

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Coteau Properties Company**  
**Revision 52, Permit NACT-0401**  
**Application**

**Case No. RC-25-078**

**REVISION OF PERMIT TO ENGAGE IN**  
**SURFACE COAL MINING AND RECLAMATION OPERATIONS**

**September 24, 2025**

Based on the Application for **Revision Number 52 to Surface Coal Mining Permit NACT-0401** submitted by The Coteau Properties Company on February 20, 2025, and as revised through June 2, 2025, and all information and documentation contained therein, the North Dakota Public Service Commission (Commission) finds that the application meets all applicable requirements of Chapter 38-14.1 of the North Dakota Century Code (NDCC) and Article 69-05.2 of the North Dakota Administrative Code (NDAC). On the basis of the information set forth in the application or from that otherwise available and known by the applicant, the Commission finds that:

**Finding No. 1. The permit revision application is accurate and complete and complies with the requirements of NDCC Chapter 38-14.1 and NDAC Article 69-05.2 [NDCC 38-14.1-21(3)(a)].**

The applicant verified that all information in Revision No. 52 is true and correct to the best of their knowledge. Revision No. 52 addresses items raised in the Reclamation Division's pre-renewal permit review letter dated January 3, 2025. Revision No. 52 was submitted in conjunction with Renewal No. 4. The revision updates various sections of the permit for the next 5-year permit term including the introductory information, legal information, business entity/compliance information, identification of interests and rights of entry, ground water hydrology, fish and wildlife resources, general operations, transportation facilities, surface water management, post-mining land use plans, and post-mining wetlands. The mining activity disturbance schedule has been updated, as have the coal production and reclamation schedules.

Commission staff conducted completeness and technical reviews to ensure that the required information was provided and that the mining and reclamation plans met all applicable requirements. The Reclamation Division sent completeness and technical deficiency letters to the applicant on March 12, 2025 and May 16, 2025, respectively. Responses to each letter were received and appropriate changes were made to the application to address the concerns that were listed. The applicant provided leases and other documents showing that they have the right to mine the lands where coal removal is proposed and to disturb the surface of other lands in the permit area. The Commission concludes that the application is now accurate and complete.

The applicant published the required newspaper notices in the Hazen Star and the Bismarck Tribune in April and May of 2025. The Commission sent the notice of revision application to the surface owners of land being affected by the proposed revision in the permit area. The notice of the revision application was sent to numerous local, state, and federal agencies. Applicable advisory committee members received the revision application and comments were received from the North Dakota Department of Environmental Quality, the United States Fish and Wildlife Service, and North Dakota's Department of Water Resources. Comments from the advisory committee members were forwarded to The Coteau Properties Company. No written objections or requests for an informal conference were received on this application.

**Finding No. 2. The applicant has demonstrated that reclamation as required by NDCC Chapter 38-14.1 and NDAC Article 69-05.2 can be accomplished under the reclamation plan contained in the permit application [NDCC 38-14.1-21(3)(b)].**

Revision No. 52 identifies the coal removal subarea that will be mined during the next five-year permit term and updates introductory information, legal information, business entity/compliance information, identification of interests and rights of entry, ground water hydrology, fish and wildlife resources, general operations, transportation facilities, surface water management, post-mining land use plans, and post-mining wetlands. The mining activity disturbance schedule has been updated, as have the coal production and reclamation schedules.

Reclamation of the disturbed areas will be carried out using reclamation procedures that have been successful in the past and satisfy the requirements of the North Dakota law and rules. The applicant's reclamation practices have proven effective in the past. There were no substantive changes to the previously approved mining and reclamation plans in Permit NACT-0401.

