



# Public Service Commission

## State of North Dakota

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### COMMISSIONERS

Julie Fedorchak  
Randy Christmann  
Brian P. Kalk

Executive Secretary  
Darrell Nitschke

600 East Boulevard, Dept. 408  
Bismarck, North Dakota 58505-0480  
Web: [www.psc.nd.gov](http://www.psc.nd.gov)  
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ND Toll Free: 1-877-245-6685  
Fax: 701-328-2410  
TDD: 800-366-6888 or 711

October 26, 2016

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

Dear Mr. Leingang:

The Reclamation Division has scheduled a field inspection for final Bond Release Applications No. 6 and 7 to Surface Coal Mining Permit NACT-9101 at the Coteau Properties Company's Freedom Mine. We will meet at the Coteau Freedom Mine office **at 10:00 a.m., CST on November 8, 2016**. The surface owners, Wetlands Advisory Committee members and County Commissioners have been invited to participate in the inspection.

If you have any questions, please contact this office.

Sincerely,

James R. Deutsch  
Director  
Reclamation Division

Minedata/Freedom/Permits/NACT-9101/BondRelease/No.6-7/BR6\_BR7\_inspection\_ltr\_10-26-16

- 4 RC-16-649 Filed 10/26/2016 Pages: 14  
Letters sent scheduling the bond release inspection for November 8th  
Public Service Commission  
Guy Welch
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October 26, 2016

Mr. Terry Steinwand, Director  
North Dakota Game and Fish Department  
100 North Bismarck Expressway  
Bismarck, ND 58501-5095

Dear Mr. Steinwand:

The Reclamation Division has scheduled a field inspection for final Bond Release Application No. 6 to Surface Coal Mining Permit NACT-9101 at the Coteau Properties Company's Freedom Mine. You or representatives from your agency are invited to participate in this inspection as the surface owner of this property and as a member of the Wetlands Advisory Committee. We will meet at the Coteau Freedom Mine office located north of Beulah **at 10:00 a.m., CST on November 8, 2016**. The NDGF Department is the surface owner of the property and it is located in portions of the N1/2 of Sections 16 and 17 of T145N, R86W, Mercer County. The bond release application contains 128.8 acres of Recreation Land that includes 13.3 acres of reclaimed wetlands. This property is part of the Harmony Lake Recreation Area. A DVD containing a copy of the bond release application is enclosed.

Also enclosed is a memo that outlines the role of the Wetlands Advisory Committee and a copy of the Wetlands section of the Public Service Commission's Revegetation Success Standards. Contact Guy Welch at 701-328-2298 if you plan to attend so you can be contacted in case of cancellation or weather delay. If you have any questions, please contact this office.

Sincerely,

James R. Deutsch  
Director  
Reclamation Division

Enclosures



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October 26, 2016

Mercer County Commissioners  
Mercer County Courthouse  
PO Box 39  
Stanton, ND 58571

Dear Commissioners:

The Reclamation Division has scheduled a field inspection for final Bond Release Applications No. 6 and 7 to Surface Coal Mining Permit NACT-9101 at the Coteau Properties Company's Freedom Mine. Representatives from Mercer County are invited to participate in this inspection. We will meet at the Coteau Freedom Mine office located north of Beulah **at 10:00 a.m., CST on November 8, 2016.**

Bond release application No. 6 contains 128.8 acres of Recreation Land that is part of the Harmony Lake Recreation Area. This application contains northern portions of Sections 16 and 17 of T145N, R86W, Mercer County and it includes a reclaimed section line road. The North Dakota Game and Fish Department is the surface owner of the property. Bond release application No. 7 contains 30.6 acres of land located in a portion of the SE1/4 of Section 21, T145N, R86W, Mercer County. This property is owned by Coteau and it consists of cropland and County Road No. 27 right-of-way.

Contact Guy Welch at 701-328-2298 if you plan to attend so you can be contacted in case of cancellation or weather delay.

If you have any questions, please contact this office.

Sincerely,

James R. Deutsch  
Director  
Reclamation Division



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October 26, 2016

Terry Allbee  
ND Natural Resources Trust  
1605 E. Capitol Avenue, Suite 101  
Bismarck, ND 58501-2102

Dear Mr. Allbee:

The Reclamation Division has scheduled a field inspection for final Bond Release Application No. 6 to Surface Coal Mining Permit NACT-9101 at the Coteau Properties Company's Freedom Mine. Representatives from your organization are invited to participate in this inspection as a member of the Wetlands Advisory Committee. We will meet at the Coteau Freedom Mine office located north of Beulah **at 10:00 a.m., CST on November 8, 2016**. The North Dakota Game and Fish Department is the surface owner of the property and it is located in portions of the N1/2 of Sections 16 and 17 of T145N, R86W, Mercer County. The bond release application contains 128.8 acres of Recreation Land that includes 13.3 acres of reclaimed wetlands. This property is part of the Harmony Lake Recreation Area. A DVD containing a copy of the bond release application is enclosed.

