



# Public Service Commission

Sheri Haugen-Hoffart

Randy Christmann

Jill Kringstad

600 East Boulevard Ave  
Dept. 408  
Bismarck, ND 58505-0480  
701-328-2400  
ndpsc@nd.gov

*sent via email and regular mail*

February 5, 2026

Mr. Michael Berg  
Environmental Manager  
Coteau Properties Company  
204 County Rd. 15  
Beulah, ND 58523  
michael.berg@nacoal.com

Dear Mr. Berg:

This letter is to inform you of the Commission's February 5, 2026, approval of Revision No. 3 and Renewal No. 1 to Surface Coal Mining Permit NACT-1801 held by the Coteau Properties Company for the Freedom Mine. Revision No. 3 updates various sections of the permit for the next 5-year permit term including the legal information, certificate of liability insurance, business entity/compliance information, identification of interests and rights of entry, equipment list, surface water hydrology, and various sections in the permit to account for bond released acres. Renewal No. 1 extends the permit term for another five years until February 17, 2031.

Revision No. 3 was considered a significant revision and was therefore subject to the public notice requirements. The total amount of the existing bonds, \$215,000,000, which covers Permit NACT-1801 and other permits at the Freedom Mine was determined to be adequate at this time.

Enclosed are the original award forms for the revision and permit renewal. If you have any questions, please contact this office.

Sincerely,

Jonathan Emmer  
Director  
Reclamation Division

Enclosures

cc via email only: Mark Wallen (mark.wall@nacoal.com)

Freedom Mine\Permits\NACT - 1801\Revisions & Renewals\Rev3\_Ren1\Rev3\_Ren1\_AL\_2-5-26



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February 5, 2026

Mr. Jeffrey Fleischman, Chief  
Denver Field Division  
Office of Surface Mining  
PO Box 11018  
150 East B Street  
Casper, WY 82601  
jfleischman@osmre.gov

Dear Mr. Fleischman:

This letter is to inform you of the Commission's February 5, 2026, approval of Revision No. 3 and Renewal No. 1 to Surface Coal Mining Permit NACT-1801 held by the Coteau Properties Company for the Freedom Mine. Revision No. 3 updates various sections of the permit for the next 5-year permit term including the legal information, certificate of liability insurance, business entity/compliance information, identification of interests and rights of entry, equipment list, surface water hydrology, and various sections in the permit to account for bond released acres. Renewal No. 1 extends the permit term for another five years until February 17, 2031.

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Enclosed are copies of the revision and renewal award forms and a flash drive containing the approved revision application. If you have any questions, please contact this office.

Sincerely,

A blue ink signature of Jonathan Emmer, written in a cursive style.

Jonathan Emmer  
Director  
Reclamation Division

Enclosures

cc via email only w/o enclosures: John Sieving (jsieving@osmre.gov)

Freedom Mine\Permits\NACT - 1801\Revisions & Renewals\Rev3\_Ren1\Rev3\_Ren1\_AL\_2-5-26



# Public Service Commission

Sheri Haugen-Hoffart

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600 East Boulevard Ave  
Dept. 408  
Bismarck, ND 58505-0480  
701-328-2400  
ndpsc@nd.gov

*sent via email and regular mail*

February 5, 2026

Ms. Erica Trent  
Natural Resources Specialist  
Office of Surface Mining  
PO Box 25065  
Lakewood, CO 80215  
etrent@osmre.gov

Dear Ms. Trent:

This letter is to inform you of the Commission's February 5, 2026, approval of Revision No. 3 and Renewal No. 1 to Surface Coal Mining Permit NACT-1801 held by the Coteau Properties Company for the Freedom Mine. Revision No. 3 updates various sections of the permit for the next 5-year permit term including the legal information, certificate of liability insurance, business entity/compliance information, identification of interests and rights of entry, equipment list, surface water hydrology, and various sections in the permit to account for bond released acres. Renewal No. 1 extends the permit term for another five years until February 17, 2031.

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Sincerely,

A handwritten signature in blue ink that reads "Jonathan Emmer".

