

Section 1.2.8 – Mercer County Section Line Right-of-Way Closure and Setback Waiver Documents

All setback waiver and closure documents obtained from Mercer County for permit NACC-1302 can be found in this section, including those originally obtained for permit NACC-1301, which is now included in this permit. Additional section line right-of-way closures and right-of-way setback waivers will be applied for in the future. Approval documents will be included in the permit after they are received. Mine related disturbance and activities will not begin within the right-of-ways or setback areas until receipt of the approval documents.

132 RC-19-190 Filed: 12/26/2019 Pages: 32
Exhibit V 4 - Mercer County Commission resolutions

Casey and Julie Voigt

118 RC-19-189 Filed: 12/26/2019 Pages: 32
Exhibit V 4 - Mercer County Commission resolutions

Casey and Julie Voigt

RESOLUTION OF
MERCER COUNTY COMMISSION

WHEREAS, Coyote Creek Mining Company, L.L.C. ("Coyote Creek") has petitioned the Board of County Commissioners of Mercer County, North Dakota ("Commission") to temporarily close the following described section line roads that interfere with surface coal mining operations pursuant to the provisions of Chapters 38-01-07.1 and 38-01-07.2 of the North Dakota Century Code:

1. The section line road between the E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 30 and the E $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 31, Township 143 North, Range 88 West; and
2. The section line road between the SW $\frac{1}{4}$ of Section 29 and SE $\frac{1}{4}$ of Section 30, Township 143 North, Range 88 West.

WHEREAS, a public hearing was held upon the Petition of Coyote Creek before the Commission on the 2nd day of April, 2014, in the Courthouse in the City of Stanton, North Dakota, and the Commission having heard and considered all of the testimony and evidence presented.

NOW, THEREFORE, BE IT RESOLVED that the Commission does hereby find, conclude and determine as follows:

1. That the Commission has jurisdiction over the subject matter of the Petition and the section line roads involved therein.
2. That the Notice of Hearing on said Petition was duly served and published as required by law.
3. That the temporary closing of said section line roads is necessary due to the fact that said section line roads interfere with Coyote Creek's surface coal mining and reclamation operations.
4. That said section line roads are not required due to readily accessible alternate routes of travel.
5. That the temporary closing of said section line roads does not deprive adjacent landowners access to their property.
6. That a public benefit exists in temporarily closing said section line roads and that the interests of the public and affected landowners will be protected.

BE IT FURTHER RESOLVED, based on the foregoing, that the Commission hereby determines and orders as follows:

1. That the following section line roads be temporarily closed until such time as Coyote Creek's surface coal mining and reclamation operations which affect the use of said section line roads by the general public are completed:

- a. The section line road between the E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 30 and the E $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 31, Township 143 North, Range 88 West; and
- b. The section line road between the SW $\frac{1}{4}$ of Section 29 and SE $\frac{1}{4}$ of Section 30, Township 143 North, Range 88 West.

2. That Coyote Creek provide farmers ^{vand ranchers SWB} access to their lands for farming purposes ^{vand ranching SWB} during the time that said section line roads are temporarily closed.

3. That within a reasonable period of time after completion of surface coal mining and reclamation operations Coyote Creek shall restore said section line roads to as good a condition as existed prior to the temporary closing to the extent required by the Commission.

4. That Coyote Creek inform the Commission when the restoration of said section line roads is completed, at which time Coyote Creek shall tender said section line roads to the Commission for acceptance for general public use.

5. That the Commission may at any time exercise its rights to monitor the continued need for the temporary closing of said section line roads and may request Coyote Creek to show cause why said section line roads should not be reopened if surface coal mining operations in the vicinity thereof have been completed.

6. That this Resolution, the Petition involved therein, the Affidavits of Service and the Affidavits of Publication of Notice of Hearing be filed with the Mercer County Auditor.

Dated this 2nd day of April, 2014.

ATTEST:
Shana Brost
Shana Brost, Mercer County Auditor

MERCER COUNTY COMMISSION
By: Frank H Bitterman
By: Harry Murray
By: Dillon S Schenk
By: W P Tree
By: Wayne Entz

RESOLUTION OF
MERCER COUNTY COMMISSION

WHEREAS, pursuant to the provisions of Chapter 38-14.1-07 of the North Dakota Century Code and Chapter 69-05.2-04 of the North Dakota Administrative Code, Coyote Creek Mining Company, L.L.C. ("Coyote Creek") petitioned the Board of County Commissioners of Mercer County, North Dakota ("Commission") for permission to conduct surface coal mining operations within 100 feet of the section line of the following public road:

1. The west side of the north 150 feet of the section line road between the NE $\frac{1}{4}$ of Section 31 and the NW $\frac{1}{4}$ of Section 32, Township 143 North, Range 88 West.

WHEREAS, a public hearing was held upon the Petition of Coyote Creek before the Commission on the 2nd day of April, 2014, in the Courthouse in the City of Stanton, North Dakota, and the Commission having heard and considered all of the testimony and evidence presented;

WHEREAS, the Commission has jurisdiction over the subject matter of the Petition and the public road and right-of-way stated therein;

WHEREAS, the Notice of Hearing on said Petition was published as required by law; and

WHEREAS, the interests of the public and the interests of affected landowners will be protected.

NOW, THEREFORE, BE IT RESOLVED that the Commission does hereby approve the conducting of surface coal mining operations, except actual coal removal, by Coyote Creek within 100 feet of the section line of the following public road:

1. The west side of the north 150 feet of the section line road between the NE $\frac{1}{4}$ of Section 31 and the NW $\frac{1}{4}$ of Section 32, Township 143 North, Range 88 West.

BE IT FURTHER RESOLVED that this Resolution, the Petition involved herein, and the Affidavits of Publication of Notice of Hearing be filed with the Mercer County Auditor.

Dated this 2nd day of April, 2014.

ATTEST:

Shana Brost
Shana Brost, Mercer County Auditor

MERCER COUNTY COMMISSION

By: Frank H. Bitterman

By: Harvey Munn

By: Donna S. Schuchman

By: W. K. Hwa

By: Wayne C. [Signature]

RESOLUTION OF
MERCER COUNTY COMMISSION

WHEREAS, pursuant to the provisions of Chapter 38-14.1-07(4) of the North Dakota Century Code and Chapter 69-05.2-04-01.1(3)(b) of the North Dakota Administrative Code, Coyote Creek Mining Company, L.L.C. ("Coyote Creek") petitioned the Board of County Commissioners of Mercer County, North Dakota ("Commission") for permission to conduct surface coal mining operations within 100 feet of the section line of the following public road:

1. The east side of the section line road between the SE $\frac{1}{4}$ of Section 23 and SW $\frac{1}{4}$ of Section 24, Township 143 North, Range 89 West.
2. The east side of the section line road between Section 25 and Section 26, Township 143 North, Range 89 West.

