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

PUBLIC SERVICE COMMISSION
RECLAMATION DIVISION
SFN 10562 (Rev. 08-2001)

| | | | |
|---|---|---|---|
| | | Date: August 28, 2007 | |
| Name of Company, Corporation, Partnership, or Individual: The Coteau Properties Company | Permit Number: NACT-9501 | Revision Number: 30 | |
| 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 1

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 | N/A | | | | |
| 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: William R. Kirk

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;

SFN 10562 (Rev. 08-2001)

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 |
|---|---|
| William R. Kirk | Staff Mining Engineer |

**VERIFICATION**

I, Joseph D. Friedlander, 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 |

Subscribed and sworn to before me this 28th day of August, 20 07. My commission expires: 9/10/09.

Lisa Ryan
Notary Public

(SEAL)

LISA RYAN
Notary Public, STATE OF NORTH DAKOTA
My Commission Expires SEPT. 10, 2009

This revision updates introductory information, operations - general, operations - surface water management, post mining land use and revegetation, reclamation - general, and post mining stockponds to incorporate the latest mine plans, include changes to the post mining topography, material balance, and post mining land use, revise reclamation plans for final highwall and pit areas, and to add information for a dragline trail.

# Public Service Commission
State of North Dakota

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September 28, 2007

Mr. Joe D. Friedlander
Environmental Manager
Coteau Properties Company
204 County Rd. 15
Beulah, ND 58523-9475

Dear Mr. Friedlander:

The Reclamation Division has conducted an initial review of the application for Revision No.30 to Permit NACT-9501 for the Freedom Mine. This revision proposes post-mining topographic and land use changes along with other modifications to this permit. Based on the nature of the post-mining topography changes being proposed, we have determined this revision is a significant alteration to the approved permit and therefore will be subject to the public notice requirements. The following items must be addressed before the revision can be deemed complete.

**Section 1.2.4**

1. Since the revision is considered a significant, please provide a draft newspaper notice in the revision application. (MDB/JRD)

**Section 2.2 Surface Water Hydrology and Monitoring**

2. Based on proposed revisions to the post-mining topography and related watershed changes, please include an update to the probable hydrologic (surface water) consequences as required in NDCC 38-14.1-14(1)(o) and NDAC 69.05.2-08-04(4). Also, please update the hydrologic reclamation plan that specifically addresses any potential adverse impacts identified in the revised PHC determination and include preventative and remedial measures for those impacts. (BEB)

**Section 3.6 Surface Water Management**

3. Please update the surface water management plans to reflect the revised post-mining watershed boundaries and update the hydrology calculations for any sediment ponds and post-mine developed water resources which may be affected by the proposed post-mining topography. (MDB)

**Section 4.2 Reclamation – General**

4. In addition to the comparison of the revised post-mining topography to the pre-mine topography, please compare the changes to the post-mine topographic plan that is currently approved and discuss the reasons for the changes at this time. (MDB)

If you have any questions, please contact this office.

Sincerely,

James R. Deutsch
Director
Reclamation Division

m\freedom\permit 9501\Revisions\No. 30\complete_ltr_9-28-07

# THE COTEAU PROPERTIES COMPANY

*A SUBSIDIARY OF THE NORTH AMERICAN COAL CORPORATION*

**FREEDOM MINE**

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30.03
ND PUBLIC SERVICE COMMISSION
RECLAMATION DIVISION

FROM DIRECTOR - RECLAMATION DIV.

Date:_____

Action:_____

Info. Only:_____

Info & File:_____

November 16, 2007

Mr. James R. Deutsch
Director Reclamation Division
Public Service Commission
600 East Boulevard Avenue
Department 408
Bismarck, ND 58505-0480

Dear Mr. Deutsch:

Enclosed are three sets of revised materials for Revision 30 to Permit NACT-9501. Responses below refer to deficiencies in your September 28, 2007 letter:

1. The proposed newspaper publication was sent to you via email, and was approved for publication with one minor change, removing coal owners. Publication began on November 1 for four consecutive weeks, and will end November 22.
2. This item will be addressed as part of technical review.
3. This item will be addressed as part of technical review.
4. See revised pages 5-6 of Section 4.2.1.

