



United States Department of the Interior
OFFICE OF SURFACE MINING
RECLAMATION AND ENFORCEMENT

Regions 5, 7-11
1 Denver Federal Center, Bldg #41
Lakewood, CO 80225



December 4, 2025

Mr. Jonathan Emmer
Director, Reclamation Division
600 East Boulevard, Dept 408
Bismarck, ND 58505-0480

Re: The Office of Surface Mining Reclamation and Enforcement's Mining Plan Modification Determination for Coteau Properties Company, Freedom Mine Permit NACT-1801, Rev. 3, Renewal 1.

Mr. Emmer,

The Office of Surface Mining Reclamation and Enforcement (OSMRE) determines that Coteau Properties Company's Freedom Mine *does not* constitute a mining plan modification requiring approval from the Assistant Secretary for Land and Minerals Management (ASLM).

Proposed Action

Coteau Properties Company has filed an application for Revision No. 3 and Renewal No1. To Surface Coal Mining Permit NACT-1801 for the Freedom Mine. Revision No. 3 updates various sections of the permit for the next five-year permit term, including the legal information, certificate of liability insurance, business entity/compliance information, identification of interests and rights of entry, equipment list and various sections in the permit to account for bond release acres.

Portions of Permit NACT 1801 are used to support mining activities in other permit areas at the Freedom Mine. Permit NACT-1801 contains leased federal coal. However, coal removal within the permit area has been completed and all federal coal tracts consist of privately owned surface.

Background

On September 19, 2025, PSC inquired OSMRE whether Freedom requires a mine plan modification to with the updates of various sections of the permit for the next five years. These updates include the legal information, certificate of liability insurance. Business entity/compliance information, identification of interests and right of entry, equipment list and various sections in the permit to account for bond release acres.

Determination Criteria and Decision

Based on OSMRE's review of the materials submitted by Coteau Properties Company and PSC, OSMRE determines that the proposed NACT-1801 *does not* constitute a mining plan modification requiring approval by the ASLM. The OSMRE has considered the criteria described in the Federal regulations at 30 CFR 746.18(d)(1) through (d)(6) defining when a

permit revision constitutes a mining plan modification:

1. *Any change in the mining plan which would affect the conditions of its approval pursuant to Federal law or regulation other than SMCRA.*

Permit NACT-1801 at the Freedom Mine, Rev. 3 does not change the mining plan that would affect the conditions of its approval pursuant to Federal law or regulation other than SMCRA.

2. *Any change which would adversely affect the level of protection afforded any land, facility or place designated unsuitable for mining.*

NACT-1801 at the Freedom Mine, Rev. 3 does not include any land, facility, or place designated unsuitable for mining.

3. *Any change in the location or amount of coal to be mined, except where such change is the result of: (i) A minor change in the amount of coal actually available for mining from the amount estimated; or (ii) An incidental boundary change¹.*

NACT-1801 at the Freedom Mine, Rev. 3 does not propose any coal to be mined.

4. *Any change which would extend coal mining and reclamation operations onto leased Federal coal lands for the first time.*

NACT-1801 at the Freedom Mine, Rev. 3 would not extend coal mining and reclamation operations onto leased Federal coal lands for the first time.

5. *Any change which requires the preparation of an environmental impact statement under the National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq.*

NACT-1801 at the Freedom Mine, Rev. 3 is not a major action² normally requiring the preparation of an Environmental Impact Statement.

6. *Any change in the mining operations and reclamation plan that would result in a change in the postmining land use where the surface is federally-owned.*

NACT-1801 at the Freedom Mine, Rev. 3 does not propose any change in the post-mining land use.

Consultations

The Federal Regulation at 30 CFR 740.13(d)(2) requires that the OSMRE “shall review each permit revision in consultation with the Bureau of Land Management and the appropriate Federal land management agency to determine whether the permit revision constitutes a mining plan modification requiring the Secretary’s approval under § 746.18 of this chapter.”

On October 28, 2025, OSMRE consulted with BLM about this determination. On November 18, 2025, BLM responded via email that they concur with OSMRE’s determination that NACT-1801 at the Freedom Mine, Rev. 3 *does not* constitute a mining plan modification requiring approval by the ASLM.

The OSMRE's decision does not relieve PSD from coordinating with other Federal agencies as required.

Please contact Federal Lands Coordinator Erica Trent at etrent@osmre.gov for any questions.

Sincerely,

Erica Trent
Natural Resource Specialist

¹ OSMRE Directive REG-19 establishes the agency-wide policy for determining when an extension of the area covered by a Federal permit constitutes an incidental boundary revision.

² Major actions requiring the preparation of an EIS are described in the DOI Department Manual, Managing the NEPA Process – Office of Surface Mining (516 DM 13).