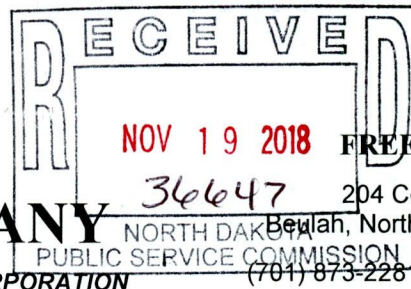


# THE COTEAU PROPERTIES COMPANY

A SUBSIDIARY OF THE NORTH AMERICAN COAL CORPORATION



FREEDOM MINE

204 County Road 15

Beulah, North Dakota 58523-9475

PUBLIC SERVICE COMMISSION

(701) 873-2281 • Fax (701) 873-7226

November 16, 2018

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 DVDs containing Revision 22 to Permit NACT-0201. This revision identifies the coal removal subarea that will be mined during the next five year permit term, and updates introductory information, legal information, business entity/compliance information, identification of interests and rights of entry, geology, surface water hydrology, soil resources, operations – general, surface water management, post-mining land use plans, revegetation procedures, establishment, and management, post-mining wetlands, and post-mining stockponds for renewal #3 of this permit.

### Section 1.2 – Legal Information

1. Please review Section 1.2.7 – Relation to Mining - Prohibited Areas, and update as necessary to show Mercer County approval to mine within 100 feet of section lines and public roads that are to be affected during the next term of the permit. The Pit Layout and Facilities Map, Section 3.1.3, shows mining during the next permit term through roads not yet closed according to the Proposed Section Line and Road Closures and Setback Waivers Map, Section 1.2.7.1. A special permit condition requires that Coteau provide the PSC with copies of the road authority's approval documents to close, relocate or mine within 100 feet of an outside right-of-way. [NDAC 69-05.2-04-01.3(2)(c)] (GAW)

Section 1.2.7.1, Section Line and Road Closures and Setback Waivers Map, has been updated to show recently closed section lines and approvals to mine within 100 feet of section lines and public roads. In addition, approval documents have been added to Section 1.2.9, Mercer County Section Line Right-of-Way Closure and Setback Waiver Documents.

### Section 1.3 – Business Entity/Compliance Information

2. 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-0201 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 1, 2018. (WTG)

This information was provided by Belinda Coleman, North American Coal, on October 18, 2018, via FedEx delivery.

3. Please update Section 1.3.5 (Other Licenses and Permits) as required by NDAC 69-05.2-06-04 if there are any changes to the listings since the most recent update with Revision No. 20. (WTG/BEB).

Section 1.3.5, Other Licenses and Permits, was revised as requested.

**Section 1.5 – Identification of Interests and Rights of Entry**

4. Please update Section 1.5.1 (Permit Area Surface and Coal Interests) required by NDCC 38-14.1-14(1)(c)(2) and make the corresponding updates to Section 1.5.3 (Surface and Coal Ownership Map) to indicate any ownership changes since the most recent updates with Revision No. 20. (WTG/BEB/GAW)

The tract summary was updated and following is a table identifying updates to individual Tracts.

Tract No.	Address change to surface and/or coal ownership	Corporate officers and/or registered agents change	Documentation added – Lease, Warranty Deed, AOE, Continuation Provision, or Other	Easement information updated	Leasehold status change	Note added or removed	Ownership change to surface and/or coal	Tract added or tract description changed
1				X			X	
1-A				X				
1-B				X				
2							X	
2-A				X				
2-B							X	
3	X							
4	X							X
4-A	X			X				
5				X			X	
5-A				X				
5-B				X			X	
6				X		X		X
6-A				X				
7	X			X			X	
8			X	X	X		X	
9	X		X	X	X		X	
10	X						X	
12			X	X	X		X	
13				X				
14				X				
16	X			X				
17	X			X				
18			X	X	X		X	X

Tract No.	Address change to surface and/or coal ownership	Corporate officers and/or registered agents change	Documentation added – Lease, Warranty Deed, AOE, Continuation Provision, or Other	Easement information updated	Leasehold status change	Note added or removed	Ownership change to surface and/or coal	Tract added or tract description changed
19								X
20	X			X			X	
21				X				X
21-A				X				
21-B				X			X	X
22				X				
23				X				
23-A				X				
23-B				X				X
24				X	X	X		X
24-A				X				
24-B				X				
25				X			X	X
25-A				X				
25-B				X			X	X
26				X	X		X	X
26-A				X				X
26-B				X				
26-C								X
27				X				
28	X			X				
29				X			X	
30	X			X				
30-A				X				
31	X			X			X	
32				X		X		
33				X				
34				X				
35				X				X
35-A				X				
36				X				X
36-A				X				
41							X	
42	X			X				
43				X				
45		X						
46	X			X				
48				X				
48-A				X				
49	X			X				