Also enclosed is a memo that outlines the role of the Wetlands Advisory Committee and a copy of the Wetlands section of the Public Service Commission's Revegetation Success Standards. Contact Guy Welch at 701-328-2298 if you plan to attend so you can be contacted in case of cancellation or weather delay. If you have any questions, please contact this office.

Sincerely,

James R. Deutsch  
Director  
Reclamation Division

Enclosures



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October 26, 2016

Kevin Shelley  
US Fish & Wildlife Service  
Acting ND Supervisor  
3425 Miriam Ave.,  
Bismarck, ND 58501

Dear Mr. Shelley:

The Reclamation Division has scheduled a field inspection for final Bond Release Application No. 6 to Surface Coal Mining Permit NACT-9101 at the Coteau Properties Company's Freedom Mine. Representatives from your organization are invited to participate in this inspection as a member of the Wetlands Advisory Committee. We will meet at the Coteau Freedom Mine office located north of Beulah **at 10:00 a.m., CST on November 8, 2016**. The North Dakota Game and Fish Department is the surface owner of the property and it is located in portions of the N1/2 of Sections 16 and 17 of T145N, R86W, Mercer County. The bond release application contains 128.8 acres of Recreation Land that includes 13.3 acres of reclaimed wetlands. This property is part of the Harmony Lake Recreation Area. A DVD containing a copy of the bond release application is enclosed.

Also enclosed is a memo that outlines the role of the Wetlands Advisory Committee and a copy of the Wetlands section of the Public Service Commission's Revegetation Success Standards. Contact Guy Welch at 701-328-2298 if you plan to attend so you can be contacted in case of cancellation or weather delay. If you have any questions, please contact this office.

Sincerely,

James R. Deutsch  
Director  
Reclamation Division

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October 26, 2016

Curtis Bradbury  
State Biologist  
NRCS State Office  
220 East Rosser Avenue  
Bismarck, ND 58502-1458

Dear Mr. Bradbury:

The Reclamation Division has scheduled a field inspection for final Bond Release Application No. 6 to Surface Coal Mining Permit NACT-9101 at the Coteau Properties Company's Freedom Mine. Representatives from your organization are invited to participate in this inspection as a member of the Wetlands Advisory Committee. We will meet at the Coteau Freedom Mine office located north of Beulah **at 10:00 a.m., CST on November 8, 2016**. The North Dakota Game and Fish Department is the surface owner of the property and it is located in portions of the N1/2 of Sections 16 and 17 of T145N, R86W, Mercer County. The bond release application contains 128.8 acres of Recreation Land that includes 13.3 acres of reclaimed wetlands. This property is part of the Harmony Lake Recreation Area. A DVD containing a copy of the bond release application is enclosed.

Also enclosed is a memo that outlines the role of the Wetlands Advisory Committee and a copy of the Wetlands section of the Public Service Commission's Revegetation Success Standards. Contact Guy Welch at 701-328-2298 if you plan to attend so you can be contacted in case of cancellation or weather delay. If you have any questions, please contact this office.

Sincerely,

A handwritten signature in blue ink, appearing to read "James R. Deutsch".

James R. Deutsch  
Director  
Reclamation Division

Enclosures



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October 26, 2016

Mr. Jeffrey Fleischman, Chief  
Denver Field Division  
Office of Surface Mining  
PO Box 11018  
150 East B Street  
Casper, WY 82602-5004

Dear Mr. Fleischman:

The Reclamation Division has scheduled a field inspection for final Bond Release Applications No. 6 and 7 to Surface Coal Mining Permit NACT-9101 at the Coteau Properties Company's Freedom Mine. You or a representative from your office are invited to participate in this inspection. We will meet at the Coteau Freedom Mine office located north of Beulah **at 10:00 a.m., CST on November 8, 2016.**

Bond release application No. 6 contains 128.8 acres of Recreation Land that is part of the Harmony Lake Recreation Area. This application contains northern portions of Sections 16 and 17 of T145N, R86W, Mercer County and it includes reclaimed section line roads. The North Dakota Game and Fish Department is the surface owner of the property. Bond release application No. 7 contains 30.6 acres of land located in a portion of the SE1/4 of Section 21, T145N, R86W, Mercer County. This property is owned by Coteau and it consists of cropland and County Road No. 27 right-of-way. These bond release applications do not contain federal coal tracts.

