



Public Service Commission

State of North Dakota

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April 21, 2020

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

Dear Ms. Flath:

The Reclamation Division has completed an initial review of Final Bond Release Application No. 1 to Permit NACT-9001, submitted March 25, 2020. Items 1 through 21 must be adequately addressed prior to publishing the public advertisement or mailing the landowner and agency notification letters. An inspection of the property as required by NDCC 38-14.1-17 will be delayed until the public advertisement has been published, the notification letters have been mailed and the issues listed below have been resolved. Addressing items 22 through 31 will aid the Reclamation Division during its technical review of the application.

Application Form SFN 19813

1. The description for the bond release narrative on the first page of the application should be revised to state that stage 1-4 is being requested. NDCC 38.14.1-17(7)(d). (PJR)

Attachment II – Metes and Bounds Description

2. On Attachment II, Metes and Bounds Descriptions, please change the “minutes” symbol to the “degrees” symbol for each bearing. Currently, minutes are written twice for each bearing. (For example, change S88’58’05”E TO S88°58’05”E). (SMN)
3. On Attachment II, Metes and Bounds Descriptions, please list the last bearing and distance for the 815 acre tract. The last sentence in the description reads: *thence N00’54’43”E a distance of 1319.64’ to the west ¼ corner of said section; which is the point of beginning.* This is incorrect. The last sentence should read: *Hence N00°55’36”E a distance of 2612.31’ to the northwest corner of said section; which is the point of beginning.* (SMN/JSP)
4. Please replace the word “bearins” with the word “bearings” in the narrative concerning the exclusion tract. (JSP)
5. Please review the narrative describing the total acreage and replace “8015.031” with “815.031” as given in the Record of Survey. (JSP)

Attachment III – Public Notice

6. Please revise the last sentence in the first paragraph of the public notice by changing the fourth stage description found within the parentheses. Specifically, change “final release” to revegetation success or demonstration of revegetation success. (PJR)
7. The second paragraph should include a sentence about the variance approval that is in the bond release tract. (PJR)
8. Please remove the word “cropland” from the last sentence of the second paragraph in of the Public Notice, Attachment III, since the bond release application does not contain any reclaimed cropland or hayland. (GAW)
9. The last sentence of the second paragraph of the Public Notice, Attachment III, implies that more than one wetland was reclaimed on the bond release area. Please review and correct if necessary. (GAW)
10. Please revise the last sentence of the second paragraph to clarify that Mercer County Road No. 15 and a section line right-of-way were reclaimed rather than “gravel roadways”. (GAW)
11. It appears there were two certified wells and five certified springs pre-mining within the bond release tract; however, post-mining developed water resources have been constructed to provide the required water replacements to support the post-mining land use. Nonetheless, NDAC 69-05.2-01-02(90) requires the bond release newspaper notice and the letters sent to property owners and governmental agencies to identify the approximate location(s) of the pre-mine water supplies and clearly state that the permittee does not intend to replace the water delivery system. Please update the public notice and notification letters in that regard and provide a discussion of the pre-mine in-use water supplies in the application. (BEB)
12. Please revise the public notice map to clearly show relocated County Road 15 passing along the south side of Section 1. This County Road should be distinguished more clearly on this map. (GAW)
13. Please provide a north arrow on the publication map. Please eliminate the hatching from the Basin Electric ash disposal cell in the SW1/4 of Section 7 and eliminate the hatching from the SE1/4 of Section 34 so that those areas are not confused with areas included within the bond release tract. Also, please provide an arrow along County Road 15 pointing in the direction of the city of Beulah and denote the distance to Beulah. (BEB/PJR)

Attachment IV – Letters to Interested Parties

14. The first page of Attachment IV, Letters to Interested Parties, indicates that Lucille Sailer and Wayne Renner will be notified but Permit NACT-9001 and/or Coteau’s 2019 Annual Mine Map shows these properties being owned by O. Sailer Family Trust and W/P Renner. Please review and revise if necessary to ensure all appropriate ownership names are included on the adjacent surface owner letters. (GAW)
15. Please include the director of the ND Game and Fish Department in the list of government agencies being notified of this bond release application. (GAW)