Tract No.	Address change to surface and/or coal ownership	Corporate officers and/or registered agents change	Documentation added – Lease, Warranty Deed, AOE, Continuation Provision, or Other	Easement information updated	Leasehold status change	Note added or removed	Ownership change to surface and/or coal	Tract added or tract description changed
51	X			X				
52		X		X				
54		X		X				
55							X	
56				X				
57				X			X	
58				X				
59	X			X				
60				X			X	
61	X			X			X	
62				X				
63				X				X
64				X				
65				X				
65-A				X				
66	X			X			X	
67				X			X	
68			X	X	X		X	
69				X				
72	X			X			X	
73				X				
74				X			X	
75	X			X				
76				X		X		
77	X			X		X		X
78				X				
79				X				
80	X			X				
81	X			X				
81-A	X			X				
82	X			X			X	
83				X				
84	X			X			X	
85				X				
86				X				
87				X				
89	X						X	
90	X			X				
91				X				
94	X							
95				X		X		

Tract No.	Address change to surface and/or coal ownership	Corporate officers and/or registered agents change	Documentation added – Lease, Warranty Deed, AOE, Continuation Provision, or Other	Easement information updated	Leasehold status change	Note added or removed	Ownership change to surface and/or coal	Tract added or tract description changed
96				X			X	
97				X				
98				X			X	
101				X				
104				X				
105	X			X			X	
106	X			X			X	
107	X			X			X	
109	X	X		X			X	
110	X			X				

5. Please update Section 1.5.2 (Adjacent Surface and Coal Ownership and Leasehold Information) required by NDAC 69-05.2-06-01(1)(a) and make the corresponding updates to Section 1.5.3 (Surface and Coal Ownership Map) to indicate any ownership changes since the most recent updates with Revision No. 20. (WTG/BEB/GAW)

The surface and coal ownerships were updated to reflect current ownership and leasehold information in Section 1.5.2. The surface and coal ownership map of Section 1.5.3 was updated to reflect the changes noted in Sections 1.5.1 and 1.5.2.

**Section 2.2.4 – Surface Water Probable Hydrologic Consequences**

6. Please review the hydrologic reclamation plan to ensure that it specifically addresses any potential adverse impacts identified in the probable hydrologic consequences determination for mining activities that are to occur during the next term of the permit, and that it contains preventive and remedial measures for those impacts as required by NDAC 69-05.2-09-12. (GAW)

Section 2.2.4 was updated slightly to accommodate concerns raised with Revision 21. This included a slight change to the post mining topography in Sections 3 and 10, T145N, R88W. Sections 2.2.4.1, 2.2.4.2, and 2.2.4.3 were updated to reflect this change.

**Section 2.3 – Ground Water Hydrology**

7. Aquifer Potentiometric Maps provided for lignite seams within the permit (Sections 2.3.3.1, 2.3.3.2, 2.3.3.3 and 2.3.3.4) have not been updated in almost four years. We request that you update the maps for this renewal, in particular because of significant changes to some aquifer water levels associated with ground water drawdown from pumping operations that have been ongoing in Section 11 of MA3 for a couple of years now. (BEB)

The potentiometric maps of NACT-0201 were updated in Revision 18 of 0201; however, the only changes to those maps was the adjusted permit boundary of NACT-0201. To preserve the baseline data that the permit was built on and due to the loss of a large number of monitoring wells that have been abandoned due to mining, these maps will not be changed. However, the hydrographs for the

monitored seams original to the permit have been updated under Section 2.3.5 to show the ground water potentiometric surface changes over the entire history of each well through the 4<sup>th</sup> Quarter of 2017. Up-to-date hydrographs through the 4<sup>th</sup> Quarter of 2017 for eight Beulah seam monitoring wells and nine Spaer seam monitoring wells inside the NACT-0201 permit boundary that were not original to the permit were added to these sections as well. Any ground water drawdown in the Beulah seam in MA3 due to mining is indicated by the hydrographs. Also, updated MA3 potentiometric maps and be found in the 2015, 2016, and 2017 Annual Ground Water Monitoring Reports of the Consolidated Ground Water Monitoring Plan.

8. *We ask that the MA3 and MA4 Potentiometric Map that is provided in the 2015 Annual Ground Water Monitoring Report also be placed in Permit NACT-0201. This map was last updated in December 2016 and the significance of placing it in the permit is because to our knowledge this is the only potentiometric surface map that depicts water levels of the upper and lower units of the Antelope Creek Alluvial Aquifer, of which a significant portion of the aquifer is bounded by Permit NACT-0201. Whether or not you update this map to reflect more current (2018) water levels is at your discretion. (BEB)*

A new potentiometric map of the upper and lower units of the Antelope Creek Aquifer, utilizing 4<sup>th</sup> Quarter of 2017 levels, has been created and added under new sections, Section 2.3.3.5 Antelope Creek Aquifer Potentiometric Map-Upper Unit, and Section 2.3.3.6 Antelope Creek Aquifer Potentiometric Map-Lower Unit. Also, hydrographs of the upper and lower units of the Antelope Creek Aquifer through the 4<sup>th</sup> Quarter of 2017 have been created and added under a new section, Section 2.3.5.5, Antelope Creek Aquifer Monitoring Well Hydrographs.

