

FREEDOM MINE
THE COTEAU PROPERTIES COMPANY

November 22, 2024

Freedom Mine\Permits\NACT - 9501\Bond Release\Bond Release 2
BR2_tech_rvw_rsp_11-22-24 (40043)

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

Dear Mr. Emmer:

Final Bond Release #2 to Permit NACT-9501 has been uploaded to Permit Services. Changes have been tracked using track changes and highlighted in cyan. Responses below refer to technical deficiencies in your December 12, 2022 letter.

General

1. *Please provide a copy of the newspaper advertisement that was published and an affidavit of publication of the public notice as required by NDAC 69-05.2-12-12(3). (GAW)*

A copy of the newspaper advertisement and affidavit of publication were emailed to Mr. Guy Welch on 12/19/22.

Attachment VI – General Information

2. *Attachment VIa (Revegetation Initiation Dates and Land Use Map) does not depict the associated disturbance boundary in the legend. Please revise the legend to depict the associated disturbance boundary. (JWE)*

The associated disturbance boundary is not depicted on the map found in Attachment VIa. This attachment depicts the revegetation initiation years, land uses, and variance area.

3. *The legend in Attachment VIc (Pre-Mine Soils) depicts Permit NACT-9001 in the legend instead of NACT-9501. Please revise the legend accordingly. (JWE)*

Freedom Mine – Coteau Properties Company

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Coteau Properties Company, a subsidiary company of The North American Coal Corporation

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Coteau Properties Company
Mark A Wallen

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The legend has been updated with the requested changes.

4. *According to the narrative on page 2 of Attachment VI (General Information), it states that a portion of the bond release tract was seeded to native grassland in 2013, but a revegetation initiation date of 2013 is not depicted in Attachments VIa, IXc, and IXd. Please revise the narrative or Attachments VIa, IXc, and IXd to depict the correct initiation dates. (JWE)*

Narrative has been updated with the requested changes.

5. *Please reference Attachment Va (SPGM Respread Depths Map) within the Reclamation Practices section in the narrative of Attachment VI (General Information) since the respread depths are not explicitly described in the narrative. (JWE)*

Narrative has been updated with the requested changes.

Attachment IX – Native Grassland

6. *Follow-up to Item No. 7 of our pre-technical review letter dated April 6, 2022 and Item No. 18 of our initial review letter dated October 22, 2021: As previously noted, sample adequacy was not achieved when the reclaimed native grassland production (yield) was sampled in 2020. Therefore, population inferences cannot be made with 90% statistical confidence as required by NDAC 69-05.2-22-07(4)(a). Please revise the bond release application to include 2022 production sampling data to demonstrate revegetation success with 90% statistical confidence. Although National Range Handbook information has been provided to indicate that 20 samples should be adequate, SMCRA and North Dakota's rules require statistically valid sampling be used when demonstrating revegetation success. (GAW)*

The 2020 native grassland production sampling data has been replaced with 2024 native grassland production sampling data to demonstrate revegetation success. As a result, all other sections referencing 2020 native grassland data has been updated with 2024 data.

7. *Although the second paragraph on page 1 of Attachment IX, Native Grasslands, states that KLJ was contracted to collect grassland sampling data in 2019 and 2020, please provide the names and qualifications of the individuals who collected the data for KLJ. (GAW)*

Updated as requested.

8. *A sentence in the third paragraph on page 1 of Attachment IX incorrectly states that only the loamy ecological site was used to determine the climate correction factor. Please correct this error. (GAW)*

Language has been updated to reflect the correct ecological site reference areas.

9. *Attachments IXc and IXd, 2019 and 2020 Production Sampling Locations, show that the reclaimed native grassland in the NE¼ of Section 16 was not sampled to demonstrate revegetation success. Please revise the fourth paragraph on page 1 of Attachment IX to provide justification as to why the reclaimed native grassland in the NE¼ of Section 16 was not sampled. Given that the NE¼ is fenced from the SE¼ of Section 16, it seems it would have been most appropriate to use a stratified sampling procedure to ensure sampling data represented both management units within the tract. (GAW)*

Although the area mentioned above did not have a sampling point located within it the revegetation initiation year had several sampling points within the bond release tract. Coteau feels this adequate for the purposes of representation of the initiation year.

10. *The heading of Table 1 - Section 15 Comprehensive Plant List, at the end of Attachment IX, indicates that the data represents only Section 15. Please review to ensure the list provided represents the reclaimed land in Section 16 and alter the heading accordingly. Please also highlight or otherwise identify which species are native forbs that fulfill the three native forb requirement and provide a date and the name(s) of the individual(s) who prepared the species list. (GAW)*

Table has been updated with the requested changes.