If you have any questions, please contact Donn Steffen or me.

Sincerely,

THE COTEAU PROPERTIES COMPANY

Joseph D. Friedlander
Environmental Manager

JDF:lr

NORTH AMERICAN COAL CORPORATION
FREEDOM MINE

# Public Service Commission
State of North Dakota

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November 26, 2007

Mr. Joe D. Friedlander
Environmental Manager
Coteau Properties Company
204 County Rd. 15
Beulah, ND 58523-9475

Dear Mr. Friedlander:

The Reclamation Division has now deemed the application for Revision No. 30 to Permit NACT-9501 complete. Verbal approval to begin publication of the newspaper notice was granted on October 17, 2007. Please provide proof of publication after the last notice has been published.

If you have any questions, please contact this office.

Sincerely,

James R. Deutsch
Director
Reclamation Division

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# Public Service Commission
State of North Dakota

COMMISSIONERS

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December 27, 2007

Mr. Joe D. Friedlander
Environmental Manager
Coteau Properties Company
204 County Rd. 15
Beulah, ND 58523-9475

Dear Mr. Friedlander:

The Reclamation Division has conducted a review of Coteau's application for Revision No. 30 to Surface Coal Mining Permit NACT-9501 for the Freedom Mine. The items listed below must be addressed before the revision can be approved:

**Section 2.2 Surface Water Hydrology and Monitoring**

1. Based on proposed revisions to the post-mining topography and related watershed changes, please include an update to the probable hydrologic (surface water) consequences as required in NDCC 38-14.1-14(1)(o) and NDAC 69.05.2-08-04(4). Also, please update the hydrologic reclamation plan that specifically addresses any potential adverse impacts identified in the revised PHC determination and include preventative and remedial measures for those impacts. (BEB)

**Section 3.5 Transportation Facilities**

2. Please update the transportation narrative to reflect the changes in off-system road standards, as was done in Revision 26 to Permit NACT-8601. (MDB)

**Section 3.6 Surface Water Management**

3. Please update the surface water management plans to reflect the revised post-mining watershed boundaries and update the hydrology calculations for any sedimentation ponds and post-mine developed water resources which may be affected by the proposed post-mining topography change. (MDB)

**Section 4.1 Postmining Land Use and Revegetation**

4. Information on page 5 of 4.1.1 seems to indicate that there will be 5 stockponds in Section 35 (SE¼SW¼, NW¼NW¼ , NW¼SW¼, SW¼NW¼, and NE¼SE¼) yet only three are shown on the map in Section 4.1.6 (Post Mining ...Land Use Map) and listed in the table in Section 5.2.2 (Designs Parameters...Stockponds). In addition, the locations listed on page 5 of 4.1.1 and the other two sources do not always match. Please make the necessary corrections so all of the section area is consistent. (SAS & GAW)

5. The Postmining Topography and Land Use Map show that approximately 22 acres of cropland is to be reclaimed in Tract 43, but Table 4.1.5 lists 0.0 acres. Please correct. (GAW)

6. The Postmining Topography and Land Use Map indicates the majority of Shelterbelt SB-14-01 is going to be planted on undisturbed land. This is a replacement shelterbelt so it must be planted on acreage that has been disturbed by mining activities. Additional acreage should not be disturbed to accommodate a replacement tree planting. Revegetation success standards are for demonstrating reclamation success on mined lands, not undisturbed lands. (GAW)

7. According to Table 1 of Section 4.1.5, 39.9 acres of cropland is being converted to native grassland in Tract 35; however, this change is not shown on the Postmining Topography and Land Use Map. It appears that Table 1 was changed in error. Please review and correct as appropriate. (GAW)