WHEREAS, a public hearing was held upon the Petition of Coyote Creek before the Commission on the 1st day of October, 2014, in the Courthouse in the City of Stanton, North Dakota, and the Commission having heard and considered all of the testimony and evidence presented;

WHEREAS, the Commission has jurisdiction over the subject matter of the Petition and the public road and right-of-way stated therein;

WHEREAS, the Notice of Hearing on said Petition was published as required by law; and

WHEREAS, the interests of the public and the interests of affected landowners will be protected.

NOW, THEREFORE, BE IT RESOLVED that the Commission does hereby approve the conducting of surface coal mining operations, except actual coal removal, by Coyote Creek within 100 feet of the section line of the following public road:

1. The east side of the section line road between the SE $\frac{1}{4}$ of Section 23 and SW $\frac{1}{4}$ of Section 24, Township 143 North, Range 89 West.
2. The east side of the section line road between Section 25 and Section 26, Township 143 North, Range 89 West.

BE IT FURTHER RESOLVED that this Resolution, the Petition involved herein, and the Affidavits of Publication of Notice of Hearing be filed with the Mercer County Auditor.

Dated this 1st day of October, 2014.

ATTEST:

Shana Brost
Shana Brost, Mercer County Auditor

MERCER COUNTY COMMISSION

By: Gary Murray

By: Duane Schuman

By: Frank H. Bitterman

By: Wayne Entz

By: WT

RESOLUTION OF
MERCER COUNTY COMMISSION

WHEREAS, Coyote Creek Mining Company, L.L.C. ("Coyote Creek") has petitioned the Board of County Commissioners of Mercer County, North Dakota ("Commission") to temporarily close the following described section line roads that interfere with surface coal mining operations pursuant to the provisions of Chapters 38-01-07.1 and 38-01-07.2 of the North Dakota Century Code:

1. The east-west section line road between the SW¼ of Section 19 and NW¼ of Section 30, Township 143 North, Range 88 West;
2. The north-south section line road between the SW¼ of Section 19, Township 143 North, Range 88 West and the SE¼ of Section 24, Township 143 North, Range 89 West;
3. The east-west section line road between the SW¼ of Section 30 and the NW¼ of Section 31, Township 143 North, Range 88 West;
4. The north-south section line road between Section 30, Township 143 North, Range 88 West and Section 25, Township 143 North, Range 89 West;
5. The north-south section line road between the NW¼ of Section 31, Township 143 North, Range 88 West and the NE¼ of Section 36, Township 143 North, Range 89 West;
6. The east-west section line road between the SE¼ of Section 24 and NE¼ of Section 25, Township 143 North, Range 89 West; and
7. The east-west section line road between the SE¼ of Section 25 and NE¼ of Section 36, Township 143 North, Range 89 West.

WHEREAS, a public hearing was held upon the Petition of Coyote Creek before the Commission on the 18th day of February, 2015, in the Courthouse in the City of Stanton, North Dakota, and the Commission having heard and considered all of the testimony and evidence presented.

NOW, THEREFORE, BE IT RESOLVED that the Commission does hereby find, conclude and determine as follows:

1. That the Commission has jurisdiction over the subject matter of the Petition and the section line roads involved therein.
2. That the Notice of Hearing on said Petition was duly served and published as required by law.

3. That the temporary closing of said section line roads is necessary due to the fact that said section line roads interfere with Coyote Creek's surface coal mining and reclamation operations.

4. That said section line roads are not required due to readily accessible alternate routes of travel.

5. That the temporary closing of said section line roads does not deprive adjacent landowners access to their property.

6. That a public benefit exists in temporarily closing said section line roads and that the interests of the public and affected landowners will be protected.

BE IT FURTHER RESOLVED, based on the foregoing, that the Commission hereby determines and orders as follows:

1. That the following section line roads be temporarily closed until such time as Coyote Creek's surface coal mining and reclamation operations which affect the use of said section line roads by the general public are completed:

- a. The east-west section line road between the SW $\frac{1}{4}$ of Section 19 and NW $\frac{1}{4}$ of Section 30, Township 143 North, Range 88 West;
- b. The north-south section line road between the SW $\frac{1}{4}$ of Section 19, Township 143 North, Range 88 West and the SE $\frac{1}{4}$ of Section 24, Township 143 North, Range 89 West;
- c. The east-west section line road between the SW $\frac{1}{4}$ of Section 30 and the NW $\frac{1}{4}$ of Section 31, Township 143 North, Range 88 West;
- d. The north-south section line road between Section 30, Township 143 North, Range 88 West and Section 25, Township 143 North, Range 89 West;
- e. The north-south section line road between the NW $\frac{1}{4}$ of Section 31, Township 143 North, Range 88 West and the NE $\frac{1}{4}$ of Section 36, Township 143 North, Range 89 West;
- f. The east-west section line road between the SE $\frac{1}{4}$ of Section 24 and NE $\frac{1}{4}$ of Section 25, Township 143 North, Range 89 West; and
- g. The east-west section line road between the SE $\frac{1}{4}$ of Section 25 and NE $\frac{1}{4}$ of Section 36, Township 143 North, Range 89 West.

2. That Coyote Creek provide farmers access to their lands for farming purposes during the time that said section line roads are temporarily closed.

3. That within a reasonable period of time after completion of surface coal mining and reclamation operations Coyote Creek shall restore said section line roads to as good a condition as existed prior to the temporary closing to the extent required by the Commission.

4. That Coyote Creek inform the Commission when the restoration of said section line roads is completed, at which time Coyote Creek shall tender said section line roads to the Commission for acceptance for general public use.

5. That the Commission may at any time exercise its rights to monitor the continued need for the temporary closing of said section line roads and may request Coyote Creek to show cause why said section line roads should not be reopened if surface coal mining operations in the vicinity thereof have been completed.

6. That this Resolution, the Petition involved therein, the Affidavits of Service and the Affidavits of Publication of Notice of Hearing be filed with the Mercer County Auditor.

Dated this 18th day of February, 2015.

