

THE COTEAU
PROPERTIES COMPANY
A SUBSIDIARY OF THE NORTH AMERICAN COAL CORPORATION



October 20, 2016

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

Dear Mr. Deutsch:

In response to your September 27, 2016 letter, enclosed are three DVDs containing revised Final Bond Release #6 to Permit NACT-9101. The following changes have been made:

General:

1. *The Final Bond Release Application form specifically identifies the property as two distinct tracts of land, FBR 9101-14585-16-3 and FBR 9101-14586-17-3, but the balance of the application does not distinguish the areas as such. Attachments I and II identifies these tracts by section number rather than by the tract numbers while the balance of the application treats these two tracts as a single entity. Please revise the bond release application to identify the bond release tracts in a consistent manor throughout the application. (GAW)*

Additional clarification regarding tract naming conventions has been added to the first paragraph of Attachment VII.

Attachment III – Legal Advertisement

2. *The first paragraph of the public notice incorrectly states that the permit is bonded for an amount totaling 144 million. Please correct this amount since the consolidated bond amount is currently \$146 million. (GAW)*

The bond amount has been corrected to \$146 million.

3. *Please revise the first paragraph of the legal advertisement to clarify the bond release application acreage affected by mining subject to current reclamation law and rules. Only a small portion of the orphan soils were affected in support of permitted mining; i.e., orphan spoil areas that were not re-affected are not subject to the current reclamation law and rules and are considered "pre-law" areas. (WTG)*

The legal advertisement has been revised to state that 53.124 acres were affected by mining.

4. *Please revise the second paragraph of the notice to include mining and reclamation activities specific to the tracts included in the bond release application rather than the activities associated with other portions of Sections 16 and 17. The proposed language indicates initial disturbance in 1993, and grading and SPGM respreading from 1994 to 2000 but the 2001 Annual Mine Map shows the areas included in this bond release as being affected in 2001. NDCC 38-14.1-17 requires a description of the reclamation work performed and the results achieved so this discussion should be land use/vegetation/habitat type specific to the bond release tracts to clarify what type of Recreation Land Uses are involved. (GAW/RLK/WTG)*

The language has been revised to the specific dates associated with this bond release tract. In addition, the types of land uses reclaimed have been included.

Attachment IV: Letters to Surface Owners and Government Agencies

5. *Please repair the hyperlinks to Attachments IVa and IVb so that the documents open as intended. (GAW/FSE/WTG)*

The hyperlinks to Attachments IVa and IVb have been repaired.

6. *Please revise Attachment IVa, Surface and Adjacent Surface Owners, to clearly indicate which entity is the surface owner and which are adjacent surface owners. Attachment V indicates that Basin Cooperative Services is an adjacent surface owner in two instances but Attachment IVa identifies Basin Electric Power Cooperative as a surface or adjacent surface owner. Please clarify if Basin Cooperative Services is the same entity as Basin Electric Power Cooperative. (GAW)*

Revised to differentiate between surface and adjacent surface owners. Also revised to state Basin Cooperative Services rather than Basin Electric Power Cooperative.

7. *The first paragraph of the surface owner and government agencies letters incorrectly states that the permit is bonded for an amount totaling 144 million. Please correct this amount since the consolidated bond amount is \$146 million. (GAW)*

The bond amount has been corrected to \$146 million.

8. *Please revise the second paragraph of the surface owner and government agencies letters to include mining and reclamation activities specific to the tracts included in the bond release application rather than the activities associated with other portions of Sections 16 and 17. The proposed language indicates initial disturbance in 1993, and grading and SPGM respreading from 1994 to 2000 but the 2001 Annual Mine Map shows the areas included in this bond release as being affected in 2001. NDCC 38-14.1-17 requires a description of the reclamation work performed and the results achieved so this discussion should be meaningful land use/vegetation/habitat type specific to the bond release tracts to clarify the Recreation Land Use involved. (GAW/RLK/WTG)*

Attachments IVa and IVb have been corrected to the dates associated with this bond release tract. In addition, the types of land uses reclaimed have been included.

9. *Please make a minor clarification to the fourth paragraphs of Attachments IVa and IVb letters to state that written comments, objections, or requests for an informal conference or public hearing on this bond release may be submitted within 30 days after the last publication of ~~“this notice”~~ the legal advertisement. (WTG)*

Attachments IVa and IVb have been revised to reference the legal advertisement rather than this notice.

Attachment V: Surface Ownership, Land Use and Soils Depths Map

10. *Please revise Attachment V as follows: (WTG)*
- a. *Add the NACT-9101 permit boundary and label.*
 - b. *Represent and label the blue dashed line in the legend as what appears to be the mining disturbance boundary. Please also review and revise the mining disturbance boundary as necessary to depict it accurately because it appears that it should be depicted as much as 100 feet south of its current position proceeding west of seasonal wetland CW-17-03.*
- a. The Permit NACT-9101 boundary has been added and labeled.
- b. The blue dashed line has been added to the legend as “mining disturbance boundary.” This boundary is consistent with what is shown in mining permit NACT-9101.
11. *Since other changes are being made to Attachment V, please label Sections 7, 16 and 18 and identify the surface owner(s) of the SE1/4 of Section 7 as an adjacent surface owner. (GAW)*

Attachment V has been revised to include section labels and adjacent owner.

12. *Please revise Attachment V to clarify which areas were seeded with the native grassland seed mixture and which were seeded with the Orphan Spoils Seed Mixture. (GAW)*

Additional notes have been added to Attachment V to distinguish which seed mixture was used in what area

13. *Attachment VII, General Information, indicates that a road that will be opened to public travel following bond release. Please depict this road on Attachment V. (GAW)*

The road has been labeled on Attachment V.