The applicant has demonstrated that sufficient soil materials are available to meet the soil redistribution requirements of NDAC 69-05.2-15 and the revegetation requirements of NDAC 69-05.2-22. The actual soil removal volumes and expected respread depths will be calculated annually and presented in an annual soils handling plan prepared by the applicant. The post-mining topography proposed by the applicant meets the requirements of NDCC 38-14.1-24(3) and NDAC 69-05.2-21-02. The average proposed post-mining slope is less than the average pre-mine slope. No thin overburden exists within this permit area. The reclaimed land will be capable of supporting pre-mine uses, or higher or better uses, that existed prior to mining.

Revision No. 52 did not request any new variance areas from the contemporaneous reclamation requirements that normally require rough grading to be completed within 180 days of coal removal, NDAC 69-05.2-21-01(2), and that all reclamation efforts through the initial seeding be completed within three years of completion of mining activities, NDCC 38-14.1-24(14). The permit area contains variance areas that have been previously justified and approved by the Commission as allowed by NDAC 69-05.2-21-01(2) and NDCC 38-14.1-24(14).

**Finding No. 3. Based on the assessment of the probable cumulative impact of all anticipated mining in the area, the proposed operation has been designed to prevent material damage to the hydrologic balance outside the permit area [NDCC 38-14.1-21(3)(c)].**

An assessment of the probable cumulative hydrologic impact of all anticipated mining in the area has been made as required by NDCC 38-14.1-14(1)(o). The Commission finds that the

proposed operation has been designed to maintain the quantity, quality, and hydrologic regime of surface and ground water systems in the area. The cumulative effects of all existing and proposed mining operations should not damage the hydrologic balance and water availability within or outside of the permit area. The original cumulative hydrologic impact assessment (CHIA) for Permit NACT-0401 was re-evaluated for land added to the permit with Revision No. 7 in 2008. The Commission determined that no revision or update was necessary since the acreage added with Revision No. 7 was located well within the total area of possible impact surveyed in the initial CHIA prepared for Permit NACT-0401 on September 19, 2005 and the initial CHIA prepared for adjoining Permit NACT-9101 on June 5, 1992. The detailed cumulative hydrologic impact assessment is on file with Permit NACT-0401 in the Commission's office.

**Finding No. 4. Lands within the permit area are not within an area designated unsuitable for surface coal mining operations, nor within areas under study or administrative proceedings under a petition to have an area designated as unsuitable for surface coal mining operations [NDCC 38-14.1-21(3)(d)].**

None of the lands in Permit NACT-0401 have been designated unsuitable for surface coal mining operations pursuant to NDCC 38-14.1-05, nor are they within an area under study or administrative proceedings under a petition to have an area designated as unsuitable for surface coal mining operations.

**Finding No. 5. The proposed mining operation will not interrupt, discontinue, or preclude farming on alluvial valley floors that are irrigated or naturally subirrigated or materially damage the quantity or quality of water in surface or underground water systems that supply these alluvial valley floors [NDCC 38-14.1-21(3)(e)].**

Based on an examination of the geologic and geomorphic characteristics, soils, and the water quality and quantity of streams occurring within or adjacent to the permit area, it has been determined that no alluvial valley floors occur within or adjacent to the permit area.

**Finding No. 6. In cases where the mineral estate has been severed from the surface estate, the applicant complied with the requirements of NDCC 38-18 [NDCC 38-14.1-21(3)(f)].**

The applicant included copies of the necessary leases and other documents in the revision application demonstrating compliance with the North Dakota Surface Owners Protection Act, NDCC 38-18. This documentation included copies of the notice that was given to the surface owners before the application was filed with the Commission.

**Finding No. 7. Lands within the permit area are not subject to the prohibitions or limitations of NDCC 38-14.1-07 unless the area met the application review procedures of NDAC 69-05.2-04-01.1 [NDAC 69-05.2-10-03(6)(a)].**

Lands in the permit area are:

- a) Not within the boundaries of units of the North Dakota State Park System, the National Park System, the National Wildlife Refuge System, the National System of Trails, the National Wilderness Preservation System, the National Wild and Scenic Rivers System, including study rivers designated under Section 5(a) of the Wild and Scenic Rivers Act, and national recreation areas.
- b) Not federal lands within the boundaries of any national forest.

