

PUBLIC SERVICE COMMISSION

Reclamation Division

Memorandum

TO: Commissioners Kroshus, Fedorchak and Christmann
Steve Kahl, Executive Secretary
John Schuh, General Counsel

FROM: *DKM* *ZAB* *BOB*
Dean Moos, Zanna Brinkman and Bruce Beechie

DATE: February 4, 2020

SUBJECT: Formal Hearing Findings of Fact and Conclusions of Law and Order for Revision No. 9 to Permit No. NACC-1302 (Case No. RC-19-190) and Renewal No. 1 to Permit NACC-1302 (Case No. RC-19-189), Coyote Creek Mining Company

The Coyote Creek Mining Company (CCMC) filed the applications for Revision No. 9 and Renewal No. 1 to Surface Coal Mining Permit No. NACC-1302 on May 20 and 22, 2019, respectively. Revision No. 9 identifies the next five year coal removal areas and addresses items that were identified as requiring updating or modification by the Reclamation Division during a pre-renewal review of the permit. Renewal No. 1 extends the permit term for a 5-year term until October 21, 2024.

The revision and renewal applications were deemed complete on June 28, 2019. On July 10, 2019 the Commission issued a Notice of Receipt of Renewal and Revision Applications informing the public that written comments, objections, or requests for an informal conference must be filed with the Commission by August 26, 2019.

On August 26, 2019, Casey and Julie Voigt filed written comments on the revision and renewal applications and requested an informal conference. The Voigts expressed concerns about access, dust, alluvial valley floors, omission of cultural resource sites, sediment buildup in Coyote Creek, CCMC's ability to reclaim the mine, and Coyote Partner's control over CCMC. They subsequently withdrew the request to discuss the cultural resource issues and Coyote Partners control over CCMC but indicated that they intended to discuss the remaining five issues at the informal conference.

The informal conference was held on October 8, 2019. The Hearing Officer issued the Informal Conference Findings and Recommended Order on October 21, 2019 recommending that the renewal and revision be approved. The Commission adopted the recommended order and approved Revision 9 and Renewal 1 on October 21. The approvals were subject to right of any person with an interest who is or may be adversely affected to request a hearing on the Commission's decision.

On November 20, 2019, the Commission received a request for a formal hearing from Casey and Julie Voigt. The Voigts raised the same issues as in the informal conference (access, alluvial valley floors, reclamation, sediment in Coyote Creek, and dust).

The formal hearing was held on December 16 and 17 as scheduled. The Voigts, Coyote Creek, and Commission staff testified at the hearing. The proceeding remained open until January 10, 2020 to allow the Voigts and CCMC to submit written closing arguments and recommended orders.

The Commissioners held work sessions on January 21 and February 5 to discuss the recommended order. The attached Findings of Fact, Conclusions of Law and Order was prepared by staff. This order affirms the Commission's earlier decision to approve Revision No. 9 and Renewal No. 1 to Permit NACC-1302. The order also revokes the original Special Condition No. 1 attached to the approval of Revision 9 and attaches a new Special Condition No. 1 to Revision No. 9. The original Special Condition No. 1 (revoked with this order) required Coyote Creek Mining Company to maintain records of the measures taken to effectively control wind erosion and attendant air pollution, however; the Condition possibly infringes upon the jurisdiction of the DEQ. New Special Condition No. 1 requires Coyote Creek Mining Company to depict the location of the proposed permanent road on the Post Mining Topography and Land Use Map in Permit NACC-1302 with the next permit revision.

Attached is a motion to adopt the Findings of Fact and Conclusions of Law and Order

[Minedata/CoyoteCreek/Permits/NACC-1302/Revisions/No.9No.1/FormalHearing/Order_memo_2-4-2020](#)