

November 29, 2021

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

Dear Ms. Brinkman:

Revision 37 to Permit NACT-9101 has been mailed via the United States Postal Service and uploaded to Permit Services. Deficiencies listed in your September 23, 2021, letter have been addressed, with responses listed below. Enclosed is an original signed application form for revision, an original Renewal 6 application form, and signed and stamped copies of the updated metes and bounds map.

Section 1.0 – Introductory, Legal, financial, Compliance and Related Information

1. *The public notice for Renewal No. 6 should mention the temporary cessation of mining planned in Sections 1, 6 and 13 if temporary cessation of mining was not included in a previous notice as required by NDAC 69-05.2-13-10. The notice must include reason(s) for the reclamation delay, include activities that will continue during the cessation period and list the acreage affected. (GAW)*

In Revision 36, the delay in contemporaneous reclamation for Section 13 was addressed and the Reclamation Division determined it was not temporary cessation. Refer to the revision summary of Revision 36 and Section 3.1.1 for more information on this area. In Revision 24, the delay in reclamation of Sections 1 and 6 was addressed in the public notice, revision description and approval letter. No changes were made.

2. *Please update Section 1.2.5, Certification of Liability Insurance, with the current certificate of liability insurance [NDCC 38-14.1-14(3)]. (JWE)*

Section 1.2.5, Certification of Liability Insurance, has been revised as requested.

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Revision application filed to update the permit for the next permit term
Coteau Properties Company
Sarah Flath

3. Please provide an updated Consolidated Legal Information Report covering Sections 1.3.1 (Ownership and Control Information), 1.3.2 (Current Permits and Permit Applications), and 1.3.3 (Schedule of Violations) referenced in the NACT-9101 permit if there are any changes to ownership and control information, the list of current or previous coal mining permits held during the past five years, or the schedule of violation notices in the past three years since the most recent consolidated report dated August 20, 2021. (WTG/JWE)

Requested information has been uploaded to Permit Services by Ms. Belinda Coleman on November 12, 2021.

4. If necessary, please update Other Licenses and Permits information that is provided in Section 1.3.5 as required by NDAC 69-05.2-06-04. (WTG/JWE)

Section 1.3.5, Other Licenses and Permits, has been revised as requested.

5. As required, please update the listing of the permit and adjacent surface and coal interests in Sections 1.5.1 and 1.5.2. Any changes to either of these sections should also be reflected on the Surface and Coal Ownership Map in Section 1.5.3. Additionally, the leasehold status of federal coal in Section 6, T145N, R86W, should also be updated at this time. Please also provide proof of right of entry for any lease that may have expired or will expire in the next permit term. [NDCC 38-14.1-14(1)(b) and NDAC 69-05.2-06-01(1)(a)] (WTG/JWE)

As requested, Section 1.5 was updated with a revised Certificate of Authenticity; the following changes have been made to Section 1.5.1, Permit Area Surface and Coal Interests:

Tract No.	Address change to surface and/or coal ownership	Corporate officers and/or registered agents change	Documentation added Lease, WD, AOE	Leasehold status change	Note added	Ownership change to surface and/or coal	Tract added, deleted or tract description changed
4	X						
5	X					X	
5A	X						
6	X					X	
7	X					X	
8	X						
9	X						
11	X						
14	X						
15	X						
18	X						
19	X						
22	X					X	
24	X						

Tract No.	Address change to surface and/or coal ownership	Corporate officers and/or registered agents change	Documentation added Lease, WD, AOE	Leasehold status change	Note added	Ownership change to surface and/or coal	Tract added, deleted or tract description changed
24A	X						
26	X						
27	X						
29	X						
32							X
33							X
50	X						
51						X	
53	X						
61	X						
62	X						
65	X					X	
78	X					X	

Additionally, Section 1.5.2, Adjacent Surface and Coal Interests, was revised to reflect current ownership and leasehold information. Section 1.5.3, Surface and Coal Ownership Map, was revised to reflect the changes noted in the sections above.