- c) Not within three hundred feet of any publicly owned park or places in the State Historic Sites Registry or the National Register of Historic Places. For the areas added to the permit with Revision No. 7, two cultural resource surveys and inventories have been completed (Ethnoscience, 2003 and 2005). Site 32ME568 was the only site determined to be eligible for listing on the National Register of Historic Places. This site was mitigated through data recovery and was approved for mining disturbance by the State Historic Preservation Officer on November 19, 2007. The applicant has committed to reporting, testing and mitigating, if necessary, any previously unrecorded archeological, cultural, or historical materials that may be discovered as a result of mining related activities.
- d) Within one hundred feet of the outside right-of-way of State Highway 1806 and several public roads under the jurisdiction of Mercer County. With regard to State Highway 1806, the applicant has received approval from the North Dakota Department of Transportation (NDDOT) to conduct mining activities within one hundred feet of the highway right-of-way. However, the Department of Transportation's approval process did not provide for public notice with an opportunity for a hearing. Therefore, the applicant's newspaper notice for Revision No. 7 included a discussion on plans to mine within one hundred feet of the highway right-of-way and stated that any interested person could request a public hearing with the Commission on the matter. No written comments, objections or requests for an informal conference were received. The Commission found that the public and interested landowners will be protected as required by NDAC 69-05.2-04-01.3 and approved mining operations proposed within one hundred feet of the right-of-way of State Highway 1806.

With regard to public roads under the jurisdiction of Mercer County, the applicant has stated that no disturbance will occur within one hundred feet of the outside edge of an existing public road right-of-way until the road authority has closed the public road or has otherwise approved mining disturbances within one hundred feet of the road right-of-way. Mercer County's approval process includes public notice with the opportunity for public hearing and written findings that the interests of the public and affected landowners will be protected. This approval process meets the requirements of NDAC 69-05.2-04-01.3. The Commission hereby acknowledges the Mercer County Road approvals that the applicant has already obtained based on copies of documents that are currently included in Section 1.2.9 of the permit.

NDAC 69-05.2-04-01.3(4) requires that copies of the road authority's approval documents, including the written findings, be provided to the Commission. Special Condition No. 1 of the original permit requires the applicant to provide these documents to the Commission within thirty days from the road authority's approval date. The May 7, 2008 resolution of the Mercer County Commissioners temporarily closed a number of section line roads that were included in the permit with Revision No. 7.

- e) Not within three hundred feet of any public building, school, church, community, or institutional building. An area in the northwestern part of the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 21 was added with Revision No. 7, which is within five hundred feet of an occupied dwelling located in the SE $\frac{1}{4}$  of Section 20. However, the applicant has committed not to conduct any surface coal mining activities within five hundred feet of any occupied dwelling unless approved by the owner of the dwelling. The applicant has also committed to sign or fence any required setback areas to prevent any mining related operations from occurring within these areas.
- f) Not within one hundred feet of a cemetery.

**Finding No. 8. With respect to prime farmland within the permit area, the post-mining land use for the pre-mining prime farmland will be cropland, the reclamation plan was reviewed by the Natural Resource Conservation Service and they concurred with the prime farmland reclamation plan, operations will be conducted in compliance with NDAC 69-05.2-26 and NDCC 38-14.1, and the applicant has the technological capability to restore the productivity on reclaimed lands [NDAC 69-05.2-10-03(6)(c) and NDCC 38-14.21(6)].**

The applicant included a prime farmland reclamation plan with the submittal of the original permit and subsequent revisions that satisfied the requirements of NDAC 69-05.2-09-15 and the performance standards of NDAC Chapter 69-05.2-26. The Natural Resource Conservation Service has reviewed the prime farmland reclamation plan and has determined that prime farmland matters are adequately addressed and that the plan is adequate to restore the productivity of the prime farmland. The reclamation methods that will be used by the applicant have been proven to be successful in the past; therefore, the Commission finds that the applicant has the technological capability to restore the productivity of reclaimed land to a level that is equal to or greater than nonmined prime farmland in the surrounding area under equivalent management practices. Prime farmland performance standards apply to about 679.7 acres of cropland that have been identified as prime farmland by the Natural Resources Conservation Service's soil survey for Mercer County, but not all of these acres will be mined. Each landowner will receive the same acreage of reclaimed prime farmland that was present prior to mining, and the post-mine land use of the reclaimed prime farmland will be cropland.

