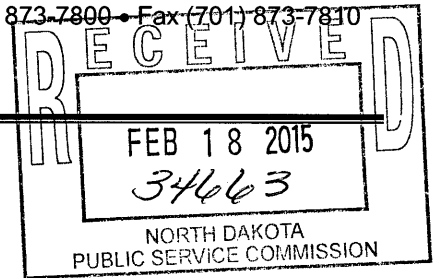


# COYOTE CREEK MINING COMPANY, L.L.C.

A SUBSIDIARY OF THE NORTH AMERICAN COAL CORPORATION

6502 17<sup>th</sup> Street SW  
Zap, ND 58580

(701) 873-7800 • Fax (701) 873-7810



February 16, 2015

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 Revision 1 to Surface Coal Mining Permit Application NACC-1302. Responses below refer to deficiencies in your February 5, 2015 letter regarding completeness review:

### **Electronic Permit Format**

1. As required by NDAC 69-05.2-05-02(1), please correct the .htm file title tag to list Coyote Creek Mine Permit NACC-1302. The current title tag incorrectly lists Permit NACC-1301 that causes the browser's title bar, tab, and task bar icon to display the incorrect permit number while the home page is open. It should be clear to the viewing public and the reviewing agencies that the file is an application for Permit NACC-1302. (WTG)

The title tag was corrected.

2. As required by NDAC 69-05.2-05-02(1), please insert a subheading on the electronic permit application home page beneath the NACC-1302 approved date to list "Revision 1 - Submitted December 16, 2014" or a similarly worded subheading to clearly indicate that the file is an application for Revision No. 1. (WTG)

A subheading has been added to the home page.

### **Section 1.1.2 – Revision Summary Pages**

3. The revision summary pages, Section 1.1.2, describes that updates to the permit with Revision No. 1 consist only of page 1 in Section 1.1.2. Please revise to state that pages 1-4 are included in the listing of revision summary changes. (BEB)

Page 1 of Section 1.1.2 was corrected.

4. In the revision summary pages, Section 1.1.2, please update the list of sections revised to include Sections 4.1.2, 4.1.3 and 4.1.4 which also appear to have been revised with Revision 1. (RLK)

Page 4 of Section 1.1.2 was revised.

**Section 1.2.4 – Newspaper Publication Notice**

5. It appears that the legal description for Tract 0071 in Section 10 should be revised to correctly describe the tract as in the S½ of the section rather than the S½S½ of the section as currently described because about 8 acres of the tract appear to be located in the N½S½ of Section 10. Please review and correct as necessary. (WTG)

Page 46 of Section 1.2.4 was revised.

6. Please revise the map that is to be included with the public notice, Section 1.2.4.2, to clearly depict where the haul road will cross County Road 12, and revise the public notice so that it is clear to the public that traffic will be impacted by construction, long-term use and maintenance of a mine haul road intersecting this county road. The language in the advertisement presently only alludes to activities within 100 feet of this road without clearly describing those activities as required by NDAC 69-05.2-10-01(1)(d). (GAW)

Section 1.2.4.2 was revised to identify the haul road crossing location. Page 47 of Section 1.2.4 was also revised to clarify that a mine haulage road will be crossing County Road 12.

**Section 1.5.1 – Permit Area Surface and Coal Interests**

7. As required by NDAC 69-05.2-05-02(1), please replace the existing recorded plat for Tract 0069 with a legible copy. (WTG)

The pdf file with the survey plat for Tract 0069 has been replaced with a legible copy.

8. As required by NDAC 69-05.2-05-02(1), please insert copies of the recorded plats for Tracts 0070 and 0071 since a plat is referred to in the easement/lease. (WTG)

Pdf files with the survey plats for Tracts 0070 and 0071 have been added.

9. It appears that the legal description for Tract 0071 in Section 10 should be revised to correctly describe the tract as in the S½ of the section rather than the S½S½ of the section as currently described because about 8 acres of the tract appear to be located in the N½S½ of Section 10. Please review and correct as necessary. (WTG)

The legal description for Tract 71 has been corrected.

**Section 1.5.2 – Adjacent Surface and Coal Ownership and Leasehold Information**

10. Please correct the mailing address listed for Dakota Westmoreland Corporation in Section 1.5.2 for adjacent ownership in Sections 10, 11, 14, and 15. The correct mailing address is as follows: Dakota Westmoreland Corporation, Beulah Mine, P.O. Box 39, Beulah ND 58523-0039. (WTG)

The address for Dakota Westmoreland Corporation has been updated. The previous address listed for Westmoreland was the address listed in the record title for that land.

