



Public Service Commission

State of North Dakota

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June 1, 2015

Mr. Donn Steffen
Environmental Manager
Coyote Creek Mining Company
6502 17th St. SW
Zap, ND 58580

Dear Mr. Steffen:

The Reclamation Division has reviewed Coyote Creek Mining Company's May 15, 2015, responses to our May 7, 2015 technical review of the application for Revision No. 1 to Surface Coal Mining Permit NACC-1302. The following items must be satisfactorily addressed before the Reclamation Division will recommend Commission action on this revision application.

Section 1.2 – Legal Information

1. Follow-up to Item No. 1: Please revise the Proposed Section Line and Road Closures and Setback Waivers Map in Section 1.2.6.1 to depict the approved road closures and approved operations within 100 feet of the right-of-way that are currently documented in Section 1.2.8. The map would be more informative if approved road closures and approvals to operate within 100 feet of the ROW were depicted in a different color than the proposed closures and waivers and the map could easily be updated as approval documents are added to Section 1.2.8. NDAC 69-05.2-05-02 (ZAB/GAW)

Section 2.2 – Surface Water Hydrology

2. Follow-up to Item No. 5: Please clarify that the mining related impacts discussed in the paragraph added to on page 1 of Section 2.2.5 only pertain to Coyote Creek Mining Company activities. As a suggestion, the second sentence could start with *Coyote Creek Mining Company* ... to remind the reader that the narrative does not relate to other mining operations in the Brush Creek drainage system. The forth sentence does not agree with the similar statement made elsewhere in the added narrative and is not completely accurate since the total containment ponds could in some instances have drainage to the creek. Also, please review the second to last sentence for clarity. (RLK)

Section 2.3 – Ground Water Hydrology

3. Follow-up to item No. 7: Please add the location of future ground water monitoring well CM12-02C (Coyote Creek Alluvium) to the Monitoring Well Location Map, Section 2.3.4.2. Also, since the CM12-24 nest (A,B,C,D) of monitoring wells already exist, please re-label the proposed/future Section 14 Knife River Alluvium monitoring well from CM12-24A to CM12-25A on the Monitoring

Well Inventory in Section 2.3.4.3 and also show its proposed location on the well location map. Since it would be reasonable to expect well installation to be completed in the near future, relevant information regarding both of these wells should be added to the Ground Water Monitoring Schedule in Section 2.3.4.1. (BEB)

4. New item: Please extend the Monitoring Well Location Map, Section 2.3.4.2, at least a mile to the south so that monitoring well nest CM12-21 that is located in Section 17, T142N, R88W, can be viewed on the map. (BEB)
5. Follow-up to item No. 9: The Schwalbe well is located in the NW1/4 of Section 17 (BDA), not the NE1/4 (ACC) as listed in Section 2.3.2.1 and the water well contractor logs listed with the State Water Commission. The location depicted on your Pre-mining Topography and existing Structures map, Section 3.1.2, is correct. Please correct the location description in the table, and it appears the producing water bearing unit is unlikely the Fox Hills Aquifer because elevation to the Fox Hills in the general area averages around elevation 630-750 AMSL and the elevation to the producing zone in the Schwalbe well is about 1750' AMSL. Based on a review of the drilling log for the well, the producing zone appears to be a 4' thick coal seam in the lower Sentinel Butte Formation. The Fox Hills is a marine (no coal) sedimentary depositional unit. Please review and update as necessary. (BEB)

Section 2.5 – Soil Resources

6. Follow-up to item No. 19: Please correct the acreage for soil map unit 42B (Williams loam, 3 to 6 percent slopes) in Table 4 (Numerical legend, topsoil and subsoil thicknesses, and acres) in Section 2.5.2 (Soils Report). The 223.57 acreage value entered in Table 4 submitted with the May 15th response does not include the 1.89 acres of soil map unit 42B added to the permit in Section 9 with Revision No. 1. The total acreage listed for soil map unit 42B in Table 4 should be 225.46 to be consistent with Section 2.5.3 (Mapping Unit Acres by Owner). (WTG)
7. Follow-up to item No. 53: We believe it is reasonable to assume that 10 to 15 percent of the haulroad subsoil stockpile volume will be degraded such that it will be unavailable for subsoil respreading during haulroad reclamation because of subsoil comingling with overburden and gravel surfacing material. Please revise the narrative in the Haulroad Corridor North of County Road 12 subsection on page 2 of Section 2.5.4 (Soil Volume Methods) to delete the portion beginning with and all that follows "At the time of reclamation ..." because the narrative incorrectly refers to respreading subsoil according to NDAC 69-05.2-15-04(4)(a) where graded spoil materials occur, but should instead reference NDAC 69-05.2-15-04(4)(b) for associated disturbance areas where all subsoil removed must be respread. Please revise the narrative to address compliance with NDAC 69-05.2-15-04(4)(b) by stating that the haulroad corridor will be sampled by surface owner tract during reclamation to assess overburden quality for use as other suitable strata as required by NDAC 69-05.2-08-11 to supplement subsoil that is degraded and unavailable for subsoil respreading during haulroad reclamation because of subsoil comingling with overburden and gravel surfacing material. Please also specify in the narrative that the use of other suitable strata to supplement subsoil required by NDAC 69-05.2-08-11 will be considered a subsoil substitute as defined by NDAC 69-05.2-15-02(5)(c). (WTG)
8. Follow-up to item No. 53: Please revise the Section 2.5.4 (Soil Volume Methods) narrative to add a subsection entitled "North-South Haulroad Corridor" to address the change submitted with the May 15th response to build the haulroad out of subsoil from Station 23+00 to Station 27+00 as described on page 1 of Section 3.2.4. The new subsection should be similar to the Haulroad Corridor North of County Road 12 subsection to be revised as necessary in the preceding item, but modified to specify

