

THE COTEAU PROPERTIES COMPANY

A SUBSIDIARY OF THE NORTH AMERICAN COAL CORPORATION

FREEDOM MINE

204 County Road 15
Beulah, North Dakota 58523-9475
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July 22, 2020

Mr. Dean K. Moos
Director Reclamation Division
Public Service Commission
600 East Boulevard Avenue
Department 408
Bismarck, ND 58505-0480

Dear Mr. Moos:

Final Bond Release #1 to Permit NACT-9001 has been uploaded to the Permit Services site. Changes to text have been tracked using track changes and highlighted in yellow. Responses below refer to technical deficiencies in your April 21, 2020, letter:

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)*

Coteau believes that the description accurately requests all 4 stages of bond release and does not need to be changed. In previous packages, we were asked to list out all stages of bond release that were being requested rather than say stages 1-4 are being requested.

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)*

The formatting has been updated with the requested changes.

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)*

The description has been updated with the correct information.

4. *Please replace the word “bearins” with the word “bearings” in the narrative concerning the exclusion tract. (JSP)*

The spelling has been corrected.

5. *Please review the narrative describing the total acreage and replace “8015.031” with “815.031” as given in the Record of Survey. (JSP)*

Acreage has been corrected.

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)*

The language in the public notice has been updated to reflect the requested changes.

7. *The second paragraph should include a sentence about the variance approval that is in the bond release tract. (PJR)*

A sentence referencing the variance has been added.

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)*

The language in the public notice has been updated to reflect the requested changes.

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)*

The language in the public notice has been updated to reflect the requested changes.

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)*

The language in the public notice has been updated to reflect the requested changes.

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)*

After reviewing Permit NACT-9001, six certified wells and springs were located within the bond release tract. Their approximate locations have been added to the newspaper notice map and discussions have been added to the newspaper notice in Attachment III, the letters in Attachment IV, and the summary in Attachment XII.

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)*

The map has been updated to more clearly distinguish County Road 15.

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)*

The map has been updated with the requested changes.

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)*

The ownership has been updated for the mentioned surface owners.

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)*

The ND Game and Fish Department has been added to the list.

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)*

Information has been updated.

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)*

The language has been updated to clarify only one wetland was reclaimed.

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)*

The language has been updated with the requested changes.

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)*

The acreage has been updated from 816 acres to 812.

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)*

The map has been updated with a more defined Mercer County Road 15.

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)*

The map has been updated with the requested changes.

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)*

The section has been updated with more descriptive terminology.

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)*

The undisturbed land is identified on the Revegetation Initiation Dates and Land Use Map in Attachment VI as areas outside of the associated disturbance line (depicted with a solid red line). We do not feel it would be beneficial to try to describe these areas in the text; a text description would be overly confusing as it would need to be described either by legal or metes and bounds descriptions.

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)

Attachment Xa has been corrected. The CVSS has been revised since the attachment was originally put together. What appears in the CVSS is correct and is now reflected in Attachment Xa.

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)*

The climatic correction factors for the above listed soils have been separately calculated based on the actual production of the appropriate reference areas. Attachment Xa has been updated as necessary.

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)*

New maps have been digitized and reflect the requested changes.

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)*

The text within Attachment XI has been updated with the requested changes. The wetland boundary has been added to the topographic map in attachment Vb to help visualize the watershed boundary.

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)*

Additional narrative discussing the water quality and vegetation zones of the wetland has been added.

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)*

The range has been updated to show the correct description.

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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)

Additional discussion on each stockpond has been included in Attachment XII. Additionally, design detail drawings have been included as Attachments XIIb-e.

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)

Cover data for the road ditches is not necessary as it is not required by regulation, has not been required in previous bond release applications, and the road and associated right-of-way have been inspected by Mercer County. Additionally, ground cover data is not necessary as this land use of Road does not have cover standards, nor was cover data taken prior to mining. Ground cover is adequate so surface water runoff does not contribute settleable solids to the watershed of the bond release tract.

If you have any questions, please contact me.

Sincerely,

THE COTEAU PROPERTIES COMPANY

/s/

Dillon Belisle
Environmental Specialist

Uploaded via Permit Services