



Public Service Commission

State of North Dakota

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October 22, 2021

Ms. Sarah Flath
Environmental Manager
Coteau Properties Company
204 County Rd. 15
Beulah, ND 58523
sarah.flath@nacoal.com

Dear Ms. Flath:

The Reclamation Division has conducted an initial review of Final Bond Release No. 2 to Surface Coal Mining Permit NACT-9501. The following items must be addressed prior to publishing the public notice or notifying surface owners and governmental agencies.

General

1. Surface ownership is not included on any map in the application. Please add the surface owners to the aerial map or other map in the application. (JAR)

Application Form

2. The Tract Column on SFN 19813 incorrectly states Sections 1 and 16. Please change Section 1 to Section 15. (JAR)

Attachment I – Final Bond Release Tract Map

3. Based on the metes and bounds description in Attachment I and II, the area of the tract was calculated to be 162.5224 acres and not 162.5226 acres as stated in the attachments. If the acreage description is carried four digits beyond the decimal point then the values should be accurate. (JWE)
4. The bearing for the last line described in the Metes and Bounds description in Attachments I and II is missing the "W" for the bearing "*N 88° 56' 47*". Please correct the mentioned bearing. (JWE)

Attachment II – Metes and Bounds Description

5. Please correct the typographical error in the last line of the metes and bounds description. Remove the ‘wh’ and replace it with “which is”. (JWE)
6. Replace the heading of the metes and bounds description to “TRACT FBR 9501-146-88-15&16-2” to match the heading in Attachment I. (JWE/JAR)

Attachment III – Public Notice

7. Delete the third and fourth sentences and the bonding portion of the last sentence in the first paragraph of the Public Notice. The third and fourth sentences need clarification, and as currently written, the last sentence indicates that additional mining will occur in Permit NACT-9501. Combine and revise the bonding narrative to clarify that Permit NACT-9501 is included in a consolidated bond area and no reduction to the bond amount is requested due to continued mining and reclamation operations in other permits. The current bond amount for the consolidated bond area is 186 million dollars. (GAW/ZAB)
8. Please include a scale bar on the newspaper publication notice map. (JWE)

Attachment IV – Letters to Interested Parties

9. Attachment IV, Letters to Interested Parties, lists the ND Game and Fish Department as an adjacent surface owner, but the Surface and Coal Ownership Map, Section 1.5.3, in the permit identifies the adjacent surface owner as the United States of America Department of the Army. Please correct this error. (GAW/JWE/JAR)
10. Please update the State Water Commission to the North Dakota Department of Water Resources. (JAR)
11. Please add the Director of the ND Game and Fish Department to the list of government agencies to be notified of this bond release application as required by Policy Memorandum No. 9 to Mine Operators. (GAW)
12. Please update the name of the director for the State Historical Society of ND to Bill Peterson since Claudia Berg has since retired. (JWE/JAR)
13. Revise the bonding narrative in the notice letters to include the bonding narrative changes requested in item No. 7 for the public notice. (GAW/ZAB)

Attachment Vb – Topographic Map

14. Please add the coal removal boundary or otherwise revise the Topographic Map, Attachment Vb, to clearly identify the areas mined or used for associated disturbance and the undisturbed areas. (PJR)
15. Please include contour elevation values on the Topographic Map, Attachment Vb. (JAR)

Attachment IX – Native Grassland

16. Coteau is proposing to use only the loamy native grassland reference ecological site to determine the annual productivity climatic correction factor. The Reclamation Division believes that the annual climatic correction factor should be developed using all approved native grassland reference areas to capture the vegetative growth effects of seasonal precipitation variability as recommended in our Revegetation Success Standards Document, even though this tract was dominated (76%) by the loamy ecological site prior to mining. The loamy native grassland ecological site appears to be in reduced ecological condition (33.8% forbs in 2019) and the reclaimed land is largely comprised of warm season species which are not well represented on the loamy native grassland ecological site. The 2019 US Drought Monitor Map documents that 2019 was a normal precipitation year so it is unclear why the loamy ecological site yielded so poorly in 2019. (GAW)
17. Coteau revised the unadjusted productivity standard for the native grassland in Section 16 that was calculated and approved with the Consolidated Vegetation Success Standard document. Please provide narrative in the application explaining why the unadjusted standard was recalculated. (GAW)
18. Sample adequacy was not achieved in 2020 when the reclaimed native grassland yield was sampled. The required population inferences, with 90% statistical confidence, cannot be made without achieving sample adequacy. Please provide additional sampling data from 2021 or apply other statistical test(s) to the 2020 sampling data to demonstrate revegetation success with 90% statistical confidence. Perhaps a confidence interval estimate of the existing data could be used to demonstrate success. If this cannot be accomplished using other or more advanced statistical tests, then reference the National Range Handbook or other sources that might suggest 26 samples of reclaimed native grassland vegetation is a large sample size ($n > 30$) and that an adequate number of samples have been taken to demonstrate revegetation success (sample mean = population mean). (GAW)

If you have any questions, please contact this office.

Sincerely,



Dean K. Moos
Director
Reclamation Division

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