Jonathan Emmer  
Director  
Reclamation Division

Enclosures

cc via email only w/o enclosure: Marcelo Calle (mcalle@osmre.gov)

Freedom Mine\Permits\NACT - 1801\Revisions & Renewals\Rev3\_Ren1\Rev3\_Ren1\_AL\_2-5-26



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ndpsc@nd.gov

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February 5, 2026

Mr. Josh Alexander  
Bureau of Land Management  
Billings Field Office  
5001 Southgate Dr.  
Billings, MT 59101  
jalexand@blm.gov

Dear Mr. Alexander:

This letter is to inform you of the Commission's February 5, 2026, approval of Revision No. 3 and Renewal No. 1 to Surface Coal Mining Permit NACT-1801 held by the Coteau Properties Company for the Freedom Mine. Revision No. 3 updates various sections of the permit for the next 5-year permit term including the legal information, certificate of liability insurance, business entity/compliance information, identification of interests and rights of entry, equipment list, surface water hydrology, and various sections in the permit to account for bond released acres. Renewal No. 1 extends the permit term for another five years until February 17, 2031.

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Jonathan Emmer  
Director  
Reclamation Division

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600 East Boulevard Ave  
Dept. 408  
Bismarck, ND 58505-0480  
701-328-2400  
ndpsc@nd.gov

*sent via email and regular mail*

February 5, 2026

Mr. Edward Kraft  
Field Office Manager  
Bureau of Land Management  
ND Field Office  
99 23rd Avenue West, Suite A  
Dickinson, ND 58601  
ekraft@blm.gov

Dear Mr. Kraft:

This letter is to inform you of the Commission's February 5, 2026, approval of Revision No. 3 and Renewal No. 1 to Surface Coal Mining Permit NACT-1801 held by the Coteau Properties Company for the Freedom Mine. Revision No. 3 updates various sections of the permit for the next 5-year permit term including the legal information, certificate of liability insurance, business entity/compliance information, identification of interests and rights of entry, equipment list, surface water hydrology, and various sections in the permit to account for bond released acres. Renewal No. 1 extends the permit term for another five years until February 17, 2031.

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Jonathan Emmer  
Director  
Reclamation Division

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Dept. 408  
Bismarck, ND 58505-0480  
701-328-2400  
ndpsc@nd.gov

*sent via email only*

February 5, 2026

Ms. Carmen Reed  
Mercer County Auditor  
PO Box 39  
Stanton, ND 58571  
careed@nd.gov

Dear Ms. Reed:

This letter is to inform you of the Commission's February 5, 2026, approval of Revision No. 3 and Renewal No. 1 to Surface Coal Mining Permit NACT-1801 held by the Coteau Properties Company for the Freedom Mine. Revision No. 3 updates various sections of the permit for the next 5-year permit term including the legal information, certificate of liability insurance, business entity/compliance information, identification of interests and rights of entry, equipment list, surface water hydrology, and various sections in the permit to account for bond released acres. Renewal No. 1 extends the permit term for another five years until February 17, 2031.

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Director  
Reclamation Division

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Randy Christmann

Jill Kringstad

*sent via email only*

February 5, 2026

600 East Boulevard Ave  
Dept. 408  
Bismarck, ND 58505-0480  
701-328-2400  
ndpsc@nd.gov

Mr. Luke Toso  
U.S. Fish and Wildlife Service  
3425 Miriam Avenue  
Bismarck, ND 58501-7926  
luke\_toso@fws.gov

Dear Mr. Toso:

This letter is to inform you of the Commission's February 5, 2026, approval of Revision No. 3 and Renewal No. 1 to Surface Coal Mining Permit NACT-1801 held by the Coteau Properties Company for the Freedom Mine. Revision No. 3 updates various sections of the permit for the next 5-year permit term including the legal information, certificate of liability insurance, business entity/compliance information, identification of interests and rights of entry, equipment list, surface water hydrology, and various sections in the permit to account for bond released acres. Renewal No. 1 extends the permit term for another five years until February 17, 2031.

