



Public Service Commission

State of North Dakota

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January 4, 2022

Ms. Sarah Flath
Environmental Manager
Coteau Properties Company
204 County Rd. 15
Beulah, ND 58523

Dear Ms. Flath:

The Reclamation Division has conducted a completeness review of the applications for Renewal No. 6 and Revision 37 to Permit NACT-9101 at the Freedom Mine. The following items must be adequately addressed before the application can be deemed complete and approval is granted to begin publication of the newspaper notice for the permit renewal and revision. Some of the following items may be more technical in nature; however, additional clarity is needed before the applications are sent to the Advisory Committee members and other interested parties for review. A prompt response is necessary to keep the revision and renewal applications on schedule prior to the expiration of the current permit term.

Renewal No. 6 Application Form (SFN 10566)

1. Please update the permit renewal application form (SFN 10566) with the correct permit acreage. The application form lists 7949.7 acres, but the correct acreage is 7949.4 acres according to the legal description in Section 1.2.2a. (JWE)

Section 1.1.1 – Application Forms

2. A bookmark shortcut link has not been provided for Revision 37 in Section 1.1.1, Application Forms, even though the information is presented on pages 107 through 109 of the pdf document. Please include a bookmark link for Revision 37 in Section 1.1.1. (GAW/JWE)

Section 1.2 – Legal Information

3. The surface ownership map, Section 1.5.2, indicates that Tract 78, E1/2 of Section 9, is subject to contract for deed from Jerome O. Miller and Ardella E. Miller. The Newspaper Publication Notice for Renewal 6, Section 1.2.4.2, needs to include people who currently have valid title for surface tracts. The sellers under a contract for deed are considered the legal owners until terms of the contract for deed are satisfied. (GAW)

Section 1.5 – Identification of Interests and Rights of Entry

4. Language at the bottom of Section 1.5, Identification of Interests and Rights of Entry, states that the last change to ownership information was Revision 36/Midterm – March 2020 but a new

Certificate of Authenticity dated November 16, 2021 was included with Revision 37 and information for several tracts was revised. Please update the revision and date provided for the last change to ownership information. (GAW)

Section 2.2 – Surface Water Information and Monitoring

5. Please update the Surface Water Probable Hydrologic Consequences information in Section 2. 2, Surface Water Information and Monitoring, to account for retaining sediment pond P-D10-01 as a permanent structure (wetland). This would include the appropriate narrative in Section 2.2.10 that discusses potential adverse downstream impacts, the Surface Water Probable Hydrologic Consequences Summary Tables in Section 2.2.10a and a discussion about whether the impoundment will result in the diminution of the quality or quantity of water utilized by adjacent or surrounding landowners for agricultural, industrial, recreation or domestic uses. (GAW/PJR/JAR)

Section 3.1.4 – Coal Production Schedule

6. Follow-up to item No. 11 of our pre-renewal letter dated September 23, 2021: Please update the anticipated coal production schedule through 2027, the next term of the permit. The values provided for future annual coal removal are not consistent with plans provided on the Pit Layout and Facilities Map. (GAW/JWE)

Section 3.6 – Surface Water Management

7. Please update Section 3.6, Surface Water Management, to address that sediment pond P-D10-01 will be retained as a wetland and provide renovation design plans to demonstrate the impoundment can safely discharge a 50-year/6-hour precipitation event when the impoundment is at high water elevation in its permanent configuration as required by NDAC 69-05.2-16-09(9). (GAW)
8. Follow-up to item No. 16 of our pre-renewal letter dated September 23, 2021: Please update the Post-Mining Watershed Map, Section 3.6.2a, to depict the W½ of Section 15 as bond released and revise the permit boundary on the map. The tract should be depicted consistently with other bond released areas on the map. Please also depict Pond P-D10-01 as fish and wildlife habitat wetland. (JAR/JWE)

Section 4.1 – Post-Mining Land Use Narrative

9. Please update the Section 10 Proposed Post-Mining Land Use Discussion that begins on Page 14 of Section 4.1.1 to address changes proposed with Revision 37 and clarify the post mine vegetation types of the fish and wildlife habitat associated with the sediment pond. Acreage that is not expected to pond water in the post mine setting must be classified as something other than wetland fish and wildlife habitat. The Reclamation Division is concerned about not respreading SPGM on the entire 15 acres currently associated with the pool area of sediment pond P-D10-01. The hydrology of the pond in the post-mine setting must be examined to realize the expected normal water elevation of the wetland and acreage higher in elevation than the expected normal water elevation will need to be respread with SPGM to restore the pre-mine capabilities of the land as required by NDCC 38-14.1-24(2). In addition, it is not clear if Diversion D10-02 will be retained or reclaimed. (GAW)

10. Please update Section 4.1.3, Land Use Acreage Comparison Table, to account for retaining the existing pool area of sediment pond P-D10-01 as fish and wildlife habitat. (GAW)
11. Please update the permit boundary in Section 4.2.6 (Post-Mining Area Slope Map) to account for the approval of Final Bond Release No. 8. (JWE)
12. Please update the permit boundary in Section 4.2.7 (Pre-Mining Area Slope Map) to account for the approval of Final Bond Release No. 8. (JWE)
13. Please update the permit boundary in Section 4.2.9 (Post-Mining Topography Development Map) to account for the approval of Final Bond Release No. 8. (JWE)

Section 5.1 – Post-Mining Wetlands Evaluation

1. Please update Section 5.1.4, Post-Mining Wetland Drawings, with a design plan for converting sediment pond P-D10-01 into a fish and wildlife habitat wetland developed water resource. (GAW).

If you have any questions, please contact this office.

Sincerely,



Zanna A. Brinkman
Director
Reclamation Division