### **Section 2.2 – Surface Water Hydrology**

11. Please update Section 2.2.3.5 by replacing the hashtags (###) that appear in the date column and in several of the water chemistry columns with the data that was intended for this table. (BEB)

Section 2.2.3.5 was revised.

12. Please update all relevant maps in Section 2.2 to show the revised permit boundary that will occur with Revision No. 1. We have noted that the Surface Water Features Map, Section 2.2.2 has been updated but maps elsewhere in the Surface Water Hydrology section have not been updated. (BEB/RLK)

Section 2.2.4.1, 2.2.4.2, 2.2.4.4, 2.2.5.3 was revised.

13. To comply with NDAC 69-05.2-09-09(1)(a)(1) please update the Pre- and Post-Mining Probable Hydrologic Consequences Maps, Sections 2.2.4.1 and 2.2.4.2 respectively, to show watershed boundaries in the permit and adjacent areas, in particular for Sections 15, 16, and 17, T143N, R88W. (BEB)

As discussed on 2/12/15, because watersheds won't be affected other than through associated disturbance and no changes will be made to the topography, watershed boundaries don't need to be shown. No changes were made.

### **Section 2.3.2 – Ground Water Use Information**

14. Certification information regarding the Fox Hills artesian well identified as Otter Tail et al. Well #1 located in the SW1/4SW1/4 of Section 10, T143N, R88W, is provided in the Well Certification Summary table in Section 2.3.2.1 and also in the Certified Wells Water Quality table in Section 2.3.2.2. However, the field certification form regarding this well also needs to be placed in the Landowner Well and Spring Certification Documents in Section 2.3.2.7, and its location depicted on the Certified Wells and Springs Map in Section 2.3.2.5. (BEB)

Pages 1-5 were added to Section 2.3.2.7. Section 2.3.2.5 was revised as requested. Section 2.3.4.2 was also revised to show the new permit boundary.

15. Please update the Certified Wells and Springs Narrative, Section 2.3.2.8, with information regarding the Otter Tail et al. Well #1. (BEB)

Page 2 of Section 2.3.2.8 was revised.

### **Section 2.4 – Pre-Mining Land Use and Vegetation**

16. The Section 18 narrative on page 53 of Section 2.4.2 states that old fields are evident in the NE1/4 of Section 18 and that the vegetation is dominated with introduced species, crested wheatgrass, smooth brome grass and Kentucky bluegrass, but this area is classified as native grassland. Please reconsider classifying these old fields as tame pastureland rather than native grassland or explain how the mapping unit description and the sampling data represents these previously tilled areas as required by NDAC 69-05.2-08-08. (GAW)

Page 53 of Section 2.4.2 was revised.

17. Please review and correct inconsistencies in the narratives for Sections 7, 8, 9, 10, and 18 in Section 2.4.2. The introduction of each narrative states native areas are under-utilized while the last paragraph of the narratives lists intensive grazing as a possible reason for no Dakota Skipper sightings. (ZAB)

Pages 50 and 52-55 of Section 2.4.2 were revised.

18. Please update Section 2.4.7.1, Ecological Site Map, to include the Revision 1 addition area, and depict the sampling locations. (GAW)

Section 2.4.7.1 was revised.

19. Some total columns in Section 2.4.7.3 Ecosite Production Summary display symbols instead of totals; please insert the proper values in these columns. (ZAB)

Section 2.4.7.3 was revised.

20. Please update Section 2.4.13.1, Woodland Map, to include the Revision 1 addition area, and depict woodland types in this area. (GAW)

Section 2.4.13.1 was revised.

### **Section 2.5 – Soil Resources**

21. As required by NDAC 69-05.2-05-02(1), please add the soil mapping unit legend to Sheet 2 of Section 2.5.6. (WTG)

Section 2.5.6 was revised.

### **Section 2.7 – Fish and Wildlife Resources**

22. Please revise Section 2.7.2.1, Wildlife Study Map, to include the permit boundary of the Revision 1 addition area on the map. (GAW)

Section 2.7.2.1 was revised.

23. Please revise Section 2.7.2.1a, Dakota Skipper Survey Map, to include the permit boundary of the Revision 1 addition area on the map. (GAW)

Section 2.7.2.1a was revised.

### **Section 2.8 – Cultural Resources**

24. Please update the Cultural Resource Location Map, Section 2.8.3, to depict all of the NACC-1302 permit area to include the haulroad and location of Cultural Resource Site 32ME2526. (BEB/ZAB)

Section 2.8.3 was revised.