ATTEST:

Shana Brost
Shana Brost, Mercer County Auditor

MERCER COUNTY COMMISSION

By: Gary Messing

By: Wayne Entz

By: W. A. Tree

By: Quinn J. Schum

By: Wesley D. Hensel

RESOLUTION OF
MERCER COUNTY COMMISSION

WHEREAS, pursuant to the provisions of Chapter 38-14.1-07(4) of the North Dakota Century Code and Chapter 69-05.2-04-01.1(3)(b) of the North Dakota Administrative Code, Coyote Creek Mining Company, L.L.C. ("Coyote Creek") petitioned the Board of County Commissioners of Mercer County, North Dakota ("Commission") for permission to conduct surface coal mining operations within 100 feet of the outside right-of-way line of the following public roads:

1. The east side of County Road 13 between the NW $\frac{1}{4}$ of Section 1 and the NE $\frac{1}{4}$ of Section 2, Township 142 North, Range 89 West; and
2. The east side of County Road 13 between Sections 35 and 36, Township 143 North, Range 89 West.

WHEREAS, a public hearing was held upon the Petition of Coyote Creek before the Commission on the 18th day of February, 2015, in the Courthouse in the City of Stanton, North Dakota, and the Commission having heard and considered all of the testimony and evidence presented;

WHEREAS, the Commission has jurisdiction over the subject matter of the Petition and the public road and right-of-way stated therein;

WHEREAS, the Notice of Hearing on said Petition was published as required by law; and

WHEREAS, the interests of the public and the interests of affected landowners will be protected.

NOW, THEREFORE, BE IT RESOLVED that the Commission does hereby approve the conducting of surface coal mining operations, except actual coal removal, by Coyote Creek within 100 feet of the outside right-of-way line of the following public roads:

1. The east side of County Road 13 between the NW $\frac{1}{4}$ of Section 1 and the NE $\frac{1}{4}$ of Section 2, Township 142 North, Range 89 West; and
2. The east side of County Road 13 between Sections 35 and 36, Township 143 North, Range 89 West.

BE IT FURTHER RESOLVED that this Resolution, the Petition involved herein, and the Affidavits of Publication of Notice of Hearing be filed with the Mercer County Auditor.

Dated this 18th day of February, 2015.

ATTEST:

Shana Brost
Shana Brost, Mercer County Auditor

MERCER COUNTY COMMISSION

By: Harry W. Murray

By: Wayne Entje

By: W. Thue

By: Dean S. Schuman

By: Mark D. Gunn

RESOLUTION OF
MERCER COUNTY COMMISSION

WHEREAS, Coyote Creek Mining Company, L.L.C. ("Coyote Creek") has petitioned the Board of County Commissioners of Mercer County, North Dakota ("Commission") to temporarily close the following described section line roads that interfere with surface coal mining operations pursuant to the provisions of Chapters 38-01-07.1 and 38-01-07.2 of the North Dakota Century Code:

1. The east 626 feet of the east-west section line road between Sections 7 and 18, Township 143 North, Range 88 West; and
2. The south 480 feet of the north-south section line road between Sections 7 and 8, Township 143 North, Range 88 West; and
3. The south 480 feet of the north-south section line road between Sections 8 and 9, Township 143 North, Range 88 West; and
4. The south 840 feet of the north-south section line road between Sections 9 and 10, Township 143 North, Range 88 West.

WHEREAS, a public hearing was held upon the Petition of Coyote Creek before the Commission on the 18th day of February, 2015, in the Courthouse in the City of Stanton, North Dakota, and the Commission having heard and considered all of the testimony and evidence presented.

NOW, THEREFORE, BE IT RESOLVED that the Commission does hereby find, conclude and determine as follows:

1. That the Commission has jurisdiction over the subject matter of the Petition and the section line roads involved therein.
2. That the Notice of Hearing on said Petition was duly served and published as required by law.
3. That the temporary closing of said section line roads is necessary due to the fact that said section line roads interfere with Coyote Creek's surface coal mining and reclamation operations.
4. That said section line roads are not required due to readily accessible alternate routes of travel.
5. That the temporary closing of said section line roads does not deprive adjacent landowners access to their property.

6. That a public benefit exists in temporarily closing said section line roads and that the interests of the public and affected landowners will be protected.

BE IT FURTHER RESOLVED, based on the foregoing, that the Commission hereby determines and orders as follows:

1. That the following section line roads be temporarily closed until such time as Coyote Creek's surface coal mining and reclamation operations which affect the use of said section line roads by the general public are completed:

- a. The east 626 feet of the east-west section line road between Sections 7 and 18, Township 143 North, Range 88 West; and
- b. The south 480 feet of the north-south section line road between Sections 7 and 8, Township 143 North, Range 88 West; and
- c. The south 480 feet of the north-south section line road between Sections 8 and 9, Township 143 North, Range 88 West; and
- d. The south 840 feet of the north-south section line road between Sections 9 and 10, Township 143 North, Range 88 West.

2. That Coyote Creek provide farmers access to their lands for farming purposes during the time that said section line roads are temporarily closed.

3. That within a reasonable period of time after completion of surface coal mining and reclamation operations Coyote Creek shall restore said section line roads to as good a condition as existed prior to the temporary closing to the extent required by the Commission.

4. That Coyote Creek inform the Commission when the restoration of said section line roads is completed, at which time Coyote Creek shall tender said section line roads to the Commission for acceptance for general public use.

5. That the Commission may at any time exercise its rights to monitor the continued need for the temporary closing of said section line roads and may request Coyote Creek to show cause why said section line roads should not be reopened if surface coal mining operations in the vicinity thereof have been completed.

6. That this Resolution, the Petition involved therein, the Affidavits of Service and the Affidavits of Publication of Notice of Hearing be filed with the Mercer County Auditor.

Dated this 18th day of February, 2015.

ATTEST:

Shana Brost
Shana Brost, Mercer County Auditor

MERCER COUNTY COMMISSION

By: Harry Murray

By: Wayne Entz

By: [Signature]

By: Quamir Schum

By: Myke O'Gunn

RESOLUTION OF
MERCER COUNTY COMMISSION

WHEREAS, pursuant to the provisions of Chapter 38-14.1-07(4) of the North Dakota Century Code and Chapter 69-05.2-04-01.1(3)(b) of the North Dakota Administrative Code, Coyote Creek Mining Company, L.L.C. ("Coyote Creek") petitioned the Board of County Commissioners of Mercer County, North Dakota ("Commission") for permission to conduct surface coal mining operations within 100 feet of the outside right-of-way and within the right-of-way of the following public roads:

1. The west right-of-way of the north-south section line between the north 300 feet of Sections 17 and 18, Township 143 North, Range 88 West;
2. The north right-of-way of the east-west section line between Sections 8 and 17, Township 143 North, Range 88 West;
3. The north right-of-way of the east-west section line between Sections 9 and 16, Township 143 North, Range 88 West; and
4. The north right-of-way of the east-west section line between the SW $\frac{1}{4}$ of Section 10 and the NW $\frac{1}{4}$ of Section 15, T143N, R88W and the west 1,817 feet of the north right-of-way of the east-west section line between the SE $\frac{1}{4}$ of Section 10 and the NE $\frac{1}{4}$ of Section 15, Township 143 North, Range 88 West.

