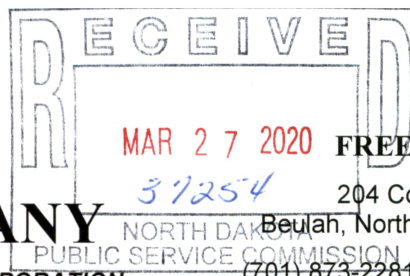


THE COTEAU PROPERTIES COMPANY

A SUBSIDIARY OF THE NORTH AMERICAN COAL CORPORATION



FREEDOM MINE

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March 25, 2020

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

Dear Mr. Moos:

Revision 42 to Permit NACT-0401 has been uploaded to Permit Services. Revision 42 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, fish and wildlife resources, soil resources, operations – general, surface water management, post-mining land use plans, post-mining topography and land use map, revegetation procedures, establishment, and management, wetland designs, and post-mining stockponds for renewal #3 of the permit.

A request for variance from the 3-year reclamation liability was included in this revision and shown on the Pit Layout and Facilities map in the location of the topographical change. The worst case bond will be updated in a revision to be submitted 4th quarter 2020. The Consolidated Wildlife and Habitat Monitoring Plan was updated with Revision 43.

Section 1.2 – Legal Information

Section 1.2.6 - Certificate of Liability Insurance

1. Please update Section 1.2.6 (Certificate of Liability Insurance) with the current certificate and its endorsement as required by NDCC 38-14.1-14(3) and NDAC 69-05.2-12-20. (WTG/JSP)

Page 2 of Section 1.2.6 has been updated with the current Certificate of Liability Insurance, pages 3-5 have been removed.

Section 1.3 – Business Entity/Compliance Information

2. Please update Section 1.3.5 (Other Licenses and Permits) as required by NDAC 69-05.2-06-04 with changes, including agency name changes, e.g., the Department of Environmental Quality, that have occurred to the listings since the most recent update with Revision No. 36. (WTG/BEB/JSP)

Section 1.3.5 has been updated as needed.

3. *As required in part by NDCC 38-14.1-14(1), and NDAC 69-05.2-06-01 and 06-02, 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 Permit NACT-0401 if any changes have occurred, or when they occur, 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 effective September 20, 2019. (WTG)*

An updated consolidated report was submitted to the PSC on March 13, 2020.

Section 1.5 - Identification of Interests and Rights of Entry

4. *Please review the surface and coal leases or other right-to-mine documents in Section 1.5.1 of the permit to ensure that the Coteau Properties Company has the legal right to enter and commence surface coal mining operations on lands to be mined during the next term of the permit as required by NDCC 38-14.1-14(1)(k). (GAW/JSP)*

The introductory page and the Certificate of Authenticity of Documents have been updated to reflect the current revision number and date.

5. *Please update Section 1.5.1 (Permit Area Surface and Coal Interests) as 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) if any ownership changes have occurred since the most recent updates with Revision No. 36. Please note that the strike-through and underscore updates to Section 1.5.1 completed with Revision No. 36 were not accepted with the submitted approved revision. Please accept the Revision No. 36 updates prior to making further updates to Section 1.5.1 with the forthcoming revision to update the permit for Renewal No. 3. (WTG/JSP/BEB)*

Section 1.5.1 has been updated; corresponding updates have been made to the map in Section 1.5.3. Below 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	Easement information updated	Leasehold status change	Note added	Ownership change to surface and/or coal	Tract added or tract description changed
1				X				
2				X		X	X	
3				X		X		
4						X	X	
5	X							
7	X							
8	X							
9				X				
12	X			X				
13	X			X				
14				X			X	
15				X				
16				X				
22					X	X		
23		X				X		
25				X		X		
26				X		X		
27				X		X		

2828				X			
29				X		X	
31				X		X	
32							
33				X			
34				X			X
35				X			X
36	X			X			
37	X			X			
38	X			X			X
40				X			
42		X		X			
43				X			X
44				X			

6. 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) if any ownership changes have occurred since the most recent updates with Revision No. 36. Please note that the strike-through and underscore updates to Section 1.5.2 completed with Revision No. 36 were not “accepted” with the submitted approved revision. Please “accept” the Revision No. 36 updates prior to making further updates to Section 1.5.2 with the forthcoming revision to update the permit for Renewal No. 3. (WTG/JSP/BEB)

The surface and coal ownership was updated to reflect current ownership and leasehold information.

