



Public Service Commission

State of North Dakota

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17 RC-22-428 Filed 04/08/2024 Pages: 2
Bond Release 1 Technical 3 Review Letter
Public Service Commission
Jonathan Emmer

Dear Mr. Berg:

The Reclamation Division has reviewed Coteau's February 27, 2024 response to our January 22, 2024 technical review of Final Bond Release Application No. 1 to Permit NACT-1801. As discussed with Mark Wallen and Dillon Belisle of Coteau on March 26, 2024, the Reclamation Division believes that all pre-mine native grassland in Section 17, T145N, R87W should be used to develop the unadjusted yield standard for this bond release application. The cumulative acreage of disturbed native grassland in Section 17 is 151.06 acres according to page 68 of Section B-3 of the Consolidated Vegetation Success Standards (CVSS) document. We apologize for not catching this issue during previous reviews.

The following issues must be addressed prior to this office recommending Commission approval.

Attachment VI- General Information

1. Based on the protocol established in the CVSS, please update Attachment VIb (Pre-mine Soils Map) to show the soils of all the pre-mine native grassland used to develop the standard. (GAW)

Attachment IX – Tame Pastureland

2. Based on the protocol established in the CVSS, the pre-mine cropland that existed in the bond release tract should continue to be included in Coteau's regional MA4-South standard. Please update Attachment IX (Tame Pastureland) and Attachment IXa (Production Standard Calculations) accordingly. (GAW)
3. The second paragraph on page 2 of Attachment IX (Tame Pastureland) states that unadjusted production standards were developed from affected pre-mine soils from soil surveys conducted for Permit NACT-8203 and Permit NACT-8401. Please explain why native grassland soils in Permit NACT-8401 are being used to develop the unadjusted tame pastureland yield standard for the bond release tract. It does not appear that any native grassland soils in Permit NACT-8401 are

going to be used in the development of the standard. Please review and revise the narrative accordingly. (GAW)

4. Follow-up to Item No. 5 of our January 22, 2024 review letter: The 2020 climatic correction factor was calculated without Mercer County NDASS data from seven of the fifteen years preceding the year 2020. NDASS data are not available for 2008, 2011, and 2014 through 2019. The Tame Pastureland section of the NDPSC revegetation success standards document states that “calculation of the average should include data from the last fifteen years”. In Item No. 5, Coteau was asked to include all available yield data to demonstrate that the tract has been consistently yielding reasonably well. With all available data, it was thought that a demonstration could be made to show that the tract has been consistently yielding well. However, after further consideration, the burden is on Coteau to demonstrate revegetation success. Please revise Attachment IX (Tame Pastureland) to address how it is acceptable to calculate the 2020 climatic correction factor without Mercer County NDASS yield data from seven of the fifteen years preceding the year 2020. (GAW)

Attachment X – Fish and Wildlife Habitat

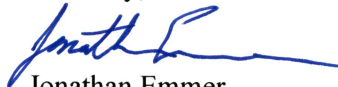
5. Follow-up to Item No. 24 of our November 16, 2023 review letter and Item No. 7 of our January 22, 2024 review letter: Most of the watershed depicted in Attachment Xc (Watershed Boundary Map) does not pass through or support the hydrology of wetland DW-17-01. Please revise the map to depict the watershed of wetland DW-17-01 as required by the NDPSC revegetation success standards document. (GAW)

Disturbed native grassland in this final bond release application was included in the development of the MA4-South regional native grassland unadjusted yield standard. The MA4-South native grassland unadjusted yield standard will need to be updated in the CVSS document prior to submitting future native grassland final bond release applications using MA4-South regional unadjusted standards.

The Reclamation Division strongly encourages Coteau to begin establishing control or reference areas to demonstrate revegetation success for cropland and tame pastureland rather than relying on NDASS data. Mercer County and West Central region NDASS data are becoming increasingly unreliable.

If you have any questions, please contact this office.

Sincerely,



Jonathan Emmer
Director
Reclamation Division

cc via email only: Mark Wallen (mark.wall@nacoal.com)