

November 18, 2021

Ms. Zanna A. Brinkman
Director Reclamation Division
Public Service Commission
600 East Boulevard Avenue
Department 408
Bismarck, ND 58505-0480

Dear Ms. Brinkman:

Final Bond Release #2 to Permit NACT-9501 has been uploaded to Permit Services. A revised Application Form has been mailed to your office. Changes to text have been tracked using track changes. Responses below refer to technical deficiencies in your October 22, 2021, letter.

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)*

Ownership for the bond release tract has been added to Attachment Va.

Application Form

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

A revised application has been included in the digital bond release. The Revised original has been mailed to your office.

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)*

Coteau believes the value of 162.5226 acres to be correct. The small discrepancy is likely due to slight variations in rounding when converting the description.

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)

This error has been corrected on the map found in Attachment 1.

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)

The typographical error has been fixed.

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)

The heading has been corrected and now matches the heading in Attachment 1.

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)

Language has been updated to reflect requested changes.

8. *Please include a scale bar on the newspaper publication notice map.* (JWE)

Coteau does not believe a scale bar will provide any value to the map as when it is printed in the paper it will be too small to provide any benefit.

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)

The list has been updated to add the Army Corp of Engineers to the adjacent landowner list.

10. *Please update the State Water Commission to the North Dakota Department of Water Resources. (JAR)*

The list has been updated to reflect the requested changes.

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)*

The list has been updated to reflect the requested changes.

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)*

The list has been updated to reflect the requested changes.

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)*

The adjacent surface and government agencies letters have been updated to reflect the changes requested in item No. 7.

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)*

Coteau does not believe this information would add any value to the topographic map. The requested information can be found in Attachment Va.

15. *Please include contour elevation values on the Topographic Map, Attachment Vb. (JAR)*

Contour labels have been added to the map.

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)

The production standard calculations were changed to reflect what has been approved in the CVSS. Two eco site reference areas were used and applied to the soil series that they represent to help calculate the standard. The loamy ecosite was compared to another loamy eco site reference area located further away from the bond release tract. This comparison showed that the individual range sites acted similarly during the 2019 growing season.

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)*

The productivity standard calculation was changed to match what appears in the CVSS.

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)*

Additional language has been added to Attachment IX citing the National Range and Pasture Handbook indicating that 20 samples is an adequate sample size.

We look forward to your review and approval. If you have any questions, please contact me.

Sincerely,

THE COTEAU PROPERTIES COMPANY

/s/

Dillon E. Belisle
Environmental Specialist

Uploaded via Permit Services