9. *If additions or modifications have been made, please update the Summary of Certified Wells and Springs Information spreadsheet in Table 1 of Section 2.3.7.1 and the Summary of Probable Impacts of Mining on Certified Wells and Springs in Table 2 of Section 2.3.7.2. The last update to these tables was with Revision No. 18 in 2014. (BEB)*

Updates have been made to Table 1 of Section 2.3.7.1, and Table 2 of Section 2.3.7.2.

10. *Please review the Ground Water Probable Hydrologic Consequences in Section 2.3.8 and provide any narrative updates that may be deemed necessary regarding active mining that is now occurring in Mine Area 3. In addition to any narrative updates, some of the hyperlinks provided toward the end of the section appear cut-off and are generally illegible. (BEB)*

The narrative has been updated in Section 2.3.8, Ground Water Probable Hydrologic Consequences.

**Section 2.7.3 – Fish and Wildlife Resources**

11. *Please review and update Section 2.7.3, Fish and Wildlife Resources Mining Impacts, to discuss potential adverse impacts to all currently listed threatened and endangered species and species proposed for listing on lands to be affected during the next term of the permit. Please also revise the permit to include updated information about any planned disturbance to lands designated or proposed as critical habitat for threatened, endangered and proposed species or the proposed proximity of the permit area to designated or proposed critical habitat. [NDAC 69-05.2-11-01(2) and NDAC 69-05.2-13-08] (GAW)*

Species that are currently proposed for listing will be evaluated upon their listing under the ESA. Coteau will address the species at that time and incorporate any surveys required by law. Currently, there is no designated or proposed critical habitat within Permit NACT-0201. Coteau feels that the current language within the permit is in compliance with NDAC 69-05.2-11-01(2) and NDAC 69-05.2-13-08. No further information has been added.

12. *Please update Section 2.7.3, Fish and Wildlife Resources Mining Impacts, to include a discussion about the Rusty Patched Bumblebee since this species has been listed as an endangered species and its range includes North Dakota. [NDAC 69-05.2-11-01(2) and NDAC 69-05.2-13-08] (GAW)*

The Rusty patched bumblebee has been listed as an endangered species, but is not listed in Mercer County. In the event that Mercer County is included in the Rusty patched bumblebee's range, Coteau will address the species at that time and incorporate any surveys required by law.

13. *Please update Section 2.7.3, Fish and Wildlife Resources Mining Impacts, to discuss whether the permit area includes habitat for the monarch butterfly and regal fritillary. The USFWS has received petitions to list these species and has made a "substantial finding" which means the petition provides enough information to substantiate that listing these species may be warranted. The Reclamation Division recommends that the surveys be completed for these species if the permit or adjacent area contains suitable habitat. [NDAC 69-05.2-11-01(2) and NDAC 69-05.2-13-08] (GAW)*

Species specific surveys will be implemented (if necessary) once the species is listed on the ESA. Incidental sightings of these species will be documented within Coteau's incidental observation reporting program.

14. *Please update the Protection, Enhancement and Management Plans in Section 2.7.3 to ensure compliance with NDAC 69-05.2-09-17(1) during the next term of the permit. NDAC 69-05.2-09-17(1) requires a plan that will be used during active mining that must include protective measures for fish and wildlife resources, and a plan that must include enhancement measures that will be used during the reclamation phase to develop aquatic and terrestrial habitat. (GAW)*

Coteau feels that the current language within Permit NACT-0201 is in compliance with NDAC 69-05.2-09-17(1). No further information has been added.

### **Section 2.8 – Cultural Resources**

15. Please thoroughly review all cultural resource sections of the permit and update as necessary. Several sites on the Cultural Resource Summary Table in Section 2.8.2 are noted as “Cleared through Data Recovery 7/23/14”, however, there is no SHPO correspondence provided in the permit for that date. Additionally, eligible site 32ME108 is listed in the table as “Cleared Through Reinternment 7/10/14, but there is no SHPO correspondence provided for that date although there is reference to that project in 1/7/2015 correspondence. If any portion of the Cultural Resource Summary Table in Section 2.8.2 needs updating, please do so at this time. (BEB)

The sites listed as “Cleared through Data Recovery 7/23/14” were granted SHPO approval with the correspondence currently included from 1/7/15. Additional changes were made to the Cultural Resource Summary Table in Section 2.8.2.