8. Please label the tame pastureland tract located in Tract 14. There are 2.0 acres of tame pastureland in Tract 14 according to Table 1 of Section 4.1.5; however, it is not depicted in the Postmining Topography and Land Use Map. (GAW)

9. Please show the post-mining wetland acreage that is to be reclaimed in Tracts 15/16 on the Postmining Topography and Land Use Map. Table 1 indicates that 0.6 acres of wetland is to be reclaimed on this tract. (GAW)

10. Table 1 indicates that 0.3 acres of shelterbelt is going to be reclaimed in Tract 33, but Shelterbelt SB-26-01 is identified as comprising 0.8 acres on the Postmining Topography and Land Use Map. The narrative on page 2 of 4.1.1 also states that 0.8 acres will be planted and it further states that this is to be considered a conservation type planting. In the narrative please clarify if the premine shelterbelts in this tract were disturbed and, if they were, the planting will need to be considered a replacement planting rather than a conservation planting. In addition, the Reclamation Division does not recommend planting Russian Oliver since this species is considered an invasive species by some groups. Please review and update as necessary. (GAW)

11. Table 1 indicates that Tract 2 will have 19.6 acres of native grassland after mining. Please show the location of this acreage on the Postmining Topography and Land Use Map. (GAW)

12. The Postmining Topography and Land Use Map, Section 4.1.6, indicates that about 40 acres of cropland will be reclaimed in Tract 25, but Table 1 shows that 0.0 acres will be reclaimed in this tract. Please review and update as necessary. (GAW)

13. Table 1 indicates that 2.0 acres of native prairie is to be reclaimed in Tract 27. Please show this land use on the Postmining Topography and Land Use Map. (GAW)

14. While Table 1 is being updated and corrected, please review the size of the reclaimed stock ponds for the purpose of determining the correct post-mine land use acreage. The post-mine stock pond acreages listed in this table should be the same as the stock pond surface area acreages listed in Table 5.2.2. (GAW)

15. The areas occupied by SPGM Stockpiles SS-236 and TS-421 and Diversion D-H25-01 in the NW¼ of Section 25 will be reclaimed to tame pastureland according to the Postmine Topography and Land Use Map, Section 4.1.6 and Table 1 of Section 4.1.5. All of the other premine tame pastureland that has been disturbed in this tract is being converted to native grassland. We recommend that Coteau also consider reclaiming these areas to native grassland to facilitate future management and bond release. (GAW)

16. Please review the location of created Wetland CW-31-09. Although the design plan indicates this wetland was to be constructed in the SE¼SW¼NE¼ of Section 31, this wetland location was not evident in the field during the August 17th inspection. The proposed wetland location was farmed through this year. Please review and update as necessary. Also, please note that Table 1 shows that Tract 5 is to have 1.8 acres of post-mine wetlands. (GAW)

17. Reclaimed cropland proposed in the SE¼ of the SW¼ of Section 15, the southwest corner of the SE¼ of Section 15, and the NW¼ of the NE¼ of Section 22 has long slopes that go up to 12% in some area. The proposed slopes in these areas generally appear to be steeper than they were prior to mining. Please consider shifting the hill top that is proposed in the northeast corner of Section 22 further to the southwest to reduce the slopes on the adjacent reclaimed cropland. This will increase the slopes in the reclaimed native grassland, but they would still be less than those present prior to mining. Such a change would also reduce the size of the watersheds draining to the southwest (NW¼ of Section 22). As currently proposed, the increased watershed sizes will increase runoff rates and flow rates in the reclaimed and steep undisturbed drainageways, making them susceptible to erosion. (GAW, MDB & JRD)

18. On the Postmining Area Slope Map, we recommend adding a table to show the premining and post-mining slope comparisons for the native grasslands north of Highway 1806. This is requested due to the acreage and significant slope changes in this area and it can be done in a manner similar to the comparison tables that are currently shown on the map for several other areas. (MDB)