Contact Guy Welch at 701-328-2298 if you plan to attend so you can be contacted in case of cancellation or weather delay. If you have any questions, please contact this office.

Sincerely,

A handwritten signature in blue ink, appearing to read "James R. Deutsch".

James R. Deutsch  
Director  
Reclamation Division



**Public Service Commission**  
**State of North Dakota**

COMMISSIONERS

Susan E. Wefald, President  
 Kevin Cramer  
 Tony Clark

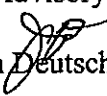
Executive Director  
 Blona A. Jeffcoat-Sacco

**PUBLIC SERVICE COMMISSION**  
**Reclamation Division**

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 Phone 701-328-2400

**Memorandum**

**TO:** Wetlands Advisory Committee  
**FROM:**  Jim Deutsch, Reclamation Division  
**DATE:** August 20, 2007  
**SUBJECT:** Wetlands Advisory Committee

The Wetlands Advisory Committee was formed in the mid 1980's to help the Reclamation Division establish final bond release revegetation success standards for reclaimed wetlands on surface coal mined land in North Dakota. The Commission adopted reclaimed wetland success standards in 1988. These success standards are listed in Section II-H of the Standards for Evaluation of Revegetation Success and Recommended Procedures for Pre and Postmining Vegetation Assessments document, a copy of which is attached. The reclaimed wetland success standard includes an on-site inspection by the Commission and the Wetlands Advisory Committee members.

The Falkirk Mining Company submitted a final bond release application that includes two reclaimed wetlands. Thus, the Wetlands Advisory Committee will be asked to participate in the final bond release inspection and review the bond release application to help us determine if the final bond release success standards have been achieved, in accordance with our requirements.

The Wetlands Advisory Committee initially included representatives from USFWS, NDGFD, UND and NDSU. Representatives from UND and NDSU are no longer participating as members of the Advisory Committee and have been replaced by NRCS and a conservation group, North Dakota Natural Resource Trust. The Wetlands Advisory Committee presently consists of the following organizations.

ND Natural Resource Trust  
 (Attn: Mr. Terry Allbee)  
 1605 E. Capitol Avenue, Suite 101  
 Bismarck, ND 58501-2102

U.S. Fish and Wildlife Service  
 (Attn: Terry Ellsworth)  
 3425 Miriam Avenue  
 Bismarck, ND 58501-7926

NRCS State Office  
 (Attn: Mr. David Dewald)  
 220 E. Rosser Avenue  
 Bismarck, ND 58502-1458

ND Game and Fish Department  
 (Director's Representative)  
 100 N Bismarck Expressway  
 Bismarck, ND 58505

## WETLANDS

The following sections refer to the immediate wetland basin, and its characteristic vegetation, unless otherwise stated.

### Requirements for Successful Vegetation

For fish and wildlife habitat, where the vegetation type is wetland, vegetation zones and dominant species must be equal to those of the approved standard at the time of final bond release. In addition, wetland permanence and water quality must meet approved standards [NDAC 69-05.2-22-07(4)(g)].

### Wetland Classification

Wetlands are classified according to the system of Stewart and Kantrud (1971). The use of prairie wetlands by waterfowl is strongly influenced by water characteristics, i.e., permanence, depth, and chemistry, and by land use. The complex interrelationships of these parameters are reflected in vegetation characteristics, including: life form, cover interspersion, species composition and species dominance. Vegetation zones in wetlands are distinguished by a unique community structure or life form, and a unique assemblage of plants. Since these characteristics are readily discernible in the field, they have been used as the principal criteria for classification. Stewart and Kantrud describe seven wetland classes. They are:

- Class I      ephemeral ponds; deepest part of the pond basin supports low-prairie vegetation;
- Class II     temporary ponds; deepest part of the pond basin supports wet-meadow vegetation;
- Class III    seasonal ponds and lakes; deepest part of the pond basin supports shallow-marsh hydrophytes, often with peripheral wet-meadow and low-prairie zones;
- Class IV    semi-permanent ponds and lakes; deepest part of the pond basin supports deep-marsh hydrophytes, often with peripheral shallow-marsh, wet-meadow and low-prairie zone;
- Class V     permanent ponds and lakes; permanent open-water zone of submergent hydrophytes, often with peripheral deep-marsh, shallow-marsh, wet-meadow and low-prairie zones;
- Class VI    alkali ponds and lakes; intermittent shallow saline water alternating with salt flats in the central zone, often with peripheral shallow-marsh, wet-meadow, and low-prairie zones; and
- Class VII    fen (alkaline bog) ponds; central zone represented by fen vegetation, often with peripheral wet-meadow and low-prairie zones.