**Finding No. 9. The operations will not affect the continued existence of threatened, endangered, or proposed species or result in the destruction or adverse modification of designated or proposed critical habitats [NDAC 69-05.2-10-03(6)(d)].**

Surface coal mining and reclamation activities will not jeopardize or adversely affect any proposed, threatened or endangered species or proposed or designated critical habitat. No proposed or designated critical habitats are within or adjacent to the Permit NACT-0401.

The U.S. Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC) identifies that seven listed or proposed species have the potential to exist in Permit NACT-0401. The listed species include the Piping Plover, Rufa Red Knot, Whooping Crane, and Dakota Skipper. The proposed species are the Monarch Butterfly, Western Regal Fritillary and Suckley's Cuckoo Bumble Bee. Detailed species-specific information can be found below.

### **Whooping Crane – Endangered**

Mercer County and the permit area are within the principal migration route of the Whooping Crane. Designated Whooping Crane critical habitat does not exist in or adjacent to the permit area. Whooping cranes use shallow seasonal and semi-permanent wetlands for roosting, and agricultural lands and emergent wetlands for feeding during migration. The permit area contains wetlands and croplands that could be utilized by Whooping Cranes as stopover habitat during their migration periods. The permit area contains approximately 80 acres of seasonal wetlands that range in size from 0.1 acres to 18.16 acres and one semi-permanent wetland that is approximately 11 acres in size. Whooping Crane feeding sites are often near roosting sites and it has been well documented that Whooping Cranes avoid human disturbances. Reclaimed and undisturbed lands in and adjacent to the permit area are used

for agricultural purposes. Mining activities and mining support features such as sediment ponds, stockpiles and haul roads affect a significant portion of the permit area. The permit area contains graveled County roads, paved County Road No. 21, and State Highway 1806 borders the west side of the permit area. The Commission concludes mining and reclamation activities proposed during the next term of the permit, Renewal No. 4 and Revision No. 52 **“may affect but is not likely to adversely affect”** the continued existence of Whooping Cranes.

### **Piping Plover – Threatened**

The Piping Plover is a migratory bird that can occur in North Dakota from mid-April through August. Suitable habitat for the Northern Great Plains population is generally characterized as sparsely vegetated shorelines usually associated with alkaline wetlands and sandbars and shorelines associated with major river systems. In Mercer County North Dakota, this species can be found along the Missouri River and Lake Sakakawea, which are areas designated as critical habitat. The designated critical habitat at Lake Sakakawea is located approximately 1.5 miles northwest of the permit area. There are no seasonal or more permanent prairie pothole wetlands with barren shorelines in the permit area. It is conceivable that Piping Plover habitat (barren areas) could be created by activities associated with surface mining and reclamation. Piping Plovers were sighted at the Freedom Mine in 2011 when Lake Sakakawea and Missouri River water levels were high. The Commission and USFWS are to be notified when Piping Plovers are sighted at the mine. The Commission concludes the area to be affected during the next term of the permit does not contain designated, suitable, or potential habitat for this species and the proposed mining and reclamation activities proposed with Renewal No. 4 and Revision 52 **“may affect but is not likely to adversely affect”** the continued existence of the Piping Plover.