19. Major post-mining topography changes proposed in the SW¼ of Section 26, SE¼ of Section 27, E½ of Section 34, and W½ of Section 35 are unacceptable since the changes do not meet the grading requirements of NDCC 38-14.1-24(3) that requires grading to the gentlest topography consistent with adjacent unmined landscape elements. For example, spoil material is available to the east of the final pit areas in the SE¼ of Section 27 and NE¼ of Section 34 that can be placed in the final pit areas. Addition grading in these areas will reduce slopes with drainages configured to tie into the undisturbed land to the west. It also appears that several knobs proposed in other areas can be further graded to reduce slopes in these areas, such as in the S½ of the SW¼ of Section 35 and N½ of the NE¼ of Section 34. While we do not object to making some adjustments to the post-mining topography to reflect the actual locations of final pits and coal haulage ramps, the revised grading plan needs to comply with the provisions of NDCC 38-14.1-24(3). (MDB & JRD)

20. In reviewing the premine and post-mine drainages, the post-mine drainages appear to be straighter than the premine drainages were. To the extent possible during final grading, please create sinuosity in the major and minor drainages. (MDB)

21. In order to demonstrate that post-mining drainageways will be stable, please provide runoff calculations, drainageway profiles, and flow rates and velocities for many of the reclaimed and undisturbed drainages along the west side of the permit area. This information is requested for any drainageway where the watershed size has increased by more than ten percent compared to the premine condition. (JRD)

**Section 4.2 Reclamation - General**

22. The current worst-case reclamation condition for setting the bond amount is expected to occur in 2008. However, in viewing the Pit Layout and Facilities Map, it appears the amount of disturbance for the year 2008 has changed in the area located north of Highway 1806 and the amount of land with a respread variance has increased. Please update the worst-case cost estimate to reflect these changes. (MDB)

**Section 5.1 – Postmining Wetlands**

23. Created Wetland CS-26-01 has been moved a few hundred yards to the north of where it was originally planned, according to the Postmining Topography and Land Use Map. Please review the design plan and update if necessary (it appears it was simply shown in the wrong place on the Land Use Map). (GAW)

We suggest that Coteau consider an alternative post-mine land use for the 1.3 acres of native grassland that is to be reclaimed in the SE¼ of Section 30 that was affected by sediment Pond P-H30-01. This would be an ideal location for a wetland if an adequate sized watershed exists or perhaps trees could be planted to enhance wildlife habitat. Converting the area to cropland will not be approved due to the irregular shape of the area, property boundaries, and the isolated nature of this small tract.

The Reclamation Division intends to compare the premine grassland tall shrub communities with the annual map disturbance boundary to ensure that ample woodland acreage is being replaced as indicated on Page 4 of 4.1.1. Please review your woodland placement plans at this time to ensure ample woodland acreage will be replaced.

If you have any questions, please contact this office.

Sincerely,

James R. Deutsch
Director
Reclamation Division

cc: Mercer County Auditor

m\Freedom\Permit 9501\Revisions\No. 30\tech_ltr_12-27-07

# THE COTEAU PROPERTIES COMPANY

*A SUBSIDIARY OF THE NORTH AMERICAN COAL CORPORATION*

**FREEDOM MINE**

204 County Road 15
Beulah, North Dakota 58523-9475

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FROM DIRECTOR - RECLAMATION DIV.

Date:

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Info & File:


August 22, 2008

Mr. James R. Deutsch
Director Reclamation Division
Public Service Commission
600 East Boulevard Avenue
Department 408
Bismarck, ND 58505-0480

Dear Mr. Deutsch:

Enclosed are three sets of revised materials for Revision 30 to Permit NACT-9501. Responses below refer to deficiencies in your December 27, 2007 letter:

1. See new pages 12c-12g and 20 of Section 2.2.5, the Post-Mining Probable Hydrologic Consequences Map (new Sheet 2B of 3) of Section 2.2.7, and new Sections 3.6.95 and 3.6.96.
2. See revised page 6 and new pages 7-8 of Section 3.5.1.
3. See new pages 9a and 12-13 of Section 3.6.1, and new Sections 3.6.91, 3.6.92, 3.6.93, and 3.6.94.
4. See revised page 5 of Section 4.1.1.
5. See revised pages 1-1a of Section 4.1.5.
6. This issue was addressed in Revision 25 to Permit NACT-9501. The location of SB-14-01 was approved at that time because of the extremely desirable site, even though it is not typically desirable to choose an undisturbed location for a tree planting. The tree planting will be part of a larger complex of wetlands, trees, and tame pasture. Because the planting will be part of a larger complex of habitat, it will be more valuable in this location than in a more isolated one. This area will be idle in the future, protected from grazing by its small size and distance from other pastures, and protected from tillage by the slopes of the drainage that runs through it. These features will help assure the planting will not be damaged by cattle, or removed by a future landowner to increase their tillable acres after bond release. Because this location will increase its value as wildlife habitat and will protect it in the future, no changes were made.
7. See revised pages 1-1a of Section 4.1.5.
8. See revised pages 1-1a of Section 4.1.5.
9. See revised pages 1-1a of Section 4.1.5.
10. The 0.3 acres of shelterbelts listed in Tract 33 in Section 4.1.5 are existing shelterbelts that were not disturbed by mining. The additional 0.8 acre shelterbelt that is being added to the east and south of the farmstead are additional trees being added as requested by Sailer's, as stated on page 2 of Section of Section 4.1.1 and their preference statement in Section 4.1.4. The total post-mining shelterbelt acres were changed to 1.1 acres to include the additional conservation shelterbelt. Page 2 of Section 4.1.1 was changed to include buffaloberry instead of Russian olive trees in the species mix for the conservation shelterbelt.

11. See the revised Post-Mining Topography and Land Use Map of Section 4.1.6.
12. See revised pages 1-1a of Section 4.1.5.
13. See revised pages 1-1a of Section 4.1.5.
14. See revised pages 1-1a of Section 4.1.5. The acres used in Section 5.2.2 are based on pre-mining acres, and the actual size of the stockpond will change when designed.
15. See revised pages 1-1a of Section 4.1.5.
16. It was determined that CW-31-09 was not in its designated location. Two other features in the area, totaling 1.8 acres, were identified as wetlands (CW-31-06 and CW-31-09). See revised pages 1-1a of Section 4.1.5, the Post-Mining Topography and Land use Map of Section 4.1.6, revised page 1 of Section 5.1.1, and revised page 1, new Wetland CW-31-06 drawing, and revised Wetland CW-31-09 drawing of Section 5.1.2.
17. See the revised Post-Mining Topography and Land Use Map of Section 4.1.6, the revised Post-Mining Area Slope Map of Section 4.2.5, and the revised Post-Mining Topography Development Map of Section 4.2.8.
18. See the revised Post-Mining Area Slope Map of Section 4.2.5.
19. See the revised Post-Mining Topography and Land Use Map of Section 4.1.6, the revised Post-Mining Area Slope Map of Section 4.2.5, and the revised Post-Mining Topography Development Map of Section 4.2.8.
20. Major drainages are a little straighter, but still acceptable. Coteau will consider sinuosity in some of the secondary drainages during final grading.
21. See new pages 12f-12g and 21-27 of Section 2.2.5.
22. For the area north of Highway 1806, it looks like we have approximately 27 acres not accounted for in the worst case calculation. To offset this, we are 194 acres ahead in Section 8 of the East Mine Area. Updating the calculation is not necessary at this time. It is recommended that we revisit the worst case bond calculation this fall.
23. See the revised Post-Mining Topography and Land use Map of Section 4.1.6.

We considered your suggestion for an alternative post-mining land use for the 1.3 acres of native grassland that is to be reclaimed in the SE¼ Section 30, but no other land use is feasible. The 1.3 acres lie on the crest of a low hill, and do not have a watershed that could contribute to a wetland. Also, the site would not be an ideal location for a tree planting, since the area is exposed and on top of a hill. We plan to keep these 1.3 acres as native grassland.