For mining permit applications submitted prior to January 1, 1987, all premine Class III-VI wetlands had to be identified and replaced. Class I and II wetlands did not have to be identified nor were specific plans for replacement needed. Fen ponds (Class VII wetlands) are

unlikely to occur in the mining regions of North Dakota; however, if fen ponds do occur, they must be treated on a site specific basis.

For mining permit applications submitted after January 1, 1990, the NRCS will be consulted during the wetland inventory and identification process. This is required to ensure compliance with the Wetland Conservation Provisions of the 1985 Food Security Act and the 1990 Food Agricultural, Conservation, and Trade Act. Consultation with the State Game and Fish Department and U.S. Fish and Wildlife Service is also recommended during the wetland inventory and identification process. Required notification must be given to the Army Corps of Engineers.

The success standards that follow apply to all Class III through VI wetlands. The total acreage of postmine wetlands, including Class I and II prior to final bond release, for the mine must equal the total premine acreage.

#### **Premining Assessment**

1. Identify and show all Class I-VII wetlands on a map or aerial photograph (scale 1:4800) [NDAC 69-05.2-08-08(l)(a)(5)(b)].
2. For Class III-VII wetlands, tabulate total acreage of each wetland class for each surface owner within the proposed permit area [NDAC 69--05.2-08-08(l)(b)(1)].
3. For Class I and II wetlands provide the total acreage, list land use and extant vegetation. If these wetlands are tilled, indicate the crop normally grown.
4. Identify Class III wetlands, which are sampled. Wetlands sampled must be based on the number present, distribution and variability. Sample numbers, must be approved by the Commission.
5. For sampled Class III wetlands and all Class IV-VI wetlands, provide:
  - a. A description of vegetation zones or plant communities, identified by ecological dominant or co-dominant species, through the use of a line drawing of appropriate scale. Where premine wetlands, are disturbed by land use management, a discussion of the succession phase should be included.
  - b. A narrative describing the relationship among vegetation, soils and surface and groundwater hydrology in the wetlands as well as observed or historical anthropomorphic use.
  - c. A species list for each vegetation zone or plant community, which includes date(s) evaluated.
  - d. An assessment of surface water quality. Sampling Class IV-VII wetlands should be conducted two times per year, at high and low water, to reflect seasonal variation [NDAC 69-05.2-08-07(3)(b)]. Class III wetlands should be sampled

## FISH AND WILDLIFE HABITAT II-H-7

once a year, in the early spring. A composite sample of three grabs should be taken from Class III wetlands, whereas a minimum of three randomly located samples should be taken from Class IV-VI wetlands and reported as a mean and range. The number of years, that data is collected, must be approved by the Commission based on distribution and variability of wetlands. Results of this water quality analysis together with a discussion regarding the effects of water quality on extant vegetation should be provided. Water quality data must include:

- (1) Total dissolved solids;
  - (2) Specific conductance in mmhos/cm<sup>3</sup>;
  - (3) Major cations (calcium, magnesium, sodium and potassium);
  - (4) Major anions (bicarbonate, carbonate, sulfate and chloride);
  - (5) Total suspended solids;
  - (6) pH;
  - (7) Total iron; and
  - (8) Any additional parameters (e.g., selenium) as determined on a site specific basis.
6. Provide a narrative describing the nature and variability of the vegetation of each wetland class [NDAC 69-05.2-08-08(l)(d)].

### Postmining Assessment

#### Third-Stage Bond Release

The following information must be submitted for each reclaimed wetland when making third-stage bond release requests:

1. An aerial photograph (1:4800) which delineates reclaimed wetland basins and contiguous postmining land uses (if fish and wildlife habitat is the contiguous land use, vegetation types must be delineated).
2. A narrative which describes any plugging, seeding, respread of topsoil containing wetland species propagules, or other practices that were used to establish vegetation of the wetland basin [NDAC 69-05.2-12-12(7)(a)].
3. Evidence of vegetation zone development and adequate establishment of wetland vegetation [NDAC 69-05.2-12-12(7)(a)]. Include the following information:
  - a. A low altitude aerial photograph;

## FISH AND WILDLIFE HABITAT II-H-8

- b. A detailed map to accompany the aerial photograph which delineates vegetation zone (if identifiable);
  - c. A descriptive narrative of each vegetation zone or plant community identified; and,
  - d. A species list for each vegetation zone or plant community identified.
4. A demonstration that erosion is being adequately controlled by the established vegetation in the contiguous vegetation types or land uses [NDAC 69-05.2-12-12(7)(b)]. Data required for the appropriate vegetation types within fish and wildlife habitat or land uses must be submitted.
  5. All other information as required by NDAC 69-05.2-12-12.

