

April 25, 2022

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

Dear Ms. Brinkman:

The technical review of Revision 37 to Permit NACT-9101 has been uploaded to Permit Services. The technical 1 review deficiencies listed in your April 6, 2022, letter have been addressed, with responses listed below.

Index Page

1. *Please update the HTM Index page by removing Revision 36 information and inserting Revision 37 information. (JAR)*

Requested change has been made.

Section 1.2 – Legal Information

2. *Please add the most current certificate of liability insurance in Section 1.2.5. (MJF)*

Requested change has been made to Section 1.2.5, Certification of Liability Insurance.

Section 1.5 – Identification of Interests and Rights of Entry

3. *Please update Kayla Benz's mailing address in Section 1.5.1, Permit Area Surface and Coal Interests, to 4626 Marsh Hawk Drive, Bismarck, ND 58503. (GAW)*

Requested changes have been made to Section 1.5.1, Permit Area Surface and Coal Interests, as well as Section 1.5.2, Adjacent Surface and Coal Interests.

- Please review all leases and add a written certification stating that all leases in the tracts where mining will occur in the next five-year permit term will remain valid until the end of the next permit term, and that leases on land already mined are valid or contain provisions that grant Coteau right of entry for reclamation activities. (MJF)*

Leases have been reviewed and Tract 56 has been updated in Section 1.5.1, Permit Area Surface and Coal Interests. Section 1.5.3, Surface and Coal Ownership Map, has also been updated to reflect the changes. After correspondence with Reclamation Division staff, it has been determined that a written certification is not necessary.

Section 2.1 - Geology

- Please update Geology Reference Map in Section 2.1.9 to show current permit boundaries and bond released tracts. (MJF)*

The Geology Reference Map in Section 2.1.9, has been updated.

- Please update Overburden Isopach Map in Section 2.1.11 to show current permit boundaries and bond released tracts. (MJF)*

The Overburden Isopach Map in Section 2.1.11, has been updated.

- Please update Structural Contour Map in Section 2.1.12 to show current permit boundaries and bond released tracts. (MJF)*

The Structural Contour Map in Section 2.1.12, has been updated.

Section 2.2 – Surface Water Hydrology

- Page 3 of Section 2.2.10, Surface Water Probable Hydrologic Consequences, includes narrative describing discharges from Pond P-D10-01. Please update this narrative to discuss discharges from a wildlife enhancement area/wetland rather than a sediment pond structure. (JAR)*

Section 2.2.10 has been updated as requested.

- Please update the Post-Mining Probable Hydrologic Consequences Map (Sheet 3) in Section 2.2.12 to depict P-D10-01 as a permanent wetland. (MJF)*

Sheet 3 of Section 2.2.12 has been updated to show the location of the wetland.

Section 2.7 – Fish and Wildlife Resources

10. *Please update the Fish and Wildlife Protection, Enhancement and Management Plan, Section 2.7.7, to address the comments received from USFWS on March 22, 2022 regarding Revision 37 and Renewal No. 6, copy attached. This would include utilizing the USFWS IPAC tool to determine if mining activities planned during the next term of the permit could potentially adversely affect any listed or proposed threatened or endangered species, or any designated or proposed critical habitat. Please also provide an analysis about whether the permit and adjacent areas have any suitable habitat for the Dakota skipper using survey protocol established with the 2018 Dakota skipper North Dakota Survey Protocol. The narrative should specifically state whether the permit and adjacent areas have any native grassland that could provide suitable habitat for the Dakota skipper. (GAW)*

Information has been updated in Section 2.7.7 within the Fish and Wildlife Protection, Enhancement and Management Plan. Coteau will continue to not include species specific information within individual permits. Changes will be made within the Consolidated Wildlife and Habitat Monitoring Plan. The below changes will be added to the CWHMP during its next revision:

According to USFWS IPac tool, the Dakota skipper has been listed for Mercer County, North Dakota. During pre-mine surveys of NACT-9101 native grassland habitat was identified. In 2022, Coteau reviewed the state of remaining undisturbed native grasslands using the 2018 Dakota Skipper Survey Protocol as a guide and determined this habitat to be unsuitable for the Dakota skipper.

Section 3.1- Operations Plans

11. *Please revise the Pit Layout and Facilities Map, Section 3.1.6, to identify the federal coal in the NW¼ of Section 6 as not leased and only surface disturbance is currently approved. (GAW)*

The Pit Layout and Facilities Map, Section 3.1.6, has been updated to identify the federal coal in the NW ¼ of Section 6 as surface disturbance only at this time. All future mining has been removed from this area.

12. *Please incorporate the most up to date Extended Mine Map into Section 3.1.7. The version included with Revision 37 shows 2020 and 2021 as Future Mining Areas. (PJR)*

The Extended Mine Map, Section 3.1.7, has been updated.

13. Please update the Pit Layout and Facilities Map (Section 3.1.6) and the Surface Water Management Plan Map, Section 3.6.2, to depict Pond P-D10-01 as a permanent wildlife enhancement area. Also, it is not clear what the text "NOT LOADED DUE TO QUALITY" in the N½ of Section 10 on both maps is referencing. Please remove or define this text accordingly. (JAR)

The label was revised to clarify "Coal Quality". In order to stay consistent with previous revisions, P-D10-01 was changed to show it as reclaimed, as was done with CW-16-02, CW-17-03 and CW-17-04, but did not change in configuration. It is identified as a wetland on the Post-Mining Land Use Map. In addition the Associated Disturbance boundary was added to the map.