25. Narrative updated with Revision No. 1 on page 3 of Section 2.8.1, Cultural Resource Summary, references Section 2.8.5 and describes that a Class III Cultural Resource Inventory report for areas along the haulroad was submitted to the SHS on August 8, 2014 requesting eligibility determination of the lone prehistoric site that was identified and tested in 2014. However, correspondence regarding

this report and the SHPO eligibility determination regarding recommendations in the report is not provided in the permit. Please update Section 2.8.5 with the required correspondence. (BEB)

Section 2.8.5 was revised. Section 2.8.1 was revised regarding additional correspondence.

26. On page 3 of Section 2.8.2 Cultural Resource Summary, please correct the township 134 to 143 for site 32ME2526. (ZAB)

Section 2.8.2 was revised.

### **Section 3.1 – Operations - General**

27. Please provide narrative and plans for the proposed coal processing facility in the SE1/4 of Section 10, T143N, R88W. We suggest that a new subsection be added to section 3.1 for the coal processing facility narrative and plans. The plans should include the maximum amount of coal stockpiled, details on crushing facilities, description and capacity of the conveying system, and operating schedule. NDAC 69-05.2-09-01(3) & (4), NDAC 69-05.2-09-06(1) (WTG/BAJ)

Section 3.1.9 was added, which provides a narrative and supporting maps/drawings.

28. As required by NDAC 69-05.2-09-05, please specify the measures for coal processing facility compliance with air pollution control requirements. Plans for fugitive dust control for the facility must also be included. (WTG/BAJ)

Pages 4-6 of Section 3.1.1.2 were revised.

29. Please update Sections 3.1.2, Pre-Mining Topography and Existing Structures Map, Section 3.1.3, Pit Layout and Facilities Map, Section 3.1.5, Postmining Topography Map and Sections 3.1.6 and 3.1.8, Post- and Pre-Mining Area Slope Maps to include the premining topography of the land located south of the haul road in Sections 15, 16 and 17 of T143N, R88W. NDAC 69-05.2-08-04 requires a description of the hydrology of the permit and adjacent area. NDAC 69-05.2-08-07 (GAW)

Premining topography was added to Section 3.1.2, 3.1.3, 3.1.5, 3.1.6, and 3.1.8.

30. Please identify or remove the yellow question marks on the north end of the Pre-Mining Topography and Existing Structures Map 3.1.2. (ZAB)

Section 3.1.2 was revised.

31. Please update the Pit Layout and Facilities Map, Section 3.1.3, to identify the areas where operations will be conducted within 100 feet of perennial and intermittent streams. This is needed so that the SWC and NDDH can determine the planned impacts to these for compliance with NDAC 69-05.2-16-20. It appears that sediment ponds P10-01 and P10-02 will be very close to Brush Creek. (GAW)

Section 3.1.3 was revised.

### **Section 3.2 – Transportation Facilities**

32. Although traffic control for the haulroad crossing at Mercer County 12 is described in Section 3.1.1.6 (Landowner and Public Access), additional details of traffic control should be included in Section 3.2.8. As required by NDAC 69-05.2-05-02(1), please describe traffic control plans for the haulroad crossing at Mercer County 12, including right-of-way and use of signs, signals, or gates. Please also

add documentation of the traffic control plan concurrence by the Mercer County road authority to the permit application. (WTG)

Narrative was added to Section 3.2.8 to explain that a public hearing on the haulroad crossing will occur soon and that details regarding the crossing and a copy of the resolution with the county will be added to the permit when they are available.

### **Section 3.3 – Surface Water Management**

33. Please update Section 3.3.1, Surface Water Management Plan, to discuss how runoff from each watershed along the north haul road will be treated prior to discharging into the receiving streams. To the extent possible, runoff from haul road ditches should not be directed down steep slopes adjacent the haul road where natural drainages were filled. (It appears a culvert may be needed between discharge points 8 and 9 near station 102/103). NDAC 69-05.2-16-01 (GAW)

Narrative has been updated in Section 3.3.1. In addition, Section 3.2.8.1-10 (Haulroad Design North of County Road 12 Plan and Profile) has been updated to allow for an overburden ditch to flow to all discharge points along the entirety of the haulroad. The old design showed ditches only in the cut sections of the road. The haulroad now has ditches directing runoff from the haulroad cut and fill sections to a respective discharge point. Upstream of each discharge point is a rock armored plunge pool. Each culvert is designed to have upstream inverts laid at overburden grade, and downstream inverts at an elevation 6 inches higher the topsoil grade. This will allow the culvert outflows and overburden ditch runoff a greater opportunity to both settle out and dissipate energy before exiting the discharge point.

