



Public Service Commission

State of North Dakota

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July 30, 2014

Mr. Troy Leingang
Environmental Manager
Coteau Properties Company
204 County Rd. 15
Beulah, ND 58523

Dear Mr. Leingang:

The Reclamation Division has completed its technical review of Final Bond Release Application No. 3 to Permit NACT-8503. The following items must be addressed before the Reclamation Division recommends Commission action.

Attachment III-Legal Advertisement

1. Please replace the public notice in Attachment III with a copy as actually published. In our May 22 letter we noted that the bond amount error and had asked that this be corrected prior to publishing. Likewise, this error was also in the agency and surface ownership notification letters. Please include updated copies in the bond release application. (GAW)

Section VII – General Information

Subsection VIIa – General Information

2. NDAC 69-05.2-12-12(8)(d) states that “If a premine water delivery system will not be replaced, the bond release application must address the requirements of subdivision b of subsection 90 of section 69-05.2-01-02.” The Joseph Walker #1 well was a premine domestic well located in the basement of Mr. Walker’s house within the bond release tract that was certified in 1978 and apparently decommissioned sometime after that and prior to landfill construction. Permit information indicates this well will not be replaced. NDAC 69-05.2-01-02 (90)(b)(1 & 2) describes that in the case of water supply non-replacement that written concurrence must be obtained from the water supply owner and that the bond release newspaper notice and letters to the landowner and governmental

Mr. Troy Leingang

July 30, 2014

Page 2 of 3

agencies must identify the approximate location of the premine water supply and clearly state that the permittee does not intend to replace the water delivery system. The prior existence of this premine well at the time we received the bond release application was an oversight on our part as well as Coteau's. Considering that it appears this well was not decommissioned for the purpose of conducting actual mining operations, the well was likely abandoned decades ago due to the landfill, and the postmine industrial land use will not require water supply replacement as described in the MA4 Post-Mining Ground Water Assessment; re-advertisement of the newspaper notice and resending letters have been deemed unnecessary in this particular instance. However, to the extent possible, we request that you describe the history regarding this premine well in the bond release application, its decommissioning prior to the landfill construction, and provide written concurrence from DGC that water supply replacement will not be required (assuming that is the case). (BEB)

3. The last sentence of the first paragraph of Attachment VIIa states that no coal removal or reclamation activities were conducted in the bond release area but the 2012 Annual Map shows mining related disturbance along the east side of the tract. Please revise this misleading sentence to clarify that there was mining related disturbance on the east side of this tract, provide the acreage of the mining related disturbance on this tract and depict the boundaries of the mining related disturbance on Attachment V. (GAW)
4. Please revise the third paragraph of Attachment VIIa to clarify if the wood storage area, which is the mining related disturbance in this area, was actually constructed on, adjacent to or on top of the reclaimed inert land waste disposal site. (GAW)
5. The first sentence of page 2 of Attachment VIIa states that a topsoil berm was constructed to divert runoff from the north to the west. Please identify this topsoil berm on Attachment VI and clarify if runoff from mining related disturbance or undisturbed permitted lands passes through this bond release tract. Attachment VI does not show the topography of lands adjacent to this tract so it is not clear how runoff from mining impacted lands is routed around this tract at this time or how runoff was managed from the mining related disturbance prior to construction of the parking lot. (GAW)
6. The first paragraph on page 2 of Attachment VIIa states that slender, pubescent and tall wheatgrasses were seeded on the topsoil pile, berm and perimeter of the parking lot site but Attachment VIIb shows that western wheatgrass was the dominant species established. Please revise the narrative or explain this apparent discrepancy. Also, please provide the actual seeding date so one can determine the growing period between the time of seeding and sampling. It is not clear how "perennial litter" could comprise 70.6 percent of the cover on an area sampled so soon after seeding unless the site was mulched which is not mentioned in the discussion. (GAW)
7. A sentence in the second paragraph on page 2 of Attachment VIIa states that "the Agricultural Research Service (ARS) standard requires 73% basal cover to adequately protect from erosion". Please revise to clarify that the existing surface coal mining

reclamation ground cover revegetation success standard was developed from ARS research rather than implying that an actual ARS standard must be met to achieve revegetation success. (GAW)

8. The last sentence of the fifth paragraph on page 2 of Attachment VIIa states that the road on the south side of the bond release area was not closed by Coteau, and was not affected by mining. Please further discuss if this statutory section line right-of-way is a public or private road, and if Mercer County temporarily or permanently closed this right-of-way. Also, please clarify the status of the statutory township right-of-way located on the east side of the tract. Although these right-of-ways are not depicted as roads in the permit, it is not clear if they remain section line right-of-ways that are open for public use. (GAW)
9. The last paragraph of Attachment VIIa incorrectly states that the permit is currently bonded with an amount totaling \$108 million. The consolidated bond area is currently bonded in the amount of \$119,000,000. Please revise accordingly. (GAW)

Subsection VIIb – Parking Lot Area Cover

10. Please recalculate the ground cover absolute value in Attachment VIIb to exclude noxious weeds and annual forbs and grasses as required by NDAC 69-05.2-22-07(3)(a), which states that live cover included in the standard must be perennial species not detrimental to the land use. The ground cover value listed on page 2 of Attachment VIIa will also need to be changed accordingly. (GAW)

State listed noxious weeds were noted growing on the bond release tract during our June 25th bond release inspection. Appropriate noxious weed control will need to be verified before we will recommend Commission approval of the application. Please let us know the measures taken to control these noxious weeds.

The Reclamation Division received proof of publication of the newspaper notice that was mailed July 16, 2014. Copies of the agency and landowner notification letters either need to be placed in the bond release application or mailed separately to our office

If you have any questions, please contact this office.

Sincerely,



James R. Deutsch
Director
Reclamation Division