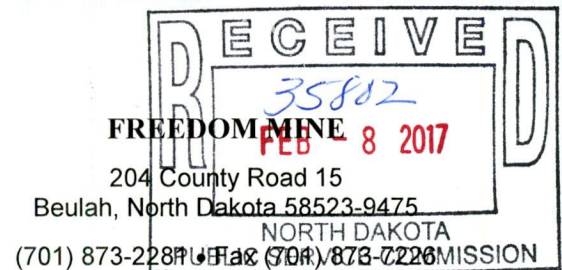


**THE COTEAU**  
**PROPERTIES COMPANY**  
A SUBSIDIARY OF THE NORTH AMERICAN COAL CORPORATION



February 8, 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 Revision 33 to Permit NACT-9101. This revision updates introductory information, legal information, business entity/compliance information, identification of interests and rights of entry, operations plan – general, operations – surface water management, post-mining land use and revegetation, reclamation – general, and post-mining wetlands for Renewal 5 of this permit. In addition, approximately 478 acres in Sections 9 and 10, T145N, R87W, currently permitted in Permit NACT-9001, are proposed to be added to permit NACT-9101. These acres lay within the Renner Trench with no recoverable coal reserves. The surface is currently disturbed in support of a haulroad leading to coal reserves east of County Road 21. The addition of these acres to Permit NACT-9101 will aid in the consolidation of permits at The Freedom Mine. Since this permit is being submitted in electronic format with this revision, Revision 33 supersedes and replaces all previous paper copies of Permit NACT-9101. Also enclosed is the original renewal application form and the original revision application form.

The following changes have been made in response to your December 21, 2016 letter:

**Section 1.0 – Introductory Information**

- 1. Please provide an updated Consolidated Legal Information Report covering Sections 1.3.1 (Ownership and Control Information), 1.3.2 (Current Permits and Permit Applications), and 1.3.3 (Schedule of Violations) referenced in the NACT-9101 permit if there are any changes to ownership and control information, the list of current or previous coal mining permits held during the past five years, or the schedule of violation notices in the past three years since the most recent consolidated report dated August 31, 2016. (WTG)*

Per email correspondence between Ms. Belinda Coleman, The North American Coal Corporation, and Mr. Dean Moos, dated January 11, 2017, The Reclamation Division



Tract No.	Address change to surface and/or coal ownership	Corporate officers and/or registered agents change	Documentation added Leases, WD, AOE	Easement information updated	Leasehold status change	Note added	Ownership change to surface and/or coal	Tract added or tract description changed
19							X	
23					X			
24			X					
26			X					
27			X					
28			X					
29						X		
30		X						
31					X	X		
19							X	
23					X			
24			X					
32			X					
33	X		X					X
35			X (text only)					X
39		X						X
39-A						X		
40		X			X	X		X
41					X	X		
46								X
50	X						X	
51							X	
53	X	X	X				X	
56	X							
59						X		
61			X			X		
62	X							
63						X		X
64						X	X	
65			X			X		
66						X		
67						X		
68						X		
69					X	X		
70					X	X		
71		X			X	X		
72		X						
75		X						
80			X					X
81			X					X

**SECTION 1.5.3** SURFACE AND COAL OWNERSHIP MAP

The surface and coal ownership map was updated to reflect the changes noted in the sections above.

4. *Please update Section 1.5.4 (Easements) with easements and leasehold interests, other than coal, of record within the permit boundary if any changes have occurred since the most recent updates with Revision No. 32. (WTG)*

**SECTION 1.5.4** EASEMENTS AND LEASEHOLD INTERESTS, OTHER THAN COAL, OF RECORD

Following is a table identifying updates to individual Tracts.

