



# Public Service Commission

## State of North Dakota

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July 19, 2017

Ms. Sarah Flath  
Environmental Manager  
Coteau Properties Company  
204 County Rd. 15  
Beulah, ND 58523

Dear Ms. Flath:

The Reclamation Division has reviewed Coteau's May 19<sup>th</sup> response to our technical review letter dated December 14, 2017 for pending Final Bond Release Application No. 7 to permit NACT-9101. The following items must be resolved prior to this office recommending Commission action. The follow-up items listed below reference our initial technical review letter dated December 14, 2016.

Since the CVSS is a dynamic document subject to change over time (e.g. the current pending update of the Revegetation Success Standards Document will likely require changes to the CVSS), all relevant information currently in the CVSS used to develop the reclamation success standards for this bond release tract must also be included in the bond release application to document the performance standards that were used. In other words, the current unadjusted regional standard values in the CVSS may change in the future making it difficult to determine how revegetation success was demonstrated once the CVSS values has been changed. Therefore, relevant information in the CVSS must be included in the bond release application. Please note that this information was provided in previous bond release applications.

### **Attachment VII – General Information**

1. Follow-up to Item No. 7: Please consider revising the narrative added in the fourth paragraph under the heading Surface Water Hydrology Assessment to improve clarity. As a suggestion to assist the reader, the third sentence could be revised to more clearly state the conditions related to sediment transport on the reclaimed tract can be inferred by comparing crop yields for lands managed under the same type of farming and conservation practices normal to the area. (RLK)
2. Follow-up to Item No. 8: Please provide additional background narrative describing the pre- and post-mining conditions for the watershed containing the bond release tract. Also, please identify the watershed drainage outlet (or control point) and its location in relation to the bond release tract. The Surface Water Hydrology Assessment narrative should reference the post-mine hydrologic assessment completed for Final Bond Release No. 3 to NACT-9101 and briefly describe the relationship to the reduction in acreage identified for the drainage area pertaining to this bond release tract. (RLK)

3. Follow-up to Item No. 8: The second and third paragraphs under the heading Surface Water Hydrology Assessment appear to alternate statements pertaining specifically to the bond release No. 7 tract and the entire larger watershed area. Please revise to more clearly identify statements specific to the bond release tract and those related to the entire drainage area that includes this bond release tract. (RLK)

**Attachment VIIIa – Vegetation Management and Production**

4. Follow-up to Item No. 13: Please correct the statement that incorrectly indicates, “Year ten of the liability period was 2007”. Year ten of the revegetation responsibility period would have been 2008 if the most recent revegetation initiation date occurred in 1999. (GAW)
5. New Item: The management subsection of Attachment VIIIa states that the bond release tract was initially hayed for a period of about 10-years and then the tract was seeded to spring wheat and harvested. Please include a discussion about the crops normally produced on prime farmland in the surrounding area as required by NDAC 69-05.2-26-05(3)(f) and indicate if the crops being used to prove reclamation success on reclaimed prime farmland are the same as those typically grown on undisturbed prime farmland in the area. (GAW)
6. Original Item No. 14: As indicated on page 3 of the Addendum to Final Bond Release Application, please provide a soils map of the pre-mine area used to derive the standard that includes pre-mine land use and property ownership. If a portion of Sheet 5 from Section B-8 in the CVSS is used for the map, please revise so the soil mapping units along the north boundary of the tract are legible. Include a table of the acreages of the soil mapping units for the bond release tract and the calculations used to derive the standard. Also, update page 3 of the Addendum to Final Bond Release Application appropriately. (ZAB/GAW)
7. Follow-up to Item No. 15: The third paragraph under the heading Revegetation Success in Attachment VIIIa states the reclaimed tract ~~was seeded to~~ hard red spring wheat each year from 2011 to 2015 but the reclaimed cropland survey for 2015 indicates that hard red winter wheat was grown on the reclaimed tract. Also, please review the June 25, 2015 flyover photographs and video; the crop on the control area tract 18Wolf7 appears to be a different crop or a vastly different crop stage than the crop growing on 18Wolf5 and 6. Please review and revise the crop information as appropriate. (RLK)
8. Original Item No. 16: Please provide a discussion in Attachment VIIIa justifying why it is acceptable to include undisturbed land in the whole field harvest and explain how the undisturbed land is accounted for when determining reclamation success of the disturbed portions of the tract. (GAW)
9. Original Item No. 18: As briefly mentioned in Attachments VI and VIIIa, the proposed bond release application contains 1.4 acres associated with County Road 27, of which a portion was disturbed by mining activities. Please discuss the reclamation activities associated with this road and either provide ground cover data for the road ditch as required for Other Land Uses in Section I of our Revegetation Success Standards document, or explain why it is not necessary in this instance. (GAW/RLK)

