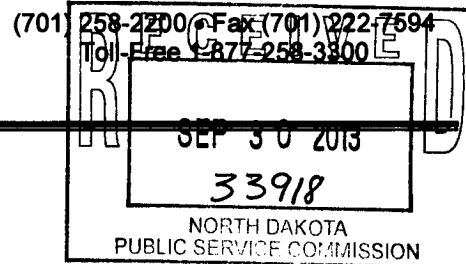


# COYOTE CREEK MINING COMPANY, L.L.C.

A SUBSIDIARY OF THE NORTH AMERICAN COAL CORPORATION

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



September 27, 2013

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

Dear Mr. Deutsch:

Enclosed are three DVD's containing Surface Coal Mining Permit Application NACC-1301. Responses below refer to deficiencies in your September 18, 2013 letter regarding technical review:

1. Conditional Use approval documents have not been acquired yet. No changes were made.
2. Closure and Setback Waiver documents have not been acquired yet. No changes were made.
3. No additional licenses or permits have been acquired. No changes were made.
4. A hyperlink has been added for Section 1.5.3.
5. Sections 2.1.1 and 2.1.2 were revised as requested.
6. Section 2.1.1 was revised as requested.
7. Narrative in Section 2.1.1 was revised as requested.
8. The title in the Section 2.2 table of contents was revised as requested.
9. Section 2.2.2. was revised as requested.
10. Section 2.2.3.3 was revised as requested.
11. Section 2.2.3.3 was revised as requested.
12. Section 2.2.3.3 was revised as requested.
13. Section 2.2.4 was revised as requested.
14. Section 2.2.5.1 was revised as requested.
15. Section 2.2.5.1 was revised as requested.
16. Section 2.2.5.2 was revised so that Table 2-2.2 was referenced instead.
17. Section 2.2.5.3 was revised as requested.
18. Section 2.3.1 was revised as requested.
19. Section 2.4.1 was revised as requested.
20. Section 2.4.1 was revised to remove references to the results of the wetland survey, since it is a section on methods. Narrative was added to Section 2.4.2 explaining the results of the wetland survey and noting that a wetland was identified by NWI.
21. A discussion on precipitation levels and resulting production compared to average was added to Section 2.4.2. Above normal subsoil moisture at the start of 2012 combined

with only moderate drought levels that didn't start until June, resulted in average rangeland production, despite the year's below average precipitation total. Therefore, comparison to average yields is appropriate. Section 2.7.2 was also revised to state that the drought was moderate, not extreme, which is based on the precipitation data that was added to the narrative to 2.4.2.

22. Section 2.4.8 was added to the permit to include a map (2.4.8.1) and table (2.4.8.2) as requested.
23. Section 2.4.2 has been revised as requested.
24. Section 2.4.2 has been revised as requested.
25. Section 2.4.5 was revised as requested.
26. The note at the bottom of Section 2.4.6 was revised to clarify the sources. Section 2.7.2 was revised in response to item #21 to clarify that the drought was moderate, not extreme.
27. Because the PSC guidelines are based on range sites instead of ecological sites, it was felt that using production information from the NRCS document was appropriate. A note was added to Section 2.4.7.2.
28. Sections 2.4.7.1 and 2.4.7.2 were revised as requested.
29. Bookmarks were added to Section 2.4.7.4.
30. Reference materials that were used for calculations were added to the end of Section 2.4.7.3 and an explanation of how they were used was added to Section 2.4.2.
31. Section 2.6.1 was revised as requested.
32. Section 2.7.1 was revised as requested.
33. The reference to peregrine falcon was removed from Section 2.7.1.
34. Section 2.7.1 was revised for clarity.
35. Section 2.7.2 was revised as requested.
36. Section 2.7.2 was revised to separately discuss hayland. No changes were made to Section 2.7.2.1 since there are no fields that are not already labeled specifically as either cropland or hayland.
37. Temporary wetlands are included in the wetland habitat type shown on the map. The narrative in Section 2.7.2 was revised to clarify this.
38. Section 2.7.2 was revised for clarity.
39. Many of the ecosites present in the study area contain low shrubs, as listed in the ecosite guides. With the exception of western snowberry, these species are dispersed across the landscape, so they are incorporated into the native grassland habitat. Patches of western snowberry are also dispersed throughout the native grassland and to stay consistent with the way the remaining low shrubs are addressed, remain grouped within the native grassland habitat type. Their presence and contribution as wildlife habitat was addressed by adding a discussion of them in the native grassland habitat section of Section 2.7.2.
40. Transect locations were too numerous and dense to show on the map. Instead, a more thorough discussion of their distribution and placement was added to Section 2.7.2.
41. Section 2.7.2 was revised as requested.
42. Section 2.7.2 was revised to include a discussion on all threatened and endangered species. The first line of the Special Evaluations and Considerations section within Section 2.7.2 states that no designated critical habitat occurs for any threatened or endangered species within the study area, so no additional changes were made to address this concern.
43. A discussion regarding Sprague's pipits and woodlands/western snowberry patches was added to Section 2.7.2.
44. Section 2.7.2 was revised as requested. Discussion on how it was determined that each of the communities don't exist was added to the narrative and a note at the bottom of Significant Ecological Communities table was added to define the state ranking designations.

