

**NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Coyote Creek Mining Company, L.L.C.**  
**Renewal No. 1, Permit NACC-1302**  
**Revision No. 9, Permit NACC-1302**  
**Applications**

**Case No. RC-19-189**  
**Case No. RC-19-190**

**REPLY TO COYOTE CREEK MINING COMPANY, LLC'S OBJECTION TO  
REQUEST TO CONDUCT MINE INSPECTION PURSUANT TO  
N.D.C.C. § 38-14.1-19(3)**

**September 29, 2019**

On September 25, 2019, the Voigts filed a request to inspect Coyote Creek Mine in anticipation of the upcoming informal conference. The informal conference statute itself anticipates such an inspection at this stage of the proceedings. On September 27, 2019, the PSC filed a short response agreeing to facilitate this inspection. The only party to object to this inspection is Coyote Creek Mining Company ("CCMC"). CCMC appears to raise two concerns about this inspection, both of which are easily dispelled.

First, CCMC is concerned that this inspection will delay CCMC's renewal application.<sup>1</sup> The Voigts are aware of the mine's renewal deadline and briefly checked with Mr. Schuh last week to informally inquire as to whether the PSC has the ability to administratively extend CCMC's existing permit in the event that it is not possible for the PSC to approve CCMC's renewal application by the deadline. The undersigned's understanding is that there may be mechanisms available to do so. Assuming this to be the case, the Voigts are willing to stipulate to any conditional extensions or orders necessary to ensure that this informal hearing process does not

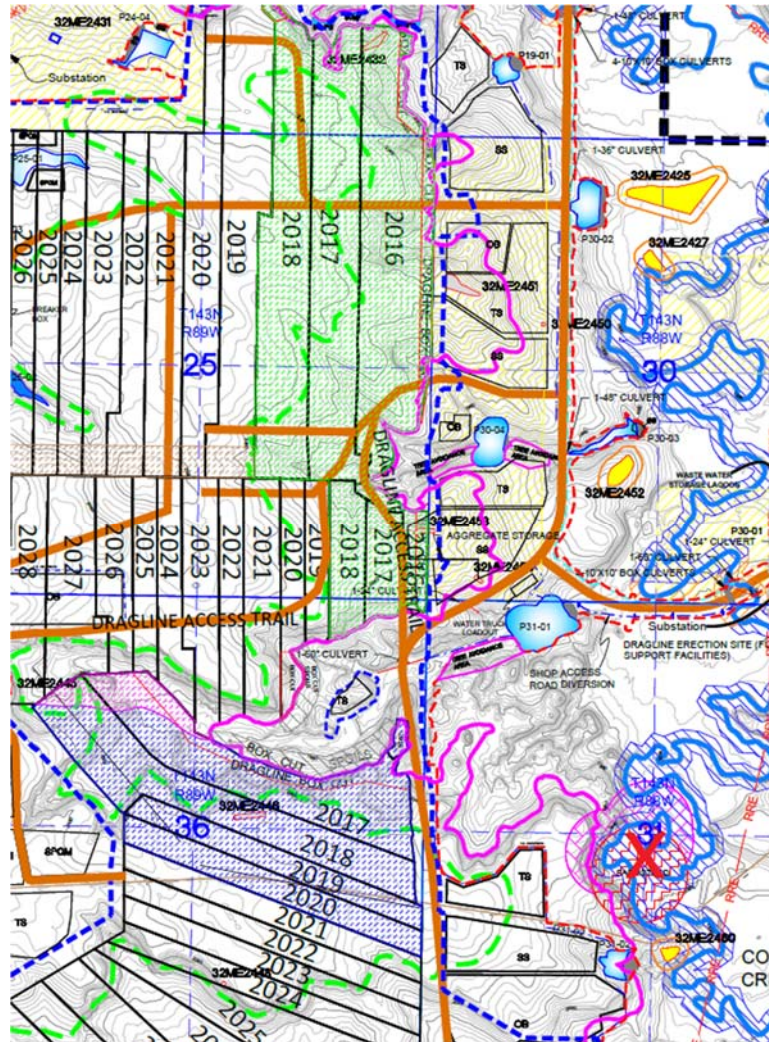
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<sup>1</sup> There are two permit proceedings at issue here. RC-19-190 is CCMC's application to renew its existing mine permit. RC-19-189 is CCMC's application to significantly change its mine plan.

cause a lapse of the mine's permit. It may also be possible for the parties to stipulate to proceed with all of the issues raised by the Voigts solely in Case No. RC-19-190 (RC-19-190 is CCMC's significant revision mine permit application). Either way, the point is that the Voigts' goal is not to delay CCMC's permit renewal. Rather, the Voigts' goal is to ensure that CCMC's mine permit application and eventual permit is adequately protective of the Voigts, who make their home upon the ranch that CCMC is mining.

The Voigts' also note that they requested that the inspection take place *before* the informal conference. As such, this inspection cannot delay the mine's permit renewal. If anything, a mine inspection that takes place prior to the informal hearing should allow the conference to be more productive, which may in turn allow for a more efficient resolution of the issues raised.

Second, CCMC seems to suggest that the locations which the Voigts wish to inspect are not relevant to their concerns. This is not accurate. The Voigts' requested to inspect CCMC's reclamation variance areas number one and number two, as well as any other locations upon which CCMC has restored subsoil, topsoil, or conducted any re-seeding or planting. This was nothing more than a short-hand method of asking to inspect those parts of CCMC that have had *recent* activity (i.e., locations that have been mined since 2015). CCMC's proposed Variance 1 is highlighted in green on CCMC's Pit Layout and Facilities Map (years 2016, 2017, and 2018 in the north pits). CCMC's proposed variance two is highlighted in purple on that same map (years 2017, 2018, 2019, and 2020 in the south pits). Notably, the Voigts' house is directly to the east of these locations. For reference, a portion of CCMC's proposed Pit Layout and Facilities Map from Section 3.1.3 of CCMC's application (referenced in the Voigts' original inspection request) follows below, with a red X added to indicate the Voigts' home inside of the permit area:



Separately from the above, on Friday, September 27 at approximately 3:00PM, the PSC sent a technical deficiency letter to CCMC asking for significant additional information regarding CCMC’s requested variances from the default three-year reclamation requirement contained in N.D.C.C. § 38-14.1-24(14). In that letter, the PSC required CCMC to update its mine permit application to specifically request each variance, to justify each variance, to submit a separate map for these variances, and to include a projected date of reclamation for these variance areas. Given that this information is not in the permit application at this time, the Voigts reserve the right to comment on the merits of CCMC’s proposed variance areas themselves at the informal conference

based upon CCMC's subsequent submittal and the Voigts' previously expressed concerns about reclamation. As it turns out, inspection of these locations will allow the Voigts to better understand CCMC's forthcoming submittal on these variances, however, the inspection's primary purpose remains to gather information on all of the issues raised by the Voigts to better allow them to participate in the hearing process.

Respectfully submitted this 29<sup>th</sup> day of September, 2019.

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was on September 29, 2019 filed with the Public Service Commission by e-mail to ndpsc@nd.gov and USPS First Class Mail, and that the same was served by e-mail on September 29, 2019 and by USPS First Class Mail on September 30, 2019 upon the following:

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