



Public Service Commission

State of North Dakota

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May 22, 2019

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

Dear Ms. Flath:

The Reclamation Division has reviewed Final Bond Release Application No. 8 to Surface Coal Mining Permit NACT-9101 and has determined that prime farmland issues raised with pending Revision No. 35 to Permit NACT-9101 must be resolved prior to this office conducting an inspection of the bond release tract as required by NDCC 38-14.1-17(3). Coteau has not responded to our November 29, 2018 review of pending Revision No. 35 to Permit NACT-9101, or otherwise addressed issues raised regarding reclaimed prime farmland impacted by the expansion of a semi-permanent wetland in the NW1/4 of Section 15, T145N, R86W.

In addition, items 1 through 9 listed below need to be addressed prior to publishing the public notice or mailing the landowner and agency notification letters. Addressing items 10 through 14 at this time may expedite our subsequent review of this application. An inspection of the property will be scheduled after the public notice has been published and landowner notification letters have been sent.

Application Form (SFN 19813)

1. Please revise the bond release application (SFN 19813) to clarify that Coteau is requesting all four stages of bond release, not just fourth stage, and identify each of these stages as required by NDCC 38.14-17(7). Although we allowed similar language with recently approved Final Bond Release 7 to Permit NACT-9101, the application should clearly state that the request is for all four stages of bond release, Stage 1 –backfilling, grading, and drainage control, Stage 2 – SPGM respread, Stage 3 – vegetation establishment and Stage 4 – revegetation success. (GAW)
2. Please revise the bond release application (SFN 19813) to separately identify each tract by surface ownership and provide the acreage associated with each ownership tract. (GAW)

Attachment III: Public Notice

3. Please provide a more precise legal description of the bond release tract in the public notice as required by NDCC 38-14.1-17(1)(a)(1). This may be accomplished by inserting the “W1/2” in front of Section 15 in the first sentence of the public notice. (GAW)

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4. Please indicate the number of acres actually affected by mining activities and reclaimed within the bond release tract in accordance with NDCC38-14.1-17. (RLK)
5. Please depict and label Harmony Lake Recreation Area and Lake on the map included with the public notice as required by NDCC 38-14.1-17 and Policy Memorandum No. 9 to Mine Operators to allow local readers to realize the bond release area. (BEB)

Attachment IV: Letters to Interested Parties

6. Irene Scheid is listed as a surface owner in Attachment IV but the Surface and Coal Ownership Map, Section 1.5.3 of pending Revision 35 to Permit NACT-9101 identifies the owner as Irene Schied, Life Estate with Timothy Scheid and Candace Scheid as Remaindermen. Please revise accordingly. (GAW)
7. The list of adjacent surface owners on page 1 of Attachment IV does not include a complete list of adjacent surface owners according to the Surface and Coal Ownership Map, Section 1.5.3 of pending Revision 35 to Permit NACT-9101. The following individuals or entities are listed as adjacent surface owners on the Surface and Coal Ownership Map in the Permit but are not included in Attachment IV. DeAnn Riegel and Mark Riegel; Lamar Goetz, Garret Goetz, Cynthia Morrison-Lan, Brian Lang, Brian C. Maxim, Sherry Carpenter and Holly Jo Stein; North Dakota Department of Trust Lands; ND Game and Fish Department. (GAW)
8. Gordon Goetz, Irene Wiedrich and Robert Scheid are listed as adjacent surface owners in Attachment IV but these individuals are not identified as adjacent surface owners in Section 1.5.3 of Permit NACT-9101. Please review and correct as necessary. (GAW)
9. Please include State Soil Conservation Committee in the list of Government Agencies to be notified as required by Policy Memorandum No. 9 to Mine Operators. (GAW)

Attachment V: Topographic and SPGM Depths Map

10. Please revise the Topographical and SPGM Depths Map to depict all areas where SPGM was removed and replaced, and provide SPGM respread thicknesses for these areas. This would include the sites of sediment ponds P-D15-01 and P-D15-02 and subsoil piles SS-140, SS-142, SS146, SS-152 and SS-164. The 1996 Annual Mine Map also shows that topsoil and subsoil was to be respread along the east side of the SW1/4 of Section 15. (GAW/RLK)

Attachment VII – Reclamation History

11. Please revise the Reclamation History to clarify if the W1/2 of Section 15 was managed as a single field or individually by surface ownership. Separate revegetation productivity standards were developed for each surface owner, and a map in Attachment Xb identifies two separate fields by ownership, but it appears both tracts were planted and harvested as a single field. The summary yield table near the end of Attachment X shows identical actual yields during two sampled years. If the bond release tract was not harvested separately by surface ownership, then signed waivers from the surface owners are needed agreeing to a combined yield standard, which would then need to be calculated. It is inappropriate to prorate truckloads or otherwise estimate

individual ownership yields from data from the entire W1/2 of Section 15 without appropriate documentation. (GAW)

Consolidated Revegetation Success Standard (CVSS)

12. The cropland productivity standard for the NW1/4 of Section 15 of T145N, R86W is for Irene Wiedrich but Bond Release Application No. 8 indicates that Brandley and Camey Gunsch own the property. Please correct this error in the CVSS and include appropriate unadjusted standard information in the bond release application. (GAW)
13. The cropland productivity standard for the SW1/4 of Section 15 of T145N, R86W is for Robert Scheid but Bond Release Application No. 8 indicates that the property is owned by Irene Scheid Life Estate with Timothy Scheid and Candace Scheid as Remaindermen. Please correct this error in the CVSS and include appropriate unadjusted standard information in the bond release application. (GAW)
14. Coteau is using a Gerald Wolf cropland control area in Section 6 of T145N, R86W to demonstrate revegetation success in 2014 and 2017, and Gerald Wolf's cropland control area in Section 18, T145N, R86W to demonstrate revegetation success in 2015. Ideally, the same control area would be used to climatically adjust yields to demonstrate revegetation success and if different control areas are being used in different years then ample justification is needed to clearly demonstrate the reclaimed and control areas were managed the same during the revegetation responsibility period. Please provide adequate justification as to why a single control area is being used to demonstrate revegetation success. (GAW)

The Reclamation Division will need an AutoCAD file that depicts the boundaries of the proposed bond release tract prior to conducting the official bond release inspection of the property.

If you have any questions, please contact this office.

Sincerely,



Dean K. Moos
Director
Reclamation Division