Tract No.	Easement information updated	Note added	Tract added or tract description changed
1	X		X
2	X	X	X
3		X	
5	X		
7	X		
10	X		
11	X		
12	X		
13	X		
14	X		
15	X		X
21	X		
22	X		
23	X		
24	X		
26	X		
28	X		
31	X		
32	X		
33	X	X	X
34		X	
35			X
36		X	
37		X	
39	X		X
39-A		X	
40			X
41	X		X
43		X	
44		X	
45		X	
46			X
47		X	
48		X	
49		X	
50	X		
51	X	X	X
52		X	
53		X	X
54		X	
55	X		X
56	X	X	X
57		X	

Tract No.	Easement information updated	Note added	Tract added or tract description changed
58		X	
59	X	X	X
60		X	
61	X		
63	X		X
63A		X	
64	X		
65	X		
66	X		
68	X		
69	X		
70	X		
71	X	X	X
72	X	X	X
73		X	
74		X	
78	X		
79			X
80	X		X
81	X		X

**Section 3.0 – Operation Plans**

- If the Mining and Associated Disturbance table provided on page 1 of Section 3.1.1 requires updating, please provide those updates at this time as required by NDAC 69-05.2-09-01(2). (BEB/WTG)*

The mining and associated disturbance table of Section 3.1.1 has been updated to reflect changes in timing of the mining in Permit NACT-9101.

- Please update the surface water narrative in the second paragraph on page 2 of Section 3.1.1, in particular regarding sedimentation pond P-D18-01 that has since been reclaimed. (BEB)*

The surface water narrative in Section 3.1.1 has been updating by deleting the portion of the narrative associated with Pond P-D18-01. As stated, the pond has been reclaimed and the information deleted provided no historic significance since the temporary diversion were reclaimed with the surrounding areas as normal reclamation proceeded. Therefore, the section of text will be deleted from the permit.

- Statements in several areas of the Operations Narrative in Section 3.1.1 describe the potential for mining of federal coal tracts in portions of the Sections 6, 8, and 18, T145N, R86W. Please review and update those narrative statements commensurate with the May, 2016 relinquishment of the federal coal lease by BLM for these tracts. (BEB)*

The Operations Narrative in Section 3.1.1 has been updated to discuss the relinquishment of the federal coal mine lease in May, 2016.

8. *If necessary, please update the Coal Production Schedule in Section 3.1.4 to reflect actual production values through 2016 and anticipated production for the next permit term. [NDAC 69-05.2-09-01(1)] (BEB/WTG/BAJ)*

The Coal Production Schedule of Section 3.1.4 was updated to reflect the actual production values through 2016 and the projected production for the next permit term.

9. *If necessary, please update the List of Equipment in Section 3.1.5. [NDAC 69-05.2-09-01(1)] (BEB/WTG)*

The List of Equipment in Section 3.1.5 has been revised as requested.

10. *As required, please update the Pit Layout and Facilities Map of Section 3.1.6 to reflect any changes to depleted or new SPGM and overburden stockpiles, sedimentation ponds and diversions, haulroads and dragline trails, pit progression and years of mining, and any other applicable updates that may have occurred since the map was last updated with Revision No. 32. (BEB/WTG)*

The Pit Layout and Facilities Map, Section 3.1.6, has been updated to reflect the current mining conditions.

11. *The Pit Layout and Facilities Map indicates that portions of Sections 11 and 14 will be mined beginning in 2025 through 2029, but the Extended Mining Plan Map, Section 3.1.7, indicates that this area will be mined 2019 through 2022. Please review and revise to provide clarity as to whether or not this area will be mined during the next term of the permit. Mining year differences were also noticed between these maps for areas to be mined in Sections 13, 5, and 6. Please review and update as needed. (GAW)*

Both Section 3.1.6, Pit Layout and Facilities Map, and Section 3.1.7, Extended Mining Plan Map, have been updated to reflect the current mining schedule.

12. *Please replace the Extended Mining Plan Map in Section 3.1.7 to depict the most recent Freedom Mine Extended Mining Plan Map and depict the areas that have been mined through 2016 per NDAC 69-05.2-07-01. (BEB/WTG/BAJ)*

Section 3.1.7, Extended Mining Plan Map, has been updated to reflect mining through 2016.

13. *Please review and update if necessary the sedimentation pond reclamation schedule of the General Water Management Plan in Section 3.6.1. [NDAC 69-05.2-09-09(1)(d)] (BEB/BAJ)*

Section 3.6.1, General Water Management Plan, has been updated to reflect timing in construction and removal of sedimentation ponds.