Section 2.2 – Surface Water Hydrology

7. If there are any planned or proposed changes to the post-mining topography, please update the Post-Mining Probable Hydrologic Consequences Map in Section 2.2.6 accordingly. (BEB)

All of Section 2.2 Probable Hydrologic Consequences, was updated with Revision 41 which is currently under review by your office. No changes were made with Revision 42 as they will be addressed in Revision 41.

8. Please update the Post-Mining Probable Hydrologic Consequences Map, Section 2.2.6, to show the topography of the S1/2SW1/4 of Section 35 consistent with the Post-Mining Topography and Land Use Map, Section 4.1.2, and review and revise the PHC narrative for watershed EAC-15-03 if necessary. (GAW)

See Item #7 above.

Section 2.7 – Fish and Wildlife Resources

9. Please review the fish and wildlife protection, enhancement and management plan in Section 2.7.3, Mining Impacts, and revise, as necessary, to ensure the information provided is current, complete and accurate. (GAW)

Section 2.7.3 has been updated to include new and updated enhancement and management plans.

Section 3.0 – Operations Plans

10. Please provide a table of approximate mining activity disturbances listed by permit phase in Section 3.1.1 (Operations/Reclamation Narrative) as required by NDAC 69-05.2-09-01(2), and similar to the approximate disturbance table listed on page 1 of Section 3.1.1 (Operations/Reclamation Narrative) in Permit NACT-0201. (WTG)

A table of approximate mining activity disturbances listed by permit phase has been added to Section 3.1.1.

11. Please review the Operations/Reclamation Narrative, Section 3.1.1, and update if any changes are necessary for mining planned during the next term of the permit. (GAW/JSP)

Section 3.1.1 has been updated as necessary.

12. Please review the Mining Methods Narrative, Section 3.1.1.2, and update if any changes are necessary for mining planned during the next term of the permit. (GAW/JSP)

Section 3.1.1.2 has been updated.

13. Please review the Reclamation Procedures and Schedule, Section 3.1.1.3, and update the contemporaneous reclamation variance narrative and the post-mining topography narrative for the next term of the permit, if necessary. (GAW/BEB)

Section 3.1.1.3 was updated for the next five-year term. A reclamation variance for approximately 309 acres was added to the section.

14. Please update Section 3.1.3 (Pit Layout and Facilities Map) to indicate any pit sequence changes and identify the five-year coal removal subarea for the next permit term as required by NDAC 69-05.2-09-02(3). (WTG/BEB)

Section 3.1.3 has been updated.

15. Please update the Coal Production Schedule in Section 3.1.1.4 to show actual coal production through 2019 and estimated projections through the next permit term as required by NDAC 69-05.2-09-01(1). (WTG/BEB/GAW/JSP)

The coal production schedule has been updated.

16. Please update the List of Equipment in Section 3.1.1.5 as necessary. (NDAC 69-05.2-09-01(1)) (BEB/JSP)

The List of Equipment in Section 3.1.1.5 has been updated.

17. Please update Section 3.1.3 (Pit Layout and Facilities Map) to indicate any changes with the status or presence of SPGM stockpiles; overburden stockpiles; water management structures; haul roads; and buildings, facilities, utilities, and structures that may have occurred since the map was last updated with Revision No. 38 as required in part by NDAC 69-05.2-09-02. (WTG/BEB/GAW/JSP)

Section 3.1.3 (Pit Layout and Facilities Map) has been updated.

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

Section 3.1.4 (Extended Mining Plan Map) has been updated.