6. Please update Section 1.5.4 (Easements) with easements and leasehold interests, other than coal, of record within the permit boundary if any changes have occurred since the most recent updates with Revision No. 36. (WTG/JWE)

Section 1.5.4, Easements, was revised with the following:

Tract No.	Easement information updated	Note added	Tract added or tract description changed
32			X
33			X

Section 3.0 – Operations Plans

7. Please update the conveyor narrative on page 7 of Section 3.1.1, Operations Narrative, to clarify when the coal conveyor embankment in Sections 9 and 10 will be reclaimed. This feature should be reclaimed if it is not being used to support current mining activities. (GAW)

Existing Section 3.1.1 states, “The conveyor was shut down in late 2008, and removal started in 2009. Removal of most items related to the conveyor was completed in 2010. The conveyor route will be reclaimed with the adjacent haulroad. Subsoil from the adjacent haulroad was used in constructing the conveyor base. Additional information can be found in Section 3.5.”

As stated, the conveyor embankment will be reclaimed with the adjacent haulroad; therefore, requested changes have not been made.

8. *The Operations Narrative, Section 3.1.1, should have a subsection devoted to temporary cessation of mining activities that addresses the requirements of NDAC 69-05.2-13-10(2). Variance areas No. 12 and 18 in Section 4.2.1a, Reclamation Schedule, includes areas of temporary cessation of mining which is different than contemporaneous reclamation delays after coal removal. This would include pits in Sections 1, 6 and 13. (GAW)*

Information regarding the temporary cessation of mining in Sections 1 and 6 can be found in Section 3.1.1, Operations Narrative. Discussion relating to the sporadic mining occurring in Section 13 can also be found in Section 3.1.1, Operations Narrative. Section 13 was discussed last year with Reclamation Division staff during the review of Revision 36, and it was concluded that the sporadic mining of Section 13 is not temporary cessation.

Pages 2 and 3 of Section 4.2.1a were revised to add references to Section 3.1.1.

9. *Please update Section 3.1.3, Public Roads and Access, as necessary to describe impacts to public roads and farmer access roads during the next term of the permit. The Reclamation Division is aware that changes have already been made to the farmer access road located between Sections 1 and 2 and that a new road corridor has been constructed around the cessation pit in Section 6. (GAW)*

Page 5 of Section 3.1.3, Public Roads and Access, has been revised to reflect the new road corridor around the cessation pit in Section 6.

10. *Please update Section 3.1.3b, Public Roads Plan Map, to show the new farmer access road around the cessation pit in Section 6. (GAW)*

The farmer access road has been updated on Section 3.1.3b, Public Roads Plan Map, as requested.

11. *Please update the Coal Production Schedule in Section 3.1.4 to reflect the actual production values through 2020 and the anticipated production through the next permit term [NDAC 69-05.2-09-01(1)]. (JWE)*

The Coal Production Schedule in Section 3.1.4 has been updated with actual production through 2020.

12. *Please update Section 3.1.5 (List of Equipment) if any changes have occurred since Revision No. 36 [NDAC 69-05.2-09-01(01)]. (JWE)*

No changes have occurred since Revision No.36. Requested changes have not been made.

13. *Please depict and label the coal conveyor embankment on the Pit Layout and Facilities Map in Section 3.1.6. This feature must be reclaimed if it is not being used to support current mining activities. (GAW)*

The legend has been updated on Section 3.1.6, Pit Layout and Facilities Map, to clarify the status of the coal conveyor embankment.

14. *Update the Pit Layout and Facilities Map (Section 3.1.6) to reflect any changes since Revision No. 36, such as new SPGM piles, depleted SPGM piles, constructed or reclaimed surface water management structures, haul roads, and any other updates that have occurred. (JWE)*

The Pit Layout and Facilities Map (Section 3.1.6) has been reviewed and updated to reflect changes since last revision, including mining progress and updating SPGM piles.

15. *Please update the Section 3.1.7 (Extended Mine Plan Map) with the most recent version as required by NDAC 69-05.2-07-01. (JWE)*

Section 3.1.7 was updated to most recent version including the updated permit boundaries and mining progress.

