



Public Service Commission

State of North Dakota

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March 8, 2012

Mr. Donn Steffen
Environmental Manager
Coteau Properties Company
204 County Rd. 15
Beulah, ND 58523

Dear Mr. Steffen:

The Reclamation Division has reviewed Coteau's February 3, 2012 response to our technical review of Final Bond Release Application No. 5 to NACT-9101. The following issues must be addressed prior to this office recommending Commission action.

Attachment I – Final Bond Release Tract Map

1. Follow-up to item No. 1: Please provide a revised hard copy of updated Attachment Ib as part of the application form. This attachment was updated in the electronic copy of the bond release application but not in the application form. (GAW)

Attachment V – Surface Ownership, Land Use and Soil Depths Map

2. The legends for Attachments Va, Vb and Vc indicate that prime farmland is identified with an orange colored line; however, only the pre-mine prime farmland in areas of associated disturbance are only depicted in this manner. Areas respread with prime farmland soils are identified with the topsoil respread depth lettering "PTS". In future bond release applications please clarify that this is the case and revise so that the respread prime farmland areas are more apparent. (GAW)

Attachment VI – Contour and Revegetation Maps

3. The Contour and Revegetation Map for Tract 1 (Attachment VIa) labels constructed wetland CW-D16-04 as simply CW-16-04 and should be changed on the map to be consistent with how it is named throughout the remainder of the application (CW-D16-04). Please edit accordingly if other changes are being made. (BEB)
4. To maintain consistency with the other maps associated with this attachment, please depict and label constructed wetland CW-D17-02 and stockpond SP-D17-01 on Attachment VIb and pond SSP-D18-01 on Attachment VIc. (BEB)

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5. Please depict the watershed for created wetland CW-D17-01 and include the topography of the area on the Contour and Revegetation Map, Attachment VIb. (GAW)

Attachment VII – General Information

6. Follow up to Original #9. Please provide documentation, as was done with the water quality analysis, to show pond levels are stable as required by NDCC 38-14.1-24(7)(d). (MDB)
7. Follow-up to Item No. 11: Narrative provided in the first paragraph under the Roads category describes that the section lines between Sections 17 and 21 are not open to public travel, but will be opened upon bond release and approval from the county. The County approval has now been provided in the application with Attachment IX; however, we presume your intention was to describe the segment of road that is located between Sections 17 and 20, not 17 and 21. Please review and update as necessary. (BEB)
8. Follow up to Original #12: The letter from the county only confirms that an easement is needed for this section of road. As stated in the response letter, it is Mercer County's intention for public use of this trail. However, without an easement the county would have no jurisdiction over keeping this road open to the public. At this time the land is owned and controlled by Coteau and access is not an issue. But once it is returned to private ownership, access will be at the discretion of the land owner. We believe a public road easement for this section of land should be provided prior to final bond release approval. (MDB)
9. Follow-up to Item No. 14: New language on page 6 of Attachment VII states that Created Wetland CW-17-02 holds water 10 feet deep. Please clarify if this depth is from Stockpond SP-D17-02 which is immediately upstream of the created wetland. This wetland should not be considered a seasonal basin if was designed to hold 10 feet of water. Please clarify as necessary. (GAW)
10. In Attachment VII, on page 6 in the first paragraph discussing constructed wetland CW-17-02, it appears that the reference to CW-16-04 should refer to CW-17-02. Please correct as necessary. (RLK)
11. Follow-up to Item No. 16: The first paragraph on page 7 of Attachment VII, states that 1.0 acre (Tract 1) and 0.5 acre (Tract 2) of temporary and ephemeral wetlands will be replaced in future bond release tracts to comply with no-net-loss wetland mitigation plans. However, created wetland CW-17-02 (2.5 acres) is an enhancement feature according to the second paragraph on page 6 of Attachment VII. The Reclamation Division believes that created wetland CW-17-02 more than replaces the 1.5 acres of temporary wetlands that Coteau says needs to be replaced elsewhere. Please edit to clarify that this bond release application contains an additional one acre of wetlands that doesn't need to be replaced elsewhere. (GAW)
12. Narrative under the Wetlands category in this section should include the Permit Area "D" identifier included in the name of the constructed wetlands, such as CW-D16-04, CW-D17-02, etc. Other areas of the application use this descriptor for post-mining wetlands and stockponds and labeling consistency should be maintained throughout the submittal. (BEB)

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Attachment VIII – Site History, Management and Vegetation

13. To eliminate any possibility for confusion and to be consistent with the naming convention used throughout the applications please change the title headings for the constructed wetlands in Sections 16 and 17 to CW-D16-04 and CW-D17-02, as opposed to CW-16-04 and CW-17-02. (BEB)

TRACT 1:

