



# Public Service Commission

## State of North Dakota

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November 7, 2018

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 September 6, 2018 request for a variance from the 10-year revegetation responsibility period for 312 acres of land located in portions of Sections 1, 2, and 3 of Surface Coal Mining Permit NACT-9001. As mentioned during our meeting on October 11, 2018, the variance request does not provide sufficient information for each reclamation tract, nor is each reclamation bond release tract identified or compared in relation to the surrounding reclamation bond release tract. Specifically the variance request must include the following information:

1. Divide the variance request area into bond release tracts or subtracts based on surface ownership and land use.
2. Identify the acreage of reclaimed land and the acreage of variance area within each bond release tract or subtract and discuss the size of the variance area in relation to the bond release tract or subtract. For example, reclaimed cropland in Sections 1, 2, and 3 will need to be evaluated independently in relation to the field to which they are attached.
3. Identify the watershed boundaries, coal removal boundary, and type(s) of associated disturbance within each variance area and discuss why reclamation was delayed in each area. Areas associated with sediment ponds, access roads, haul roads, SPGM stockpiles and other features that prevented contemporaneous reclamation should be depicted on a map.
4. Calculate the length of time (months/years) being requested for each variance area, i.e. years reclaimed in relation to 10-year revegetation period.
5. The variance request must affirmatively demonstrate that reclamation carried out on the proposed variance area provides equal or greater protection to the environment and to public health and safety. This can be accomplished by including vegetation sampling

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data or summary statistics for each variance request area to demonstrate reclamation success.

As discussed during our meeting on October 11<sup>th</sup>, Policy Memorandum No. 20 to Mine Operators states that primary haul roads and associated disturbances that remain in use for many years following reclamation of the surrounding lands will not be considered for a variance, but segments of haul roads may be eligible for a variance. The Reclamation Division is willing to consider a variance request for primary haul roads on areas reclaimed to native grassland but it is questionable whether a variance from the 10-year revegetation responsibility period should be approved for primary haul roads reclaimed to cropland in areas where coal was removed.

If you have any questions, please contact this office.

Sincerely,



Dean K. Moos  
Director  
Reclamation Division