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the haulroad segment from which subsoil will be salvaged to build the subsoil stockpile, and that will be sampled during reclamation to assess overburden quality for use as other suitable strata as required by NDAC 69-05.2-08-11 to supplement subsoil degraded and unavailable for subsoil respreading during haulroad reclamation because of subsoil comingling with overburden and gravel surfacing material. (WTG)

9. Follow-up to item No. 53: We believe it is reasonable to assume that 10 to 15 percent of the haulroad subsoil stockpile volume will be degraded and unavailable for subsoil respreading during haulroad reclamation because of subsoil comingling with overburden and gravel surfacing material. Please revise footnote 1 of the Revision 1 Haulroad Corridor table of Section 2.5.4.2 (Soil Respread Depth Table (Mining Disturbance Area and Haulroad Corridor)) to delete the portion beginning with and all that follows "... subsoil can't be supplemented ..." and replace it with narrative to address compliance with NDAC 69-05.2-15-04(4)(b) by stating that the haulroad corridor will be sampled by surface owner tract during reclamation to assess overburden quality for use as other suitable strata as required by NDAC 69-05.2-08-11 as described in Section 2.5.4. (WTG)

Section 3.1.1.8 – Reclamation Costs

10. Follow-up to item No. 35: Approximately 350 acres in the W1/2 and W1/2E1/2 of Section 25 and in the SW1/4 of Section 24 were added to the incremental bond area with this submittal without any explanation. Disturbance areas associated with the installation of the breaker boxes were within the approved first bond increment, but it appears the location of the breaker box in Section 25 was changed. It appears only an acre or so addition to the bond increment would be sufficient to accommodate the new breaker box location. The addition to Bond Increment No. 1 needs to be limited to the area being added to the permit with Revision No. 1 and the small area needed for the new breaker box location. (ZAB)
11. Follow-up to item No. 35: Language was added to the second paragraph on page 1 of Section 3.1.1.8 that states the Incremental Bond expires January 1, 2016. Please clarify this statement since Surety Bond No. 106134359 will not meet the minimum requirements of NDAC 69-05.2-12-03 if it expires on January 1, 2016. (ZAB)

Section 3.1.1.8.2 – Overburden Calculations

12. Surfacing material for the haulroads is listed at 32,200 cubic yards which calculates to a 6 inch thickness. The Reclamation Division believes this is an unrealistic thickness, and should be changed to a thickness of 1 foot (approximately 62,000 cubic yards). (BAJ)

Section 3.1.3 – Pit Layout and Facilities Map

13. Follow-up to item No. 42: It appears the topsoil stockpile location associated with the contractor's parking lot south of the shop/office complex should be moved from the southwest corner of the lot to the east end of the parking lot. Please review and update as necessary. (BEB)

Section 3.2.1 – Transportation Facilities Narrative

14. Follow-up to items No. 48 and 49: There appears to be no updates in Section 3.2.1 describing Coyote Creek's plans for managing excavated coal seam(s) or ground water that may be encountered along transportation corridors within the permit. Please update Section 3.2.1 accordingly. (BEB)

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Section 3.2.3 – Shop Access Road