If you have any questions, please contact me.

Sincerely,

THE COTEAU PROPERTIES COMPANY

Joseph D. Friedlander
Environmental Manager

JDF:lr

# Public Service Commission
State of North Dakota

COMMISSIONERS

Susan E. Wefald, President
Kevin Cramer
Tony Clark

Executive Secretary
Darrell Nitschke

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October 10, 2008

Mr. Joe D. Friedlander
Environmental Manager
Coteau Properties Company
204 County Rd. 15
Beulah, ND 58523

Dear Mr. Friedlander:

The Reclamation Division has reviewed your response to the technical deficiency letter on the application for Revision 30 to Permit NACT-9501. While many of the deficiencies have been adequately addressed, the following items need to be satisfactorily addressed:

1. Follow-up to original item No. 1: The updated surface water probable hydrologic consequences in Section 2.2.5 needs to further address the combined impact of the changes to Watersheds 14-14 and 14-15 on downstream areas. The changes made to Section 2.2.5 in response to the original item appear to be limited to impacts within the permit area. However, the downstream off-permit areas that will be impacted by the watershed changes also need to be addressed. A staff field review noted that the sections of the north-south diversion ditch that is not within the permit area may not be capable of handling increased flows and it appears the post-mine flow rates will be significantly higher than the pre-mine conditions where the south-north diversion ties into the section line road between Sections 27 and 34. Also, the south ditch of this section line road is not well defined and flows would likely go into the cropland to the south of the road. In addition, based on the delineation of Watershed 14-14 on the pre-mine PHC map, Sheet 2 of 3 of Section 2.2.6, it is not clear if the diversion ditch intercepted the runoff from this watershed prior to mining. If it didn't, the post-mine flows into this diversion and road ditch will be greatly increased over the pre-mine conditions. Please update the PHC and hydrologic reclamation plan to address the potential adverse impacts as a result of the increased runoff and flow rates in the diversion ditch, along the section line road, and other off-permit downstream areas. Coteau also needs to discuss measures that need to be taken to prevent or minimize erosion due to the increased and more concentrated flows. If any off-permit area needs to be disturbed to minimize the hydrologic impacts as a result of watershed changes due to mining and reclamation activities, those areas will have to be added to the permit prior to disturbing them. (JRD)

2. Follow-up to original item No. 6: In the last paragraph on page 2 of Section 4.1.1, please clarify that all of Shelterbelt SB-14-01 will be subject to reclamation revegetation success standards even though most of the shelterbelt will be planted on lands not disturbed by mining related activities. (GAW)

3. Follow-up to original item No. 15: With changes made in response to original item 15, we noted that the post-mine land use of the undisturbed tame pastureland in the NW¼ of Section 25 is being changed to native grassland. To implement this change, does Coteau plan to spray undisturbed tame pastureland area be with Roundup or similar chemical and reseed that area with the native grassland seed mix when the adjoining disturbed areas are reclaimed and seeded? Please clarify. (GAW)

4. Follow-up to original item No. 16: The introduction paragraph of Section 5.1.1 has been changed to state that 12 wetlands will be constructed to replace the 19 that will be disturbed. The Post-Mine Topography and Land Use Map, Section 4.1.6, shows that 16 wetlands are to be created. Please review and update or otherwise explain this discrepancy. (GAW)

5. Follow-up to original item No. 22: The worst-case reclamation cost needs to be updated with this revision. Revision 7 to Permit NACT-0401 was granted allowing the use of 2007 variable costs and with the understanding that the reclamation costs would be updated with Revision 30 using the 2008 variable costs. While we agree that changing the worst-case scenario may be delayed until later this year, the variable costs in the current worst-case condition need to be updated prior to the approval of this revision. (MDB)

6. New: Two permanent grassed waterways are now proposed in cropland in the NE¼ of Section 34 to ensure stability of the drainageways. We agree with this practice and believe they will serve the intended purpose. However, flows from the permanent waterways will enter into an existing diversion ditch off-permit and flow north to the section line road ditch. Since the watershed area into this existing drainage ditch is increased significantly as noted in Item 1 above, please provide calculations in the water management plan demonstrating that the diversion ditch, section line road ditch and culverts are capable of handling the additional runoff without causing erosion or other harm to downstream areas. (MDB)

If you have any questions, please contact this office.

