

December 16, 2021

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

Dear Ms. Brinkman:

The Coteau Properties Company (Coteau) is requesting a variance from the ten-year liability period for four areas of land within Section 22, T146N, R88W. This tract will be known as Final Bond Release #3 to Permit NACT-9501. The bond release boundary is shown on the enclosed maps. The tract includes approximately 343 acres of undisturbed and reclaimed native grassland, cropland, stockponds, a Southwest Water pasture tap, and roads.

The table below further details the acreage of land uses within the bond release tract.

	Undisturbed Native Grassland	Reclaimed Native Grassland with No Variance	Reclaimed Native Grassland Variance Area	Undisturbed Cropland	Reclaimed Stockponds	Roads	Total
FBR #3 NACT-9501	89.5	163.5	19.7	63.1	1.2	6.0	343

Revegetation dates for the entire tract are depicted on the enclosed *Revegetation Map*. A post-mining *Topographic Map* is also enclosed. In addition to variance areas and post-mining topography, the *Topographic Map* shows watershed boundaries and coal removal. The enclosed *Variance Map* highlights the four areas for which a variance is being requested. The acreage for the variance is included within the map. In summary, Coteau is requesting a variance of two years on approximately 19.7 acres of native rangeland, all of which had coal removal completed. The variance area is approximately ten percent of the disturbed acres within the bond release tract and six percent of the entire tract.

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The largest area that requires a variance from the ten-year liability period was associated with sedimentation ponds removed in 2014 (P-H22-06, P-H22-07), as well as a topsoil pile (TS-591) and a subsoil pile (SS-390), also revegetated in 2014. These areas were seeded to native rangeland that same year, beginning the 10-year revegetation liability period.

The smaller three areas that require a variance from the ten-year liability period are associated with conservation tree plantings (W-22-01, W-22-02, W-22-03). These areas are labeled on the *Topographic Map*. The establishment of the conservation tree plantings in 2014 began the 10-year revegetation liability for those areas. They were planted two years later than the surrounding area to allow site conditions, such as soil moisture, to improve and aid tree establishment.

Excluding the variance areas, the last revegetation initiation date was 2012, thereby extending the liability period to 2021. If the small variance areas and the surrounding tract cannot be treated as a single unit, final bond release will be delayed two years.

In 2017, the approved standard for basal cover was 83.4 percent with the entire proposed bond release tract having 99.8 percent basal coverage. In 2020, the approved standard for basal cover was 82.6 percent with the entire proposed bond release tract having 90.6 percent basal coverage. All data collected for the proposed variance area will be included in the bond release package to demonstrate that the variance area is similar to and performing as well as the rest of the bond release tract.

The variance area is managed with the adjacent reclaimed lands. The native grassland is fenced in order to facilitate rotational grazing. Reclamation within the variance areas is consistent with the reclamation completed in the surrounding area. Reclamation of the area provided at least equal protection to the environment and public health and safety.

If you have any questions, please contact me.

Sincerely,

THE COTEAU PROPERTIES COMPANY

/s/

Rylan A. Sundsbak  
Landowner Relations Specialist

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