11. *Similar to the review request of the Pit Layout and Facilities Map, please review the Surface Water Management Plan Map, Section 3.6.2, and update as necessary to provide current information in the permit to include stockpiles; water management structures; and haulroads (Sections 2 and 18) that may have occurred since the map was last updated with Revision No. 32. [NDAC 69-05.2-09-09] (WTG/BEB)*

Section 3.6.2, Surface Water Management Plan Map, has been updated as requested.

**Section 4.1 – Post-Mining Land Use and Revegetation**

12. *The narrative discussing post-mining land use changes for Section 2 states that a pre-mining shelterbelt in Section 2 will be replaced as a woodland in this same section, but the Post-Mining Topography and Land Use Map identifies the tree planting in the NW1/4 of Section 2 as a shelterbelt. Please review and revise to clarify as necessary. (GAW)*

The discussion regarding Section 2 has been revised to clarify that a shelterbelt will be planted, rather than a woodland.

13. *Please revise the Section 8 narrative of Section 4.1.1 to clarify if spring/seeps have formed in the southwest corner of the NE1/4 of Section 8 and discuss if this area will accommodate annual tillage or if a portion of this area should be considered as wetland acreage. Please also clarify when shelterbelt planting SB-08-04 will be planted. Perhaps Coteau should consider replacing this acreage elsewhere to expedite final bond release. (GAW)*

The spring/seep in the southwest corner of the NE $\frac{1}{4}$  Section 8 did not run last year (2016); it is anticipated that the area will be able to be cropped this year. The area will be evaluated this spring to determine if a land use change is necessary. Shelterbelt planting SB-08-04 will be planted as determined by Coteau based on other planting and replacement planting schedules as well as yearly budgets. An exact date is not known at this time.

14. *Please revise the Section 9 narrative in Section 4.1.1 to discuss permanent diversion D09-02 located in the NW $\frac{1}{4}$  Section 9 and the grassed waterway in the SW $\frac{1}{4}$  Section 9. Although a drainage way in the NW1/4 was considered a pre-mining grassed waterway, Diversion D09-02 is lined with cattails and other aquatic vegetation to the point that perhaps this acreage should be considered a wetland. Please revise the Section 9 narrative to mention this permanent diversion and its land use and discuss the constructed grassed waterway in the SW1/4 of Section 9. (GAW)*

Additional language was added to the Section 9 discussion referencing Permanent Diversion D-D09-02. To date, this area has not been delineated as a wetland. Coteau will examine the area during the growing season of 2017 to determine if the land use around the diversion should change to wetland.

15. *The Section 11 narrative in Section 4.1.1 of the permit states that the pre-mining shelterbelt associated with the abandoned farmstead will be replaced in Sections 7 and 8. Please review the mining disturbance boundary and revise to clarify if these pre-mining shelterbelts have been or will be disturbed. The Pit Layout and Facilities Map, Section 3.1.6, appears to indicate that the area associated with the shelterbelts will not be mined. (GAW)*

The pre-mining shelterbelts in Section 11 will be disturbed by mining; the text has not been changed.

16. *Please update the Section 15 East narrative in Section 4.1.1 to clarify if reclaimed cropland located in the NW1/4NW1/4 of Section 15 is being adversely impacted by high water levels in the adjacent, undisturbed wetland. Recent aerial photography appears to show about 8.5 acres of reclaimed cropland, including some reclaimed prime farmland, being impacted by surface water ponding. Please explain how Coteau plans to address this loss in reclaimed prime farmland (i.e., there can be no loss of prime farmland acreage). (GAW)*

A discussion regarding wetland encroachment in Section 15 has been added to the text. As currently delineated, the wetland has not impacted prime farmland respread, but will continue to be monitored.

17. *Please update Section 4.1.1 to include a separate discussion for Section 17 as has been done for all other sections of land in this Permit. Language in the Section 16 narrative does include some information about Section 17 but the wetland discussion includes outdated information, (i.e. wetlands CW-08-03 and CW-17-13 will be separated by a road). Please revise to provide clarity. (GAW)*

The Section 17 heading was mistakenly included in the Section 16 discussion, rather than being on a separate line to indicate a new heading. This error has been corrected so it is clear which discussion pertains to Section 17. The discussion regarding wetlands separated by a road grade has been updated to include the correct wetland numbers.

