



Public Service Commission

State of North Dakota

COMMISSIONERS

Brian P. Kalk
Randy Christmann
Julie Fedorchak

Executive Secretary
Darrell Nitschke

600 East Boulevard, Dept. 408
Bismarck, North Dakota 58505-0480
Web: www.psc.nd.gov
E-mail: ndpsc@nd.gov
Phone: 701-328-2400
ND Toll Free: 1-877-245-6685
Fax: 701-328-2410
TDD: 800-366-6888 or 711

March 11, 2014

Mr. Donn Steffen
Environmental Manager
Coyote Creek Mining Company
204 County Rd. 15
Beulah, ND 58523

Dear Mr. Steffen:

The Reclamation Division has reviewed Coyote Creek Mining Company's February 28, 2014, response to our February 19, 2014 completeness review letter for Surface Coal Mining Permit No. NACC-1302 for the Coyote Creek Mine. In follow-up to original completeness Item No. 11, the Reclamation Division understands the road passing through Section 31 and the S1/2 of Section 36 is a public road by prescription as defined in NDCC 24-07-01 rather than a private road as stated by Coyote Creek. We are also aware of the fact that Mercer County has done maintenance work on this road for many years. The following items related to the description of this road must be satisfactorily addressed before the Reclamation Division can deem the application complete.

Section 1.2.4 – Newspaper Publication Notice

1. Please revise the newspaper publication notice and accompanying publication map to remove the word "private" from the description for the road passing through Section 31 and the S1/2 of Section 36. The road is identified as a public road on the General Highway Map for Mercer County prepared by the ND DOT and the ND GIS Hub county road feature class. The road closure discussion in the notice also needs to address the plans for closing this public road. Also, please change the word "purpose" to "propose" in the paragraph relating to road closures that begins on page 39 of the newspaper publication notice.

Section 1.2.6 – Relation to Mining – Prohibited Areas and Areas Designated Unsuitable

2. In Section 1.2.6, Relation to Mining Prohibited Areas and Areas Designated Unsuitable, the road connecting 17th Street SW to County Road 13 (65 ½ Ave SW and 18th St SW) should not be referred to as "private" without further explanation. While the road may not be located on a statutory right-of-way, the road appears to be a public road by statutory prescription. The road is identified as a public road on the General Highway Map for Mercer County prepared by the ND DOT and the ND GIS Hub county road feature class. Based on the information available it appears that the road is subject to the rules for relocating or closing a public road as outlined in NDAC 69-5.2-04-01.3.

Mr. Donn Steffen

March 11, 2014

Page 2 of 2

The 120-day review period remains suspended until all of the items listed above have been satisfactorily addressed and the permit application is deemed complete.

If you have any questions, please contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Deutsch", written in a cursive style.

James R. Deutsch

Director

Reclamation Division