

February 22, 2023

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

Dear Ms. Brinkman:

Final Bond Release #1 to Permit NACT-1801 has been uploaded to Permit Services. Changes have been tracked using track changes. Responses below refer to initial review deficiencies in your January 13, 2023 letter.

**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)*

The wording “Mercer County” has been added to Attachment III, Public Notice.

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).*

The second paragraph of the second paragraph was moved to the end of the paragraph, along with the statement regarding the status of the wells.

- 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)*

Information regarding the reclamation of Section 17 Final Bond Release tract 1, has been added to Attachment III.

- c. *Revise the third sentence to clarify when coal removal was completed. (JAR)*

The coal removal completion date has been added to the third sentence of Attachment III.

- 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).*

The narrative has been updated with requested changes.

- 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)*

A sentence regarding the Southwest Water tap installed in Section 17 was included in Attachment III at the end of the second paragraph.

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)*

The public notice has been updated to show the Hazen Star as the official newspaper for Mercer County.

#### **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)*

Items 1 and 2 above have been addressed in the letters to be sent to adjacent landowners.

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)*

Attachment IV has been updated to reflect the current landowner information.

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 IV has been updated with the given addresses.

### **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)*

Attachment Va, SPGM Respread Depths Map, has been updated to display property ownership south and west of the Final Bond Release 1 tract.

8. *Please update Attachment Va, SPGM Respread Depths Map, to label the depth of subsoil placed on all SPGM sub-tracts. (PJR/MJF)*

The areas within the bond release tract that do not display subsoil respread depths were associated with subsoil piles. These areas subsequently never had subsoil removed or respread.

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 property depicted and label these areas to provide clarity. (PJR/GAW)*

Labels and the coal removal boundary have been added to Attachment Vb Topographic Map.

10. *Please update the topographic contours to match the color in the legend in Attachment Vb, Topographic Map. (PJR/MJF)*

Attachment Vb Topographic Map contours has been updated to match the color in the legend.

### **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)*

Information regarding coal ownership in Section 17 has been included in Attachment VI.

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)*

A brief description explaining the post-mining reclamation for the S ½ of Section 17 and how it relates to the pre-mining prime farmland has been added to Attachment VI, General Information.

### **Attachment IX – Tame Pastureland**

13. *Attachment IX is incorrectly titled “Attachment X - Native Grassland” when opened. Please correct this error. (PJR/GAW)*

Attachment IX title has been revised from “Attachment X – Native Grassland” to “Attachment IX – Tame Pastureland”.

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)*

Table 2 at the end of Attachment IX has been revised to display the correct title.

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)*

Attachment IXa. Production Standard Calculation, has been updated with a tame pastureland unadjusted standard.

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)*

Originally the climatic correction factor was calculated using the “total tons production” provided by the NRCS Agricultural District data for the 2016 and “total tons production” using the NRCS County data for the 2020. The current year production total of the represented year was then divided by the combined 15-year production average.

The climatic correction factor has since been updated to be represented in “ton/acre yield” instead of “total tons production” for the given Agriculture District (2017 data) and County(2020data). Coteau has elected to use the 2017 vegetation data and as such the CF has been updated to reflect this change.

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)*

Attachment lxb, cover standard calculation, has been removed as the cover standard for tame pastureland is already known. As a result of this deletion, sub-category attachment numbers in attachment IX Tame Pastureland, have been updated to reflect this change.

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)*

This 2016 Production Sampling Locations map has been removed as Coteau has elected to use 2017 vegetation data throughout the bond release package. As a result, the 2016 Production Sampling Locations map has been replaced with the 2017 Production Sampling Locations map.

19. Additionally, changes were made to the Table of Contents.

Ms. Zanna A. Brinkman

February 22, 2023

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If you have any questions, please contact me.

Sincerely,

THE COTEAU PROPERTIES COMPANY

*/s/*

Mark A. Wallen

Environmental Specialist

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