16. Portions of eligible cultural resource site 32ME156 will be mined through during the next permit term (2024). The mitigation strategy listed for this site in Section 2.8.2 is “Excavation, Other Site Avoidance”. Please provide us with Coteau’s plan and timeline for either avoidance or excavation of this NRHP eligible site. (BEB)

This site will be excavated prior to any mining disturbance following methods outlined in the Cultural Resource Management Plan for the West Mine Area. SHPO approval will be forwarded to the PSC and included in the permit once granted.

17. Historic cultural resource site 32ME727 is listed in the Cultural Resources Summary Table as “Foundations (burial?)” and the mitigation strategy is listed as “If Burial Exists, Relocate.” However, the Pit Layout and Facilities Map depicts a headstone icon with the description “Possible White Burial Site – 100’ Setback”. If permanent avoidance of this site is Coteau’s long-term plan, please update the summary table with that information. (BEB)

Site 32ME727 was cleared through reinternment on 8/31/05. This was updated in the summary table and SHPO correspondence dated 11/10/05 was included as page 29 in Section 2.8.5.

### **Section 2.9 – Climatological Information**

18. Section 2.9.2, Air Quality, references the ND Department of Health’s 2013 Annual Report and we ask that you please update if more current data is available. (JSP)

Section 2.9.2 has been updated with information for the ND Department of Health’s 2017 annual report.

### **Section 3.1.1 – Operations/Reclamation Narrative**

19. A sentence in the second paragraph of the first page of Section 3.1.1 states that the total acreage in the proposed permit areas is 17,051 acres, more or less. Please revise the paragraph to clarify that the permit area now contains approximately 17,170.7 acres. [NDAC 69-05.2-11-01(2)] (GAW)

Section 3.1.1 was revised as requested.

20. *Please provide a table of approximate mining activity disturbances listed by permit phase and mine area in Section 3.1.1 (Operations/Reclamation Narrative) as required by NDAC 69-05.2-09-01(2), similar to the approximate disturbance table listed on page 1 of Section 3.1.1 (Operations Narrative) in Permit NACT-9101. (WTG)*

A table listing the mining and associated disturbances by permit phase was added to Section 3.1.1 as requested.

21. *Please update the second paragraph on page 3 of Section 3.1.1.2, which discusses federal mine plan approval for the federal coal in Sections 10 and 14. The existing language is outdated. [NDAC 69-05.2-11-01(2)] (GAW)*

Language in this portion of Section 3.1.1.2 was updated as requested.

22. *Please update the Overburden Stockpiles table on page 5 of Section 3.1.1.2 to indicate constructed or depleted overburden stockpiles located in Mine Area 1 or Mine Area 3. [NDAC 69-05.2-11-01(2) and NDAC 69-05.2-09-02(4)] (GAW/WTG)*

Table in Section 3.1.1.2 regarding overburden stockpiles was updated as requested.

23. *Please review the paragraph regarding cultural resource site 32ME727 on page 7 of Section 3.1.1.2 and update if any changes are planned during the next term of the permit. SPGM removal may occur near the burial site during the next term of the permit. [NDAC 69-05.2-11-01(2) and NDAC 69-05.2-04-01.1(5)] (GAW)*

No changes are planned at this time.

24. *The last sentence in the Human Burials and National Register of Historic Places Eligible Sites subsection on page 8 of Section 3.1.1.2 states that site boundaries within the first 10 years of mining are shown on the Pit Layout and Facilities Map of Section 3.1.3. Please revise this narrative so that it covers the next term of the permit. [NDAC 69-05.2-11-01(2)] (GAW)*

Language in this paragraph was updated to cover the next term of the permit.

25. *A sentence in the first paragraph of the Federal Coal subsection of Section 3.1.1.2 states that coal leases and royalty reductions have been obtained for the first 20 years of mining. The Pit Layout and Facilities Map in Section 3.1.3 shows mining of federal coal beyond the first 20 years. Please revise the narrative as appropriate. [NDAC 69-05.2-11-01(2)] (GAW)*

Section 3.1.1.2 has been revised as requested.

26. *A sentence in the Fugitive Dust Control Plan on page 9 of Section 3.1.1.2 mentions that an overland coal conveyor from Coteau's East Mine Area eliminated potential haulage dust. Please revise to clarify how this historic information is relevant to current mining activities in Permit NACT-0201. [NDAC 69-05.2-11-01(2)] (GAW)*

Sentence mentioning overland coal conveyor was removed since coal conveyor is no longer in use or relevant to this permit.

27. *Please update Section 3.1.1.2, Mining Methods Narrative, to include a discussion about how Coteau, during the next term of the permit, will be using the best technology currently available, minimize impacts to wildlife and avoid disturbance to habitats of high value to wildlife. Please discuss methods that will be used to avoid woodlands in areas where coal is not going to be removed. [NDAC 69-05.2-13-08(6)] (GAW)*

Additional discussion on this topic was added under the Associated Disturbance subheading in Section 3.1.1.2. Coteau's impacts and minimization and mitigation strategies are also discussed in Section 2.7 as well as the Consolidated Wildlife and Habitat Monitoring Plan.