Attachment IXa – Production Standard Calculations

11. *Please include the soil mapping unit symbol in the unadjusted yield standard table on page 3 of Attachment IXa, Production Standard Calculations, so it is clear that all soils depicted on the soils map in the CVSS are included in the standard. (GAW)*

Coteau would prefer to not add soil mapping unit symbols to the tables. The tables as presented match the formatting of the tables found in Coteau's Consolidated Vegetation Success Standards.

Attachment IXb – Basal Cover Standard Calculations

12. *Attachment IXb, Basal Cover Standard Calculations, includes absolute ground cover values in Step 4 which includes annual and biennial species. Bond release*

performance standards for grassland, NDAC 60-05.2-22-07(3)(a), requires that ground cover be determined using perennial species not detrimental to the approved postmining land use. Please correct this error. (GAW)

The biennial plant species values have been removed so not to contribute to the absolute cover total. Only perennial plant species were utilized to calculate the absolute cover total.

13. *Step 3 of the 2019 Native Grasslands Cover Calculation, Attachment IXb, indicates that live cover comprised 39.4% of the total cover on the loamy reference area in 2019. This value is exceedingly high for basal cover. Please review to ensure the value isn't first-hit data rather than basal cover and correct as necessary. (GAW)*

The 2019 basal cover data was reviewed and determined to be correct. All available information indicates that the data collected was basal cover and not first-hit data.

14. *Attachment IXb-1, Cover Survey Results, shows that live cover comprised approximately 58 percent of the total absolute cover on the reclaimed native grassland. This value is exceedingly high for basal cover measurements. Please review to ensure the information provided is not first-hit rather than basal cover or otherwise explain. (GAW)*

The 2019 basal cover data was reviewed and determined to be correct. All available information indicates that the data collected was basal cover and not first-hit data. The sample data was collected and presented to Coteau as basal cover, and interpreted as such.

15. *The diversity value of 5 is listed at the bottom of Attachment IXb-1, 2020 data, but only 4 grass species comprise at least 3 percent of the relative cover composition of the reclaimed native grassland in 2020. Please correct this error. (GAW)*

This error has been corrected.

16. *Frame numbers are missing from the first column on page 3 of Attachment IXb-2, Reference Area Cover Survey Results. Please correct this error to establish the total number of frames. (GAW)*

The error has been corrected.

17. *The last page of the 2020 Native Grassland Basal Cover table, Attachment IXb-2, incorrectly indicates that the relative species composition of the reference area is 94.2% native. Please correct this error. (GAW)*

The error has been corrected.

Attachment IXc – 2019 Production Sampling Locations

18. *Attachment IXc (2019 Production Sampling Locations) depicts the associated disturbance boundary in the legend, but it is not depicted in the map. Please revise the map and/or legend accordingly. (JWE)*

The legend has been updated with the removal of the associated disturbance label and description.

Attachment IXd – 2020 Production Sampling Locations

19. *Attachment IXd (2020 Production Sampling Locations) depicts the associated disturbance boundary in the legend, but it is not depicted in the map. Please revise the map and/or legend accordingly. (JWE)*

The legend has been updated with the removal of the associated disturbance label and description.

Attachment X - Developed Water Resources

20. *Please include a discussion of how plans for sound future management of stockpond SP-H16-01 located in the SE¼NE¼ of Section 16 have been implemented by the landowner or permittee as required by NDAC 69-05.2-12-12(7)(c). Also, please include a written commitment from the landowner to follow a sound management plan for the impoundment. (JAR)*

Information regarding the future management of stockpond SP-H16-01 has been included.

21. *Please include a narrative documenting that suspended solids are not being contributed to stream flow or runoff outside the permit area in excess of that allowed by NDAC 69-05.2-16-04. This could include referencing ground cover data in the application and a narrative describing land uses in the pond's watershed. (JAR)*

The narrative has been updated as requested.

Mr. Jonathan Emmer

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22. Please add to the narrative of the last sentence of the fourth paragraph stating the stockpond has proven its ability to hold water at a reasonably stable level, as required by NDCC 38-14.1-24(7)(d). (JAR)

The narrative has been updated as requested.

In addition to the deficiencies listed above, many other sections of Final Bond Release #2 to Permit NACT-9501 were also updated. These updates were made to include relevant information to bring the application up to current standards.

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

Sincerely,

THE COTEAU PROPERTIES COMPANY

/s/

Mark Wallen
Environmental Specialist

Uploaded via Permit Services