

**FREEDOM MINE**  
THE COTEAU PROPERTIES COMPANY

Freedom Mine\Permits\NACT - 9501\Bond Release\Bond Release 2  
BR2\_tech2\_rsp\_ltr\_1-16-25 (40137)

January 16, 2025

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 pink. Responses below refer to technical deficiencies in your January 9, 2025 letter.

**Attachment VI – General Information**

1. *The last sentence in the Reclamation Practices subsection of Attachment VI (General Information) was erroneously revised to state “Revegetation initiation dates can be found in Attachment Va (SPGM Respread Depths Map).” Please revise this statement to reference Attachment Via (Revegetation Initiation Dates and Land Use map). (GAW/MLJ)*

Attachment VI (General Information) has been updated as requested.

2. *Follow-up to Item No. 5 of our technical deficiency letter dated December 12, 2022: The Reclamation Practices subsection of Attachment VI (General Information) still fails to describe the SPGM respread depths. Please either explicitly describe the SPGM respread depths in the Reclamation Practices subsection of Attachment VI or add a statement to reference the location of this information in Attachment Va (SPGM Respread Depths Map). (GAW/JWE)*

Attachment VI (General Information) has been updated as requested.

**Attachment VIII – Wildlife Assessment**

**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 Wallen

3. *Attachment VIII (Wildlife Assessment) incorrectly references the 2020-2023 Wildlife Monitoring Report for an evaluation of the post-mining habitats and wildlife monitoring data. This statement should be revised to reference the correct year, 2022-2023. Furthermore, the 2022-2023 Wildlife Monitoring Report (found in Appendix A of the Consolidated Wildlife and Habitat Monitoring Plan) has information on post-mining habitats and wildlife monitoring data for the South and Island (EMA) Study Areas in the Long-Term Area Specific Analysis subsection. Please update Attachment VIII to provide an analysis of the post-mining habitats and wildlife monitoring data. (AAC)*

The typographical error has been corrected to read "2022-2023 Wildlife Monitoring Report"

Attachment VIII references the Consolidated Wildlife Monitoring Report which provides a mine wide analysis of post-mining habitats and wildlife monitoring data. No additional information is required.

### **Attachment IX – Native Grassland**

4. *Please include a narrative in Attachment IX (Native Grassland) that describes Table 1 (Comprehensive Species List for FBR #2 to NACT-9501) and includes the year(s) when these species were observed. (GAW)*

The narrative describing the Comprehensive Species List for FBR #2 to NACT-9501 has been updated. Two separate species list tables for 2019 and 2024 have been included instead of one table.

5. *Narrative in the second paragraph on page 1 of Attachment IX (Native Grassland) states the productivity standards in 2019 and 2024 are 1,209 and 1,266 lbs/acre, respectively, but the values established in Attachment IXa (Production Standard Calculations) are 1,405 lbs/acre in 2019 and 1,448 lbs/acre in 2024. Please review and revise as necessary. (GAW)*

Attachment IX (Native Grassland) has been updated with the correct production values.

6. *A table on page 2 of Attachment IX (Native Grassland) states that the productivity standard was 1,253 lbs/acre in 2019 and 1,266 lbs/acre in 2024. However, Attachment IXa (Production Standard Calculations) establishes that the productivity standards are 1,405 lbs/acre in 2019 and 1,448 lbs/acre in 2024. Please review and revise as necessary. (GAW)*

Attachment IX (Native Grassland) has been updated with the correct production values.

7. *Follow-up to Item No. 16 of our technical deficiency letter dated October 22, 2021: Coteau is proposing to use only the loamy and thin loamy native grassland reference ecological sites 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 by loamy and thin loamy ecological sites prior to mining. The loamy native grassland reference area 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 and thin loamy native grassland reference area ecological sites. The 2019 and 2024 US Drought Monitor Maps document that 2019 and 2024 were normal precipitation years so it is not clear why the loamy reference area ecological site is yielding so poorly. Please refer to the production standard calculation in Attachment Xa of Bond Release Application No. 3 to Permit NACT-9501 as an example of how to calculate a climatic adjustment factor. (GAW)*

Coteau does not agree with the idea to use other reference areas with soils that are not present within the bond release area as they do not offer proper representation. Bond Release Application No. 3 to Permit NACT-9501 utilized multiple reference areas due to multiple soil types within the MA4-Regional Standard.

Coteau developed the Climatic Correction Factor following the Revegetation Success Standards Document which says “the dominate pre-mine sites of the tract may be used to calculate the climatic correction factor”.

While Coteau agrees that utilizing an appropriate number of reference areas to capture the seasonal precipitation variability within the bond release area is necessary, calculating the Climatic Correction Factor utilizing soils that are not present within the bond release area seems inappropriate.

### **Attachment IXb – Basal Cover Standard Calculations**

8. *Please recalculate ground cover on the reclaimed tract in 2019 in Attachment IXb (Basal Cover Standard Calculations). It appears Japanese brome, an annual grass species, is mistakenly being included in the calculation, and it is not clear why alfalfa is not being included. NDAC 69-05.2-22-07(3)(a) states that all species used in determining ground cover must be perennial species not detrimental to the approved post mining land use. (GAW)*

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Japanese Brome was excluded from the calculations in Attachment IXb (Basal Cover Standard Calculations) and alfalfa was included.

9. *Please clarify how the ground cover was calculated on the loamy reference area in 2019. It is not clear how the 73% value listed on page 3 of Attachment IXb-2 (Reference Area Cover Survey Results) was established. It appears the value should be 83% if all litter and live hits are considered cover ( $2000-340=1660/2000=0.83 \times 100=83\%$ ). (GAW)*

Attachment IXb-2 (Reference Area Cover Survey Results) has been updated. Originally native forbs were excluded as it was not clear if all were perennial.

10. *The live native forb and shrubs hits on the native grassland reference area are being excluded from the 2024 ground cover calculations on page 7 of Attachment IXb-2 (Reference Area Cover Survey Results). Please provide justification as to why these groups of species are not being counted towards ground cover. (GAW)*

Attachment IXb-2 (Reference Area Cover Survey Results) has been updated to include native forbs and shrubs. Originally native forbs were excluded as it was not clear if all were perennial.

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