Attachment VII – General Information

14. *The first paragraph of Attachment VII states that this section contains general information relating to final bond release in Sections 16 and 17 but detailed wetland performance standard related information is included in this section of the application. Please consider moving this information to Attachment VIII (Site History, Management and Vegetation) where the wetland vegetation data (Attachment VIIIId) and Wetland Maps and Photos (Attachment VIIIE) information is already located. (GAW)*

Wetland information in Attachment VII was moved to Attachment VIIIa.

15. *A sentence in the first paragraph of the Wetland subsection of Attachment VII incorrectly states that the wetlands do not have to meet a certain set of standards. Please correct this statement (see email dated July 7, 2016) and update the wetland narratives to describe the construction work associated with converting sediment ponds to wetlands. Please include specific dates when the work was done and clarify if the wetlands have embankments, risers or any other features that will require long term maintenance. (GAW)*

Sentence discussing wetland standards was revised. The dates of when the ponds were converted to wetlands is included in the individual paragraphs discussing each wetland. The wetlands do not have any embankments, risers, or other features that require long-term maintenance.

16. *The second paragraph of the Wetland subsection on page 5 of Attachment VII states that constructed wetland CS-D16-02 is a 4.1-acre semi-permanent wetland but the last sentence of this paragraph states that the vegetation and hydrology validate that it is a Class III wetland, meaning it is a seasonal wetland not a semi-permanent wetland. Similarly, the narrative discussing constructed wetland CW-17-04 states that it is 6.1 feet deep but that it is a seasonal wetland. Please review and correct these contradictions at this time since copies of the bond release application will need to be forwarded to the Wetlands Advisory Committee prior to the final bond release inspection. (GAW/RLK)*

The discussion on CW-D16-02 has been revised to reference the wetland as a Class IV wetland, rather than a Class III. Wetland CW-17-04 is referred to as a seasonal wetland consistent with its description and classification in permit NACT-9101.

17. *Please revise the constructed wetland descriptions in the wetlands section narrative and table in Attachment VII to describe them consistent with the naming convention used on Attachment V. (WTG)*

Wetland names on Attachment V have been revised for consistency.

18. *Please include a narrative that summarizes and interprets the results of the water quality of the three constructed wetlands. (GAW)*

A summary of the wetland water quality was added to Attachment VIIIa.

19. *Please include a postmining topography map which delineates the entire watershed of the recreated or constructed wetlands included in this bond release. (GAW)*

A topographical map of the entire watershed of the wetlands is already located in Section 2-2-12 of Permit NACT-9101.

20. *Please revise the appropriate wetland narrative to discuss how the developed spring in Section 8 has affected Wetland CW 17-03 and its classification. (GAW)*

Information regarding the spring in Section 8 has been added to the CW-D17-03 wetland discussion.

Attachment VIIIa – Vegetation Management and Production

21. *Please revise the first paragraph of Attachment VIIIa to include specific reclamation and revegetation information for the lands included in each tract of the bond release application. The existing language is not only incorrect but too general to provide any meaningful information. For each tract, please provide the acreage associated with each reclamation vegetation type, the acreage of undisturbed land and the acreage associated with the reclaimed road. (GAW/RLK/WTG)*

Additional information regarding acreages of disturbed vs. undisturbed land and types of land reclaimed have been added to Attachment VIIIa.

22. *The second paragraph on page 1 of Attachment VIIIa states that all areas except orphan spoils were affected by mining but orphan spoils are not depicted or labeled on Attachment V, Surface Ownership, Land Use, and Soil Depths Map. The terminology “previously mined” is used on Attachment V. Please revise so that the terminology and map is consistent. (GAW)*

Attachment V, Surface Ownership, Land Use, and Soils Depths Map, has been revised to “orphan spoils” rather than “previously mined.”

Mr. James R. Deutsch
July 15, 2016
Page 6 of 6

23. *Please revise the annual management records on page 3 of Attachment VIIIa to accurately describe the timing of mining and reclamation activities for the bond release application acreage. It does not appear that any mining activities occurred prior to June 1995 and it does not appear that any suitable plant growth material respreading occurred prior to December 2006. (WTG)*

Management records have been revised to more accurately depict reclamation within the bond release tract.

24. *Please revise the information in Attachment VIIIb, Vegetation Cover Data, so that the information is understandable. This involves including a sampling location map for each year data is being presented and one must be able to determine which area is being represented with the data. Currently it is not clear which data represents the native grass seeded recreation area and which represents redisturbed orphan spoil. These vegetation types must be evaluated and separated given the drastic differences in SPGM respread depths and seed mixes. Finally, the application must include an analysis and narrative summarizing the results of the cover data that explains how the revegetation performance standards have been achieved for both 3rd and 4th stage bond release. NDAC 69-05.2-12-12(9) (GAW)*

Attachment VIIIb has been revised to give letter labels to each area that was sampled. These letters have been added to Attachment VIIIc to help distinguish where cover data was taken. Cover data is explained in Attachment VIIIa, Revegetation Success section and in Attachment VIIIb. The standard necessary for both 3rd and 4th stage bond release is vegetative cover of at least 73 percent.

Additionally, deficiencies to the Consolidated Wildlife and Habitat Monitoring Plan associated with Revision 31 to Permit NACT-0401 will be addressed by the end of this month.

Sincerely,

THE COTEAU PROPERTIES COMPANY



Troy J. Leingang
Environmental Manager

AJH/KBT
Enc.

cc: Shana Brost, Mercer County Auditor (w/enc.)
Lynelle Kraft, Land Department (w/enc.)