WHEREAS, a public hearing was held upon the Petition of Coyote Creek before the Commission on the 18th day of February, 2015, in the Courthouse in the City of Stanton, North Dakota, and the Commission having heard and considered all of the testimony and evidence presented;

WHEREAS, the Commission has jurisdiction over the subject matter of the Petition and the public road and right-of-way stated therein;

WHEREAS, the Notice of Hearing on said Petition was published as required by law; and

WHEREAS, the interests of the public and the interests of affected landowners will be protected.

NOW, THEREFORE, BE IT RESOLVED that the Commission does hereby approve the conducting of surface coal mining operations, except actual coal removal, by Coyote Creek within 100 feet of the outside right-of-way and within the right-of-way of the following public roads:

1. The west right-of-way of the north-south section line between the north 300 feet of Sections 17 and 18, Township 143 North, Range 88 West;
2. The north right-of-way of the east-west section line between Sections 8 and 17, Township 143 North, Range 88 West;

3. The north right-of-way of the east-west section line between Sections 9 and 16, Township 143 North, Range 88 West; and
4. The north right-of-way of the east-west section line between the SW¼ of Section 10 and the NW¼ of Section 15, T143N, R88W and the west 1,817 feet of the north right-of-way of the east-west section line between the SE¼ of Section 10 and the NE¼ of Section 15, Township 143 North, Range 88 West.

BE IT FURTHER RESOLVED that this Resolution, the Petition involved herein, and the Affidavits of Publication of Notice of Hearing be filed with the Mercer County Auditor.

Dated this 18th day of February, 2015.

ATTEST:

Shana Brost
Shana Brost, Mercer County Auditor

MERCER COUNTY COMMISSION

By: Gary Murray

By: Wayne Entz

By: W.D. ...

By: Drew J. Schuman

By: Mark D. ...

RESOLUTION OF
MERCER COUNTY COMMISSION

WHEREAS, pursuant to the provisions of Chapter 38-14.1-07 of the North Dakota Century Code and Chapter 69-05.2-04 of the North Dakota Administrative Code, Coyote Creek Mining Company, L.L.C. ("Coyote Creek") petitioned the Board of County Commissioners of Mercer County, North Dakota ("Commission") for permission and approval to conduct surface coal mining operations within 100 feet of the outside right-of-way and across the right-of-way of the following public road with a mine haulage road:

- a. The north and south right-of-ways of the east-west portion of County Road 12 between the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 18 and the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 19, Township 143 North, Range 88 West.

WHEREAS, a public hearing was held upon the Petition of Coyote Creek before the Commission on the 15th day of April, 2015, at 11:00 a.m., CDT, in the Courthouse in the City of Stanton, North Dakota, and the Commission having heard and considered all of the testimony and evidence presented;

WHEREAS, the Commission has jurisdiction over the subject matter of the Petition and the public road and right-of-ways stated therein;

WHEREAS, the Notice of Hearing on said Petition was published as required by law; and

WHEREAS, the interests of the public and the interests of the affected landowners will be protected.

NOW, THEREFORE, BE IT RESOLVED that the Commission does hereby determine and order as follows:

1. That Coyote Creek may conduct surface coal mining operations, except actual coal removal, within 100 feet of the outside of the north and south right-of-ways of the east-west portion of County Road 12 between the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 18 and the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 19, Township 143 North, Range 88 West.

2. That Coyote Creek may cross the north and south right-of-ways of the east-west portion of County Road 12 between the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 18 and the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 19, Township 143 North, Range 88 West with a mine haulage road and related facilities subject to the attached Road Agreement, by and between Mercer County and Coyote Creek, dated as of the 6th day of May, 2015.

3. That this Resolution, the Petition involved herein, and the Affidavits of Publication of Notice of Hearing be filed with the Mercer County Auditor.

Dated this 6th day of May, 2015.

ATTEST:

Shana L. Brost
Shana L. Brost, Mercer County Auditor

MERCER COUNTY COMMISSION

By: Gary Murray

By: W. J. ...

By: Mike ...

By: Donna ...

By: Wayne ...

RESOLUTION OF
MERCER COUNTY COMMISSION

WHEREAS, Coyote Creek Mining Company, L.L.C. ("Coyote Creek") has petitioned the Board of County Commissioners of Mercer County, North Dakota ("Commission") to temporarily close the following described section line roads that interfere with surface coal mining operations pursuant to the provisions of Chapters 38-01-07.1 and 38-01-07.2 of the North Dakota Century Code:

1. The east-west section line road between the SW $\frac{1}{4}$ of Section 31, Township 143 North, Range 88 West and NW $\frac{1}{4}$ of Section 6, Township 142 North, Range 88 West;
2. The north-south section line road between the SW $\frac{1}{4}$ of Section 31, Township 143 North, Range 88 West and the SE $\frac{1}{4}$ of Section 36, Township 143 North, Range 89 West;
3. The east-west section line road between the SE $\frac{1}{4}$ of Section 36, Township 143 North, Range 89 West and the NE $\frac{1}{4}$ of Section 1, Township 142 North, Range 89 West; and
4. The north-south section line road between NW $\frac{1}{4}$ Section 6, Township 142 North, Range 88 West and NE $\frac{1}{4}$ Section 1, Township 142 North, Range 89 West.

WHEREAS, a public hearing was held upon the Petition of Coyote Creek before the Commission on the 20th day of January, 2016, continued the 3rd day of February, 2016, the 17th day of February, 2016, and the 16th day of March, 2016, in the Courthouse in the City of Stanton, North Dakota, and the Commission having heard and considered all of the testimony and evidence presented.