### **Rufa Red Knot – Threatened**

The Rufa Red Knot is a medium sized shorebird that migrates annually between its breeding grounds in the central Canadian Arctic and several wintering regions, including the Southeast United States and Northeast Gulf of Mexico. This species could potentially migrate over North Dakota. Available information indicates this species may use inland saline lakes as stopover habitat during its migration. There are no saline lakes in the permit area or adjacent to the permit area. Therefore, the mining and reclamation activities proposed with Renewal No. 4 and Revisions 52 will have **“no effect”** on the continued existence of the Rufa Red Knot.

### **Dakota Skipper – Threatened**

The USFWS listed the Dakota Skipper threatened on October 24, 2014, and the final rule became effective on November 24, 2014. The Dakota Skipper is a small butterfly that requires high quality mixed or tallgrass prairie. According to the 2024 Dakota Skipper Survey Protocol there are two habitat types, Type A Habitat and Type B Habitat, or types of prairies suitable for this species. Type A Habitat consists of a moist lowland mesic prairie habitat type with prairie lily, bluebell bellflower, and mountain deathcamas or smooth camas species. Type B Habitat consists of a relatively dry upland prairie habitat type found on ridges and hillsides dominated with bluestem grasses, needlegrasses, and desirable native forbs such as purple coneflower. In the Missouri Coteau region of North Dakota, on the western edge on the known range of the species, Dakota Skippers inhabit a variant of Type B habitats. These habitats typically contain an association of little bluestem, big bluestem, and

needlegrasses that are often invaded by Kentucky bluegrass. These prairies also typically contain prairie lily, bluebell bellflower, coneflowers, and aster species. There is no designated critical habitat for Dakota Skippers in Mercer County according to the USFWS IPaC site. A USFWS County Occurrence of Endangered, Threatened, Proposed and Candidate Species and Designated Critical Habitat in North Dakota dated January of 2023 indicates this species has been observed in Mercer County.

In 2022, the Coteau Properties Company hired Carlson McCain, Inc., Bismarck, ND to conduct a Dakota Skipper field habitat survey for future disturbance areas at the Freedom Mine. The survey area included all the undisturbed land in Permit NACT-0401 (2,298 acres), which was referred to as the East Freedom Mine Future Disturbance Area. The scope of the project was to conduct a botanical evaluation for the purpose of identifying potentially suitable Dakota Skipper habitat. The field survey identified one unique habitat (Habitat 6) comprising 6 parcels within the NW¼ of Section 36, T146N, R87W. The combined acreage of Habitat 6 was 7.3 acres. A botanical survey of the site ranked Habitat 6 as "Good" because all elements of required habitat were found. The native grassland in the NW¼ of Section 36 is part of an isolated tract of native grassland that is surrounded by cropland. Thus, the likelihood of Dakota Skipper presence on Habitat 6 is low.

However, the Coteau Properties Company is committed to having properly certified consultants conduct Dakota Skipper occupancy surveys prior to mining related disturbance. The potential Dakota Skipper habitat in the NW¼ of Section 36 is anticipated to be affected by mining activities in 2028. In 2024, Dakota Skipper habitat surveys were completed on 1,663 acres at the Freedom Mine (Permit NACT-0201) and 49.13 acres of suitable habitat were identified. Three separate rounds of occupancy surveys were conducted, and no Dakota Skippers were found.

The Commission finds the planned mining and reclamation activities proposed with Revision 52 and Renewal No. 4 to Permit NACT-0401 "**may affect but is not likely to adversely affect**" to the continued existence of the Dakota Skipper.

### **Monarch Butterfly – Proposed Threatened**

The Monarch Butterfly was listed as a proposed threatened species December 12, 2024. There are three monarch butterfly populations within continental North America and species associated with the eastern migratory population may pass through North Dakota during the summer months while migrating between northern United States and Canada to central Mexico where it overwinters. Four to five monarch butterfly generations are produced annually to complete the migrations cycle.