28. *A sentence that begins at the bottom of page 2 and continuing at the top of page 3 of Section 3.1.1.3 states that a variance from contemporaneous reclamation requirements may be needed near the section corner common to Sections 9, 10, 15 and 16, T144N, R88W. This area is not within the permit. Please review and revise as necessary. [NDAC 69-05.2-11-01(2)] (GAW)*

The sentence has been updated to reflect the correct township and range; T145N, R88W. In addition, Variance Area 3 was update to reflect the final location of the cessation pit.

29. *Please review the Reclamation Procedures and Schedule, Section 3.1.1.3, and update to reflect current conditions and changes anticipated during the next term of the permit. Narrative describing reclamation activities that have occurred in the past should be updated accordingly with dates when operations were completed. [NDAC 69-05.2-11-01(2)] (GAW/BEB/WTG)*

The Reclamation Procedures and Schedule in Section 3.1.1.3 has been updated to reflect current conditions and changes anticipated during the next term of the permit.

30. *Please update the Coal Production Schedule in Section 3.1.1.4 through the next permit term as required by NDAC 69-05.2-09-01(1). (WTG)*

The Coal Production Schedule in Section 3.1.1.4 has been updated.

31. *If necessary, please update the Consolidated Blasting Plan that is referenced in Section 3.1.1.7 to reflect changes to the occupied residence status within the permit since the Consolidated Blasting Plan was last updated and any other changes expected during the next five-year term of the permit. (JSP)*

Section B-2 and Section C-4 were updated to show the Blevin's residence was purchased by Coteau.

### **Section 3.1.3 – Pit Layout and Facilities Map**

32. *Please update the Pit Layout and Facility Map, Section 3.1.3, to show current field conditions and proposed mining advances. This may include, but not limited to, new or expanded SPGM and overburden stockpiles; haul roads, water management structures, buildings, facilities, utilities and pit sequence changes including the proposed Section 11 box pit location and the location of the NDSU research project tract in the permit area. The Pit Layout and Facility Map must clearly identify the next 5-year coal removal subareas as required by NDAC 69-05.2-09-02(3). (BEB/JSP/WTG)*

The Pit Layout and Facility Map, Section 3.1.3, has been updated to show current field conditions and proposed mining activities.

33. *The Pit Layout and Facilities Map, Section 3.1.3, depicts cultural resource site 32ME1571 that will be mined through during the next permit term in 2020 as requiring mitigation and SHPO approval prior to mining disturbance. However, the Cultural Resources Summary Table in Section 2.8.2 indicates that this site was cleared through data recovery (7/23/14). Please review and update either the Pit Layout and Facilities Map or the cultural resources section of the permit as necessary. (BEB)*

Site 32ME1571 was cleared through data recovery as indicated in Section 2.8.2. SHPO correspondence dated 01/06/15 is included in Section 2.8.5. Section 3.1.3 has been updated to show that this site has been cleared.

34. *Please review the Pit Layout and Facilities Map, Section 3.1.3, and revise to show future electric substation locations in MA3. [NDAC 69-05.2-11-01(2) and NDAC 69-05.2-09-02] (GAW)*

The future substation location is shown on the Pit Layout and Facilities Map, Section 3.1.3, near the south section line of Section 15 in MA3.

35. *Please review and update the mining disturbance boundary on the Pit Layout and Facilities Map in Section 3.1.3 for the next term of the permit and for areas where mining has been completed. [NDAC 69-05.2-11-01(2) and NDAC 69-05.2-09-02] (GAW)*

The mining disturbance boundary on the Pit Layout and Facilities Map in Section 3.1.3 has been updated. The boundary for Reclamation Variance Area 3 has also been updated.

36. *Please include overburden stockpile identification numbers on the overburden stockpiles located in MA3 on the Pit Layout and Facilities Map in Section 3.1.3. [NDAC 69-05.2-11-01(2) and NDAC 69-05.2-09-02] (GAW)*

The existing overburden stockpiles located in MA3 on the Pit Layout and Facilities Map in Section 3.1.3 have been labeled. Future overburden stockpiles have been labeled as well.

37. *Please revise the Pit Layout and Facilities Map, Section 3.1.3, to depict the "No Disturbance Boundary" in the W1/2 of Section 4 and Section 9 of T145N, R88W. These areas are labeled as "Undisturbed Significant Sites and Surrounding Land", but the area these sites encompass is not clear. [NDAC 69-05.2-11-01(2) and NDAC 69-05.2-09-02] (GAW)*

The Pit Layout and Facilities Map, Section 3.1.3 has been updated to clearly depict the "No Disturbance Boundary" in the W1/2 of Section 4 and Section 9 of T145N, R88W.