NOW, THEREFORE, BE IT RESOLVED that the Commission does hereby find, conclude and determine as follows:

1. That the Commission has jurisdiction over the subject matter of the Petition and the section line roads involved therein.
2. That the Notice of Hearing on said Petition was duly served and published as required by law.
3. That the temporary closing of said section line roads is necessary due to the fact that said section line roads interfere with Coyote Creek's surface coal mining and reclamation operations.
4. That said section line roads are not required due to readily accessible alternate routes of travel.

5. That the temporary closing of said section line roads does not deprive adjacent landowners access to their property.

6. That a public benefit exists in temporarily closing said section line roads and that the interests of the public and affected landowners will be protected.

BE IT FURTHER RESOLVED, based on the foregoing, that the Commission hereby determines and orders as follows:

1. That the following section line roads be temporarily closed until such time as Coyote Creek's surface coal mining and reclamation operations which affect the use of said section line roads by the general public are completed:

- a. The east-west section line road between the SW $\frac{1}{4}$ of Section 31, Township 143 North, Range 88 West and NW $\frac{1}{4}$ of Section 6, Township 142 North, Range 88 West;
- b. The north-south section line road between the SW $\frac{1}{4}$ of Section 31, Township 143 North, Range 88 West and the SE $\frac{1}{4}$ of Section 36, Township 143 North, Range 89 West;
- c. The east-west section line road between the SE $\frac{1}{4}$ of Section 36, Township 143 North, Range 89 West and the NE $\frac{1}{4}$ of Section 1, Township 142 North, Range 89 West; and
- d. The north-south section line road between NW $\frac{1}{4}$ Section 6, Township 142 North, Range 88 West and NE $\frac{1}{4}$ Section 1, Township 142 North, Range 89 West.

2. That Coyote Creek provide farmers access to their lands for farming purposes during the time that said section line roads are temporarily closed.

3. That within a reasonable period of time after completion of surface coal mining and reclamation operations Coyote Creek shall restore said section line roads to as good a condition as existed prior to the temporary closing to the extent required by the Commission.

4. That Coyote Creek inform the Commission when the restoration of said section line roads is completed, at which time Coyote Creek shall tender said section line roads to the Commission for acceptance for general public use.

5. That the Commission may at any time exercise its rights to monitor the continued need for the temporary closing of said section line roads and may request Coyote Creek to show cause why said section line roads should not be reopened if surface coal mining operations in the vicinity thereof have been completed.

6. That this Resolution, the Petition involved therein, the Affidavits of Service and the Affidavits of Publication of Notice of Hearing be filed with the Mercer County Auditor.

Dated this 16th day of March, 2016.

ATTEST:

Shana Brost
Shana Brost, Mercer County Auditor

MERCER COUNTY COMMISSION

By: Wayne Entz

By: Quane J Schuman

By: [Signature]

By: Gary Murray

By: Wes Genschel

RESOLUTION OF
MERCER COUNTY COMMISSION

WHEREAS, Coyote Creek Mining Company, L.L.C. ("Coyote Creek") has petitioned the Board of County Commissioners of Mercer County, North Dakota ("Commission") to temporarily close the following described road, which interferes with surface coal mining operations, pursuant to the provisions of Chapters 38-01-07.1 and 38-01-07.2 of the North Dakota Century Code:

1. The road passing through the SW¼ of Section 31, T143N, R88W and the S½ of Section 36, T143N, R89W.

WHEREAS, a public hearing was held upon the Petition of Coyote Creek before the Commission on the 20th day of January, 2016, continued the 3rd day of February, 2016, the 17th day of February, 2016, and the 16th day of March, 2016, in the Courthouse in the City of Stanton, North Dakota, and the Commission having heard and considered all of the testimony and evidence presented.

NOW, THEREFORE, BE IT RESOLVED that the Commission does hereby find, conclude and determine as follows:

1. That the Commission has jurisdiction over the subject matter of the Petition and the road involved therein.
2. That the Notice of Hearing on said Petition was duly served and published as required by law.
3. That the temporary closing of said road is necessary due to the fact that said road interferes with Coyote Creek's surface coal mining and reclamation operations.
4. That said road is not required due to readily accessible alternate routes of travel.
5. That the temporary closing of said road does not deprive adjacent landowners access to their property.
6. That a public benefit exists in temporarily closing said road and that the interests of the public and affected landowners will be protected.

BE IT FURTHER RESOLVED, based on the foregoing, that the Commission hereby determines and orders as follows:

1. That the following road be temporarily closed until such time as Coyote Creek's surface coal mining and reclamation operations which affect the use of said road by the general public are completed:

a. The road passing through the SW $\frac{1}{4}$ of Section 31, T143N, R88W and the S $\frac{1}{2}$ of Section 36, T143N, R89W.

2. That the temporary closing of the road contained in this Resolution is made subject to that certain Agreement, by and between Mercer County and Coyote Creek dated May 18, 2016, attached hereto and made a part hereof ("Agreement").

3. That Coyote Creek provide certain affected landowners access to their lands for farming and ranching purposes during the time that said road is temporarily closed in accordance with the terms and conditions set forth in the Agreement.

4. That Coyote Creek reconstruct said road in accordance with the terms and conditions set forth in the Agreement.

5. That Coyote Creek inform the Commission when the reconstruction of said road is completed at which time the Commission may accept the road for general public use.

6. That this Resolution, the Petition involved therein, the Affidavits of Service and the Affidavits of Publication of Notice of Hearing be filed with the Mercer County Auditor.

Dated this 18th day of May, 2016.

ATTEST:

Shana Brost
Shana Brost, Mercer County Auditor

MERCER COUNTY COMMISSION
By: [Signature]
By: Harry Murray
By: Wes Gensel
By: Duan Scheer
By: Wayne Entbe

AGREEMENT

THIS AGREEMENT ("Agreement") is made and entered into as of the 18th day of May, 2016, by and between Mercer County, whose address is P.O. Box 39, Stanton, North Dakota 58571 ("County"), and Coyote Creek Mining Company, L.L.C., whose address is 2000 Schafer Street, Suite D, Bismarck, North Dakota 58501-1204 ("Coyote Creek").

