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April 18, 2022

Zanna Brinkman
Director
Public Service Commission
Inside Mail

APR 19 2022

NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Dear Ms. Brinkman:

This is in response to your request for a review of the environmental impacts associated with the Revision No. 37 to Permit NACT-9101 at the Freedom Mine.

The proposed project has been reviewed by Department of Water Resources, and the following comments are provided:

- There may be floodplains identified and/or mapped where this proposed project is to take place. North Dakota has no formal 'permitting' authority as a state entity in NFIP identified floodplain areas. The permitting is always done by the local entity, which has jurisdiction in the area in question. Please work closely with the local Floodplain Administrator.

- In accordance with North Dakota Century Code §61-16.1-38, any new construction or construction modifications on water storage impoundments, including stock ponds or sedimentation ponds, may require a construction permit from the Department of Water Resources (DWR) based on the ponds' storage volume and hazard classification. Similarly, if any stock ponds or sedimentation ponds are to be removed, we request that the DWR Regulatory Division be notified. Please contact the DWR Regulatory Division at 701-328-2752 if you have any questions.

Thank you for the opportunity to provide review comments. Should you have further questions, please contact me at 701-328-4970 or stevebest@nd.gov.

Sincerely,



Steven Best
Planner III

SB:dm/1570

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April 22, 2022

Zanna Brinkman
Director
Public Service Commission
Inside Mail

APR 22 2022

**NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

Dear Ms. Brinkman:

This is a response to your request for a review of the environmental impacts associated with Revision 37 to Coteau Properties Company's Surface Coal Mining Permit NACT-9101 at Freedom Mine.

The proposed project has been reviewed by the Water Appropriation Division of the Department of Water Resources and the following comments are provided:

Coteau Properties Company proposes to convert Constructed Pond D10-01 to a permanent fish and wildlife habitat. Fish and wildlife use is considered a beneficial use of water in North Dakota. North Dakota Century Code § 61-04-02 requires a water permit be secured from the Department of Water Resources prior to constructing works to impound or take water for beneficial use. An exception of this permitting requirement is provided for domestic, livestock, fish, wildlife, and other recreational uses when impounding up to 12.5 acre-feet of water at the principal spillway elevation or taking up to 12.5 acre-feet of water per year. Map No. 30-103-07082 of Section 3.3.28 indicates a storage capacity greater than 12.5 acre-feet at the principal spillway of Constructed Pond D10-01. Therefore, a water permit will be required to convert this impoundment for fish and wildlife use.

Coteau Properties Company or the landowner at Constructed Pond D10-01 may contact the Department of Water Resources' Water Appropriation Division at (701) 328-2754 for further guidance in applying for a water permit.

Thank you for the opportunity to provide review comments. Should you have further questions, please contact me at (701) 328-2754.

Sincerely,



Jennifer Martin
Hydrologist
Water Appropriation Division

SB.dm/1570