38. *Please revise the Pit Layout and Facilities Map, Section 3.1.3, to depict each habitat area to be used to protect and enhance fish and wildlife habitat as required by NDAC 69-05.2-09-02(11). As Coteau is aware, NDAC 69-05.2-09-17(1) requires a plan that must include protective measures that will be used during active mining and must include enhancement measures that will be used during the reclamation phase to develop aquatic and terrestrial habitat. (GAW)*

No changes have been included in the Pit Layout and Facilities Map to show fish and wildlife habitat enhancement and protection. Fish and wildlife habitat is protected and enhanced by our reclamation procedures and discussed in other areas of the permit, such as Section 3.1.1.3, Section 4.1.1, Section 4.2.1, and Section 4.4.1, among others. In addition, only stripping what is required for mining the following year protects wildlife habitat. As discussed in our Consolidated Wildlife and Habitat Monitoring Plan, wildlife have shown that they relocate to reclaimed areas as we move into a new mining area or adapt and thrive in mining facilities, such as stockpiles and sedimentation ponds.

#### **Section 3.1.4 – Extended Mining Plan Map**

39. *Please update the Extended Mining Plan Map, Section 3.1.4, with the most recent Freedom Mine Extended Mining Plan Map as required by NDAC 69-05.2-07-03. (WTG/BEB)*

The Extended Mining Plan Map, Section 3.1.4 has been updated with the most recent extended mining plan.

#### **Section 3.1.8 – Temporary Cessation of Mining Plan**

40. *Please update the Temporary Cessation of Mining Plan narrative in Section 3.1.8 to provide a past-tense account of the 903-dragline move from Mine Area 1 to Mine Area 3 within the permit. (BEB)*

The Temporary Cessation of Mining Plan narrative in Section 3.1.8, has been updated to provide a past-tense account of 903's mining in MA1.

41. *Please review the Temporary Cessation of Mining Plan, Section 3.1.8, and update if any changes are planned to ensure that transition from active mining to cessation is completed in an environmentally sound manner that minimizes adverse social, economic and environmental effects. This should include adjustments, if necessary, to the actual final location of the cessation pit, reclamation variance area No. 3 and the contingency closure plan contour map, Section 3.1.10. If changes are made to the Temporary Cessation of Mining Plan, these changes should be discussed in the public notice. [NDAC 69-05.2-13-10] (GAW)*

The Temporary Cessation of Mining Plan, Section 3.1.8, has been updated to show the current location of the final 903 pit and adjusted for contingency closure.

#### **Section 3.2 – Transportation Facilities**

42. *Narrative in the last paragraph of Section 3.2.9, Mine Area 3 Haulroad 3-2, states that the north-south section line common to Sections 10 and 11 will be upgraded to provide access to the occupied residence in the SE/4 of Section 10 through 2019. The Pit Layout and Facilities Map does not show an occupied residence at this location. Please review and revise as necessary. [NDAC 69-05.2-11-01(2)] (GAW)*

The residence is no longer occupied as of the fall of 2016. The last paragraph of Section 3.2.9 has been updated.

**Section 3.3 – Surface Water Management**

43. Please update Section 3.3.2 (Surface Water Management Plan Map) to reflect any changes with the status or presence of water management structures; SPM stockpiles; overburden stockpiles; and haul roads that may have occurred since the map was last updated with Revision No. 21 undergoing review as required in part by NDAC 69-05.2-09-02 and NDAC 69-05.2-09-09. (WTG)

Section 3.3.2 was updated as requested.

44. Please update Section 3.3.4 (Pond Construction and Reclamation Schedule) as required by NDAC 69-05.2-09-09(1)(d) if there are any changes to the schedule since the most recent updates with Revision No. 21 undergoing review. (WTG)

Section 3.3.4 was updated as requested.

**Section 4.1.1 – Post-Mining Land Use Plans Narrative**

45. Please review the Native Tree and Shrub Woodland narrative that begins at the bottom of page 3 of Section 4.1.1. The last sentence describes the tree/shrub mixture that is to be planted but only 75% of the mixture is listed. It appears the last half of this sentence was inadvertently removed along with a sentence that states that the planting mixture may vary from year to year depending on species availability and tree and shrub spacing. The first word, “disturbed”, is missing from the first sentence on page 4 of Section 4.1.1. Please review and revise as appropriate to provide clarity. [NDAC 69-05.2-05-02] (GAW)

The last two sentences of page 3, Section 4.1.1 were inadvertently cut off on the last submittal and have been replaced.

46. Please review the Native Tree and Shrub Woodland narrative that begins at the bottom of page 3 of Section 4.1.1 and revise if installation methods or management practices have changed. The Reclamation Division has expressed concerns that some woodland plantings at the Freedom Mine have not established as well as planned because of a combination of factors including, but not limited to, planting date, site preparation, mulching applications and weed control. The Reclamation Division understands that Coteau has experimented with using degradable weed barrier. [NDAC 69-05.2-11-01(2)] (GAW)

This narrative was revised to include changes to our installation methods.