WITNESSETH:

WHEREAS, Coyote Creek is conducting surface coal mining operations in the area of Township 143 North, Range 89 West, Township 143 North, Range 88 West, Township 142 North, Range 89 West, and Township 142 North, Range 88 West, and plans to continue such operations in the future;

WHEREAS, by Petition dated December 16, 2015, Coyote Creek requested that the County temporarily close the road passing through the SW $\frac{1}{4}$ of Section 31, T143N, R88W and the S $\frac{1}{2}$ of Section 36, T143N, R89W, hereinafter called the "Closed Road", the location of which is depicted on Exhibit A, which is attached hereto and made a part hereof;

WHEREAS, as a condition of the County's approval to temporarily close the Closed Road, Coyote Creek shall provide certain affected landowners access, through its active mining areas, to allow them access to their property located adjacent to or in the vicinity of the Closed Road, until the Closed Road is reconstructed in accordance with the terms and conditions of this Agreement; and

WHEREAS, during its surface coal mining and reclamation operations in the area of the Closed Road, Coyote Creek shall reconstruct the Closed Road, hereinafter called the "Reconstructed Closed Road", at the location depicted on Exhibit A in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the County and Coyote Creek hereby agree as follows:

1. Coyote Creek shall construct phased temporary access trails, hereinafter called the "Access Trails", through its active mining areas at the approximate locations and times depicted on Exhibit B, which is attached hereto and made a part hereof. Coyote Creek will secure the entrance of the Access Trails on the west end near County Road 13 and on the east end near the quarter line between the SW $\frac{1}{4}$ and the SE $\frac{1}{4}$ of Section 31, Township 143 North, Range 88 West with either padlocked metal gates or solar powered electronic gates with card key pads, at the sole discretion of Coyote Creek. The gates will be installed on flattened surfaces large enough to accommodate a pickup pulling a cattle trailer.

2. Coyote Creek and the County have designated Casey Voigt and Julie Voigt; Shawn Unruh and SheVele Unruh; Austin Jensen and Destinee Jensen; Sharon Unruh; Mardee Reich; Jim Swenson; Trent Martin; Jason Erickson; Richard Scheid; and Nancy Scheid as landowners needing

to use the Access Trails to access their properties located adjacent to or in the vicinity of the Closed Road, hereinafter called the "Affected Landowners". Coyote Creek shall provide keys to access and use the Access Trails without an escort to properly trained Affected Landowners with MSHA and hazard training. All other Affected Landowners will be allowed to use the Access Trails with an escort with only hazard training. In the event another landowner desires to use the Access Trails as an Affected Landowner, they must provide documentation supporting their need to use the Access Trails to access their properties located adjacent to or in the vicinity of the Closed Road to Coyote Creek and the County. Coyote Creek and the County shall determine if this Agreement will be amended to include such landowner as an Affected Landowner. If any Affected Landowner transfers property to a third party who requires similar access, Coyote Creek and the County hereby agree to consider amending this Agreement accordingly.

3. Prior to accessing and using the Access Trails, the Affected Landowners must agree to, complete and comply with the safety requirements established by Coyote Creek as set forth on Exhibit C attached hereto and made a part hereof, along with all other applicable federal, state and County laws and regulations. It is understood and agreed that the safety requirements identified on Exhibit C may be changed, modified or amended at any time or from time to time at the sole discretion of Coyote Creek. If the safety requirements are changed, modified or amended by Coyote Creek, the County and Coyote Creek shall execute an amendment to this Agreement to replace the existing Exhibit C with a revised Exhibit C incorporating the changed, modified or amended safety requirements and inform the Affected Landowners.

4. Coyote Creek shall construct the Reconstructed Closed Road on the east-west quarter line between the N $\frac{1}{2}$ and the S $\frac{1}{2}$ of Section 36, T143N, R89W; on the north-south section line between the SE $\frac{1}{4}$ of Section 36, T143N, R89W and the SW $\frac{1}{4}$ of Section 31, T143N, R88W; and on the current location of the Closed Road through the SW $\frac{1}{4}$ of Section 31, T143N, R88W; the location of which is depicted on Exhibit A. The Reconstructed Closed Road shall be constructed to a condition similar to the then existing condition of the road connecting the Reconstructed Closed Road to the paved portion of 17th Street SW as depicted on Exhibit A.

5. The County shall secure the right-of-way easements necessary to construct the Reconstructed Closed Road.

6. Coyote Creek anticipates that the Reconstructed Closed Road will be available for use by the Affected Landowners subject to the safety requirements set forth on Exhibit C by the year 2024 and with no restrictions to the general public by year 2040. Coyote Creek shall meet with the County annually to review the then existing status of the Access Trails and the Reconstructed Closed Road.

7. Any notices required or permitted hereunder shall be given by mailing the same, postage prepaid, to the other party as follows:

To the County:

Mercer County
P.O. Box 39
Stanton, ND 58571
Attention: Mercer County Auditor

To Coyote Creek:

Coyote Creek Mining Company, L.L.C.
2000 Schafer Street, Suite D
Bismarck, ND 58501-1204
Attention: Land Manager

Either party may amend the name or address to which notices shall be sent by furnishing such new name and address to the other party in the manner herein provided for giving other notices.

8. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their successors and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

ATTEST:

MERCER COUNTY

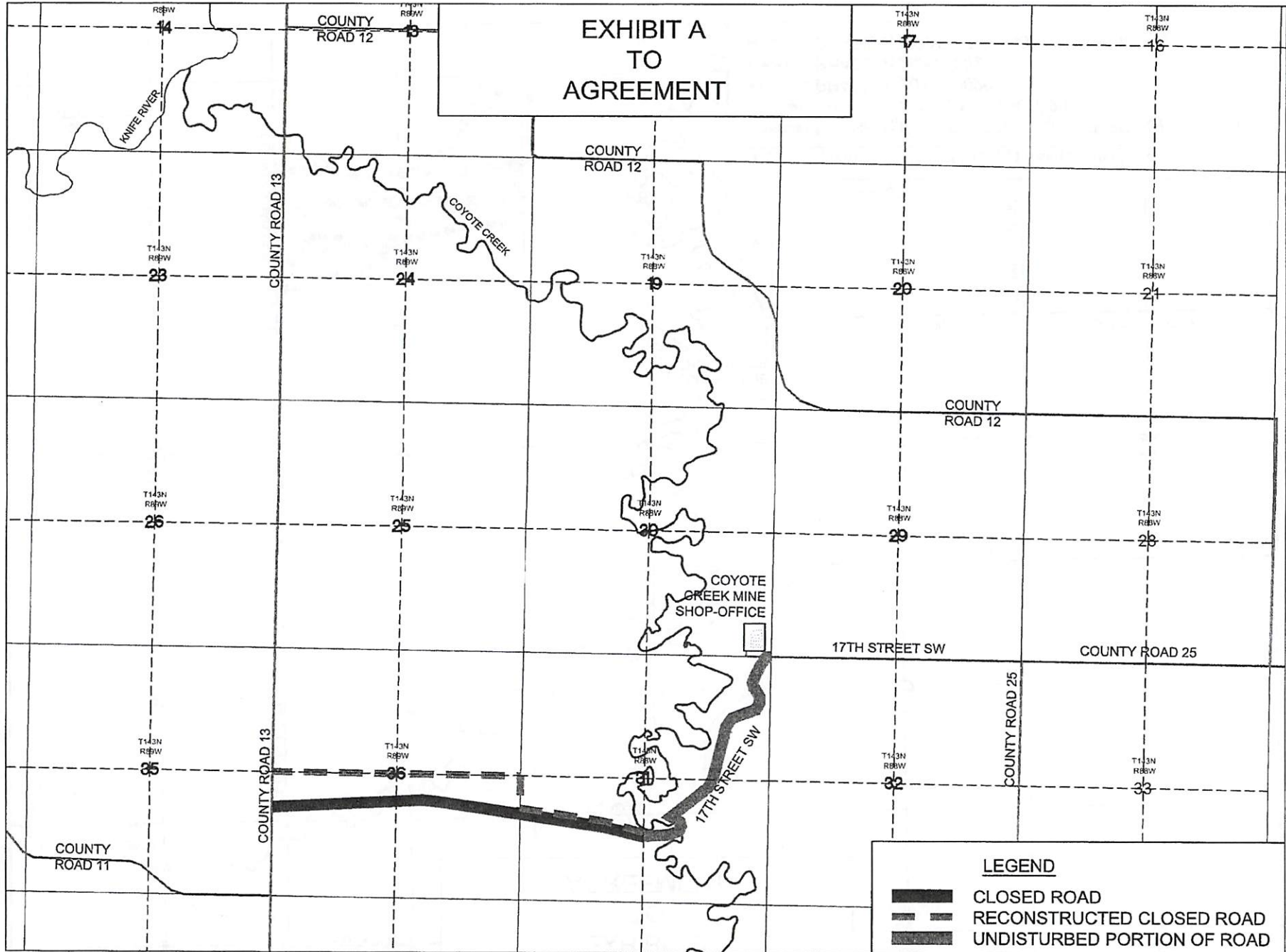
Shana Brost
Shana Brost, County Auditor

By: Bill Tveit
Bill Tveit, Chairman, Board of County
Commissioners

COYOTE CREEK MINING COMPANY, L.L.C.

By: James F. Melchior
James F. Melchior, its President

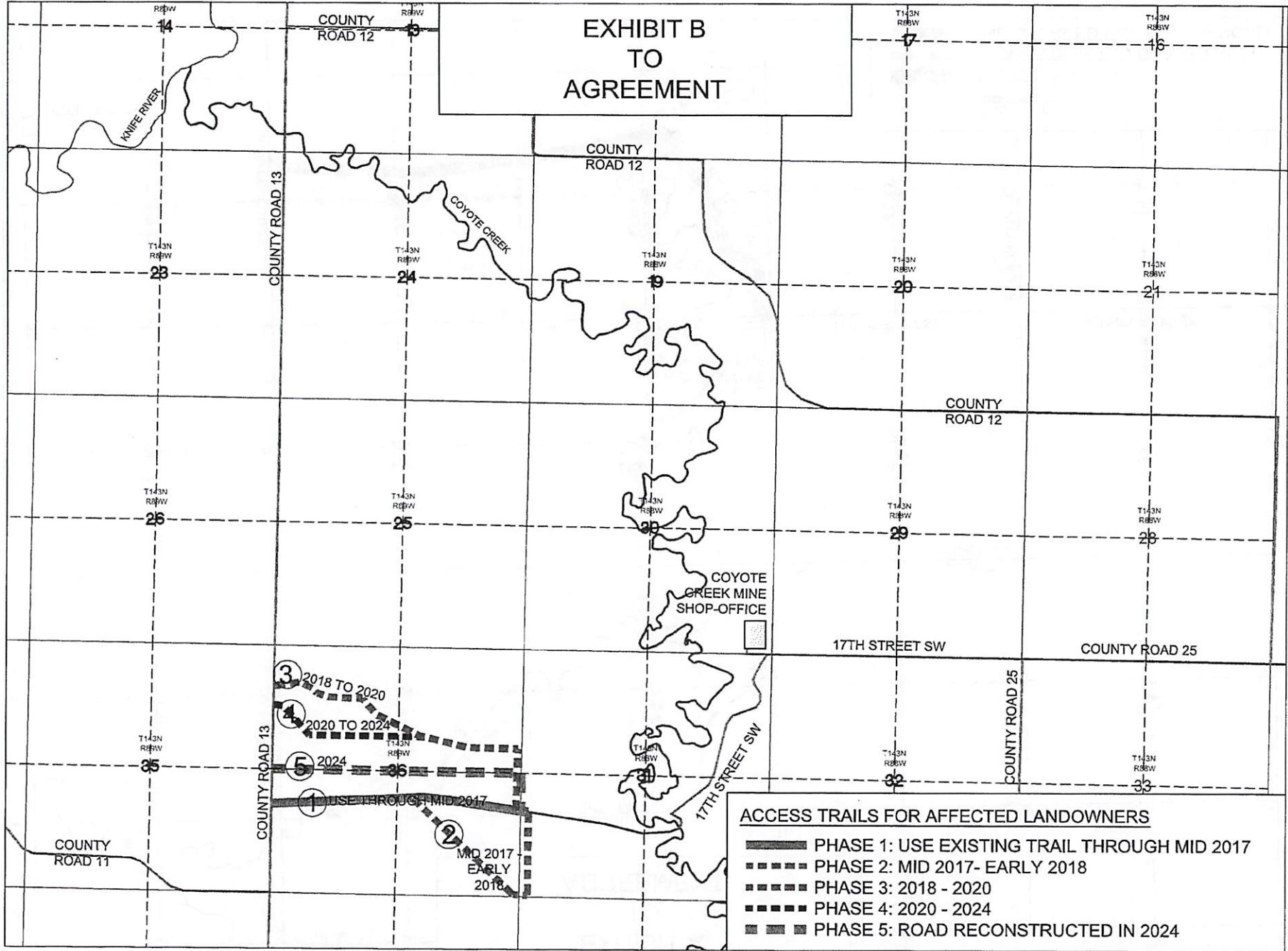
EXHIBIT A TO AGREEMENT



LEGEND

-  CLOSED ROAD
-  RECONSTRUCTED CLOSED ROAD
-  UNDISTURBED PORTION OF ROAD

EXHIBIT B TO AGREEMENT



**EXHIBIT C
TO
AGREEMENT**

SAFETY REQUIREMENTS FOR ACCESS TRAILS THROUGH ACTIVE MINING AREAS

The safety of its employees and the public is paramount to the Coyote Creek Mine. Coyote Creek is concerned that allowing Affected Landowners to travel on Access Trails through Coyote Creek Mine's active mine areas not only compromises the safety of the Affected Landowners but also of Coyote Creek employees. As the County Commission required the Access Trails as a condition to the temporary closing of the Closed Road, Coyote Creek has compiled the following safety requirements for the Affected Landowners:

1. MSHA training will be required for the Affected Landowners that will use the Access Trails more than five times per year. This is a 24 hour MSHA class that is required for all people that enter active mine areas and coexist with mine equipment. An 8 hour refresher class will also be required annually thereafter. Company policy requires that individuals be 18 years old or older to receive training and operate in active mining areas. The MSHA training will be conducted by a certified trainer approved by Coyote Creek Mine and MSHA and will be paid for by Coyote Creek Mine.
2. Annual hazard training is required for all Affected Landowners entering the mine. This one-half hour class will be conducted at the mine by Coyote Creek Mine staff or Security.
3. Properly trained Affected Landowners with MSHA and hazard training will be allowed to travel on the Access Trails without an escort. If an untrained person is riding with them an escort will be required unless otherwise approved in writing by Coyote Creek. In such cases, those Affected Landowners will need to call Coyote Creek Mine Security to arrange for an escort.
4. Affected Landowners that only need to use the Access Trails less than five times per year can do so with only hazard training and with an escort. Those Affected Landowners will need to call Coyote Creek Mine Security to arrange for an escort.
5. Locked gates will be installed on the Access Trails near to and east of County Road 13 and on the Closed Road west of the crossing of Coyote Creek and the entrance into the Voigt farmstead. Keys will be provided to properly trained Affected Landowners with MSHA and hazard training. The gates must be closed and locked after each passing. The actual location of the Access Trails across the active mine areas may change from time to time.
6. The Affected Landowners must follow all applicable traffic signs and must stay on the Access Trails at all times. No unnecessary stopping or sightseeing will be allowed. Taking photos and videos are prohibited. No alcohol or firearms will be allowed on the Access Trails.
7. The Access Trails will be closed to traffic when the dragline deadheads across the Access Trails (approximately 6 times per year). There will also be times when mine equipment will be crossing the Access Trails at multiple locations to allow for topsoil and subsoil removal and other mining activities. Traffic signs will be posted on the Access Trails at such crossing sites.
8. Any infractions of traffic signs or the safety requirements will result in the loss of unescorted access privileges.

RESOLUTION OF
MERCER COUNTY COMMISSION

WHEREAS, Coyote Creek Mining Company, L.L.C. ("Coyote Creek") has petitioned the Board of County Commissioners of Mercer County, North Dakota ("Commission") to temporarily close the following described section line roads that interfere with surface coal mining operations pursuant to the provisions of Chapters 38-01-07.1 and 38-01-07.2 of the North Dakota Century Code:

1. The east-west section line road between the SW¼ of Section 36, Township 143 North, Range 89 West and the NW¼ of Section 1, Township 142 North, Range 89 West; and
2. The east-west section line road between the SW¼ of Section 24 and the NW¼ of Section 25, Township 143 North, Range 89 West; and
3. The east-west section line road between the SW¼ of Section 25 and the NW¼ of Section 36, Township 143 North, Range 89 West.

WHEREAS, a public hearing was held upon the Petition of Coyote Creek before the Commission on the 15th day of March, 2017, in the Courthouse in the City of Stanton, North Dakota, and the Commission having heard and considered all of the testimony and evidence presented.

NOW, THEREFORE, BE IT RESOLVED that the Commission does hereby find, conclude and determine as follows:

1. That the Commission has jurisdiction over the subject matter of the Petition and the section line roads involved therein.
2. That the Notice of Hearing on said Petition was duly served and published as required by law.
3. That the temporary closing of said section line roads is necessary due to the fact that said section line roads interfere with Coyote Creek's surface coal mining and reclamation operations.
4. That said section line roads are not required due to readily accessible alternate routes of travel.
5. That the temporary closing of said section line roads does not deprive adjacent landowners access to their property.
6. That a public benefit exists in temporarily closing said section line roads and that the interests of the public and affected landowners will be protected.

BE IT FURTHER RESOLVED, based on the foregoing, that the Commission hereby determines and orders as follows:

1. That the following section line roads be temporarily closed until such time as Coyote Creek's surface coal mining and reclamation operations which affect the use of said section line roads by the general public are completed:

- a. The east-west section line road between the SW $\frac{1}{4}$ of Section 36, Township 143 North, Range 89 West and the NW $\frac{1}{4}$ of Section 1, Township 142 North, Range 89 West; and
- b. The east-west section line road between the SW $\frac{1}{4}$ of Section 24 and the NW $\frac{1}{4}$ of Section 25, Township 143 North, Range 89 West; and
- c. The east-west section line road between the SW $\frac{1}{4}$ of Section 25 and the NW $\frac{1}{4}$ of Section 36, Township 143 North, Range 89 West.

2. That Coyote Creek provide farmers and ranchers access to their lands for farming purposes during the time that said section line roads are temporarily closed.

3. That within a reasonable period of time after completion of surface coal mining and reclamation operations Coyote Creek shall restore said section line roads to as good a condition as existed prior to the temporary closing to the extent required by the Commission.

4. That Coyote Creek inform the Commission when the restoration of said section line roads is completed, at which time Coyote Creek shall tender said section line roads to the Commission for acceptance for general public use.

5. That the Commission may at any time exercise its rights to monitor the continued need for the temporary closing of said section line roads and may request Coyote Creek to show cause why said section line roads should not be reopened if surface coal mining operations in the vicinity thereof have been completed.

6. That this Resolution, the Petition involved therein, the Affidavits of Service and the Affidavits of Publication of Notice of Hearing be filed with the Mercer County Auditor.

Dated this 5th day of April, 2017.

ATTEST:

Shana Brost
Shana Brost, Mercer County Auditor

MERCER COUNTY COMMISSION

By: Quinn Schen

By: Harry Murray

By: Wesley D. Bush

By: Deborah Berger

By: _____