

COYOTE CREEK MINING COMPANY, L.L.C.

A SUBSIDIARY OF THE NORTH AMERICAN COAL CORPORATION



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September 30, 2019

Mr. Dean K. Moos
Director Reclamation and AML Divisions
North Dakota Public Service Commission
600 East Boulevard Avenue
Department 408
Bismarck, ND 58505-0480

Dear Mr. Moos:

Enclosed are three DVDs containing changes as a response to your letter dated September 27, 2019 for Renewal 1 and Revision 9 of Surface Coal Mining Permit NACC-1302. Please see responses below.

Printable Table of Contents

New Item: The Printable Table of Contents has not been updated with Revision No. 9. Required updates include new Sections 1.2.4.3, 3.1.1.8.10, and perhaps others. Please review and provide all required updates to this section. (BEB)

Requested changes were made to pages 1 and 6 of the Printable Table of Contents. No other necessary changes were identified.

Section 1.5.1 – Permit Area Surface and Coal Interests

Follow-up to Item No. 26: Please update Easements of Record information for Tracts 0061 and 0066 in Section 1.5.1, Permit Area Surface and Coal Interests, if Mercer County has obtained road easements for the road that is to be constructed on the east-west quarter line in Section 36. (GAW)

CCMC has no knowledge of any additional easements filed for Tracts 0061 or 0066, so no changes were necessary.

Section 2.8 – Cultural Resources

Follow-up to Item No. 11: With submittal of the 2016 data recovery report of 17 sites at Coyote Creek Mine in response to the approved cultural resource management plan and subsequent approval of the report by the State Historical Society, please simply add a sentence to the updated narrative on page 3 of Section 2.8.1 indicating that all historic and cultural resource sites located within the permit area have been cleared for disturbance by SHPO, if that is the case. (BEB)

Further explanation was added to page 1 of Section 2.8.1 to clarify the State Historical Preservation Office July 1, 2018 letter indicating both approval of the plan and further consultation. All sites located within the permit area have cleared for disturbance.

Follow-up to Item No. 11: Page 4 of the Cultural Resource Summary Table in Section 2.8.2 provides the same information header as the previous three pages in this section and has the date AUGUST 2019 and some other cut-off narrative located above the date that is listed under Mitigation Strategy & Status at the top of the page. We are unsure of what this illegible information is in reference to. Please review and either eliminate all of page 4 or update the page so that the information intended to be provided is legible. Also, the top sentence of the track change narrative in the footer on page 3 is cut-off on the right hand side so please reduce the font size so the intended word is legible. (BEB)

Formatting errors were found in the table and corrected as requested in Section 2.8.2.

Section 3.1 – Operations Plans

Follow-up to Item No. 12: CCMC's response stated that further investigation would be required to repair hyperlink function in Section 3.1. Assuming the technical issue has been identified and remedied, please update the hyperlinks in Section 3.1 of the permit so they connect to their intended sources. (BEB)

No solution has been found. CCMC commits to continuing to review and identify a solution in the future.

Section 3.1.1.2 – Mining Methods Narrative

Follow-up to item No. 14: Please update the Fugitive Dust Control Plan narrative that begins on page four of Section 3.1.1.2 to describe any changes to the measures used to control fugitive dust during the next term of the permit. Details regarding the use of calcium chloride on haul roads as outlined in an email request dated January 16, 2017 should be included in the permit and wind erosion control measures described in an email dated December 4, 2015 should be described in the permit. (GAW)

No changes to the measures used to control fugitive dust during the next term of the permit are anticipated. Requested details regarding the application of dust suppression agents and other measures taken to reduce and prevent wind erosion utilized in the current permit term and the upcoming permit term were added to page 4 of Section 3.1.1.2 as requested.

Section 3.2.1 – Transportation Facilities Narrative

Follow-up to Item No. 15: CCMC's response stated that further investigation would be required to repair hyperlink function in Section 3.2.1. Assuming the technical issue has been identified and remedied, please update the hyperlinks in Section 3.2.1 of the permit so they connect to their intended sources. (BEB)

No solution has been found. CCMC commits to continuing to review and identify a solution in the future.

Section 4.1 – Post-Mining Land Use Plans

Follow-up to Item No. 25: CCMC's response stated that further investigation would be required to repair hyperlink function in Section 4.1.1. Assuming the technical issue has been identified and remedied, please update the hyperlinks in Section 4.1.1 of the permit so they connect to their intended sources. (BEB)

No solution has been found. CCMC commits to continuing to review and identify a solution in the future.