18. *Please consider moving replacement shelterbelt SB12-03 from the NE1/4 of Section 12 to the W1/2 of the SE1/4 of Section 12 so that the wildlife habitat value of these trees will not be lost for decades. It appears that the NE1/4 of Section 12 contains life-of mine support features that will remain in place for an extended period of time. (GAW)*

Shelterbelt SB12-03 was not moved as its current location provides the best run-on topography for a tree planting.

19. *The developed spring in the SE1/4 of Section 8 is a constructed land use feature that will likely be on the landscape indefinitely and similar to a constructed stockpond or wetland, the location of this feature should be depicted on the Post-Mining Topography and Land Use Map, Section 4.1.2. (BEB)*

The developed spring in Section 8 has been added to the Post-Mining Topography and Land Use Map of Section 4.1.2.

20. *Please update Section 4.1.2 (Post Mining Topography and Land Use Map) to depict actual prime farmland respread areas that have been respread since the map was last updated with Revision No. 32. (WTG)*

Section 4.1.2 has been updated with actual prime respread.

#### **Section 4.1.3 – Land Use Acreage Comparison Table**

21. *Please review the land use subcategory acreage amounts listed in the note at the bottom of the Table in Section 4.1.3 to ensure the values listed are accurate. It appears the wetland acreage value should be greater due to changes in the reclamation plan. (GAW)*

The note regarding land use subcategories around Harmony Lake has been removed from Section 4.1.3. The note is not necessary as the land use is covered in the table and the land around Harmony Lake has been bond released.

#### **Section 4.1.5 – Revegetation Procedures and Establishment**

22. *Please review the revegetation plan and update if necessary to ensure that it continues to reflect what is actually currently occurring. The first paragraph on page 2 of Section 4.1.5 states that sweet clover may be used as a green manure crop. Perhaps this language should be updated if this is not actually occurring and a discussion about using a cocktail mixture of species should be included. (GAW)*

Sweet clover is still used in seed mixes as a green manure crop and has not been removed from the discussion. Discussion and a sample seed mix regarding the cocktail mix has been added to Section 4.1.5.

23. *The first paragraph on page 12 of Section 4.1.5 states that up to three patches of buckbrush will be reclaimed in the permit area. Please update this paragraph to clarify when this was accomplished and depict these features on the Post-Mining Topography and Land Use Map or a separate map. (GAW)*

Discussion regarding buckbrush has been removed from Section 4.1.5 as the plans for reclamation have changed and buckbrush will not be replaced as previously described.

24. *Please review the Redisturbed Spoil Enhancement subsection on page 12 of Section 4.1.5 and update to clarify what actually occurred, since all mining activities adjacent to orphan spoil has been completed. The existing language states that no SPGM will be respread on these areas but pending Final Bond Release Application No. 6 states that 8 inches of subsoil and 4 inches of topsoil were respread on areas of redisturbed orphan*

*spoil. This subsection also states that approximately 20 small wetlands will be created in these areas. Please revise to document what has actually occurred. (GAW)*

The Redisturbed Spoil Enhancement section has been updated to describe the SPGM respread and wetlands that actually exist in the area.

25. *Please review the acreage amounts listed in Table 1, Pre- and Post-Mining Woodlands and Shelterbelt Summary, in Section 4.1.5 and include cumulative or total values in both parts of the Table. The first page indicates that 37.1 acres of trees were disturbed but the total disturbed value on page 2 of the Table indicates that 35.4 acres were disturbed. Similarly, page 1 of the Table indicates that 18.8 acres will be replaced, but page 2 of the Table states that 19.8 acres will be replaced. This table indicates that SB-08-01 is 3.9 acres in size but a portion of this planting was affected by DGC's wetland mitigation plan and SB-08-04 is not included in the Table. Please review and revise to provide clarity and consistency. (GAW)*

Table 1 of Section 4.1.5 has been revised for consistency and updated to include changes.

