



Public Service Commission

State of North Dakota

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November 17, 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 conducted a completeness review of the applications for Renewal No. 4 and Revision No. 28 to Surface Coal Mining Permit NACT-0201 for the Freedom Mine. Revision No. 28 has been determined to be a significant revision to the permit and is therefore subject to the public notice requirements. The following items must be adequately addressed before the application can be deemed complete and approval is granted to begin publication of the newspaper notice for the permit renewal and revision. Please provide a timely response so that processing of the revision and renewal can proceed prior to permit expiration.

Printable Table of Contents

1. Please update the Printable Table of Contents to include subsection 4.1.1.1, NDSU Study Site Map, and any other missing sections or subsections. (GAW)

Section 1.1 – Introductory Information

2. Please revise the Revision 28 description in Section 1.1.2, Revision Summary pages, to explain the changes being proposed in the ground water hydrology, water management, and post-mining land use sections of the permit. Please also explain that a variance from the contemporaneous reclamation requirements is being proposed for a new area at the north end of Mine Area 3 and that an existing variance in Section 14 is being expanded westward to include the 2021 coal removal area. (GAW)
3. The Revision 28 summary pages in Section 1.1.2 appears to list Section 2.3.3.3- Map twice. Please remove this duplicate from the list of revisions. (MLJ)
4. Please add Section 2.3.3.4- Map to the list of changes in Section 1.1.2 for Revision 28 since changes were made to the map. (MLJ)

Section 1.2.5 – Newspaper Publication Notice

5. Please revise the heading of the Revision 28 Newspaper Publication Notice, Section 1.2.5.14, to clarify that the notice is for the filing of an application for renewal and revision of permit to conduct surface and coal mining and reclamation operations rather than a notice of filing of a revision to an approved surface coal mining permit. (GAW/JAR)
6. Please revise the Revision 28 Newspaper Publication Notice, Section 1.2.5.14, to state that Coteau is requesting a variance from the contemporaneous reclamation requirements on Coteau owned property at the north end of the permit in Sections 10 and 11, T145N, R88W, and the W½ of Section 14, T145N, R88W. (GAW)
7. The Pit Layout and Facilities Map indicates that Coteau is planning to mine leased federal coal in the E½ of Section 4, T145N, R88W and the E½ of 12, T144N, R88W during the next term of the permit. If these areas are intended to be mined during the permit term, the public notice should state that Revision 28 is adding plans to mine these areas during the next term of the permit. OSM will need to determine if Revision 28 constitutes a mining plan modification and no coal removal on these tracts may begin until the Secretary of the US Department of the Interior approves the mine plan pursuant to 30 CFR 746.11. (GAW)
8. Coal ownership for Tract 54 in the Notice (Section 1.2.5.14) contains “fka” instead of “aka”. Please correct this typographical error. Also, Joanne Caraisco is not listed on the Surface and Coal Ownership Map (Section 1.5.3) but is listed in the Notice under coal ownership. Please review and revise accordingly. (JAR)
9. The notice (Section 1.2.5.14) identifies Sailor K. Skipper Trust under Coal Ownership for Tract 61. However, Section 1.5.3 (Surface and Coal Ownership Map) identifies Sailor K. Skipper under coal ownership. Please review and revise accordingly. (JAR)
10. The notice (Section 1.2.5.14) identifies Kathleen Fay under coal ownership for Tract 82. However, Katheen Fay Thorson is identified under coal ownership for Tract 82 on the Surface and Coal Ownership Map (Section 1.5.3). Please review and revise accordingly. (JAR)
11. The notice (Section 1.2.5.14) identifies WLK Resources, L.L.C. under coal ownership for Tract 97. However, WLK North Dakota, L.L.C. is listed on the Surface and Coal Ownership Map (Section 1.5.3). Please review and revise accordingly. (JAR)

Section 1.5 – Identification of Interests and Rights of Entry

12. Certification for Lease No. 00318 for Tract 16 expired on September 4th, 2022, according to Section 1.5.1, Permit Area Surface and Coal Interests. Please replace this with the most recent version of Lease No. 00318 for Tract 16. (AAC)
13. Tract 30, NE1/4, Section 12 T144N R89W, is permitted for surface disturbance only according to the Surface and Coal Ownership Map, Section 1.5.3. The Pit Layout and Facilities Map indicates that Coteau is planning to remove coal from this tract during the next term of the permit. Please review and revise as necessary. (AAC)
14. The Surface and Coal Ownership Map, Section 1.5.3, lists Bruce E. Voegelé as a partial mineral owner of Tracts 16 and 17 in Section 7, T144N, R88W. Reclamation Division staff understand

that a Bruce Voegele from the Beulah area recently passed away. Please review and update the Surface and Coal Ownership Map and Revision 28 Newspaper Publication Notice if necessary. (GAW)

Section 2.5 – Soil Resources

15. Follow-up to item No. 14 of the pre-renewal review letter dated August 11, 2023: Coteau appeared to have labeled additional enclosed polygons on Section 2.5.11 (Deep Lift Soil Survey Map) as requested. However, it still appears that numerous polygons are not labeled. For example, two polygons in the SW¼ of Section 3, T144N, R88W and the SE¼ of Section 4, T144N, R88W are not labeled. Please review and revise the map so that all applicable delineations are labeled correctly. (MLJ)

Section 3.1.3 – Pit Layout and Facilities Map

16. Please revise the Pit Layout and Facilities Map, Section 3.1.3, such that pits are not shown outside of the existing permit area in Sections 1, 2, 11 and 12 of T144N, R89W, and in areas where Coteau has not secured the right to mine, such as the S½NE¼ of Section 1, T144N, R89W. (GAW)
17. The Pit Layout and Facilities Map, Section 3.1.3, depicts 500-foot setbacks around occupied dwellings in the NE¼ of Section 4 and the SE¼ of Section 33, T145N, R88W, but Coteau is listed as the surface owner of these properties, according to the Surface and Coal Ownership Map. Please revise the Pit Layout and Facilities Map, Section 3.1.3, to not show mining within 500 feet of an occupied dwelling or remove the set-back depictions from the map if Coteau has secured a waiver complying with the requirement of NDAC 69-05.2-04-01.4 (2). (GAW)

Section 3.3 – Surface Water Management

18. Coteau is proposing substantive changes to the water management plan that includes several new ponds that are to be constructed in 2024. This would include sediment ponds P-W08-03, P-W08-05, and S-W11-02-2, according to Section 3.3.4, Pond Construction and Reclamation Schedule, and it appears P-W11-03 is being eliminated. Please provide design plans for sediment ponds that are to be constructed in 2024. The Pond Construction and Reclamation Schedule identifies a pond S-W11-02-2 but the Water Management Plan Map, Section 3.3.2, appears to label this pond S-W11-02R. Please provide a narrative to clarify the changes proposed with sediment ponds P-W11-03, S-W11-02, S-W11-02R, and S-W11-02-2. (GAW)

If you have any questions, please contact this office.

Sincerely,



Jonathan Emmer
Director
Reclamation Division

Mr. Michael Berg
November 17, 2023
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cc via email only: Sarah Flath (sarah.flath@nacoal.com)
Mark Wallen (mark.wall@nacoal.com)
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