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Director  
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Dept. 408  
Bismarck, ND 58505-0480  
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ndpsc@nd.gov

*sent via regular mail and email*

February 5, 2026

Mr. Sean Cheatley, Mayor  
120 Central Ave N  
P.O. Box 910  
Beulah, ND 58523-0910  
BeulahNDMayor@gmail.com

Dear Mr. Cheatley:

This letter is to inform you of the Commission's February 5, 2026, approval of Revision No. 3 and Renewal No. 1 to Surface Coal Mining Permit NACT-1801 held by the Coteau Properties Company for the Freedom Mine. Revision No. 3 updates various sections of the permit for the next 5-year permit term including the legal information, certificate of liability insurance, business entity/compliance information, identification of interests and rights of entry, equipment list, surface water hydrology, and various sections in the permit to account for bond released acres. Renewal No. 1 extends the permit term for another five years until February 17, 2031.

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Reclamation Division

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*sent via regular mail*

February 5, 2026

Mr. Jesse Schiferl, Commission President  
Hazen City Commission  
146 Main Street East  
P.O. Box 717  
Hazen, ND 58545

Dear Mr. Schiferl:

This letter is to inform you of the Commission's February 5, 2026, approval of Revision No. 3 and Renewal No. 1 to Surface Coal Mining Permit NACT-1801 held by the Coteau Properties Company for the Freedom Mine. Revision No. 3 updates various sections of the permit for the next 5-year permit term including the legal information, certificate of liability insurance, business entity/compliance information, identification of interests and rights of entry, equipment list, surface water hydrology, and various sections in the permit to account for bond released acres. Renewal No. 1 extends the permit term for another five years until February 17, 2031.

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Jonathan Emmer  
Director  
Reclamation Division

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

**Coteau Properties Company**  
**Revision 3, Permit NACT-1801**  
**Application**

**Case No. RC-25-211**

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

**February 5, 2026**

Based on the application for **Revision Number 3 to Surface Coal Mining Permit NACT-1801** for the Freedom Mine submitted by Coteau Properties Company on June 19, 2025, and as revised through November 25, 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). Based on 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 included in Revision No. 3 is true and correct to the best of their knowledge. Revision No. 3 addresses items raised in the Reclamation Division's pre-renewal permit review letter dated May 15, 2025. Revision No. 3 was submitted in conjunction with Renewal No. 1. The revision updates various sections of the permit for the next 5-year permit term including the legal information, certificate of liability insurance, business entity/compliance information, identification of interests and rights of entry, equipment list, surface water hydrology, and various sections in the permit to account for bond released acres.

Permit NACT-1801 was initially approved on February 17, 2021, where five existing permit areas at the Freedom Mine, Permits NACT-8102, NACT-8203, NACT-8401, NACT-8503, and NACT-8601, were consolidated. Revision No. 3 will allow for continued surface coal mining and reclamation operations on 4,696.58 acres of land in Permit NACT-1801; however, only reclamation activities remain to be conducted within the Permit NACT-1801 and all coal mining is complete. Haulroads, stockpiles, sedimentation ponds, shop/office complex, blasting storage area, coal handling facilities and other features used to support mining activities in other permit areas at the Freedom Mine are located within the NACT-1801 permit area.

Commission staff conducted completeness and technical reviews to ensure that the required information was provided in Revision No. 3, and the mining and reclamation plans meet all applicable requirements. The Reclamation Division sent completeness review letters to the applicant on July 17, 2025, and August 20, 2025, and sent a technical review

letter on October 3, 2025. Responses to each letter were received and appropriate changes were made to the application to address the concerns that were listed. The applicant provided evidence that they have the right to disturb the surface of applicable lands within the permit area. The applicant has these rights based on coal and surface leases, copies of which are included in the application. 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 September and October 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, but no comments were received. No written objections or requests for an informal conference were received on this application.

Permit NACT-1801 contains three separate tracts totaling approximately 640 acres that contain coal interests owned by the United States of America, and those tracts have been mined and reclaimed. Federal Mine Plan Approval has been previously obtained for these federal coal tracts, and the Office of Surface Mining Reclamation and Enforcement notified the Commission on December 4, 2025, that Revision No. 3 to Permit NACT-1801 does not constitute a mining plan modification.