26. *Please update Section 4.1.5 to include actual "As-Planted" design plans for all of the tree plantings that have occurred to date in this permit so that the revegetation performance standards for each planting can be calculated as required by NDAC 69-05.2-09-11(6). (GAW)*

The planting description on page 10 of Section 4.1.5 is what was actually planted in shelterbelt plantings within the permit area. Requested changes were not made.

#### **Section 4.1.9 – Antelope Creek Recreation Area Plan**

27. *Please review Section 4.1.9, Antelope Creek Recreation Area Plan, and update the reclamation plan as necessary to ensure the information provided concurs with what was actually completed for that portion of the Recreation Area remaining in the permit. The language under subsection Future Considerations on page 6 of 4.1.9 states that the mesic and standard seed mixture will be planted on the disturbance north of Harmony Lake, but pending Final Bond Release No. 6 indicates that an Orphan Spoil seed mixture that is not listed in Table 2, Recreation Area Seed Mixes, was actually planted. The Harmony Lake Recreation Area Lake and Land Use Map, Section 4.1.10, shows that created wetlands CW-17-04 and CW-17-03 will be 1.5 acres and 4.0 acres in size but the Post-Mining Topography and Land Use Map, Section 4.1.2, indicates that these wetlands are 2.6 and 4.6 acres in size, respectively. The Harmony Lake Recreation Area Lake and Land Use Map shows that created wetland CW-17-03 is to back up water into Section 8 where created wetland CW-8-3 is located but this wetland is not depicted on the Post-Mining Topography and Land Use Map. The recreation area map contains a label indicating that created wetland CW-17-04 will have a bottom elevation of 1960 feet but the wetland design in Section 5.1.4 shows a bottom elevation of 1956 feet. Please review Section 4.1.9 and Section 4.1.10 and update so the information is accurate and consistent*

*between various sections. (GAW)*

A note has been added to Section 4.1.9 indicating that it is included for historical purposes only and additional information can be found in the bond release package.

#### **Section 4.2.1a – Reclamation Schedule**

28. *Please update, if necessary, Section 4.2.1a – Reclamation Schedule. If there are any changes to the reclamation variances, please update those as well and provide the appropriate justification for any variance. (BAJ)*

The Reclamation Schedule, Section 4.2.1a, has been updated for the next permit term.

#### **Section 5.1 – Post-Mining Wetlands**

29. *The last sentence of the second paragraph in the Temporary Wetland Replacement subsection on page 7 of Section 5.1.1 states that temporary wetlands that have formed...have already been identified on reclaimed areas. Please review this narrative discussion and revise to provide a meaningful evaluation of the temporary wetland acreage that needs to be replaced in this permit and include a map or table that will allow one to determine where this acreage is actually going to be replaced. Temporary wetland acreage has already been bond released and a formal method of tracking this acreage is needed to monitor and track the replacement acreage in this permit area. Please revise the permit to provide this information. (GAW)*

Temporary wetland acreage will be accounted for during the bond release process. Coteau is aware that we are responsible for replacing these acres and has shown in the past that current methods utilizing differential settling result in adequate, if not additional, acres of replacement temporary wetlands.

30. *Please review the post-mining wetland acreage values listed in Table 1, Pre-Mining versus Post-Mining Wetland Comparison Table on page 8 of Section 5.1.1, to ensure the values listed compare with the actual constructed design values. Wetland CW-07-02 is listed as being 1.5 acres but the value listed on the Post-Mining Topography Map indicates it is 2.2 acres in size. Similar differences were found with wetlands CW-08-01 and CW-17-03. Please review and revise as necessary to provide accurate and consistent information. (GAW)*

Table 1, Section 5.1.1, has been updated to ensure listed values are actual constructed or design values.

Mr. Dean K. Moos  
February 8, 2017  
Page 12 of 12

If you have any questions, please contact this office.

Sincerely,

THE COTEAU PROPERTIES COMPANY

A handwritten signature in black ink, appearing to read "Mark V. Haugen". The signature is written in a cursive, flowing style.

Mark V. Haugen  
Engineering Manager

AJH  
Enc.

cc: Shana Brost, Mercer County Auditor (w/ encl.)