

# THE COTEAU PROPERTIES COMPANY

A SUBSIDIARY OF THE NORTH AMERICAN COAL CORPORATION

## LAND OFFICE

2000 Schafer Street, Suite D  
Bismarck, ND 58501-1204

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Toll-Free 1-877-258-3300

September 22, 2017

See page 3. This doc was not signed.

Clyde Eisenbeis  
2819 Hogan Drive  
Bismarck, North Dakota 58503

RE: Township 146 North, Range 88 West  
Section 34: NW4  
Mercer County, North Dakota

Dear Clyde,

The Coteau Properties Company ("Coteau") is in receipt of your email dated September 15, 2017 to the Public Service Commission. Coteau is still willing to work with you on this matter and would like to make a final attempt to come to a resolution. We sent you an Agreement regarding an approach on May 19, 2017 and received no response. In your September 15 email you state that the Agreement includes items that are not relevant to the approach. Coteau has determined that it no longer needs a drainage easement across your property and is willing to remove all language regarding discussing a drainage easement from the Agreement. Enclosed is a revised draft of the Agreement with all references to discussion of a drainage easement removed. Coteau is willing to construct and install an approach in exchange for a fully executed original of the enclosed Agreement. This offer is only valid until October 23, 2017. Therefore, if this Agreement is fully executed and returned to Coteau on or before October 23, 2017, the approach will be installed as soon as conditions allow. However, if this Agreement is not executed and returned to Coteau on or before October 23, 2017, this final offer expires as of that date and Coteau will no longer consider installing the approach.

Sincerely,

THE COTEAU PROPERTIES COMPANY



Brad Erickson  
Assistant Land Manager  
CERTIFIED MAIL/RETURN RECEIPT REQUESTED  
Enc. (1)

## AGREEMENT

THIS AGREEMENT ("Agreement") is made the \_\_\_\_\_ day of \_\_\_\_\_, 2017, by and between Allen J. Eisenbeis whose address is 2979 Mesquite Drive, Idaho Falls, Idaho 83404, JoAnn K. Crabtree, whose post office is 14507 SE 27<sup>th</sup> Circle, Vancouver, Washington 98683, and Clyde T. Eisenbeis, whose post office address is 2819 Hogan Drive, Bismarck, North Dakota 58503 (hereinafter collectively called "Eisenbeis"), and The Coteau Properties Company an Ohio corporation with offices at 2000 Schafer Street, Suite D, Bismarck, North Dakota 58501-1204 (hereinafter called "Coteau").

### W I T N E S S E T H :

WHEREAS, Eisenbeis own certain land in Mercer County, North Dakota, more particularly described as follows (hereinafter called "Subject Land"):

Township 146 North, Range 88 West  
Section 34: NW4

WHEREAS, in the year 2012 Coteau, at the request of Esther Eisenbeis (previous owner of the Subject Land) and her renter Wayne Eisenbeis, hired a contractor to improve a preexisting diversion on the east side of the Subject Land, to improve an existing ditch on the north side of the Subject Land, and to install a creflex crossing through said ditch;

WHEREAS, Coteau completed such work in the interest of being a good neighbor;

WHEREAS, the creflex crossing provided satisfactory farm equipment access to the Subject Land until Eisenbeis entered into an agreement with a new renter in the year 2016 who had larger equipment than the previous renter.

WHEREAS, in 2016, Clyde Eisenbeis informed Coteau that the creflex crossing was not adequate to provide access for the new renter because of the new renter's larger equipment;

WHEREAS, Clyde Eisenbeis has requested that Coteau construct a new approach on the north side of the Subject Land, as directed by Eisenbeis;

WHEREAS, Coteau accepts no responsibility to construct a new approach but is willing to construct a new approach as a good neighbor;

WHEREAS, Coteau (and any contractor it may hire) desires to obtain the consent of Eisenbeis to enter the Subject Land and construct a new approach on the north side of the Subject Land;

WHEREAS, Eisenbeis understands and acknowledges that construction and installation of the new approach could have unintended consequences on the Subject Lands because of reduced flows through the drainage ditch;

NOW, THEREFORE, Eisenbeis hereby authorize Coteau, or its contractors, to enter upon the Subject Land to construct a new approach on the north side of the Subject Land;

FURTHER, Eisenbeis acknowledge and agree that once the approach is completed, Coteau is released from any and all further liability in connection with the Subject Land and is not responsible for any maintenance, repair, or modification of said approach;

FURTHER, Eisenbeis acknowledge and agree that Coteau is not responsible for any damage to the Subject Land caused by the construction, installation, existence, or use of the new approach;

AND FURTHER, Eisenbeis agree to fully indemnify and hold harmless Coteau against any and all claims, losses, expenses, actions, causes of action and liability of whatsoever kind or nature arising from the use or existence of said approach and diversion.

This Agreement may be executed in any number of counterparts, each of which, when executed and delivered, shall be an original, but all of which shall collectively constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

GRANTORS:

GRANTEE:

\_\_\_\_\_  
Allen J. Eisenbeis

By: \_\_\_\_\_  
Bryan N. Walther, its President

\_\_\_\_\_  
JoAnn K. Crabtree

\_\_\_\_\_  
Clyde T. Eisenbeis

This contradicts the PSC statements that the Farmland disturbances are not mining related.