Section 3.6.1 – Surface Water Management Plan

14. Please update the table on page 1 of Section 3.6.1, Surface Water Management Plan, to remove Pond P-D10-01 as a projected reclamation project in 2025. (JAR)

The table was updated to show that pond P-D10-01 will be converted to a wetland in 2022. This is consistent with previous pond/wetland conversions.

15. Please update State Water Commission to the Department of Water Resources in paragraph four on page 6 of the Surface Water Management Plan. (MJF)

Section 3.6.1, Surface Water Management Plan, has been updated as requested.

Section 4.1 – Post-Mining Land Use and Revegetation

16. Hyperlinks in Section 4.1.1, Post-Mine Land Use Narrative, are not functioning. Please repair the hyperlinks to function as intended. (JAR)

An updated version of the Foxit program has resulted in difficulties creating hyperlinks. At the time of this submittal, Coteau hasn't been able to find a workable solution to repair the hyperlinks within the body of Section 4.1.1. Because these hyperlinks aren't especially important, as they are only provided as a faster way to navigate to other referenced sections of the permit, the hyperlinks that aren't working were removed. Coteau's IT department will continue to look for solutions to this challenge.

17. Please identify the changes being made on pages 14-24 in Section 4.1.1 as described in your revision summary page, Section 1.1.2. Currently, only page 13 has highlighted language. The revision date stamp at the bottom of pages 14-24 should not be changed if language on those pages was not altered. (PJR)

Text additions made to page 13 of Section 4.1.1, Post-Mining Land Use Narrative, indirectly altered subsequent pages 14-24. The current version of pages 14-24 presented in Revision 37 are not the same as the approved version of pages 14-24 from Revision 36; therefore, requested changes have not been made.

18. *Please revise the Post-Mining Topography and Land Use Map, Section 4.1.2, such that the mining disturbance boundary (dashed blue line) is depicted around all areas affected by associated disturbance or include another line type on this map to show the boundary between reclaimed and undisturbed lands. Currently, the mining disturbance boundary is not shown around sediment ponds and areas affected by SPGM stockpiles. (GAW)*

An associated disturbance boundary has been depicted in Section 4.1.2 and referenced in the legend.

19. *The first paragraph on page 10 of Section 4.1.5, Revegetation Procedures and Establishment, references Permit NACT-8601. Please update the permit reference to Permit NACT-1801. (JAR)*

Section 4.1.5, Revegetation Procedures and Establishment, has been updated as requested.

Section 5.0 – Post-Mining Wetlands

20. *Page 7 of Section 5.1.2, Preliminary Wetland Data, indicates that the bottom elevation of wetland CW-D10-01 is identical to the excavated bottom elevation of the sediment pond, 1940.0, but the sediment pond was designed to handle 3,447 tons of sediment per year. Please determine the current bottom elevation of sediment pond and revise the wetland design specifications accordingly. (GAW)*

Pond P-D10-01 was designed to handle 10 years of 1,000 tons or 0.74 ac-ft of sediment per year. Although 3,447 tons was calculated as eroding from the land on a yearly basis only 1,000 tons of that actually would be carried to the pond. The pond has been constructed for 25 years, at 0.74 ac-ft of sediment being deposit annually this calculates to 18.5 ac-ft or an elevation of 1942.2. Section 5.1.2 has been updated to represent this.

21. Wetland design specifications at the bottom of page 7 of Section 5.1.2 provides wetland surface area information for CW-D10-01 at the high-water elevation, but the 50% annual water yield is only a fraction of the pond's design capacity (32.25 ac ft vs 98.4 ac ft). Please provide the wetland's expected surface area based on water supply from a normal year precipitation as described by the ND Department of Water Resources, or on basin configuration and the 50% annual water yield from the contributory watershed as

required for reclaimed wetlands in the Revegetation Success Guidelines document. (GAW)

With 50% chance annual yield equating to 32.25 ac-ft and a new bottom elevation of 1942.2, the normal high water mark would be at 1945.6, which has a surface area of 9.8 acres. A statement was added to page 7 of 5.1.2.

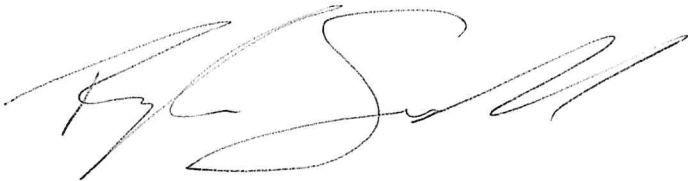
22. Please include design details for wetland CW-D10-01 in Section 5.1.4, Post-Mining Wetland Drawings, in a manner similar to other sediment ponds that were converted to wetlands (wetlands CW-16-02, CW-17-03 and CW-17-04). (GAW/PJR)

This is not practical to do at this time. The previously mentioned pond to wetland conversion was done in AutoCAD, where as this pond was still hand drawn. Making changes would be cumbersome and most likely not be a legible product. When finished converting the pond to a wetland, we will conduct an as-build as the final design and submit it with the next permit revision. Converting the pond to a wetland does not require any major modifications to the pond.

If you have any questions, please contact Ms. Sarah Flath.

Sincerely,

THE COTEAU PROPERTIES COMPANY



Rylan A. Sundsbak
Environmental Specialist

RAS:ajh
Uploaded via Permit Services