15. Please revise the third paragraph of page 1 of the Section 3.2.3 narrative that is disjointed in its present form. It appears that too much of the original narrative is proposed for deletion with the May 15th response and that all narrative except the sentence referencing the Casey Voigt farmstead should be retained in the paragraph. (WTG)
16. The third paragraph of page 2 of the Section 3.2.3 narrative states that the Shop Access Road to Box Culvert Diversion is depicted on Section 3.2.3.3, but Section 3.2.3.3 is not listed or hyperlinked on the Section 3.2 Transportation Facilities home page. Please list and hyperlink Section 3.2.3.3 on the Section 3.2 Transportation Facilities home page. (WTG)
17. Please label Pond P31-01 and the north and south cattle guards of the rancher access approach on Section 3.2.3.3 (Shop Access Road to Box Culvert Diversion). (WTG)
18. Please label Pond P31-01 on Sections 3.2.3.1 and 3.2.3.2 (plan and profiles for the Shop Access Road) that were updated with the May 15th response to depict the Shop Access Road to Box Culvert Diversion. Please also correct the revised date in the title box on both sheets that should apparently read 5/11/15 instead of 5/11/14. (WTG)
19. Please review the north ditch design for the Shop Access Road's western segment on Sheets 3.2.3.1, 3.2.3.2, and 3.2.3.3 and revise it as necessary because it appears that a culvert will be necessary for runoff to pass through the rancher access approach. (WTG)
20. Please repair the hyperlinks in Section 3.2.3 that do not appear to work. (WTG)
21. Please add a link to Section 3.2.3.3 Shop Access Road to Box Culvert Diversion map. (BAJ)

Section 3.2.4 – North-South Haulroad

22. Follow-up to Item No. 50: Please repair the hyperlinks to Sections 3.2.4.1, 3.2.4.2, 3.2.4.3, and 3.2.4.4 on the Section 3.2 Transportation Facilities home page and in the first paragraph of Section 3.2.4 that do not appear to work. (WTG/GAW/BAJ)
23. Follow-up to Item No. 50: A sentence in the first paragraph states that the design of the road is presented on **five** plan and profile drawings in Section 3.2.4.1 but there are only **four** drawings. The last sentence of the first paragraph has been edited to indicate that the North-South haul road will not affect Section 31, but the Pit Layout and Facilities Map shows that this haul road will pass through the northwest corner of Section 31. Please review and revise as necessary to provide clarity. (GAW)
24. The third paragraph of page 1 of Section 3.2.4 updated with the May 15th response indicates that the North-South Haulroad will now be built with subsoil from Station 23+00 to Station 27+00 that will function as a subsoil stockpile as depicted on Sections 3.2.4.1 and 3.2.4.2. Please update the Section 3.2.4 narrative in response to the haulroad design change with relevant portions copied from the first paragraph of page 2 of Section 3.2.8 that describe subsoil emplacement in the haulroad and completing an as-built survey of the subsoil stockpile. (WTG)
25. As required by NDAC 69-05.2-09-06(1)(h), please expand the narrative on page 1 of Section 3.2.4 to describe reclamation of the temporary detour for public traffic after constructing the haulroad and County Road 12 grade separation to address compliance with NDAC 69-05.2-24-07(1). The narrative

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must address methods to alleviate compaction of the detour subsoil roadbed and also replacement of subsoil lost from surfacing material removal as required by NDAC 69-05.2-08-11. (WTG)

Section 3.2.8 – Haulroad North of County Road 12

26. As required by NDAC 69-05.2-09-06(1)(h), please expand the narrative on page 1 of Section 3.2.8 to describe reclamation of the temporary detour for public traffic after constructing the haulroad and County Road 12 grade separation to address compliance with NDAC 69-05.2-24-07(1). The narrative must address methods to alleviate compaction of the detour subsoil roadbed and also replacement of subsoil lost from surfacing material removal as required by NDAC 69-05.2-08-11. (WTG)
27. The first paragraph of page 1 of Section 2.5.4 (Soil Volume Methods) updated with the May 15th response indicates that SPGM mixing agreements have not been acquired for landowners Gunsch, Otter Tail et al, Schwalbe, and the State of ND for the Haulroad North of County Road 12. With this information added to the permit, please update Sections 3.2.8.1 through 3.2.8.10 (plan and profiles for the haulroad on Sheets 1 through 10) of the Haulroad North of County Road 12 as follows: (WTG)
- a. Label the subsoil stockpiles by ownership similar to labels applied to topsoil stockpile ownership.
 - b. Add stockpile boundary lines for all subsoil stockpiles because the brown dot fill pattern indicating the stockpile outline is not visible on printed sheets.
 - c. Add section lines with distinctive line type (where present) and section labels to each sheet so the road segment surface owner can be easily identified.
 - d. Revise as necessary the subsoil stockpile proposed for construction near the corner of Sections 7, 8, 17, and 18 depicted wholly on Sheet 3 and partially on Sheet 4. This stockpile occupies Gunsch, Schwalbe, and State of ND tract ownership and presumably includes subsoil from each tract owner, but compliance with NDAC 69-05.2-15-04(6) requires that subsoil from each property owner must be stockpiled separately if mining agreement have not been secured. As currently presented, the tract ownership boundaries for this stockpile location are not easily identified because section lines with distinctive line type and labels are not present on the map. It seems highly unlikely that each owners subsoil could be adequately segregated as currently proposed.

As of June 1, 32 days remain of the Commission's 120 day review period specified in NDAC 69-5.2-05-01(3). If you have any questions, please contact this office.

Sincerely,



James R. Deutsch
Director
Reclamation Division

cc: Mercer County Auditor