Sincerely,

James R. Deutsch
Director
Reclamation Division

m\Freedom\9501\Revisions\No. 30\tech2_rvw_10-10-08

# THE COTEAU PROPERTIES COMPANY

*A SUBSIDIARY OF THE NORTH AMERICAN COAL CORPORATION*

**FREEDOM MINE**

204 County Road 15
Beulah, North Dakota 58523-9475

(701) 873-2281 • Fax (701) 873-7226



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NOV 1[illegible] 2008

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PUBLIC SERVICE COMMISSION

FROM DIRECTOR - RECLAMATION DIV.

Date:_____

Action:_____

Info. Only:_____

Info & File:_____


November 14, 2008

Mr. James R. Deutsch
Director Reclamation Division
Public Service Commission
600 East Boulevard Avenue
Department 408
Bismarck, ND 58505-0480

Dear Mr. Deutsch:

Enclosed are three sets of revised materials for Revision 30 to Permit NACT-9501. Responses below refer to deficiencies in your October 10, 2008 letter:

1. See revised page 12g, new page 12h, and revised page 20 of Section 2.2.5.
2. See revised page 2 of Section 4.1.1.
3. See new page 7 of Section 4.1.1.
4. See revised page 1 of Section 5.1.1.
5. In response to your recent phone conversation with Donn Steffen, Coteau will be submitting a new worst-case cost scenario based on year 2010. This will be submitted in December in conjunction with Revision 11 to Permit NACT-0401.
6. See revised page 12g, new page 12h, and revised page 20 of Section 2.2.5.

Pages 12e-12f of Section 2.2.5 were revised to correct a typo.

If you have any questions, please contact me.

Sincerely,

THE COTEAU PROPERTIES COMPANY

Joseph D. Friedlander
Environmental Manager

JDF:lr
Enc.

# THE COTEAU PROPERTIES COMPANY

*A SUBSIDIARY OF THE NORTH AMERICAN COAL CORPORATION*

**FREEDOM MINE**

204 County Road 15
Beulah, North Dakota 58523-9475

(701) 873-2281 • Fax (701) 873-7226



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DEC 23 2008
31221
PUBLIC SERVICE COMMISSION

FROM DIRECTOR - RECLAMATION DIV.

Date:

Action:

Info. Only:

Info & File:


December 22, 2008

Mr. James R. Deutsch
Director Reclamation Division
Public Service Commission
600 East Boulevard Avenue
Department 408
Bismarck, ND 58505-0480

Dear Mr. Deutsch:

In response to your email to Joe Friedlander dated December 8, 2008, enclosed are three sets of revised materials for Revision 30 to Permit NACT-9501. Pages 13-19 of Section 2.2.5 and the Pre-Mining Probable Hydrologic Consequences Map (Sheet 2 of 3) of Section 2.2.6 were revised.

If you have any questions, please contact me.

Sincerely,

THE COTEAU PROPERTIES COMPANY

William R. Kirk
for
Joseph D. Friedlander
Environmental Manager

JDF:lr
Enc.

# PUBLIC SERVICE COMMISSION
## Reclamation Division
**********

## Memorandum

**TO:** Commissioners Cramer, Clark and Kalk
Darrell Nitschke
Illona Jeffcoat-Sacco

**FROM:** Michael Berg, Jim Deutsch and Dean Moos

**DATE:** January 7, 2009

**SUBJECT:** Application for Revision No. 30 to Permit No. NACT-9501 held by Coteau Properties Company, Case No. RC-07-701

On August 29, 2007, the Coteau Properties Company (Coteau) filed an application for Revision No. 30 to Permit No. NACT-9501 for the Freedom Mine. The permit revision modifies the appropriate sections of the permit for post-mining topography and land use changes and makes other changes to the operations and reclamation plans. The Reclamation Division has completed its review of this revision and respectfully recommends that it be approved.