19. Please update the Extended Mining Plan Map, Section 3.1.4, to show current mining plans for the mine, including areas mined out through 2019 as required by NDAC 69-05.2-07-03. Any updates to the Extended Mining Plan Map will also require updates to the pit sequence timeline as depicted on the Post-Mining Topography Development Map in Section 3.1.5. (BEB/WTG/GAW)

Section 3.1.5 was updated with Revision 41 and should not require changes.

20. Please reconsider placing a sediment pond and SPGM stockpile in the S1/2SE1/4 of Section 23. It appears that the SPGM stockpile could be placed on regraded land owned by Coteau Properties Company which would eliminate the need for the sediment pond and closure of County Road No. 28. NDAC 69-05.2-13-05 (GAW)

Coteau will be evaluating this option over the next permit term. The stockpile location is not needed within this permit term, however we wish to represent on the map as an option at this time in case placing an SPGM stockpile on Coteau owned land is not feasible.

Section 3.3 – Surface Water Management

21. Please update Section 3.3.2 (Surface Water Management Plan Map) to indicate any changes with the status or presence of water management structures; SPGM stockpiles; overburden stockpiles; and haul roads that may have occurred since the map was last updated with Revision No. 38 as required in part by NDAC 69-05.2-09-02 and NDAC 69-05.2-09-09. (WTG/BEB)

The majority of item requested to be updated were already completed in Revision 41, Section 3.3.2 was reviewed and updated as needed.

22. Please update the Surface Water Management Plan Map, Section 3.3.2, to show mining completed through 2019 and review pit sequence subareas and other features and facilities through the next term of the permit. (GAW/BEB)

Section 3.3.2 was updated as requested.

23. Please update the Surface Water Management Plan, Section 3.3.1, to discuss how sediment pond P-N26-01 is going to be dewatered during the next term of the permit. Coteau has requested permission to discharge this pond with polypipe to avoid a calving lot near the Jerome Boeshans farmstead (see email request dated May 26, 2017). If this practice is to be continued it should be discussed in the permit and the discharge point should be depicted on the Surface Water Management Plan Map. (GAW)

This is a good neighbor “practice” between Coteau and the landowner and is not required by PSC rule or regulation. Therefore, we believe that it is not required to be in the permit, since the permit has no legal bearing on whether or not this practice is used.

24. *Please review the Pond Construction and Reclamation Schedule, Section 3.3.4, and update if necessary. (GAW)*

Section 3.3.4 was updated as requested.

Section 4.1 – Post-Mining Land Use Plans

25. *Please review the Post-Mining Land Use Plans Narrative, Section 4.1.1, and update if any plans or practices have changed. (GAW)*

Section 4.1.1 has been updated to reflect current plans and practices.

Section 4.1.2 – Post-Mining Topography and Land Use Map

26. *Please update Section 4.1.2 (Post-Mining Topography and Land Use Map) to depict actual prime farmland respread areas, e.g., 30-627-00156, and to revise potential post-mining prime farmland landscapes that have been respread as non-prime farmland, e.g., 30-627-00150 and 30-627-00155, since the map was last updated with Revision No. 36. (WTG)*

The map has been updated to show actual prime farmland respreads areas with Revision 41. The potential post-mining prime farmland was updated as well at that time.

Section 4.2 – Revegetation Procedures, Establishment and Management

27. *Please include actual as-planted design plans for tree plantings W-N28-01 and W-N34-01 in Section 4.2.3, Trees and Shrubs, as required by NDAC 69-05.2- 09-11(6). (GAW)*

Actual as-builts for tree plantings will be included in the CVSS to establish standards and bond release packages as necessary. The plantings, which are conservation plantings, were planted following the methods described in Section 4.1.1.

28. *Please consider including big bluestem in the native grassland seed mixture. (GAW)*

In Section 4.2.2, we state that big bluestem may be added to the seed mix in low, wet areas and drainages. Coteau still feels this is the best practice and will continue adding big bluestem to the seed mixture when appropriate.

29. *Please consider including at least three native forb species in the native grassland seed mixture. (GAW)*

Coteau's current management of native grassland includes herbicide use to control invasive species. This herbicide will also kill forbs. Because of this, Coteau does not feel it is prudent to include forbs in the seed mix. Forbs may be seeded in plots as part of enhancement techniques where appropriate.

