

December 5, 2023

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

Dear Mr. Emmer:

Final Bond Release #1 to Permit NACT-1801 has been uploaded to Permit Services. Changes have been tracked using track changes and are highlighted in teal. Responses below refer to technical review deficiencies in your November 16, 2023 letter.

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)*

Updated as requested.

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)*

Updated as requested.

- 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)*

The language has been revised to reflect actual reclamation practices.

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)*

Updated as requested.

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)*

Language regarding the 10-year liability period has been added to provide clarity.

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)*

The scientific names of both Smooth Brome and Kentucky Bluegrass has been included in Attachment VI.

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)*

Attachment VI language has been updated to provide clarity.

8. *A sentence in the second paragraph of the Reclamation History subsection states that prime farmland in the S¹/₂ 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)*

The consolidated acreage from Sections 7, 8 and 18 consisted of native rangeland. The total acres consolidated and placed in the S ¹/₂ of Section 17 was 80 acres. This language was added to Attachment VI-General Information.

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)

The Consolidated Bonding Plan narrative has been updated as requested.

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)*

Language regarding the portion of disturbed farmstead has been added to Attachment VI.

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 VIa has been updated to more clearly show the section line roads.

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 VIb has been updated as requested.

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)*

Updated as requested. Of note, KDK is not an acronym as it is the official name of the consulting firm.

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)*

Updated as requested.

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)*

Updated as requested.

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)*

Updated as requested.

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)*

Permanence is not a performance standard of Tame Pastureland and has been removed from Attachment IX-Tame Pastureland.

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)*

The Parnell soils have been included in the development of the pastureland productivity standard with Attachment IXa-Production Calculations.

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)*

The developed wetland acreage has been updated.

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 bromegrass and Kentucky bluegrass. Please revise to provide clarity. (GAW)*

The cattail species vegetation zone classification was reevaluated and adjusted to the correct vegetation zone. Other dominate/abundant low prairie zone species were included in the narrative of Attachment X. Other plant species that had not been assigned a vegetation zone or occurrence have also been updated and are current.

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)*

Attachment X has been updated with the third-party consultant who completed the delineation as well as the sampling date.

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)*

The sentence in the first paragraph has been updated to be more representative of the plant species community dynamic.

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)*

The last sentence of the first paragraph in Attachment X-Fish and Wildlife Habitat, was meant to reference Attachment IXb- Cover Survey Results, which shows that the ground cover on the adjacent tame pastureland was in fact sufficient to control erosion into the wetland complex.

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)*

A post-mining topographic map of the delineated watershed that is associated with the wetland has been added to the final bond release application as Attachment Xc- Watershed Boundary Map.

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)*

Attachment XII, Roads has been updated as requested.

Mr. Jonathan Emmer

December 5, 2023

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If you have any questions, please contact me.

Sincerely,

THE COTEAU PROPERTIES COMPANY

/s/

Mark A. Wallen

Environmental Specialist

Uploaded via Permit Services