### **Success Standards for Third-Stage Bond Release**

An on-site inspection by Commission personnel, the Wetlands Advisory Committee and landowner will be conducted following a request for third-stage bond release. [Personnel from the U.S. Fish and Wildlife Service, North Dakota Game and Fish Department, North Dakota State University, and the University of North Dakota will be invited to participate on the Wetlands Advisory Committee.] The wetland basin must exhibit the capacity to hold water. This can be shown by the establishment of wetland vegetation. Ground cover in the contiguous vegetation types or land uses must be adequate to control erosion to avoid sedimentation into the wetland basin. The extent of the contiguous area will be evaluated on a site specific basis to ensure that an adequate buffer zone is provided. Erosion control must be demonstrated as described for third-stage bond release requirements of the appropriate vegetation type(s), or appropriate land uses.

### **Fourth-Stage Bond Release**

The following information should be submitted for each reclaimed wetland when making fourth-stage bond release requests:

1. An aerial photograph of adequate scale which delineates reclaimed wetlands and adjacent land uses (or vegetation types within fish and wildlife habitat land use) proposed for bond release. In tabular form, include the acreage of the wetland(s).
2. A narrative which describes any plugging, seeding, or respread of topsoil containing wetland species propagules or other practices that were used to establish vegetation and any management employed thereafter [NDAC 69-05.2-12-12(8)(b)].
3. A brief description of the wetland design including the class (Stewart and Kantrud 1971) the wetland was designed to become.
4. A measure of the surface water quality (using methodology described for the premine assessment) for the last three years of the liability period, including:

## FISH AND WILDLIFE HABITAT II-H-9.

- a. Total dissolved solids;
  - b. Specific conductance in mmhos/cm<sup>3</sup>;
  - c. Major cations (calcium, magnesium, sodium and potassium);
  - d. Major anions (bicarbonate, carbonate, sulfate and chloride);
  - e. Total suspended solids;
  - f. pH;
  - g. Total iron; and,
  - h. Any additional parameters (e.g., selenium) as determined on a site specific basis.
5. A postmining topography map which delineates the entire watershed of the wetland basin.
  6. Data on quality, quantity and dates of any water pumped into the wetland basin.
  7. Documentation that the vegetation of the reclaimed wetland exhibits vegetation characteristics of the wetland class it was designed to become. This information must be submitted annually to the Commission or at the time of bond release and include data collected during each of the last three years of the liability period. Each year's data must include:
    - a. A low altitude, preferably low oblique, aerial photograph;
    - b. A detailed map to accompany each aerial photograph which delineates identifiable vegetation zones;
    - c. A plant species list of each vegetative zone which ranks the occurrence of each species (i.e., very rare, occasional, abundant, very abundant, subdominant, dominant); and,
    - d. A descriptive narrative which characterizes each vegetation zone.
  8. All other information as required by NDAC 69-05.2-12-12.

### **Success Standards for Fourth-Stage Bond Release**

An on-site inspection by Commission personnel, the Wetlands Advisory Committee and landowner will be conducted following a request for final bond release. The wetland basin must exhibit the degree of permanence for the class for which it was designed (based on water supply from normal year precipitation as described by the ND Water Commission or based on basin configuration and the 50% annual water yield from the contributory watershed), to ensure the required acreage replacement. All, or nearly all, of the watershed must have final grade approval

## FISH AND WILDLIFE HABITAT II-H-10

and additional water (e.g., water pumped in) must not be added to the wetland basin for the last five years of the liability period. A natural system must be present in order to evaluate the class size and ensure sufficient potential water supply.

A successfully revegetated wetland basin must exhibit vegetation zones dominated by native, perennial, emergent and submergent hydrophytes appropriate for the abiotic characteristics of the intended class. This will be determined by comparison with species lists for vegetation zones as listed by Stewart and Kantrud (1971), and with premine species lists. Species diversity, seasonal variety and regenerative capacity of species present on the reclaimed wetland must be similar to those in the zones listed by Stewart and Kantrud. Small zones of vegetation from a more permanent wetland class (i.e., deep-marsh emergent and submergent hydrophytes) are acceptable in a portion of a Class III wetland basin. Ground cover in the contiguous area must meet the appropriate ground cover standards for erosion control to avoid sedimentation into the wetland basin. The extent of the contiguous area will be provided on a site specific basis to ensure that an adequate buffer zone is evaluated. Water quality parameters will be evaluated based on recommendations from the Wetlands Advisory Committee.