16. *Please update Section 3.6.2 (Surface Water Management Plan Map) to include any changes since Revision No. 36 such as: SPGM piles, depleted SPGM piles, constructed or reclaimed surface water management structures, haul roads, and any other updates that have occurred. (JWE)*

The Surface Water Management Plan Map (Section 3.6.2) has been reviewed and updated to reflect changes since last revision, including mining progress and updating SPGM piles.

Section 4.0 – Post-Mining Land Use and Revegetation

17. *Please update the permit boundary on the Post-Mining Topography and Land Use Map, Section 4.1.2, to show the W1/2 of Section 15 of T145N, R86W, outside of the permit boundary and hatch tracts 32, 33, 35 and 39, to indicate that it has been released from bond. (GAW)*

The permit boundary and bond released area has been updated on the map as requested.

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18. Please update the Post-Mining Topography and Land Use Map, Section 4.1.2, to show tracts 32 and 33 (W1/3 of Section 15, T145N, R86W) released from bond. (GAW)

The bond released area has been updated on the map as requested.

19. Please review the actual prime farmland respread polygons on the Post-Mining Topography and Land Use Map, Section 4.1.2, and update if prime farmland soils have been respread since the map was last updated. (GAW)

One new area of prime soil respread in Section 13 has been added to the map.

Additionally, the following sections were revised as a result of this revision:

Section 1.2.2 – Metes and Bounds Description Map – Sheets 1 & 2

Section 1.2.2a – Metes and Bounds Description for Entire Permit Area – Pages 1 and 2

Section 4.1.4 – Landowner Preference Statements – Pages 51 and 52

If you have any questions, please contact this office.

Sincerely,

THE COTEAU PROPERTIES COMPANY



Sarah J Flath
Environmental Manager

SJF:ras

Uploaded via Permit Services and mailed via USPS

cc: Shana Brost, Mercer County Auditor (w/ enc.)



APPLICATION FOR REVISION OF PERMIT TO ENGAGE IN SURFACE COAL MINING AND RECLAMATION OPERATIONS

PUBLIC SERVICE COMMISSION
RECLAMATION DIVISION
SFN 10562 (1-2004)

Date 11/29/2021

Name of Company, Corporation, Partnership, or Individual The Coteau Properties Company	Permit Number NACT-9101	Revision Number 37	
Address 204 County Road 15	City Beulah	State ND	Zip Code 58523

The above named hereby makes application for the above Revision Number to: (include a brief description of the surface coal mining and reclamation operation being revised.)
See Attachment I.

Attached to this Permit Revision Application are a narrative describing the proposed permit revision, reasons for requesting the revision, and appropriate maps, cross-sections, graphs, construction details, revised reclamation plans and other data which demonstrate compliance with Chapter 38-14.1 of the North Dakota Century Code, Article 69-05.2 of the North Dakota Administrative Code, and the permit conditions of the approved permit. If an incidental boundary revision involving an acreage adjustment is being requested as part of the permit revision application, the following information shall be included (attach a copy of a metes and bounds description):

NAME OF MINE	ACRES	LOCATION			
		SEC.	TWP.	RANGE	COUNTY
Freedom Mine					
ADDRESS					
204 County Road 15					
Beulah, ND 58523					
TOTAL ACRES	N/A				


Based upon the proposed changes and any incidental boundary revisions to the permit as stated herein, a new or adjusted bond, or its equivalent, duly executed in accordance with Section 38-14.1-16 of the North Dakota Century Code and Chapter 69-05.2-12 of the North Dakota Administrative Code will be delivered to the Public Service Commission prior to issuance of the surface coal mining and reclamation operations permit herein requested. A check for filing fees, pursuant to Section 38-14.1-13 of the North Dakota Century Code, in the amount of \$ 0, is included with the revision application.