**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)].**

Coal removal is complete within the permit area. Several areas within Permit NACT-1801 are used to support mining activities in other permit areas at the Freedom Mine, including soil and overburden stockpiles, access roads and haulroads, water management structures, coal handling facilities, and the Freedom Mine's shop/office complex.

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-1801.

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. 3 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 three 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) for overburden stockpiles located in the S½NW¼ of Section 19,

SW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 19, and N $\frac{1}{2}$ NW $\frac{1}{4}$  of Section 30, T145N, R87W. These piles will be used for final reclamation of the bond released DGC ash pit located in the SW $\frac{1}{4}$  of Section 19 and are no longer used to support mining activities at the Freedom Mine.

**Finding No. 3. Based on the assessment of the probable cumulative impacts 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 impacts (CHIA) 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 outside the permit area. The most recent detailed cumulative hydrologic impact assessment was filed with Revision No. 18 to Permit NACT-0201 and includes those areas contained within Permit NACT-1801. The described CHIA, dated October 20, 2015, is on file with the Commission.

**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-1801 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 operations will not interrupt, discontinue, or preclude farming on alluvial valley floors that are irrigated or naturally sub-irrigated 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, land use, and the water quality and quantity of streams occurring within or adjacent to the permit area, it has been determined that there are no alluvial valley floors within or adjacent to the permit area. Drainage systems within and adjacent to the permit area were previously evaluated for alluvial valley floor potential with submittal of each of the individual consolidation permits that make up Permit NACT-1801 and Commission staff determined that these drainages do not have the characteristics to be considered an alluvial valley floor. Detailed alluvial valley floor investigation reports and findings are on file with the Commission.

**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 permit application demonstrating compliance with the North Dakota Surface Owner Protection Act, North Dakota Century Code Chapter 38-18. This documentation included copies of the notice that was given to 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 except for areas that receive specific approvals after complying with the applicable review procedures of NDAC Chapter 69-05.2-04 [NDAC 69-05.2-10-03(6)(a)].**

Lands in the permit area are:

- a) Not on any lands within the boundaries of units of the North Dakota Park System, the National Park System, the National Wildlife Refuge Systems, 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 on any federal lands within the boundaries of any national forest.
- c) Not within three hundred feet of any publicly owned park or places included in the State Historic Sites Registry or the National Register of Historic Places. Several cultural resource surveys and inventories of the permit area have been conducted. All sites that were identified have been properly tested and evaluated. Several historic and prehistoric sites were identified, and several prehistoric sites have been determined to be eligible for listing on the National Register of Historic Places. The field work for eligible sites was completed several decades ago, and the mitigation reports have been accepted by the State Historical Society and the sites have been cleared for disturbance. All other eligible sites were either avoided or mitigated. A cultural resource management plan and data recovery plan was developed for the remaining eligible sites with input from the State Historical Society. The Coteau Properties Company 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 line of public roads. However, no additional road closure or disturbances will occur within 100 feet of the outside right-of-way of any public road unless the road authority, Mercer County, has temporarily vacated the road right-of-way or granted permission to conduct mining operations within 100 feet of the road right-of-ways. Several public roads, section line roads and trails were located within the permit area and were mined through and subsequently reclaimed and relocated with approval from Mercer County, including County Road 26, which is a major farm to market road that bifurcates previous Permit NACT-8503 from east to west between Sections 19 and 20 to the north and Sections 29 and 30 to the south in T145N, R87W. Several other public roads, section line roads and trails were closed and relocated during active mining and reclamation operations and will be reopened to public access once all mining and reclamation operations have been terminated. An approved alternate public road (County Road 15) has been reopened to the public that spans a distance of three miles from east to west and is located along the northern boundary of Permit NACT-1801. The approvals previously obtained for temporary public road closures, alternate road relocations, and operations within 100 feet of the rights-of-way within and adjacent to the consolidation permit area are included in Permit NACT-1801.
- e) Not within three hundred feet of any public building, school, church, community, or institutional building.
- f) Not within one hundred feet of any cemetery in accordance with NDCC 38-14.1-07.