10. Original Item No. 19: Attachment VIIIb, Cropland Productivity Standards, includes prime and non-prime farmland unadjusted yield values for the undisturbed cropland in the tract (field). Unadjusted yield values of undisturbed lands are not included in the CVSS. Please include soil mapping unit acreage information and a table showing how the unadjusted yield standard was calculated as listed in Step 1 of Attachment VIIIb in the bond release application. In addition, Step 1 of Attachment VIIIb incorrectly indicates that the weighted average yield of the undisturbed prime farmland soil mapping units is only 22.4 bu/ac. (GAW/RLK)

**Attachment VIIIc – Yield Calculations and Test Weight Comparison**

11. Follow-up to Item No. 27: Please review the photography (IMG\_1621) and video from the 2015 fly-over inspection that appears to show a substantial difference in the crops growing on the eastern and western portions of the control area and revise Attachment VIII as appropriate. It appears that canola was grown on the eastern portion of the control area. (RLK)
12. Follow-up to Item No. 28: The 2015 yield calculation for the reclaimed tract was not updated to reflect the dockage and test weight information provided on the elevator scale ticket replacement in Attachment VIIIId. Please revise the yield calculations for the 2015 crop year as appropriate. (RLK)
13. Follow-up to Item No. 29: The cropland survey form added for 18WOLF7 for 2012 does not appear to agree with the photography (562.jpg) from the 2012 fly-over inspection. Please review and revise Attachment VIII as appropriate. (RLK)
14. New Item: Please consider using a consistent crop field area for the bond release tract. There does not appear to be much difference in the field boundary during the years evaluated for demonstrating productivity. However, the stated acreage is reported differently each year and exceeds the total cropland acres identified in the bond release tract for the 2013 crop year. It appears that the consistently cropped area of the bond release tract is approximately 28 acres. (RLK)

**Attachment VIIIId – Control Area and Reclaimed Area Cropland Surveys**

15. Original Item No. 22: Please include a bookmark for each item in Attachment VIIIId, Control Area and Reclaimed Area Cropland Surveys, so that the information is understandable. It is currently not entirely clear which year is being represented with the maps, elevator samples and receipts. We mistakenly included this item under attachment VIIIc in our December 14, 2016 letter. (GAW)
16. Gerald Wolf indicates that the Section 18 control area produced 1500 bushels of wheat in 2015 but a scale ticket value, 1175.3 bushels, was used to develop the standard. Please correct the Control Area Cropland Survey that was signed by Gerald Wolf since this is the value that must be used to demonstrate revegetation success and include an explanation in the comments section of this survey to clarify why he originally indicated the tract produced 1500 bushels of wheat. This survey may also need to be updated to address Item No. 11 above. (GAW)

Ms. Sarah Flath

July 18, 2017

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17. Follow-up to Item No. 24: Please include separate unadjusted cropland productivity standards for each strip in the Luella & Gerald Wolf cropland control area located in Section 18 since only portions of this cropland control area are being used to demonstrate revegetation success. If the unadjusted standard values are very similar ( $< 1$  bu/ac.) for each strip in the field then the average of the whole control area may be used to demonstrate revegetation success. Otherwise productivity values for each strip will need to be used and this information must be included in the bond release application. (GAW)

If you have any questions, please contact this office.

Sincerely,



Dean K. Moos  
Director  
Reclamation Division