Name of Official Authorized to Represent the Applicant Rylan A. Sundsbak

I, the above named, certify that:

1. All information and documents required by Sections 38-14.1-13, 38-14.1-14, and 38-14.1-15 of the North Dakota Century Code and Article 69-05.2 of the North Dakota Administrative Code, are submitted as part of this permit application;
2. Information and documentation contained in the permit application affirmatively demonstrate that:
 - a. The permit revision application is accurate and complete and all the requirements of Chapter 38-14.1 of the North Dakota Century Code and Article 69-05.2 of the North Dakota Administrative Code have been complied with;
 - b. Reclamation as required by Chapter 38-14.1 of the North Dakota Century Code and Article 69-05.2 of the North Dakota Administrative Code can be accomplished under the reclamation plan contained in this permit revision application;

- c. An assessment of the probable cumulative impact of all anticipated mining in the general area on the hydrologic balance as specified in subdivision o of subsection 1 of Section 38-14.1-14 has been made and the proposed operation has been designed to prevent material damage to the hydrologic balance both on and off the mine site;
 - d. The area proposed to be affected is not included within an area designated unsuitable for all or certain types of surface coal mining and is not within an area under study for such designation in an administrative proceeding;
 - e. The proposed surface coal mining operation will not interrupt, discontinue or preclude farming on alluvial valley floors that are irrigated or naturally subirrigated and will not materially damage the quantity or quality of water in surface or underground water systems that supply these alluvial valley floors; and
 - f. The permit revision applicant has the legal right to surface mine the land for which this permit revision application is made and all of the requirements of Chapter 38-18 of the North Dakota Century Code have been complied with.
3. The area proposed to be affected is not included within an area where mining is prohibited pursuant to Section 38-14.1-07 of the North Dakota Century Code; unless specifically allowed in accordance with the provisions of Section 69-05.2-04-01 of the North Dakota Administrative Code; and
 4. The surface coal mining and reclamation operations contained in this permit revision application will be carried out at all times in a manner which ensures that all of the requirements of Chapter 38-14.1 of the North Dakota Century Code, Article 69-05.2 of the North Dakota Administrative Code, and any permit conditions attached thereto are complied with.

Signature of Official 	Title Environmental Specialist
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VERIFICATION

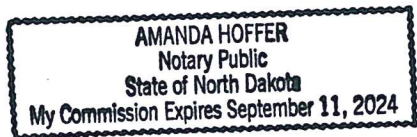
I, Sarah J. Flath, being first and duly sworn, verify that the information contained in this Permit Revision Application is true and correct to the best of my knowledge and belief.

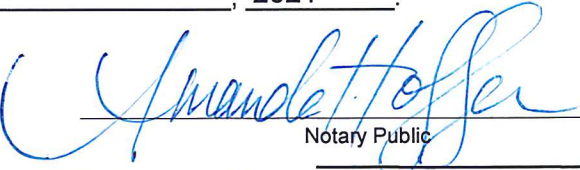
Signature of Official 	Title Environmental Manager
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STATE OF North Dakota)
)ss.
 COUNTY OF Mercer)

Subscribed and Sworn before me, this 29 day of November, 2021.

(SEAL)




 Notary Public
 My Commission Expires: _____

Attachment I

This revision presents updates to the metes and bounds description to reflect changes to the permit boundary due to approval of Final Bond Release No. 8. The certificate of liability insurance, and the Consolidated Legal Information Report was updated. Other licenses and permits have been updated to reflect new licenses. The Certificate of Authenticity has been updated. The surface and coal ownerships have been revised to reflect current ownership and leasehold information. Operations plans has been updated to reflect the new farmer access road corridor, and the Coal Production Schedule was updated to show the actual production values. The Pit Layout and Facilities Map, the Extended Mine Plan Map, and the Surface Water Management Plan Map have been updated. Post Mining Land Use and Revegetation plans has been updated to reference the discussion of temporary cessation of mining in operations plan, the Post-Mining Land Use Map has been revised to reflect changes to the permit boundary, tracts 32 and 33 were updated due to approval of Final Bond Release No. 8, and the actual prime farmland respreads was updated. A landowner preference statement was added to request to retain sedimentation pond P-D10-01 in its current state as a permanent wildlife enhancement area.