



Public Service Commission

State of North Dakota

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November 16, 2023

Mr. Michael Berg
Environmental Supervisor
Coteau Properties Company
204 County Rd. 15
Beulah, ND 58523-9475
michael.berg@nacoal.com

Dear Mr. Berg:

The Reclamation Division has completed a technical review of Final Bond Release Application No. 1 to Permit NACT-1801. The following issues will need to be addressed prior to this office recommending Commission action.

Attachment IV – Letters to Interested Parties

1. Please update Attachment IV, Letters to Interested Parties, with copies of signed letters that were sent to adjacent surface owners and governmental agencies. (GAW)

Attachment VI – General Information

2. Please revise the Liability Period subsection to clarify year seven of the revegetation responsibility period is when vegetation sampling can begin to demonstrate revegetation success. (GAW)
3. Please revise the first sentence of the Reclamation Practices subsection to clarify what is meant by the language about rough grading areas of associated disturbance. Rough grading is usually associated with spoil peaks and areas where the topography has been altered, not areas of associated disturbance where the topography is not being altered. (GAW)
4. The third sentence from the end of the Reclamation Practices subsection mentions various tillage methods for site specific requirements that may have been used. Please revise to specify the method used rather than providing a list of methods that may have been used. (GAW)
5. The first sentence of the Reclamation History subsection states that reseeding and revegetation initiated the liability period. Please revise to clarify what action initiates the 10-year revegetation liability period. (GAW)

6. A sentence in the first paragraph of the Reclamation History subsection states that "...introduced species of smooth brome and Kentucky bluegrass..." Please revise to clarify which introduced species of smooth brome and Kentucky bluegrass overtook the reclaimed native grassland. (GAW)
7. The last sentence of the first paragraph of the Reclamation History subsection states "Below, livestock stocking rates are specified." Please revise to clarify what information is intended to be provided with this statement. (GAW)
8. A sentence in the second paragraph of the Reclamation History subsection states that prime farmland in the S½ of Section 17, at the request of the original private landowner, was reclaimed to native grassland that included the consolidation of acreage from Sections 7, 8, and 18. Please clarify the type of acreage consolidated in Sections 7, 8, and 18 or the acreage of prime farmland consolidated from the listed tracts. (GAW)
9. Please revise the first sentence of the Consolidated Bonding Plan narrative to state that the Consolidated Bond includes all permitted areas at the Freedom mine rather than "all mining areas". The third sentence of the Consolidated Bonding Plan narrative states that the consolidated bond is based on the worst-case pit condition. It seems the word "pit" should be removed from this sentence as the worst-case pit condition may not be the worst-case reclamation condition from which the bond amount was derived. (GAW)
10. Please provide a description of the reclaimed farmstead grassland, reclamation of the site, and demonstrate that the site has vegetation adequate for protection from erosion as required by our Revegetation Success Standards document. (GAW)

Attachment VIa – Revegetation Initiation Dates and Land Use Map

11. Please revise Attachment VIa, Revegetation Initiation Dates and Land Use Map, to identify the section line roads more clearly along the south and west sides of the bond release tract. Table VI-1 indicates that there are 5 acres of reclaimed section line roads but the land use boundary on Attachment VIa does not recognize these roads. (GAW)

Attachment VIb – Pre-mine Soils Map

12. Please revise the Pre-mine Soils Map in Section VIb to include the coal removal boundary and label the undisturbed area(s). The map currently identifies the entire affected areas as associated disturbance. (PJR)

Attachment IX – Tame Pastureland

13. The first sentence of the third paragraph of Attachment IX, Tame Pastureland, states that vegetation services were contracted to KDK and KLJ. Please clarify what type of vegetation services were contracted, what the acronyms KDK and KLJ mean, and provide the name(s) and qualifications of the individuals who provided the services. (GAW)
14. In the third paragraph of Attachment IX, Tame Pastureland, please identify the seventh year of the revegetation responsibility period, the year when vegetation sampling may begin for the purposes of demonstrating revegetation success. (GAW)

15. Please consider revising the first sentence of the fifth paragraph of Attachment IX, Tame Pastureland, to clarify that an unadjusted production standard was developed from affected pre-mine soils and the last sentence of the fifth paragraph should clarify that the climatically adjusted productivity standards are listed in the table. (GAW)
16. Please revise the Cover subsection of Attachment IX, Tame Pastureland, to clarify that cover standards apply to both the 3rd and 4th stages of bond release and clarify how the cover standards have been achieved for both the 3rd and 4th stages of release. (GAW)
17. Please revise the Permanence subsection of Attachment IX, Tame Pastureland, to clarify if permanence is a Tame Pastureland revegetation performance standard. The language provided does not demonstrate vegetation permanence. (GAW)
18. Hydric soils, Parnell, were not included in the development of the unadjusted tame pastureland productivity standard. These soils should either be included in the development of the pastureland productivity standard, since the soils were not considered wetlands when the area was permitted, or ample justification needs to be provided in the application to exclude these soils in the development of the standard. (GAW)

Attachment X – Fish and Wildlife Habitat

19. The land use table, Table VI-1, in Attachment VI, General Information, indicates there are 1.2 acres of developed wetland in the bond release tract but the second sentence of Attachment X, Fish and Wildlife Habitat, states that developed wetland DW-B17-01 is approximately 0.45 acres in size. Please review and revise the application to clarify this apparent acreage discrepancy. (GAW)
20. The first paragraph of Attachment X, Fish and Wildlife Habitat, states that the low prairie zone was dominated by western wheatgrass and creeping foxtail but the species list, Table X-1, indicates that Cattail is one of two dominant species in the low prairie zone. Western wheatgrass is listed as abundant in the low prairie zone along with smooth brome grass and Kentucky bluegrass. Please revise to provide clarity. (GAW)
21. The first paragraph of Attachment X, Fish and Wildlife Habitat, discusses species zonation of wetland DW-B17-01 in 2021. Please clarify if Table X-1, Comprehensive vegetation species list for DW-B17-01, provides the results of the survey completed in 2021, the specific date the survey was completed, and the name(s) and qualifications of the individual(s) who completed the survey. (GAW)
22. A sentence in the first paragraph of Attachment X, Fish and Wildlife Habitat, states that wetland and upland plants are found in the low prairie and wet meadow zones and that only wetland plants are found in the shallow marsh zone. Please revise to clarify how wetland and upland plants are defined or classified to provide clarity. (GAW)
23. The last sentence of the first paragraph of Attachment X, Fish and Wildlife Habitat, states that Attachment Xb shows that cover on the adjacent rangeland is adequate to control erosion into the wetland. Please clarify how the Vegetation Zone Map, Attachment Xb, shows that ground cover on the contiguous adjacent **tame pastureland** is adequate to control erosion. (GAW)

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24. Please include a post-mining topographic map that delineates the entire watershed of the wetland basin as required by North Dakota's revegetation success standards document. (GAW)

Attachment XII – Roads

25. Please revise Attachment XII, Roads, to clarify if Mercer County has accepted the reconstructed section line roads. Appropriate correspondence from the Mercer County Road Superintendent should be included in the bond release application. (GAW)

Reclamation Division staff observed that scoria has been placed around the tire stock tank associated with the Southwest Water pasture tap. A wildlife escape ladder should be installed in this tank to ensure that wildlife is not adversely affected.

If you have any questions, please contact this office.

Sincerely,



Jonathan Emmer
Director
Reclamation Division

cc via email only: Sarah Flath (sarah.flath@nacoal.com)
Mark Wallen (mark.wall@nacoal.com)
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