**Finding No. 8. With respect to prime farmland within the permit area, the postmining land use for the pre-mining prime farmland is cropland, the reclamation plans were reviewed by the Natural Resources Conservation Service, then known as the Soil Conservation Service, and their suggestions were considered, operations were 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 38-14.1-21(6)].**

The applicant provided prime farmland reclamation plans for consolidation Permits NACT-8102, NACT-8203, NACT-8401, NACT-8503, and NACT-8601 that satisfied the requirements of NDAC 69-05.2-09-15 and the performance standards of NDAC 69-05.2-26. The Natural Resources Conservation Service, then known as the Soil Conservation Service, reviewed each permit's prime farmland reclamation plan and deemed them adequate to restore productivity of the prime farmland. The reclamation methods used by the applicant have 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 non-mined prime farmland in the surrounding area under equivalent management practices. The applicant segregated prime and non-prime farmland topsoil for stockpiling or immediate redistribution, but mixed prime and non-prime farmland subsoil as allowed by NDAC 69-05.2-09-15(5). Each landowner received the same acreage of reclaimed prime farmland as was present prior to mining and the postmine land use of the reclaimed prime farmland is 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 proposed or designated critical habitats [NDAC 69-05.2-10-03(6)(d)].**

Permit NACT-1801 consolidated five existing old permit areas at the Freedom Mine where mining has been completed and all reclamation activities have been completed on affected areas that are not being used to support mining occurring elsewhere.

The USFWS Information for Planning and Consultation (IPaC) website indicates that three threatened, one endangered and three proposed species could potentially be affected by activities in the permit area. The listed species are: Whooping Crane (*Grus americana*), Piping Plover (*Charadrius melodus*), Rufa Red Knot (*Calidris canutus rufa*) and the Dakota Skipper (*Hesperia dactotae*). The species proposed for listing that could be potentially affected are the Monarch Butterfly (*Danaus Plexippus*), Suckley's Cuckoo Bumble Bee (*Bombus suckleyi*) and the Western Regal Fritillary (*Argynnis Idalia occidentalis*). Detailed species-specific information is provided below.

### **Whooping Crane – Endangered**

Mercer County and the permit area are within the principal migration route of the Whooping Crane. The likelihood of Whooping Cranes occurring in the area is very low because desirable stop-over roosting habitat does not exist in the area and Whooping Crane feeding sites are often found adjacent to roosting sites. It has been well documented that Whooping Cranes avoid human disturbances. Wetlands in and adjacent to the permit area are primarily associated with reconstructed wetlands and ephemeral linear wetlands. The permit area contains a 14-acre reconstructed wetland and a few smaller, generally less than 4 acres, reclaimed and undisturbed wetlands. A 68-acre reclaimed wetland is located approximately ½ mile north of the permit area in the S½ of Section 6, T145N, R87W but no whooping crane sightings have ever been documented at this wetland. The permit area does not contain any large seasonal

or more permanent wetlands that have an open water zone suitable as Whooping Crane stopover habitat. The Dakota Gasification Plant, Antelope Valley Power Plant, and paved county roads are located adjacent to the permit area. Undisturbed lands adjacent to the permit area are used for agricultural purposes. The Reclamation Division concludes mining and reclamation activities proposed with Revision No. 3 and Renewal No. 1 will have **“no effect”** on 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 of designated critical habitat. The designated critical habitat at Lake Sakakawea is located about four miles north of the permit area. There are no seasonal or more permanent prairie pothole wetlands with barren shorelines in the permit area. Piping Plovers were sighted at the Freedom Mine in 2011 when Lake Sakakawea and Missouri River water levels were high and could potentially be sighted in the permit area. The Reclamation Division and USFWS are to be notified when Piping Plovers are sighted at the mine. The Reclamation Division concludes the permit area does not contain designated, suitable, or potential habitat for this species and the mining and reclamation activities proposed with Revision No. 3 and Renewal No. 1 will have **“no effect”** on 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 the 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 Revision No. 3 and Renewal No. 1 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 26, 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 North Dakota Survey Protocol there are two habitat types, Type A Habitat and Type B Habitat. Type A Habitat consists of 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 Couteau region of North Dakota, on the western edge on the known ranges 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. The 2022 Dakota Skipper North Dakota Survey Protocol indicates this species had not been observed in Mercer County through 2021.