34. Please revise the Surface Water Management Plan Map, Section 3.3.2, to include the topography of the land located south of the haul road in Sections 15, 16 and 17 of T143N, R88W, and delineate the watersheds above discharge points 2 through 14. NDAC 69-05.2-08-07 (GAW)

Premining topography and the watersheds were added to Section 3.3.2.

35. Please identify discharge points 2 through 14 on the Surface Water Management Plan Map, Section 3.3.2, and show the energy dissipating BMP's that will be maintained at each discharge point to ensure runoff protection to downstream areas. Please also show how runoff from the haul road ditches will be treated at each location prior to entering the receiving streams. NDAC 69-05.2-09-02(5) (GAW)

Narrative was added to page 7 of Section 3.3.1 to describe the BMPs and Section 3.2.8 was referenced for their locations. The maps in Section 3.2.8 show the haulroad design and appear to be a better location to depict BMP installations because of the level of haulroad and ditch detail provided.

### **Section 4.1 – Post-Mining Land Use Plans**

36. Please update Section 4.1.2, Post-Mining Topography and Land Use Map, to show planned replacement woodland plantings along the area affected by the North Haul Road corridor. (GAW)

No changes were made. As described in the last paragraph on page 4 of Section 4.2.3, initial estimates of replacement plantings are based on those within the mining disturbance limit. These acres are listed in a table at the end of Section 4.2.3 and plantings are visually represented on the map in Section 4.1.2. However, as also described in Section 4.2.3, trees within the associated disturbance limit, including those in the haulroad corridor, are not included in these detailed plans

until after the associated disturbance occurs since most, but not all, trees within the projected boundary will be disturbed. "Actual acres of trees that are disturbed will be calculated at each permit renewal and Section 4.1.2 and the tables shown below will be updated."

#### **Section 4.2 – Revegetation Procedures, Establishment and Management**

37. Please update Section 4.2.1, Revegetation Procedures, Establishment and Management, to discuss how the subsoil that is to be used to construct the haul road will be handled to minimize compaction. Section 3.2.8 of the permit states that there will be up to 25% shrinkage of subsoil due to compaction. (GAW)

Page 2 of Section 3.1.1.1 was revised. Since Section 4.2.1 deals with revegetation, narrative was added to the soils handling section instead.

38. Please update Section 4.2.3, Trees and Shrubs, to account for the woodlands that will be affected by construction of the North Haul Road. The Woodland Summary on page 6 of Section 4.2.3 needs to be updated to recognize these planned impacts. (GAW)

No changes were made. Refer to #36.

#### **Section 4.3.1 – Narrative**

39. Please update Section 4.3, Vegetation Assessment and Success Standards Narrative, to address the Revision 1 acreage addition. (GAW)

Page 2 of Section 4.3.1 was revised.

#### **Section 4.4 – Postmining Wetlands**

40. Please update the Reclamation of Creek Crossings discussion on page 3 of Section 4.4.1, Narrative, to discuss restoring Brush Creek to a longitude and cross section profile that approximates its pre-mining stream channel characteristics as required by NDAC 69-05.2-16-07(4), and reference where in the permit the pre-mining stream channel and vegetation characteristics have been documented to become a restoration standard. Section 3.2.5.3 does not provide sufficient topographic or profile detail to meet this requirement. (GAW)

Page 3 of Section 4.4.1 and pages 33-34 of Section 2.4.2 were revised.

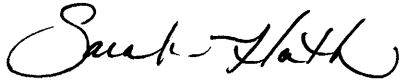
#### **Additional changes were made to the following sections:**

1. Page 5 was added to Section 1.2.7 to update the Mercer County Conditional Use Approval Documents.
2. Section 1.3.5 – Other Licenses and Permits was updated.
3. The low flow stream culverts were revised in Sections 3.2.3.1 Sheet 1, 3.2.4.2 Sheet 2, 3.2.5.1, 3.2.5.2, and 3.2.5.3.
4. Section 3.2.4.1 Sheet 1 was revised.

Mr. James Deutsch  
February 16, 2015  
Page 8 of 8

Sincerely,

COYOTE CREEK MINING COMPANY, L.L.C.

A handwritten signature in black ink, appearing to read "Sarah Flath". The signature is written in a cursive style with a large initial "S" and a long, sweeping underline.

Sarah Flath  
Senior Environmental Specialist

SJF  
Enc.