

July 2, 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 dark grey. Responses below refer to technical review deficiencies in your June 20, 2024 letter.

Attachment VI – General Information

1. *The second sentence in the last paragraph on page 2 of Attachment VI (General Information) states the post-mining land use for the bond release tract is tame pastureland, developed water resources, a wetland and portions of a section line right-of-way. However, Table VI-1, Breakdown of land use within bond release tract, indicates the tract contains other land uses including 5.23 acres of reclaimed farmstead. Please review and revise the narrative so it is consistent with the information provided in Table VI-1 and Attachment VIa, Revegetation Initiation Dates and Land Use Map. (GAW)*

Attachment VI (General Information) has been updated to describe the other land uses within the bond release area so that it is consistent with the information provided in Table VI-1.

2. *Attachment VI (General Information) indicates that 5.23 acres of farmstead has been reclaimed but the application does not include any information about achieving the farmstead reclamation performance standards. This issue is somewhat problematic given the farmstead was sampled to demonstrate tame pastureland revegetation success, sample No. 1 Section 17 East on Attachments IXc and IXd. The tame pastureland ground cover and production sampling data could be revised to remove samples from the farmstead, if known, but this may create*

sample adequacy issues. Alternatively, the farmstead area could be reclassified as tame pastureland through the permit revision process. Although post-mine fences are not depicted on maps in the bond release application or the permit, the Reclamation Division is aware the eastern portion of the reclaimed farmstead tract is in fact fenced and managed as tame pastureland which may provide an alternative approach to addressing this issue. Please revise the Bond Release Application to address this issue. (GAW)

Attachment VI (General Information) narrative has been updated to better describe how the area within the farmstead was grazed and managed in conjunction with the adjacent tame pastureland.

Attachment IX - Tame Pastureland

- 3. Kentucky Bluegrass is listed as a native species in the native grassland production tables on pages 2, 3, 6, and 7 of Attachment IXa, Production Standard Calculations. Please revise to classify Kentucky Bluegrass as an introduced species in the production tables. (WWS)*

Kentucky Bluegrass has been reclassified as an introduced species in the production tables of Attachment IXa, Production Calculations.

- 4. Kentucky Bluegrass is listed as a native species in the native grassland basal cover tables in Attachment IXb, Cover Survey Results. Please revise to classify Kentucky Bluegrass as an introduced species in the basal cover tables. (WWS)*

Attachment IXb, Cover Survey Results has been updated to classify Kentucky Bluegrass as an introduced species in the basal cover tables.

The Reclamation Division staff will not recommend Commission approval of Final Bond Release No. 1 to Permit NACT-1801 until a wildlife escape ladder has been installed in the tire tank associated with the Southwest Water pasture tap. NDCC 38.14.1-24 (21), Environmental Protection Performance Standards, requires the use of the best technology currently available to minimize adverse impacts on fish and wildlife. NRCS Conservation Practice Standard, Water Facility, Code 614, requires wildlife escape ladders in stock tanks west of the 100th meridian which could be considered a best management practice.

Coteau does not agree that an escape ladder is required to be installed in the tire tank associated with the Southwest Water pasture tap. The tire tank was not constructed through an NRCS conservation cost-share program, therefore the construction requirements for NRCS Conservation Practice Standard Water Facility, Code 614 does not apply to this application.

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Coteau believes that the presence of the tire tank is not detrimental nor impacting fish and wildlife as a whole. At the time of installation, the tire tank was constructed using the best technology currently available.

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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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