Permit NACT-1801 does not contain any undisturbed native grassland and there is no undisturbed native grassland immediately adjacent to the permit area. It is unlikely the reclaimed native grassland in the permit area provides suitable habitat for the Dakota skipper. The Coteau Properties Company had Meadowlark Environmental, LLC, Carson, ND, and KC Harvey, Sheridan, Wyoming, conduct the Dakota Skipper habitat assessment and occupancy surveys in 2022 and 2023, respectively, in other permitted areas at the Freedom Mine. The surveys were conducted in a three-step approach, which includes a desktop analysis, habitat surveys, and adult occupancy surveys in accordance with USFWS guidelines. No Dakota Skippers were observed during these surveys. Copies of these reports are included in the 2022-2023 Biennial Wildlife Monitoring Report for the Freedom Mine.

The Reclamation Division finds the planned mining and reclamation activities proposed within Revision No. 3 and Renewal No. 1 will have **“no effect”** on the continued existence of the Dakota Skipper.

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

The Monarch Butterfly is a proposed threatened species. The Monarch requires habitat with milkweed as a larval host plant and floral nectar sources for adults. Monarchs found in North Dakota are comprised of the eastern range Monarchs, found east of the Rocky Mountains. These Monarchs overwinter in central Mexico and then migrate and disperse throughout North America. No designated critical habitat is currently proposed for the eastern range Monarchs.

The Coteau Properties Company had Meadowlark Environmental, LLC, Carson, ND, conduct Dakota Skipper habitat assessment and occupancy surveys in 2022. One Monarch Butterfly was observed during this survey. No Monarchs were observed during the 2023 Dakota Skipper habitat assessment and occupancy surveys conducted by KC Harvey, Sheridan, Wyoming. These surveys were conducted in an adjacent permit area.

The Reclamation Division finds the planned mining and reclamation activities proposed within Revision No. 3 and Renewal No. 1 **“may affect but is not likely to jeopardize”** the continued existence of the Monarch Butterfly provided that Coteau follow future guidance from the USFWS.

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

The Western Regal Fritillary is a proposed threatened species. The Western Regal Fritillary prefers tallgrass prairie and other sunny, open locations such as damp meadows, marshes, wet fields, and mountain pastures. Regal Fritillary butterflies depend on three main habitat components: violet hostplants for larvae, nectar plants for adults, and native warm-season bunch grasses that provide protective sites for all life stages. No designated critical habitat is currently proposed for the Western Regal Fritillary.

The Coteau Properties Company had Meadowlark Environmental, LLC, from Carson, ND, and KC Harvey, from Sheridan, Wyoming, conduct the Dakota Skipper habitat assessment and occupancy surveys in 2022 and 2023, respectively. Western Regal Fritillary and Fritillary species were noted during both the 2022 and 2023 adult occupancy surveys. These surveys were conducted in an adjacent permit area.

The Reclamation Division finds the planned mining and reclamation activities proposed within Revision No. 3 and Renewal No. 1 **“may affect but is not likely to jeopardize”** the continued existence of the Western Regal Fritillary provided that Coteau follow future guidance from the USFWS.

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

The Suckley's Cuckoo Bumble Bee is a proposed endangered species. The Suckley's Cuckoo Bumble Bee is an obligate social parasite and is entirely dependent on social bumble bee hosts to collect pollen and rear their young. Since they are entirely dependent on host bumble bee colonies, host colony availability is critical for the species' survival and overall viability. The species has a broad historical range and has been found in various habitat types including prairies, grasslands, meadows, urban and agricultural areas, and woodlands. The last confirmed sighting in the United States of the Suckley's Cuckoo Bumble Bee was in 2016 in Oregon and is considered functionally extirpated from North Dakota by the North Dakota Outdoor Heritage Data Base Partnership (OHDB).