14. Follow-up to Item No. 22: In the management summary for 2010 provided in Attachment VIIIa, it appears that the flax crop yield should be listed as 28.6 bushels/acre as indicated in Attachment VIIIb-1. Please correct as necessary (RLK)
15. The cropland summary table on page 3 of Attachment VIIIa shows that the required wheat yields for 2008, 2009 and 2010 are 7.4, 34.6 and 56.7 bu/acre respectively, but it appears the values should be 7.3, 34.1 and 57.1 according to Attachment VIIIb – Cropland Productivity Standards. Please correct as necessary. (GAW)
16. Follow-up to Item No. 29: The dockage value of 8.1% used for the 2008 control area yield calculation provided in Attachment VIIIb-1 does not agree with the dockage reported on the scale report (4.0%) provided in Attachment VIIIb-2. In addition, the dockage of 4.8% used for the 2008 reclaimed yield is slightly less than that provided on the elevator report (4.87%) in Attachment VIIIb-2. Correcting these values would slightly change the calculated yield and productivity standard for 2008 but it does not appear that the changes would affect the demonstration that the yield standard has been met. (RLK)

Attachment VIIIb-2 – Cropland Management Sheets, Soil Tests and Field Maps

17. Please update the 2010 Robert Scheid Control Area map to show which portions or strips within the control area were cropped in 2010 to develop the yield standard. This is needed to confirm that the unadjusted standard value shown in Attachment VIIIb was calculated correctly. (GAW)

Attachment VIIIc – Hayland Productivity Standards

18. Attachment VIIIc indicates that the hayland yielded 2.39 tons/acre in 2010 as indicated in the average yield calculations in Attachment VIIIc-2. However, the table in Attachment VIIIc-2 indicates that Weisz's bales average weight was 1,400 lbs but the scale tickets on the last page of Attachment VIIIb-2 shows the bales only averaged 1,150 lbs each. Please review and correct as necessary. In addition, please include a hayland summary table in Attachment VIIIa that shows the hayland productivity standard has been achieved. (GAW)

TRACT 2:

Attachment VIIIe – Vegetation Management and Production

19. Attachment VII states that created wetland CW-D17-02 is 2.5 acres in size but the table on page 1 of Attachment VIIIe, Vegetation Management and Production (Tract 2), indicates that there are only 1.5 acres of wetlands postmining. Likewise, Attachment VII indicates that there are 1.9

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acres of temporary or ephemeral wetlands present on Tract 2 but page 1 of Attachment VIIIe states that there are 1.6 acres postmining. Please review and correct as necessary. (GAW)

20. Follow-up to Item No. 48: Please update the diversity table on page 7 of Attachment VIIIe to clearly indicate how much Kentucky bluegrass is included in the "Native" Plant Species Composition percentage values listed. In addition, please clarify how the 99.4% percent native value was calculated. It appears that the value should be 99.5 if only 0.5 percent for the Kentucky bluegrass could not be counted and all of the forbs were native species. (GAW)
21. In the conservation shelterbelt discussion on page 8 of Attachment VIIIe, please provide information about how successful the trees and shrubs have established in the 1.0 acre conservation planting. In other words, please characterize the planting. (GAW)
22. Please revise the conclusion narrative at the end of page 8 of Attachment VIIIe, to list all of the postmine land uses in Tract 2, rather than just some of them, and remove mention of land uses that don't exist in the tract, i.e. cropland. (GAW)
23. The land use table on page 8 of Attachment VII states that there are 426.6 acres of cropland and 6.2 acres of conservation tree plantings in this bond release application, but the tables in Attachments VIIIa, VIIIe and VIIIh indicate that there are 427.7 acres of cropland and 5.1 acres of conservation tree plantings. Please review and correct as necessary. (GAW)
24. The table on page 6 of Attachment VIIIe states that the reclaimed native grassland yield standard in 2009 is 2275 lbs/acre. However, a mean reference area yield value of 2141 lbs/acre was used to calculate the standard in Attachment VIIIf rather than the 2510 lbs/acre. Please correct these errors. (GAW)

Attachment VIII f – Rangeland Cover and Productivity Data

25. Follow-up to Item No. 46: The relative species composition percent values of the yield data for the Section 9 reference area are incorrect for 2009 and 2010. Please correct these errors in Attachment VIII f-2. (GAW)
26. Follow-up to Item No. 47: Please recalculate the total cover value for the 2009 Native Grassland Basal Cover in Section 17, Attachment VIII f-1. The total cover value should be 1992 if there were eight bare ground hits as the total value must equal 2000. Please review and correct as necessary. (GAW)
27. Follow-up to Items No. 48 and 49: Please edit the 2009 and 2010 reclaimed native grassland cover sampling data in Attachment VIII f-1 to clarify that the forb column consists of native forbs only, if in fact this is what the column is representing. (GAW)

TRACT 3:

28. We realize that yield estimates for the cropland in Section 18 are based on cooperator truckload estimates. However, a number of minor errors were noticed on the 2008 and 2007 data in Attachment VIII i-2 that should be corrected. The truckload yield estimate values for three of the 4 fields in 2007 and one of fields in 2008 are incorrect by a few bushels since it appears the field acreages total 146 acres rather than 148 as listed. Please correct these errors. (GAW)

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As indicated in your response letter, please provide the pond maintenance agreements once you receive them.

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 "D".

James R. Deutsch
Director
Reclamation Division