

February 27, 2024

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 pink. Responses below refer to technical review deficiencies in your January 22, 2024 letter.

Attachment VI – General Information

- 1. Follow-up to Item No. 2 of our November 16, 2023 review letter: In the Liability Period subsection of Attachment VI (General Information), please specify year seven of the tract's 10-year revegetation liability period. In other words, provide the year that sampling can take place to demonstrate revegetation success to show compliance with NDAC 69-05.2-12-09 and NDAC 69-05.2-22-07(4)(b). This is needed to clarify that the years being used to demonstrate revegetation success comply with NDAC 69-05.2-22-07(4)(b), after year six of the revegetation responsibility period. (GAW)*

The liability period subsection of Attachment VI (General Information), has been updated to specify which year, year seven of the 10-year revegetation liability period is.

- 2. Follow-up to Item No. 8 of our November 16, 2023 review letter: Information in the Reclamation History subsection of Attachment VI (General Information) regarding the prime farmland is not clear. Please review, clarify, and update the Reclamation History subsection as needed to ensure the information provided is clear and concise. (AAC)*

The information in Reclamation History subsection of Attachment VI (General Information) has been reviewed and updated to provide clarity regarding the prime farmland located in the bond release tract.

Attachment IX – Tame Pastureland

3. *Follow-up to Item No. 13 of our November 16, 2023 review letter: Information in the third paragraph of Attachment IX (Tame Pastureland) appears to be missing or incomplete. Please review, clarify, and update the paragraph as needed to ensure the information provided is clear and concise. (AAC)*

Attachment IX (Tame Pastureland) has been updated to provide more clarity.

4. *Follow-up to Item No. 16 of our November 16, 2023 review letter: Please delete the word “final” in the second to last sentence in the last paragraph on page 2 of Attachment IX (Tame Pastureland). Basal cover standards apply to both the 3rd and 4th stages of bond release. (GAW)*

Updated as requested.

5. *Please include a paragraph in Attachment IX (Tame Pastureland) that explains why data from 2013 is being used to demonstrate revegetation success. Without an explanation, one might conclude that the productivity standard was not achieved from 2014 through 2019, 2021, and 2022. This data may suggest that pre-mine productivity has not been restored on this tract of reclaimed land. The Reclamation Division anticipates that this issue will need to be addressed in our recommendation to the Commissioners, and we ask that the bond release application provide an explanation as to why 10-year-old native grassland sampling data is being used to demonstrate tame pastureland revegetation success. We believe that the absence of ND Agricultural Statistics Service data for Mercer County is part of the reason for using 2013 data, but there may be other reasons as well. Please include all available unadjusted productivity sampling data in the application to clarify that the tract is adequately yielding. (GAW)*

A paragraph has been included in Attachment IX (Tame Pastureland) explaining why the year 2013 was used to demonstrate tame pastureland revegetation success. No additional data has been included in the application as only (2) years of data is required to prove revegetation success in accordance with NDAC 69-05.2-22-07(4)(b).

Attachment IXa – Production Standard Calculations

6. *Follow-up to Item No. 18 of our November 16, 2023 review letter: On Page 1 and Page 6 of Attachment IXa (Production Standard Calculations) the following sentence can be found, “Wetland soils (Parnell) were excluded because they significantly increased the unadjusted standards.” This soil was added in the development of the unadjusted tame*

pastureland productivity standard with the December 5, 2023 submittal. Please revise and update the Attachment as needed to ensure all information provided is correct. (AAC)

Attachment IXa (Productivity Standard Calculations) has been updated. The language regarding the Parnell soils being excluded from the production standard calculations has been removed.

Attachment X – Fish and Wildlife Habitat

- 7. Follow-up to Item No. 24 of our November 16, 2023 review letter: Most of the watershed provided in Attachment Xc (Watershed Boundary Map) does not pass through or support the hydrology of wetland DW-17-01. Please revise the map to depict the entire watershed boundary of wetland DW-17-01 as required by North Dakota's revegetation success standards document. (GAW)*

Attachment Xc Watershed Boundary has been updated.

Attachment XII - Roads

- 8. Follow-up to Item No. 25 of our November 16, 2023 review letter: In Attachment XII (Roads), please provide correspondence from Mercer County that indicates their acceptance of the reconstructed public roads in Final Bond Release No. 1 to NACT-1801. (GAW)*

Attachment XII – Roads, has been updated with the approval letter from the Mercer County Highway Department.

Mr. Jonathan Emmer

February 27, 2024

Page 4 of 4

If you have any questions, please contact me.

Sincerely,

THE COTEAU PROPERTIES COMPANY

/s/

Mark A. Wallen

Environmental Specialist

Uploaded via Permit Services