

**PUBLIC SERVICE COMMISSION**

**Reclamation Division**

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**Memorandum**

**TO:** Commissioners Kalk, Christmann and Fedorchak  
**FROM:** Jim *JD* Deutsch, Dean *DKM* Moos and Guy *GW* Welch  
**DATE:** March 16, 2014  
**SUBJECT:** Bond Release No. 4 to Surface Coal Mining Permit NACT-8503 held by the Coteau Properties Company, Case No. RC-15-671

**Summary** – On September 15, 2015, the Coteau Properties Company (Coteau) filed the application for Final Bond Release No. 4 to Surface Coal Mining Permit NACT-8503 requesting release of all reclamation liabilities on 27.537 acres of industrial land at the Freedom Mine. This property is owned by the Coteau Properties Company and is being used by the Dakota Gasification Company (DGC) to support their construction of the urea fertilizer plant and associated rail spur. Coal was not mined from this tract but approximately 9 acres were affected by Coteau’s mining operations for a sedimentation pond. The pond was later removed and the lands were reclaimed to agricultural purposes. This property was then rezoned to an industrial land use by Mercer County for construction of a urea plant. The postmining land use for this area was also changed in Permit NACT-8503 to industrial and Coteau has demonstrated that these lands have met all applicable final bond release performance standards. The Reclamation Division recommends approval of this bond release application based on the findings discussed below.

**Discussion** – Bond Release No. 4 to NACT-8503 pertains to 27.537 acres of land located in the NW¼ of Section 30, T145N, R87W, Mercer County. Approximately 9 acres of this tract were affected by Coteau during construction of sedimentation pond P-J30-02. This pond was downsized and partially reclaimed when a primary haul road was constructed to allow access to Permit NACT-0201. The affected lands were reclaimed to cropland (7.8 acres) and native grassland (1.2 acres) in 2005. Mercer County rezoned this bond release tract to industrial in 2014 at the request of DGC, and Coteau revised the Permit NACT-8503 to change the land use of this tract from agricultural lands to industrial land with Revision No. 31. This revision was approved by the Commission on September 2, 2015.

The reclaimed cropland was initially seeded to spring wheat but in recent years it has been seeded to annual crops to provide mulching material for Coteau’s reclamation activities. The reclaimed native grassland was managed as hayland since it was seeded in 2005. The reclaimed cropland contained approximately 4 acres of prime farmland which Coteau will replace in the NE1/4 of Section 30 on Coteau owned property to ensure no net loss of prime farmland acreage. The remainder of the bond release tract was not affected by Coteau and is considered undisturbed lands.

Essentially all of the reclaimed land has been re-disturbed by DGC for construction of the urea plant and associated rail spur, as has most of the balance of the undisturbed cropland on this tract. Runoff from all mining related activities on lands adjacent this tract is being routed to sedimentation ponds and water management features located outside of this proposed bond release tract. None of the runoff from the proposed bond release tract impacts lands affected by Coteau’s mining activities. The section line along the west side of this tract has been closed to the public by Mercer County. The east side of this tract is fenced to make a clear distinction between DGC construction activities and Coteau’s permit areas-.

Coteau has completed postmine ground water assessments for the bond release and adjacent area. This ground water assessment is in the Mine Area 4 Post-Mining Ground Water Assessment section of the Consolidated Ground Water Monitoring Plan. The report shows that there was no material damage to the hydrologic balance outside the permit area. Ground water at and near the bond release tract will continue to be monitored by DGC as required in the permit issued by the ND Department of Health. No pre-mining water delivery systems are required to be replaced within the bond release tract. The Reclamation Division believes there will be minimal changes to surface water quantity and quality as a result of surface mining and reclamation in the bond release and adjacent areas. The surface topography was not changed by mining. Impacts to wildlife have been determined to be negligible given that nearly all of the affected property was cropped prior to mining.

Although areas mined under the 1979 reclamation law are normally subject to the 10-year liability period, Policy Memorandum No. 15 to Mine Operators allows for the performance bond release sooner for industrial areas if certain conditions are met. These include issuance of the proper permits and implementation of the industrial land use. The appropriate permits have been issued and DGC is in the process of constructing a rail road spur and other facilities on this tract to support the urea plant. Therefore, the requirements set forth in Policy Memorandum No. 15 have been satisfied.

NDAC 69-05.2-22-07(4)(j) requires adequate ground cover on those portions of industrial lands that are vegetated at the time of final bond release. In this instance, all lands affected by mining activities in this tract have already been re-disturbed by DGC construction activities. There have been no previous partial bond releases on this property. For third-stage bond release, the bond release area cannot be contributing suspended solids to stream flow or runoff outside the permit area. DGC has installed silt fences and other water management features downslope of construction activities to keep suspended solids from affecting lands not directly impacted. Figure 1, attached, shows the bond release tract in relation to DGC's facilities.

**General Information** - The formal final bond release inspection was conducted on November 17, 2015 as required by NDCC 38-14.1-17(3). The ND State Health Department, OSM, County Commissioners and Coteau representatives were invited to participate in the inspection. Jessica Unruh, Mike Berg, Kayla Torgerson and Amanda Hoffer from the Coteau Properties Company, participated in the final bond release inspection. No concerns were identified during this inspection that would prevent final bond release approval.

Notice of the bond release application was published in the official county newspapers, the Hazen Star and Beulah Beacon weekly from November 12<sup>th</sup> through December 3<sup>rd</sup>, 2015. No objections to this bond release application were received.

Coteau is not requesting any reduction in the bond amount since this area is currently bonded based on worst-case reclamation condition that still exists at the Freedom Mine. The bond release area is part of a consolidated bond area that includes Permit NACT-8503 and others at the Freedom Mine. If Bond Release No. 4 to Permit NACT-8503 is approved, Coteau Properties Company will be released from all reclamation liabilities the on 27.537 acres of land. Assuming this bond release will be approved March 23<sup>rd</sup>, it will become effective on April 25, 2016, unless a formal hearing is requested.

Attached are a motion and award form for consideration at the March 23, 2016 Commission meeting.

Figure 1: Final Bond Release No. 4 to Permit NACT-8503

