDPSC approved Coteau's variance request on March 25, 2009 (see Attachment IX), **including the variance from the 10 year liability period for the 15 acres redisturbed in late 2007 (emphasis added).**" The March 31, 2009 approval letter from the NDPSC (Attachment IX) provides further clarification: "*The variance areas consist of 64.3 acres of ponds, soil stockpiles and related areas that were reclaimed in 2000 and approximately 15 acres of reclaimed cropland that was re-disturbed in 2007 for the repair of settling features and other drainage improvement work, as indicated in Jessica Unruh's letter dated July 16, 2008.*" Thus, it is quite clear that Coteau applied for a variance on 64.3 acres, but that during negotiations it was agreed to add approximately 15 acres to the variance. No language we could add to this application could make this clearer.*
16. No changes are being made. The yield value of 36.8 indicated on page 132 of Attachment VIIIId is the production of that undisturbed piece of land for 1997. The sheet is included in that attachment to show the approximate yield of 21.2 for the reclaimed portion of the W½ Section 22.
17. No changes are being made. The Mercer County yield described in the bond release application is correct.
18. See revised page 13 of Attachment VIIIb.
19. Information is listed separately for each field in Attachment VIIIb for informational purposes, but is combined to form one weighted average reclaimed yield that includes all continuous crop and summer fallow management areas. All continuous cropping yields and summer fallow yields were calculated and listed separately, rather than by field, in Attachment VIIIc. A statement was added to page 7 of Attachment VIIIa for clarification.

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20. See revised page 5 of Attachment VIIIa, revised pages 10 and 11 of Attachment VIIIb, and revised pages 5 and 6 of Attachment VIIIc. Note that flax and barley yields were converted to wheat yields in accordance with Table 3 of Section II-C of the Standards for Evaluation of Revegetation Success and Recommended Procedures for Pre- and Post-Mining Vegetation Assessments.
21. See revised page 2 of Attachment VIIIc.
22. A detailed list of operators, fields, test weights, and dockage for 2003 and 2007 was completed, but not included in the original package. This is now included as part of Attachment VIIIc. Changes were made to page 11 of Attachment VIIIb and page 5 of Attachment VIIIc to reflect an increase in the average dockage for 2007. Some fields were removed from the 2007 average because of dissimilar management.
23. Based on discussions with Jim Deutsch, this will be addressed in future bond release applications. Changes were made to page 2 of Attachment VIIIa to provide additional clarification for this application.

As a follow up to an email between Bill Gunnerson and Jessica Unruh, additional changes have been made to Attachment V, Attachment VI, and pages 10, 11, 12, and 13 of Attachment VIIIb. This change resulted in 6.0 additional acres of associated disturbance in the Benz tract. This required a recalculation of the Benz unadjusted yield standard. It was determined that the change in acreage kept the post-mining prime standard the same, and lowered the undisturbed standard by 0.1 bushels/acre. The 6.0 acres of disturbance was moved from the undisturbed standard to the prime standard (all of the additional area would be considered associated disturbance prime cropland), resulting in a total **decrease** in the unadjusted yield standard from **30.6** bushels/acre to **30.5** bushels/acre.

Sincerely,

THE COTEAU PROPERTIES COMPANY



Joseph D. Friedlander
Environmental Manager

JDF:lr
Enc.