The primary purpose of Revision No. 30 is to modify the previously approved post-mining topography and land uses in areas affected by final pits. While these changes were proposed by Coteau to reduce the amount of spoil that has to be moved to backfill the final pit areas, the land use capability of the reclaimed land in these areas will be similar to what existed prior to mining. The revision also modifies other sections of the permit including increases to the holding capacity of some sedimentation ponds, updates to the anticipated surface water hydrologic consequences of mining, and adds design standards for reclaimed section line roads.

The Reclamation Division deemed Revision No. 30 as a significant revision to Permit No. NACT-9501 and therefore was subject to the public notice requirements. Coteau submitted affidavits of publication of the newspaper notice from the Beulah Beacon, Hazen Star, and Bismarck Tribune indicating that the notices were published on November 1,8,15, and 22, 2007. No objections to this revision application were received.

Attached for your consideration at the January 14th Commission meeting are the proposed motion, revision approval form, and newspaper notice that must be published following revision approval.

Attachments

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# STATE OF NORTH DAKOTA

# PUBLIC SERVICE COMMISSION

**Coteau Properties Company**
**Revision No. 30, Permit NACT-9501**
**Application**

**Case No. RC-07-701**

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

**January 14, 2009**

Based on the Application for **Revision Number 30 to Permit Number NACT-9501 received on August 29, 2007**, and all information and documentation contained therein, the North Dakota Public Service Commission finds that:

1. The revision application submitted on August 29, 2007, and revised through December 23, 2008, is complete and accurate and the applicant has complied with the requirements of Chapter 38-14.1 of the North Dakota Century Code and Article 69-05.2 of the North Dakota Administrative Code;

2. The Commission's other findings that were made when the permit was issued remain applicable to the revised operation and reclamation plans.

**Revision Number 30 to Permit NACT-9501 for the Freedom Mine is hereby granted to the Coteau Properties Company to modify the post-mining topography and land uses in and around final pit areas and to update other sections of the permit including the operation plans and other reclamation plans as described in the revision application received August 29, 2007.**

The approved revision is subject to the requirements of Chapter 38-14.1 of the North Dakota Century Code, Article 69-05.2 of the North Dakota Administrative Code, and the conditions of the approved permit. Pursuant to Section 38-14.1-23 of the North Dakota Century Code and Article 69-05.2 of the North Dakota Administrative Code, this revision was found to be a significant alteration to the previously approved permit.

**PUBLIC SERVICE COMMISSION**

| | | |
|---|---|---|
| **Tony Clark** | **Kevin Cramer** | **Brian P. Kalk** |
| **Commissioner** | **President** | **Commissioner** |

# Public Service Commission
State of North Dakota

COMMISSIONERS

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TDD 800-366-6888 or 711
Fax 701-328-2410
Phone 701-328-2400

January 16, 2009

Mr. Joe D. Friedlander
Environmental Manager
The Coteau Properties Company
204 County Rd. 15
Beulah, ND 58523-9475

Dear Mr. Friedlander:

This is to inform you of the Commission's January 14, 2009, approval of Revision No. 30 to Surface Coal Mining Permit NACT-9501, PSC Case No. RC-07-701, held by The Coteau Properties Company at the Freedom Mine. This revision updates the post-mining topography, post-mining land use as well as operations and reclamation plans. This permit revision was found to be a significant revision and was subject to the public notice requirements.

Enclosed is the original revision approval form. If you have any questions, please contact this office.

Sincerely,

James R. Deutsch
Director
Reclamation Division

Enclosure

m\Freedom\9501\Revisions\No. 30\Rev30_AL_1-16-09