47. Please review the third paragraph on page 4 of Section 4.1.1 that discusses replacing up to three acres of western snowberry on each 160-acre tract of native grassland with a mixture of low and tall shrub species and revise if deemed necessary based on our meeting last spring with ND Game and Fish representatives. During the June 18, 2018 meeting, NDGF representatives indicated that perhaps tall and low shrub planting should be replaced with other wildlife enhancement features, such as pollinator plots. [NDAC 69-05.2-11-01(2)] (GAW)

The narrative about replacing western snowberry has been removed and replaced with a discussion on why it will not be replaced and potential pollinator plantings.

48. Please provide a narrative description of the NDSU Research study entitled "Management Practices to Improve Soil and Vegetation Parameters on Reclaimed North Dakota Coal Mined Lands". The narrative should discuss if a variance from the contemporaneous reclamation requirements, revegetation performance standards or any other mining related regulations are needed or may be needed for this area given the studies' design parameters. The narrative should also discuss whether the study would delay or impede reclamation activities or bond release on the tract or adjacent tracts. (GAW)

A description of the NDSU research project has been included in the Other Concerns subsection of Section 4.1.1.

**Section 4.1.2 – Post-Mining Topography and Land Use Map**

49. Please include the associated disturbance boundary on the Post-Mining Topography and Land Use Map, Section 4.1.2, so that a clear distinction can be made between reclaimed lands and adjacent undisturbed lands. The current Post-Mining Topography and Land Use Map shows a "ND" not disturbed wetland in the NW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 4 of MA1 that the 2017 Annual Mine Map shows as being affected by mining. Please include an associated disturbance boundary on the Post-Mining Topography and Land Use Map and update the permit as necessary to ensure all affected wetlands, woodlands, developed water resources and other important habitats are being replaced as required or as stated will be done in the permit. [NDAC 69-05.2-09-02] (GAW)

The mentioned wetland was removed from Section 4.1.2 as it has been disturbed by mining. The associated disturbance boundary currently shown on the Post-Mining Topography and Land Use Map is accurate; no updates were made.

50. Please update the Post-Mining Topography and Land Use Map, Section 4.1.2, to show the locations on reclaimed land where prime farmland soils have been respread as required by NDAC 69-05.2-09-15(4). Examples are 16.57 acres of prime farmland respread in revised grade approval area WMA-029 in the NE $\frac{1}{4}$  of Section 35. Please also update Section 4.1.2 to remove about 8.8 acres of potential post-mining prime farmland in the NE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 35 in revised grade approval areas WMA-029 and WMA-020 where reclamation is complete and prime farmland was not reclaimed. [NDAC 69-05.2-09-13] (WTG/GAW)

Post-Mining Topography and Land Use Map, Section 4.1.2, was updated to show where prime farmland soils have been respreads as requested.

51. Please delineate and label the NDSU Reclamation Research Plots that are located in the E $\frac{1}{2}$  of Section 31 of Mine Area 1 on the Post-Mining Topography and Land Use Map, Section 4.1.2. [NDAC 69-05.2-05-02 & NDAC 69-05.2-09-13] (GAW)

The NDSU research area was delineated with a yellow dashed line and labeled.

**Section 4.2 – Revegetation Procedures, Establishment and Management**

52. *Please update the second paragraph on page 1 of Section 4.2.1, Narrative, to further clarify instances where native grass seedings will be delayed until a suitably sized tract that will facilitate grazing is reclaimed. The narrative should include language requesting a variance from the 3-year seeding rule, NDAC 69-05.2-22-04. Article NDAC 69-05.2-09-11 requires a plan for the removal and final reclamation of support facilities, a revegetation schedule and general management plans until final bond release, hence this information will need to be analyzed and discussed for each reclamation tract. Parameters for a variance from the 3-year seeding rule will need to be described in the permit to ensure lands respread with SPGM are appropriately managed and protected from erosion during the variance period. The permit should also describe how the revegetation initiation period would be tracked on the Annual Mine Map. (GAW)*

No information regarding delayed native grass seeding has been included in the permit at this time. Additional discussions with the PSC are required before plans can be finalized. Permit changes will be included as necessary

53. *Please revise Section 4.2.2, Seed Mixes, to include seed mixture(s) that will be used in instances where native grassland seedings are delayed one or more growing seasons. The Reclamation Division believes that perennial species should be seeded on all areas except those sites clearly suited as cropland. [NDAC 69-05.2-09-11 (6)] (GAW)*

Coteau's preference will be to seed an annual crop on all delayed native grassland seeding areas. If it is not possible to seed an annual crop, our hayland mixture will be used. No additional seed mixture will be developed. This process will not be implemented until discussions with the PSC are finalized and approval is granted.