45. Data from all dates were added to Section 2.7.2.3.
46. A table was inserted in Section 2.7.2.
47. Section 2.7.2.1 was revised as requested.
48. Section 2.7.2 and 2.7.2.1 was revised as requested.
49. Section 2.7.2.1 was revised as requested.
50. Please refer to Section 2.7.2.1.b to distinguish between woodland types. This map was added because it was felt that the overall habitat map of Section 2.7.2.1 became too busy when this level of detail was shown, which made it hard to interpret the map. However, Section 2.7.2.1 was revised by labeling the three breeding bird monitoring sites so the habitats they represent could be clearly distinguished. No changes were made.
51. Section 2.7.2.1 was revised as requested. The narrative in Section 2.7.2 was also expanded to better describe the area, which expanded the rationale for why it was not listed as a distinct habitat type. In summary, the surveyor felt that it *wasn't* a distinct habitat type. The presence of silver sage brush alone does not make this a significant or distinct habitat type, since it is common for native grasslands in the area to have a silver sagebrush presence. The area had a small enough component of silver sagebrush and the sage that was there had such reduced vigor, that he felt it wasn't functioning as a unique habitat. It was similar to other areas, both by a visual overview of the area and by sampling data which was taken to support this conclusion that silver sagebrush did not have a large presence at the site.
52. Section 2.7.2.1.a was revised as requested.
53. Section 2.7.3 was revised as requested. Trees will be planted around the shop office facility to help offset the temporary reduction in woodland acres between disturbance and site reclamation. No land use changes are planned. At this time, it is unknown if it will be feasible to keep the tree plantings after reclamation of the site, but this will be evaluated at the time of facility removal; therefore, no changes were made to Section 4.1.
54. Section 2.7.4 was revised as requested.
55. Section 2.9.1 was revised as requested.
56. Section 2.9.1 was revised as requested.
57. Section 3.1.1.8 was updated. Per Policy Memo 16, the cost of such things as fences are included by multiplying the total of all other reclamation costs (excluding admin. and mobilization) by one percent, which was done in the final summary page. Section 3.1.3 was revised as requested.
58. Section 3.1.3 was revised as requested.
59. Section 3.1.3 was revised as requested.
60. Section 3.1.1 was updated to clarify the clean water diversion. The western portion of the route is a natural swale. The toe of the pond embankment will intersect the swale and reroute the water around the pond. Topsoil may be manipulated along the toe of the embankment to form a route for the water to follow but will be vegetated following any manipulation. Since it is not technically a field engineered diversion, Section 3.3.5 does not apply. Section 3.3.1 was updated to clarify the situation as well.  
The access route to the SPGM piles will be respread after the piles are complete. The access route is shown on Section 3.1.1.8.7 map as it will need to be redisturbed to access the piles, however according to Policy Memo 23, short term SPGM haulage routes where only topsoil is stripped do not qualify as transportation routes and therefore do not require design plans nor do performance standards apply. Thus the route will not be shown on the Pit Layout and Facilities map. Section 3.2.1 was updated to clarify the use of the corridor.
61. Language was added to Sections 3.1.1, 3.1.1.1, 3.1.1.2, and Section 3.3.1 to address the use of signs throughout the mine area.
62. Section 3.2.1 was revised as requested.

63. Since this is a representation of a typical embankment, elevations are shown more to represent the different levels of the pond more than an actual elevation. Since actual elevations are shown in the design details for each pond we find this unnecessary to update at this time.
64. Section 3.3.2 was revised as requested.
65. Section 3.3.4 was revised as requested.
66. Section 3.3.7 was revised as requested.
67. No preference statement has been received.
68. Section 4.1.1 was revised as requested.
69. Inclusion of forbs in the seed mix is not necessarily the best technology currently available, since native forbs have been documented to reestablish themselves on reclaimed native grasslands at other area mines. Additionally, by seeding the forb species whose seed is available and that are typically included in native seed mixes, a very artificial mix of forbs that isn't similar to the species and distribution present pre-mining will be the result. It is the opinion of CCMC that the best technology currently available is to utilize direct respread and natural invasion of native forbs to most closely match the pre-mine forb presence on reclaimed lands. No changes were made.
70. Section 4.2.3 was revised as requested.

#### Additional Changes

1. North Dakota Stratigraphic Column was added to Section 2.1.5 References.
2. References were added to Section 2.4.12.
3. Section 2.6.2 was updated with changes made in response to technical deficiencies to the AVF report.
4. Worst case variable costs were updated to 2013 values in Sections 3.1.1.8.1, 3.1.1.8.4, and 3.1.1.8.5.
5. The phrase "*or commission approved best management practices*" was inserted into the first paragraph of Section 3.3.1 to compensate for timing issues.

Sincerely,

COYOTE CREEK MINING COMPANY, L.L.C.



Donn R. Steffen  
Engineering/Environmental Manager

SJF  
Enc.

CC: Shana Brost, Mercer County Auditor