

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

FREEDOM MINE

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September 20, 2017

Mr. Dean K. Moos
Director Reclamation Division
Public Service Commission
600 East Boulevard Avenue
Department 408
Bismarck, ND 58505-0480

Dear Mr. Moos:

Enclosed are three discs containing Final Bond Release #7 to Permit NACT-9101. Responses below refer to technical deficiencies in your July 19, 2017 letter:

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.

Calculations and standards from the CVSS used to determine revegetation success have been included in Attachment VIIIb.

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)*

This paragraph has been revised for clarity.

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)

A reference to the Consolidated surface Water Monitoring Assessment for Coal Creek and Bond Release #3 to NACT-9101 has been added to the narrative. In addition Attachment VIIa, Pre- and Post Mine Surface Water Management Map FBR #7, will be added to the bond release package, to identify the Pre and Post Mine Watersheds, Control Point 19-1, mining and associated disturbance boundaries.

- 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)*

These paragraphs were revised and reorganized to clarify the bond release tract from the watershed. Please see deficiency #2 for further details.

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)*

The year has been corrected to 2008.

- 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)*

A citation of this code and discussion has been added to Attachment VIIIa.

- 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)*

A pre-mine soils map has been added as Attachment VIIIe. In addition, acreages and calculations used to derive the production standards have been added to Attachment VIIIb. Page 3 of the Addendum to Final Bond Release Application has been updated appropriately.

- 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)

The Revegetation Success section has been revised to state that winter wheat was grown on the reclaimed tract in 2015. Sunflowers (not spring wheat) were grown on the field identified as 18WOLF7. This has been corrected on the crop reporting forms (Attachment VIIIId) and in the calculations in Attachments VIIIb and VIIIc.

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)*

As with previous bond release applications, productivity from undisturbed areas was included in the weighted calculation for the unadjusted yield standard. This statement has been added to Attachment VIIIa; the unadjusted yield standard calculations have been added to Attachment VIIIb.

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)*

Actual construction details regarding the road have not been added to the bond release package; the road was reconstructed using standard road construction methods and additional detail is not necessary as Mercer County has inspected and approved this reclaimed road. Ground cover data is not necessary as this land use of Road does not have cover requirements, nor was cover data taken prior to mining. Ground cover is adequate so surface water runoff does not contribute settleable solids to the watershed of the bond release tract.

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)*

Unadjusted yield standard calculations have been included in Attachment VIIIb. As shown in the calculations, the prime farmland weighted average yield is 22.4 bu/ac.

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)

Sunflowers (not spring wheat) was grown on the field identified as 18WOLF7. This has been corrected on the crop reporting forms and in the calculations in Attachments VIIIb and VIIIc.

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 VIIIc. Please revise the yield calculations for the 2015 crop year as appropriate. (RLK)*

The 2015 test weight and dockage for the reclaimed Section 21 bond release tract have been updated, resulting in a change to the average yield. This information has been updated in Attachments VIIIa, VIIIb, and VIIIc.

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)*

The producer has verified that what was added for 18WOLF7 is correct; no revisions have been made.

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)*

Acreage used is the acreage reported by the producer, which may vary year to year due to cropping into road ditches, etc. No changes were made.

Attachment VIIIc – Control Area and Reclaimed Area Cropland Surveys

15. *Original Item No. 22: Please include a bookmark for each item in Attachment VIIIc, 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)*

Bookmarks have been included in Attachment VIIIc; however there may be compatibility issues with the program Coteau uses (Foxit) and the program the PSC uses.

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)*

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Sunflowers were grown on the control field 18WOLF7. Based on this, the data originally reported by the producer has been corrected on the crop reporting form included in Attachment VIIIId. In addition, calculations in Attachments VIIIb and VIIIc have also been updated.

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 portions of the Section 18 control area were not grown to the same crop as the bond release tract, that portion of the control area was not included in the weighted yield calculation. In 2015 and 2013, yields from the 18WOLF fields were not reported separately, so separate calculations are not possible. In 2012, yields from 18WOLF5, 18WOLF6, and 18WOLF7 were reported separately and calculations were made accordingly. Average yields for each section of control area were essentially the same, so an average for all three sections of the field was calculated.

If you have any questions, please contact me.

Sincerely,

THE COTEAU PROPERTIES COMPANY



Kayla Torgerson
Environmental Specialist

KBT:ajh
Enc.

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