Section 4.4.2 – Wetland Designs

30. *Please include a detailed design plan for reclaimed wetland CW-N27-03 since it is to be constructed during the next term of the permit. (GAW)*

With the change in mining methods to the two pass methods, mining advancement to the east has slowed. This being the case, the location of the reclaimed wetland will not be mined until 2025, causing reclamation of the area to carry into the following permit term. A design for this wetland will be submitted in the future as reclamation nears this area.

Section 4.5 – Post-Mining Stockponds

31. *Please include a detailed design plan for stockpond SP-N35-01 since this pond is to be constructed during the next term of the permit. (GAW)*

Stockpond SP-N35-01 is located in a large drainageway that will remain open until all SPGM is respreads in the upper reaches of this watershed. Therefore, the stockpond will most likely not be constructed in this permit term but in the following term. A design will be submitted in the future as reclamation nears this area.

Consolidated Bonding Plan

32. *Please review the Consolidated Bonding Plan and update if necessary to ensure that the Freedom Mine and Permit NACT-0401 are adequately bonded through the next term of Permit NACT-0401. (GAW/JSP)*

A review of the Consolidated Bonding Plan was conducted by Coteau using 2022 as the next worst-case scenario for what is currently under permit. The review found no significant differences between the current worst-case scenario, which occurred in 2019, and that in 2022. Under the 2019 scenario, 8,077 acres of topsoil and 6,894 acres of subsoil were disturbed, accounting for 10.1 million cubic yards and 27.6 million cubic yards, respectively. Under the 2022 scenario, 8,189 acres of topsoil and 6,780 acres of subsoil will be disturbed, accounting for 10.2 million cubic yards and 28.0 million cubic yards, respectively. The difference is approximately one percent change in additional yards.

Under the current worst-case bond, Coteau has secured \$146,000,000 dedicated to reclamation of the mine. As currently approved with the 2015 variable costs, Coteau is required to secure no less than \$143,733,543. If Coteau were to use the same worst-case scenario and update to the 2019 variable costs, Coteau would be required to secure no less than \$139,323,053. This would provide a 6.7-million-dollar buffer, approximately five percent, between what is required and what has been secured with only approximately a one percent change in SPGM volume.

Coteau has committed to submitting a significant revision to Permit NACT-0401 during the 4th quarter of 2020. This revision will change the mine plan and add areas to be mined, which will affect the worst-case bond, as well as the timing of the worst-case scenario. Coteau is requesting the worst-case bond be updated at that time for the year 2025. If the worst-case were to be updated with this renewal, it would not increase the liability above what has already been secured. Therefore, the PSC would not be disadvantaged if the worst-case scenario was not update at this time. The secured bond amount of \$146,000,000, would not increase and could not be decreased under the 2022 scenario.

Mr. Dean K. Moos

March 25, 2020

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Consolidated Wildlife and Habitat Monitoring Plan

33. *Please review the Consolidated Wildlife and Habitat Monitoring Plan and update if monitoring plans have changed or need to be altered. (GAW)*

The Consolidated Wildlife and Habitat Monitoring Plan has been updated with data gathered over the last two reporting years. This update was submitted as Revision 43 to NACT-0401.

34. *Please update the Monitoring Area Map, Section B-2, to show the current permit areas and where final bond release has been approved. (GAW)*

Current permit areas, bond release, and survey locations were updated.

35. *Please review Section B-2, Federal Threatened, Endangered and Candidate Species found in ND, to ensure the list is current and complete. (GAW)*

The section has been updated to show species found on the U.S. Fish & Wildlife Service IPaC.

In addition, Section 4.2.3 was revised to be consistent with Coteau's updated strategy on replacement trees. The original application form and renewal form have been mailed to your office.

If you have any questions, please contact this office.

Sincerely,

THE COTEAU PROPERTIES COMPANY

/s/

Sarah J. Flath
Environmental Manager

KRB
Uploaded via Permit Services