Monarch Butterflies may be found throughout North Dakota, and they may periodically be present in the permit and adjacent areas. Monarch Butterflies lay their eggs on milkweeds plants and larvae feed exclusively on milkweed plants. Designated critical habitat has been proposed for the species outside of North Dakota. Surface coal mining and reclamation operations may disturb suitable habitat for the Monarch Butterfly but topsoil removal operations are usually completed outside of the species' reproduction period. The Commission finds the planned mining and reclamation activities proposed with Revision 52 and Renewal No. 4 to Permit NACT-0401 "**may affect but is not likely to jeopardize**" the continued existence of the Monarch Butterfly.

### **Western Regal Fritillary – Proposed Threatened**

The Western Regal Fritillary was listed as a proposed threatened species on August 6, 2024. According to the federal register listing, the Western Regal Fritillary is typically found in tall-

grass prairie remnants and other native prairie habitats. The Western Regal Fritillary has one generation per year. In the late summer and early fall, females lay eggs that hatch into larvae within 2 to 3 weeks. The larvae overwinter in nearby grassland vegetation before emerging in early spring to search for violet species. This species relies exclusively on native violets as a food source. Western Regal Fritillary adults are strong and rapid flyers and may travel up to 100 miles during their months long lifespan to find suitable habitat. The southeastern portion of North Dakota provides the best habitat remaining for the species, but high-quality native grassland habitat patches may be encountered state-wide. Western Regal Fritillary populations in North Dakota are relatively larger and more numerous compared to populations in the Midwest because of reduced fragmentation of suitable grassland patches according to the federal register listing. In addition, the federal register listing states that the Western Regal Fritillary currently has sufficient resiliency, redundancy and representation to withstand stochastic and catastrophic events and environmental change. Designated critical habitat is prudent but not presently determinable for the Western Regal Fritillary.

The Western Regal Fritillary has been documented to be present on permitted lands at the Freedom Mine. This species has been frequently observed while other butterfly surveys have been conducted. The Commission finds the planned mining and reclamation activities proposed with Revision 52 and Renewal No. 4 to Permit NACT-0401 **“may affect but is not likely to jeopardize”** the continued existence of the Western Regal Fritillary.

#### **Suckley’s Cuckoo Bumble Bee – Proposed Endangered**

Suckley’s Cuckoo Bumble Bee was proposed for listing endangered on December 17, 2024. According to the federal register listing, Suckley’s Cuckoo Bumble Bee is an obligate social parasite meaning it depends on social hosts for survival and raising young. This species is entirely dependent on social bumble bee hosts to collect pollen to rear their young. Suckley’s Cuckoo Bumble Bee had a broad historical distribution across North America and was found in various habitat types including prairies, grassland, meadows, urban, agricultural and woodlands. The species range includes all of North Dakota. The federal register states that Suckley’s Cuckoo Bumble Bee has not been observed in the United States since 2016, despite widespread historical occurrence records and increased sampling efforts for bumble bees. Thus, it is unlikely that the species is present in or adjacent to Permit NACT-0401.

**Finding No. 10. The applicant has submitted proof that all reclamation fees required by 30 CFR subchapter R have been paid [NDAC 69-05.2-10-03(6)(e)].**

The applicant has paid all reclamation fees required by 30 CFR subchapter R. Records maintained by the Office of Surface Mining’s Applicant Violator System show that all fees have been paid.

**Finding No. 11. The applicant has satisfied requirements for approving cropland as a post-mining land use [NDAC 69-05.2-10-03(6)(f)].**

The applicant has satisfied the requirements for approval of a cropland post-mining land use under NDAC 69-05.2-22-01. Areas reclaimed to cropland will either be seeded directly to crops commonly grown in the area or to a tame grass/legume pre-cropland mixture. The post-mining topography and soils are suitable for cropping in the areas that are designated as cropland in the reclamation plan.

**Finding No. 12. All existing structures that will be used to support mining activities within the permit area comply with the requirements of NDCC 38-14.1-24 and NDAC Article 69-05.2 [NDAC 69-05.2-10-04].**

No existing structures in the permit area will be used to support mining activities. However, some haulroads, sedimentation ponds, and other facilities that are presently within this permit and Permits NACT-1801, NACT-9001, and NACT-9101 will support mining. These previously permitted structures have been found to meet the applicable design and performance standards of NDCC 38-14.1-24 and NDAC 69-05.2.

