

FREEDOM MINE
THE COTEAU PROPERTIES COMPANY

December 21, 2023

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

Dear Mr. Emmer:

7 RC-23-331 Filed 12/21/2023 Pages: 1
Revision 28 Completeness 1 Response Letter
Coteau Properties Company
Mark A. Wallen

Revision 28 to Permit NACT-0201 has been uploaded to Permit Services. Deficiencies listed in your November 17, 2023, letter have been addressed, with responses listed below. All changes have been tracked in track changes and highlighted in yellow.

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)*

Subsection 4.1.1.1, NDSU Study Site Map has been added to the Table of Contents.

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)*

Updated as requested.

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)*

Freedom Mine – Coteau Properties Company

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Beulah, ND 58523
P: 701.873.2281
NACoal.com

Coteau Properties Company, a subsidiary company of The North American Coal Corporation

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Updated as requested.

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)*

Updated as requested.

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)*

Updated as requested.

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)*

As this information has not been included with past renewals/revisions this was not included with Revision 28/Renewal 4. Coteau does not feel that this information belongs in Section 1.2.5.14 as there is no other context associated with the statement other than “reclamation is being delayed”, and could possibly be mis-interpreted by the public as Coteau is not reclaiming mined lands.

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)*

Language regarding mining leased federally owned coal in the E½ of Section 4, T145N, R88W and the E½ of 12, T144N, R88W has been added to the narrative in Section 1.2.5.14.

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)*

Tract 54 in Section 1.2.5.14 has been revised as requested.

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)*

Section 1.5.3 has been updated to reflect information in Section 1.2.5.14.

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)*

Tract 82 in Section 1.2.5.14 has been updated has been updated to reflect the information in Section 1.5.3.

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 1.2.5.14 has been reviewed and updated accordingly.

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)*

Certification for Lease No. 00318 for Tract 16 in Section 1.5.1 has been replaced with the most recent version.

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)*

Section 1.5.3 has been updated as requested.

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 Voegelé 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)*

Tracts 16 and 17 in Section 1.5.3 and Section 1.2.5.14 have been updated.

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 SW $\frac{1}{4}$ of Section 3, T144N, R88W and the SE $\frac{1}{4}$ of Section 4, T144N, R88W are not labeled. Please review and revise the map so that all applicable delineations are labeled correctly. (MLJ)*

Section 2.5.11 was updated as requested.

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 S $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 1, T144N, R89W. (GAW)*

Section 3.1.3 was updated.

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 3.1.3 was updated.

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)*

Section 3.3 Surface Water Management has been updated with the requested information as it pertains to sedimentation ponds P-W11-03, S-W11-02, S-W11-02R, S-W11-02-2, P-W08-03, P-W08-05, and P-W07-01.

Mr. Jonathan Emmer
December 21, 2023
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If you have any questions, please contact this office.

Sincerely,

THE COTEAU PROPERTIES COMPANY

/s/

Mark A. Wallen
Environmental Specialist

MAW

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