Follow-up to Item No. 26: Please revise Section 4.1.1, Post Mining Land Use Narrative, to mention the road that will be constructed on the east-west quarter line in Section 36 and reference the Mercer County Agreement in Section 1.2.8, Mercer County Section Line Right-of-Way Closure and Setback Waiver Documents. If Mercer County has not yet obtained the necessary easements, CCMC may describe the road location as tentative pending the acquisition of the necessary easements by Mercer County. Please also update Section 4.1.2, Post-Mine Topography and Land Use Map, to depict the road, and adjust the road acreage value in Section 4.1.3, Pre and Post-Mine Land Use Comparison Table, if appropriate. (GAW)

Requested changes were made to page 4 of Section 4.1.1. The agreement included after the request in the letter from the NDPSC dated August 9, 2019 in Section 1.2.8 makes clear the commitment of the county to obtain the necessary easements for the replacement of the "unidentified" road and the commitment of CCMC to then replace said road. Once necessary easements are obtained by the county, CCMC will depict the location of the "unidentified" road at the location described in the agreement on appropriate maps. CCMC commits to working with Mercer County to ensure the conditions of the agreement are upheld and will continue meeting with Mercer County at least annually to ensure progress on the issue.

Follow-up to Item No. 28: The Pit Layout and Facilities Map, Section 3.1.3, does not depict disturbance of the woodlands in the SW1/4 of Section 24 that are identified as an exclusion area in the BA and EA for federal coal lease by application NDM 110277. However, the Post Mine Topography and Land Use Map, Section 4.1.2, depicts reclaimed woodlands in this tract. Please add narrative to clarify what appears to be a discrepancy or revise the Post-Mine Topography and Land Use Map, Section 4.1.2, and information in Section 4.2.3, Trees and Shrubs. (GAW)

Language regarding permit incorporation of tracts with federally owned coal are addressed in Section 3.1.1. Requested clarity was added to page 1 of Section 3.1.1 to more clearly state that the mining boundaries identified in Section 3.1.3 will be followed unless a lease and permit revision is obtained with approval to mine the federal coal in these tracts, subsequently avoiding any identified exclusion areas that may apply that are outlined in documents related to NDM 110277.

Section 4.2 – Revegetation Procedures, Establishment and Management

Follow-up to pre-renewal review Item No. 37 and technical review Item No. 32: NDCC 38-14.1-24(14) requires all reclamation through the initial planting on any land within the permit to be completed no later than 3 years after the completion of coal removal, unless otherwise prescribed by the Commission. Please revise the permit to include a specific request for a variance from NDCC 38-14.1-24(14) for each area where a perennial seeding (including native grass and woodland plantings) will exceed the 3 year rule for all areas that will be disturbed through the next permit term and including the current permit term. The plan needs to include a projected date of reclamation and justification for each variance requested. We recommend including a map in the permit that identifies each area where a perennial seeding is proposed to be delayed. We suggest using the Post Mine Land Use map as a base template and shading or hatching the variance request areas. Haulroads, sediment ponds, stockpiles, or other long term facilities do not require a variance; however, CCMC should depict these features especially if they provide justification for

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the variance. For example, depict the long term features that fragment reclaimed native grassland into small, unmanageable tracts. (GAW/ZAB/DKM)

Requested changes were made to pages 2 and 5 of Section 3.1.1.3 to request a specific variance, date of reclamation and justification for native grassland and woodland areas located within landscape fragmented by more long-term mining facilities. The specific requested variance areas can be found in Section 3.1.3 and are associated with previously requested variance areas 1-6. Areas requested for this specific variance generally apply only to lands disturbed in the first or second term of the permit. As progress is made and tracked, an additional, more detailed map can be included to track the progress of timing of seeding and subsequent management of these areas to ensure expectations are met. Additional information will also be included on the Annual Mine Map to track delays and seedings of native grasslands and woodlands. CCMC is confident this approach will result in a sustainable, productive and diverse landscape once mining is completed.

New Item: CCMC is proposing to change the seed mixture used for topsoil and subsoil piles, diversions, pond slopes, road slopes and ditches with Revision No. 9. Please retain information about the original seed mixture in Section 4.2.2, Seed Mixes, to document that slender, western and tall wheatgrass were planted at 5, 7 and 7 lbs./acre, respectively, on these features during the first term of the permit. (GAW)

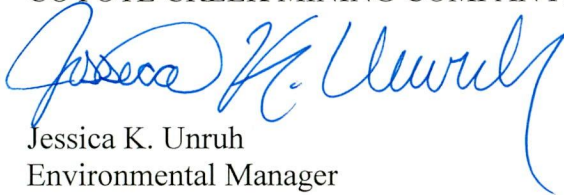
A footnote was added to Table 5 on page 2 of Section 4.2.2 to indicate the seed mix listed was used only during the first term of the permit.

Section 1.1.2 Revision Summary Changes was also updated to reflect all new changes.

Please feel free to contact me with any questions. Thank you for your consideration.

Sincerely,

COYOTE CREEK MINING COMPANY, L.L.C.



Jessica K. Unruh
Environmental Manager

JKU
Enc.