16. On Page 1 of 5 of the Letters to Government Agencies please update the State Water Commission State Engineer as Interim State Engineer - John Paczkowski, P.E. (JAR)
17. The last sentence of the second paragraph in Attachment IV, Letters to Interested Parties, implies that more than one wetland was reclaimed on the bond release area. Please review and correct if necessary. (GAW)
18. Please revise the last sentence of the second paragraph of the Letters to Interested Parties, to clarify that Mercer County Road No. 15 and a section line right-of-way were reclaimed rather than “gravel roadways”. (GAW)
19. Please revise the first paragraph of the letter to surface and adjacent surface owners on page 4 of the attachment that incorrectly states the bond release contains 816 acres of land. (PJR/JAR)
20. Please revise the public notice map attached to the letters to interested parties to clearly show relocated County Road 15 passing along the south side of Section 1. This County Road should be distinguished more clearly on this map. (GAW)
21. Please provide a north arrow on the publication map attached to the letters to interested parties. Please also eliminate the hatching from the Basin Electric ash disposal cell in the SW1/4 of Section 7 and eliminate the hatching from the SE1/4 of Section 34 so that those areas are not confused with areas included within the bond release tract. Also, please provide an arrow along County Road 15 pointing in the direction of the city of Beulah and denote the distance to Beulah. (BEB/PJR)

Attachment VI – General Information

22. The second paragraph under Reclamation History, on page 2 of Attachment VI, states that post-mining land uses for the bond release tract includes wetlands and cropland. Please revise to clarify if any cropland and more than one wetland were reclaimed. Please also clarify that a section line trail and county road were reconstructed rather than use the less descriptive “roadway” terminology. (GAW)
23. Please identify undisturbed land within the bond release tract on the Revegetation Initiation Dates and Land Use Map in Attachment VI. We also suggest adding a few sentences after paragraph 1 in the Attachment VI- General Information that describes and identifies the location of undisturbed tracts within the bond release. (ZAB)

Attachment X – Native Grassland

24. The Mine Area 4-North (MA4-North) production calculations on pages 1 and 3 of Attachment Xa, Production Standard Calculations, contains acreage values different than what is listed in the approved version of the CVSS, and the cumulative acreage amount 2,216.2 is different than that which is listed in the CVSS, 2,209.1. Unless an error was corrected, the values listed in the CVSS should be used. Please review and revise or explain as appropriate. (GAW)
25. The Williams (silty) climatic correction factor was used on soil mapping units that are represented by reference areas. This includes Cabba, Vebar, Parshall and Zahl soil mapping units. Please correct this error on pages 1 and 3 of Attachment Xa, Production Standard Calculations. (GAW)

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26. The sample points on Attachments Xc and Xd are partially illegible and the attachments have no name, title, legend or other information to explain what they represent. Please revise accordingly and include these attachments in the table of contents. (GAW)

Attachment XI – Fish and Wildlife Habitat

27. Please revise the application to address the required third and fourth stage bond release revegetation performance standards for reclaimed wetland CW-I02-01. This would include aerial photography, evidence of vegetation zonation, a topography map that delineates the entire watershed of the wetland, a species list for each revegetation zone, and documentation that the vegetation of the reclaimed wetland exhibits vegetation characteristics of the wetland class it was designed to become during the last three years of the liability period as required by our revegetation success standards document. (GAW)
28. Please revise Attachment XI, Fish and Wildlife Habitat, to include narrative analysis of the results of the water quality data and the characteristics of each vegetation zone of reclaimed wetland CW-I02-01 as required by our revegetation success standards document. (GAW)
29. Figure XII-1 in Attachment XI identifies the range as R888W. Please correct to R88W and relabel the Figure as XI-1 rather than XII-1. (JAR)

Attachment XII – Developed Water Resources

30. Please revise Attachment XII, Developed Water Resources, to explain if each developed water resource meets the performance standards established by NDCC 38-14.1-24 (7). This includes if the pond's size is adequate for its intended purpose, if it is stable and designed with adequate safety, that the quality of impounded water is suitable on a permanent basis for its intended use, that the level of water is reasonably stable and that the impoundment will not result in the diminution of the quality or quantity of water utilized by adjacent or surrounding landowners. (GAW)

Attachment XIV – Roads

31. Please revise Attachment XIV, Roads, to include sampling data demonstrating vegetation establishment and ground cover adequate to control erosion in the reclaimed county road ditch as required by NDAC 69-05.2-22-07(4)(j). (GAW)

If you have any questions, please contact this office.

Sincerely,



Dean K. Moos
Director
Reclamation Division