The Reclamation Division finds the planned mining and reclamation activities proposed within Revision No. 3 and Renewal No. 1 “**may affect but is not likely to jeopardize**” the continued existence of the Suckley's Cuckoo Bumble Bee.

### **Finding No. 10. The applicant has paid all reclamation fees required by 30 CFR subchapter R [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 indicate that all fees have been paid.

### **Finding No. 11. The applicant has satisfied the 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 cropland in the areas that will be cropped.

### **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 (pre-mine) structures in the permit area will be used to support mining activities. Design information for the support structures already constructed by Coteau Properties Company in the previously permitted areas that make up Permit NACT-1801 are included in this permit.

### **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 perennial and intermittent stream channels that violate applicable water quality standards or adversely affect the quantity and quality of the water and other environmental resources of the stream [NDAC 69-05.2-16-20].**

All mining activities within Permit NACT-1801 are complete and in reclamation status except for the removal of overburden and SPGM stockpiles, sediment ponds, haulroads, and other mining support features. There are no perennial streams within the permit area. A small reach of West Antelope Creek is the only intermittent stream within or adjacent to the permit area and is located at the southwest corner of Permit NACT-1801 in the S½ of Section 30, T145N, R87W. Mining and reclamation operations avoided West Antelope Creek. No additional sediment ponds or other surface water features are proposed for construction in Permit NACT-1801.

Mining activities did not cause or contribute to the violation of applicable state and federal water quality standards and did not adversely affect the water quality of West Antelope Creek.

**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, nor any affiliated company, 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 that 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.

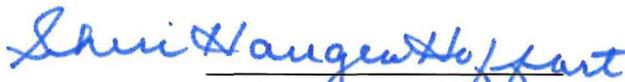
**Finding No. 19. Performance bonds in the amount of \$215,000,000 are sufficient for the proposed surface coal mining operations in the consolidated bond area that includes this permit [NDAC 69-05.2-12-07].**

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-1801. 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 \$204,622,522.

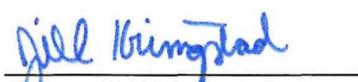
**Revision Number 3 to Permit Number NACT-1801 is hereby granted to The Coteau Properties Company to update various sections of the permit for the next 5-year permit term including the legal information, certificate of liability insurance, business entity/compliance information, identification of interests and rights of entry, equipment list, surface water hydrology, and various sections in the permit to account for bond released acres as described in the permit revision application received on June 19, 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**

  
Sheri Haugen-Hoffart  
Commissioner

  
Randy Christmann  
Chair

  
Jill Kringstad  
Commissioner

Freedom Mine\Permits\NACT - 1801\Revisions & Renewals\Rev3\_Ren1\Rev3\_apprvl\_award\_2-5-26

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

**Coteau Properties Company  
Renewal 1, Permit NACT-1801  
Application**

**Case No. RC-25-212**

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

**February 5, 2026**

Based on the application received June 19, 2025, Renewal Number 1 to Permit Number NACT-1801 is hereby granted to The Coteau Properties Company to renew the permit subject to the requirements of Chapter 38-14.1 of the North Dakota Century Code, and the rules promulgated there under, on the following described areas:

**Portions of Sections 12, 13, and 24 of T145N, R88W, and Sections 7, 8, 17, 18, 19, 20, 29, and 30 of T145N, R87W, Mercer County, totaling 4,696.58 acres.**

This five-year permit renewal will allow The Coteau Properties Company to continue to operate under approved mining and reclamation plans for this permit area at the Freedom Mine until February 17, 2031. Permit No. NACT-1801 and other permits for the Freedom Mine are currently covered by collateral and self-bonds in the total amount of \$215,000,000.

**PUBLIC SERVICE COMMISSION**

  
\_\_\_\_\_  
**Sheri Haugen-Hoffart**  
Commissioner

  
\_\_\_\_\_  
**Randy Christmann**  
Chair

  
\_\_\_\_\_  
**Jill Kringstad**  
Commissioner