54. *Please revise the native grassland seed mixture to include at least three forb species as recommended by NDSU Extension Service publication R1728 entitled Successful Reclamation of Lands disturbed by Oil and Gas Development and Infrastructure Construction. NDAC 69-05.2-13-05 requires use of the best technology currently available. (GAW)*

The native grassland seed mixture has not been revised to include forbs. Previous reclamation has shown that forbs return to the landscape naturally and blanket seeding is not necessary.

55. *Please review the Trees and Shrubs narrative in Section 4.2.3 and update if necessary. The current language mentions western snowberry planting and additional conservation tree plantings. [NDAC 69-05.2-11-01(2)] (GAW)*

Section 4.2.3 has been revised to Coteau's new methods of woodland and shrub replacement.

56. *Please review the Post-Mining Replacement Woodland table in Section 4.2.3.1, and revise if plantings are going to be consolidated or otherwise altered during the next term of the permit. [NDAC 69-05.2-11-01(2)] (GAW)*

Section 4.2.3.1 has been updated based on a differentiation between pre-mining trees and shrubs. Maps detailing this differentiation have been included in Section 4.2.3.2. Additional clarification between pre-mining trees and shrubs has been included in Section 4.1.3. Coteau proposes to replace only pre-mining trees. Shrubs will naturally return to the post-mining landscape. Additional discussion is included in Section 4.1.1.

#### **Section 4.4 – Post-Mining Wetlands**

57. *Please update Section 4.4.2.1, Undisturbed and Disturbed Wetland Acreage Summary Table, to ensure the information is accurately accounting for disturbed wetland acreage and wetland disturbance planned during the next term of the permit as stated on page 1 of Section 4.4.1. [NDAC 69-05.2-11-01(2)] (GAW)*

Section 4.4.2.1 was updated as requested.

58. *Please revise Section 4.4.2.2, Design Parameters for Post-Mining Wetlands, to include detailed design information for wetlands that have been constructed or will be constructed through the end of the next term of the permit. At a minimum, it would appear that design plans are needed for created wetlands CW-W36-01, CW-W36-03, CW-W36-04, CW-W04-01, CW-W04-04 and CW-W04-05. [NDAC 69-05.2-11-01(2) and Revegetation Success Standards Document] (GAW)*

No changes were made to Section 4.4.2.2 as this was updated with pending Revision 21. Revision 21 included design plans and supporting documentation for CW-W36-01, CW-W04-04 and CW-W04-05. Wetlands CW-W36-03 and CW-W36-04 will not be constructed for some time as they lie under the current haulroad. CW-04-01 is located where current pond P-W04-01 is located. We are currently reviewing options for reconstructing this pond and the final configuration of the pond may dictate the configuration of the wetland.

*The nine standard conditions attached to the permit remain in effect. Special Condition No. 2 was satisfied with Revision No. 1 to the permit and Special Conditions No. 1, 3 and 4 remain in effect. A current Certificate of Liability Insurance is on file and expires February 1, 2019. The current total bond amount for this permit and others in the consolidated bond area was last updated with Revision No. 27 to Permit NACT-0401 that was approved on October 19, 2015 and the current bond amount is deemed adequate at this time.*

In addition, the following changes have been made:

1. Section 1.4.5 has been revised.
2. The introductory page and the Certificate of Authenticity of Documents have been updated to reflect the current revision number and date of Section 1.5.
3. Section 2.7.3 was revised.

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4. Sections 3.1.5, 3.1.9, and 4.1.2 were updated to reflect the changes to the post mining topography in Section 10, T145N, R88W associated with the PHC.
5. Section 3.1.1.5 was revised.
6. Sections 3.1.10 and 4.1.6 were updated to reflect the changes associated with the final location of the cessation pit, which also changed the variance area.
7. Section 4.1.7 was updated to reflect the changes made to the contingency closure plan.
8. MSHA Pond P-W08-01 is currently in the design phase and appears a more suitable location lies farther to the south in this drainageway. This however required a section of interment stream to be affected. The location of the proposed pond and affected stream buffer were updated on the Pit Layout and Facilities Map as well as the Surface Water Management Map.
9. Section 3.3.45 and Section 3.3.45.1 were updated to correct permanent pool elevation as stated in the certification letter.
10. Design plans and details for a new Mine Area 3 Haulroad 3-4 have been included in Sections 3.2.10, 3.2.10.1 and 3.2.10.2
11. Section 3.2.9, Haulroad 3-2, have been updated to reflect Phase 1 and Phase 2 construction so the road can be utilized this winter for transporting coal.

If you have any questions, please contact this office.

Sincerely,

THE COTEAU PROPERTIES COMPANY



Joe Spiekermeier  
Engineering Manager

AJH:kt  
Enc.

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