**Finding No. 13. No drill holes, boreholes or wells will be retained for other uses [NDAC 69-05.2-14-03].**

The applicant has not proposed to retain any drill hole, borehole, or well for other uses.

**Finding No. 14. No spoil in the permit area is known to cause toxic mine drainage [NDAC 69-05.2-16-11].**

The chemical characteristics of the overburden materials in the permit area are such that they do not produce toxic mine drainage. The analysis of overburden samples included in the permit area does not reveal any substances that would cause any chemical reactions or physical effects that are likely to kill, injure, or impair biota commonly present in the area.

**Finding No. 15. The applicant will not conduct mining activities within or near any perennial stream [NDAC 69-05.2-16-20].**

There are no intermittent or perennial streams located within the permit area.

**Finding No. 16. The applicant does not propose using any experimental practices in the permit area [NDAC 69-05.2-27-02].**

There are no plans included in the revision application to use any experimental practices that may be allowed under NDAC 69-05.2-27-02.

**Finding No. 17. The applicant does not control and has not controlled surface coal mining and reclamation operations with a demonstrated pattern of willful violations [NDAC 69-05.2-10-03(4)].**

Commission records, and those in the Office of Surface Mining's Applicant Violator System, do not show that the applicant controls and has controlled surface coal mining and reclamation operations with a demonstrated pattern of willful violations of NDCC 38-14.1 or of other states' laws which are based on P.L. 95-87 (the Federal Surface Mining Control and Reclamation Act), of such nature, duration, and with such resulting irreparable damage to the environment as to indicate an intent not to comply with the provisions of these laws.

**Finding No. 18. Neither the applicant, nor any affiliated companies, have unabated violations or unpaid civil penalties [NDAC 69-05.2-10-03(1)].**

Commission records, and those in the Office of Surface Mining's Applicant Violator System, do not indicate that the applicant, nor any affiliated companies, have any unpaid civil penalties or unabated violations of NDCC 38-14.1 or any other federal or state laws, rules, or regulations pertaining to air or water environmental protection. The North Dakota Department of Environmental Quality has not informed the Commission about any unabated violations of their air and water environmental protection standards.

**Finding No. 19. Performance bonds totaling \$215,000,000 are sufficient for the proposed surface coal mining operations in the consolidated bond area that includes this permit [NDAC 69-05.2-12-07].**

The Commission has determined that the current total bond amount of \$215,000,000 is sufficient at this time to cover the required reclamation, restoration, and abatement work in the consolidated bond area for all permits at the Freedom Mine, including Permit NACT-0401. This total bond amount consists of Collateral Bond CB-9501-11 in the amount of \$21,500,000 and Self Bond SB-9501-1 in the amount of \$193,500,000. The total bond amount is greater than the current worst case reclamation cost estimate of \$204,662,522.

**Revision Number 52 to Permit Number NACT-0401 is hereby granted to The Coteau Properties Company to identify the next five-year coal removal subarea and to update the legal and ownership information, and the mining and reclamation plans for the next five-year permit term as described in the permit revision application received on February 20, 2025.**

The approved revision is subject to the requirements of Chapter 38-14.1 of the North Dakota Century Code, Article 69-05.2 of the North Dakota Administrative Code, the conditions of the approved permit, and any additional or revised permit conditions listed on attached PSC Reclamation Form - 3. Pursuant to Section 38-14.1-23 of the North Dakota Century Code and Article 69-05.2 of the North Dakota Administrative Code, this revision was found to be a significant alteration to the previously approved permit.

**PUBLIC SERVICE COMMISSION**

  
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**Sheri Haugen-Hoffart**  
Commissioner

  
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**Randy Christmann**  
Chair

  
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**Jill Kringstad**  
Commissioner

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