



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

April 9, 2010

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

Dear Mr. Friedlander:

The Reclamation Division has conducted a completeness review of the application for Revision No.8 to Permit NACT-0201. The following deficiencies' will need to be adequately addressed before the revision will be deemed complete and publication of the public notice can begin.

Application Form

1. A letter of certification, affixed with the stamp and signature of the registered professional engineer, should be provided with the application form submitted for Revision 8 for the design plans for Diversion D-W25-01 and revised design plans necessary for Pond P-W25-01. (WTG & MDB)

Newspaper advertisement

2. The following items must be corrected in the proposed newspaper advertisement prior to publishing:
 - a. The coal ownership for Tract 25 is listed as Corlie Giese Satterfield in the permit and on Tract 25A, but is shown as Corlie Giese in the notice. Please correct.
 - b. The separate coal ownership for Leona Vanderhoof and William G. Weiss has their names combined in the Tract 91 listing. They should be listed separately in the notice. (SAS)

Section 1.4 – Surface Owner Protection Act Compliance Information

3. The Surface Owner Protection Act, NDCC 38-18-06, requires that mining companies notify all surface owners, in writing, of the type of land disturbance planned to enable the surface owner to evaluate the extent of land disturbance on the surface owner's use of the property. We believe this notice applies to revision applications that propose new disturbances even though the land is already in the approved permit area. The Pit Layout and Facilities Map shows that there will be mining and reclamation activities on privately owned land not previously approved. Please provide the notice to the appropriate surface owners affected by the additional mining activities proposed by Revision 8 and update Section 1.4, Surface Owner Protection Act Compliance Information, to comply with this provision. This should also include the land ownership affecting Darrell Boeckel. (GAW & MDB)

Section 3.1.1.3 – Reclamation Procedures and Schedule

4. The Material Balance section indicates that 1.2 million cubic yards of material is available from outside the crop-line. Please provide a narrative explaining why material will be taken from lands which are not mined to slope adjust lands which will be mined. It appears the "loss" of 1.5 million yards which was dedicated to the DGC ash pit will have an effect on the post-mine topography which was not addressed at the time of that request. Please address the effect of dedicating these 1.5 million yards of material to DGC on the final post-mine topography. (MDB)

Section 3.3 – Surface Water Management

5. Please add the certification letter paragraph for Revision 8 to the Certification Letter section. (WTG)
6. Although no changes were made to Section 3.3.1, Surface Water Management Plan, for Revision 8, two highlighted and underscored paragraphs added with Revision 7 on pages 5 and 6 were not changed to normal text in the approved version of Revision 7. Please change these highlighted and underscored paragraphs to normal text. (WTG)
7. With the addition of Diversion D-W25-01, the watershed of Pond P-W25-01 was increased; please include the necessary calculations demonstrating that the pond has adequate capacity. (MDB)
8. Please update the design plans for Pond P-W25-01 to the as-built drawings as the currently approved design plans indicate the capacity of the pond is 63.6 acre-feet, but the diversion design states the pond has a constructed capacity of 69.3 acre-feet. Per NDAC 69-05.2-16-09(22) plans for pond modification must be submitted to the Commission for approval prior to the modification. (MDB)

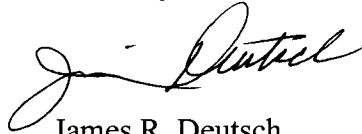
Mr. Joe Friedlander
April 9, 2010
Page 3 of 3

Section 4.1 – Post- Mining Land Use Plans

9. Please delineate the proposed created post-mine wetlands on the Post-Mining Topography and Land Use Map, Section 4.1.2, at the proper map scale so we can determine how the post-mine topography will accommodate the proposed post-mine created wetland acreage. NDAC 69-05.2-09-13 and NDCC 38-14.1-14(2)(f). (GAW)

If you have any questions, please contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read "James R. Deutsch". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

James R. Deutsch
Director
Reclamation Division