



Public Service Commission

State of North Dakota

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January 13, 2023

Mr. Kyle Boger
Environmental Supervisor
Coteau Properties Company
204 County Road 15
Beulah, ND 58523
Kyle.Boger@nacoal.com

Dear Mr. Boger:

The Reclamation Division has completed an initial review of the application for final bond Release No. 1 to Surface Coal Mining Permit NACT-1801, submitted December 13, 2022. The following items must be addressed prior to publishing the public notice or notifying surface owners and governmental agencies. An inspection of the property as required by NDCC 38-14.1-17 will be delayed until the public notice has been published, notification letters have been mailed and weather conditions allow for an adequate evaluation of the reclamation completed.

Attachment III – Public Notice

1. Please include “Mercer County” after the tract’s legal description in the first sentence of the public notice. (PJR/GAW)
2. To improve clarity, please consider revising the second paragraph of the public notice as follows:
 - a. Move the second sentence of the second paragraph to the end of the paragraph, and, as required by NDAC 69-05.2-01-02(90)(b)(2), clarify if the water supplies of the pre-mine wells were adversely affected by mining. If these wells were adversely affected, the notice must clarify if the permittee has replaced these water delivery systems and these pre-mine wells must be depicted on the map included with the notice if the wells are not being replaced (GAW).
 - b. Please provide the date that reclamation work was completed for the proposed bond release tract and clarify when the reclamation work began. Please also add the approximate dates that the reclamation work (i.e., final grading to post-mining contour, SPGM respread, and initial seeding) was performed as specified in NDCC 38-14.1-17(1)(a)(4). (JAR)
 - c. Revise the third sentence to clarify when coal removal was completed. (JAR)
 - d. The end of the second paragraph states that “roads consist of section line rights-of-ways” but it is not clear if roads have been constructed on affected statutory rights-of-ways (GAW).
 - e. A sentence near the bottom of the second paragraph implies that a Southwest Water tap is a reclaimed land use. Please include the Southwest Water verbiage as a separate sentence at the end of the paragraph. (GAW)

2 RC-22-428 Filed 01/13/2023 Pages: 3
Bond Release 1 Initial Review Letter
Public Service Commission
Zanna Brinkman

3. The public notice specifies that the final bond release is to be published in the Beulah Beacon. However, the official newspaper for Mercer County is listed as the Hazen Star. Please include publication of the public notice in the official Mercer County newspaper as specified in NDCC 38-14.1-17(1)(a). (JAR)

Attachment IV - Letters to Interested Parties

4. Please address items 1 and 2 above in the letter that is to be sent to adjacent surface owners. (GAW/JAR)
5. Attachment IV indicates that Gerald and Selma Heihn are adjacent surface owners but the surface and coal ownership map in the permit does not include these individuals as adjacent surface owners. Casey and Renee Renner are listed as adjacent surface owners on the surface and coal ownership map in the permit and these individuals are not listed as adjacent surface owners in Attachment IV. Please address this issue. (GAW)
6. Please update the following addresses in Attachment IV – Letters to Interested Parties: (JAR)

North Dakota Department of Environmental Quality
4201 Normandy Street
Bismarck, ND 58503-1324.

North Dakota Department of Water Resources
State Engineer, John Paczkowski, P.E.
1200 Memorial Highway, Dept 770
Bismarck, ND 58504

Attachment V – Topographic and SPGM Depths Maps

7. Please update Attachment Va, SPGM Respread Depths Map, to label the adjacent property owner south and west of the Final Bond Release 1 tract. (MJF)
8. Please update Attachment Va, SPGM Respread Depths Map, to label the depth of subsoil placed on all SPGM sub-tracts. (PJR/MJF)
9. Please label the undisturbed land on Attachment Vb, Topographic Map, so that it is clear which areas have not been affected by mining related activities. Please identify the coal removal boundary on the map so that the area of associated disturbance is properly depicted and label these areas to provide clarity. (PJR/GAW)
10. Please update the topographic contours to match the color in the legend in Attachment Vb, Topographic Map. (PJR/MJF)

Attachment VI – General Information

11. Please revise Attachment VI, General Information, to clarify if coal within the bond release tract was private, state, or federally owned. Identify any portions of the tract where coal was federally owned. Please include this information in all future bond release applications, so it is clear to everyone involved if the bond release application requires OSMRE concurrence. (ZAB/MJF)

12. Please revise Attachment VI, General Information, to mention the pre-mining prime farmland subtract and explain why it is being reclaimed to tame pastureland. (MJF)

Attachment IX – Tame Pastureland

13. Attachment IX is incorrectly titled “Attachment X - Native Grassland” when opened. Please correct this error. (PJR/GAW)
14. Tables 1 and 2 at the end of Attachment IX are both titled “Section 17E Comprehensive Plant List”. It would appear one of these tables is associated with Section 17W. Please review and revise as necessary. (GAW)
15. The unadjusted tame pastureland production standard in Attachment IXa, Production Standard Calculation, was derived using the consolidated native grassland production standard for Mine Area 4 - South. Since the native grassland in Section 17 has been converted to tame pastureland, a tame pastureland unadjusted standard will need to be developed to demonstrate revegetation success. The forage suitability groups in the pastureland section of the 2022 Revegetation Success Standard document will need to be used to develop the unadjusted productivity standard and a copy of that standard will need to be incorporated into the CVSS. (GAW)
16. Please provide information about how the climatic correction (CF) was calculated for the years being used to demonstrate revegetation success. The National Agricultural Statistics Service information included in the application does not provide yield values. (GAW)
17. A native grassland ground cover standard was developed for the tame pastureland. The cover standard for tame pastureland is 73% basal hits or 83% based on first hits and only perennial live species that are not detrimental to the post mine land use can be used in determining ground cover (NDAC 69-05.2-22-07(3)(a)). Please adjust the application as necessary. (GAW)
18. The 2016 Production Sampling Locations map includes a sampling point outside of the bond release tract. Please clarify why it might be acceptable to include sampling data for cropland located outside of the boundaries of the bond release tract. (GAW)

If you have any questions, please contact this office.

Sincerely,



Zanna A. Brinkman
Director
Reclamation Division

cc via email only: Sarah Flath (sarah.flath@nacoal.com)
Dillon Belisle (dillon.belisle@nacoal.com)
Rylan Sundsbak (Rylan.Sundsbak@nacoal.com)
Mark Wallen (Mark.Wallen@nacoal.com)