

August 22, 2022

Zanna Brinkman
Director
Public Service Commission
Inside Mail

Dear Ms. Brinkman:

This is in response to your request for a review of the environmental impacts associated the Revision No. 12 to Surface Coal Mining Permit. NACC-1302 at the Coyote Creek Mine.

The proposed project has been reviewed by Department of Water Resources, and the following comments are provided:

- There are no floodplains identified or mapped where the proposed project is to take place. North Dakota has no formal "permitting" authority as a state entity in National Flood Insurance Program-identified floodplains. Floodplain development permitting is completed by the local unit of government with zoning authority at the proposed project location. Please work closely with Mercer County's Floodplain Administrator for permitting purposes.
- Coyote Creek Mining Company proposes to modify a portion of the post-mining topography at Coyote Creek Mine. North Dakota Century Code § 61-32-03 requires that a drainage permit be secured from the Department of Water Resources (DWR) prior to draining a pond, slough, lake, or sheetwater, or any series thereof, which has a drainage area of 80 acres or more. However, subsection 2 of North Dakota Administrative Code § 89-02-01-05 allows an exemption to the drainage permitting requirement for surface mining projects under direct and comprehensive supervision of the public service commission. Therefore, a drainage permit will not be required, but the public service commission must notify the DWR of any proposed drainage projects during planning stages.
- In accordance with North Dakota Century Code §61-16.1-38, any new construction or construction modifications on water storage impoundments, including stock ponds or sedimentation ponds, may require a construction permit from the Department of Water Resources (DWR) based on the ponds' storage volume and hazard classification. Similarly, if any stock ponds or sedimentation ponds are to be removed, we request that the DWR Regulatory Division be notified. Please contact the DWR Regulatory Division at 701-328-4956 if you have any questions.

Thank you for the opportunity to provide review comments. Should you have further questions, please contact me at 701-328-4970 or stevebest@nd.gov.

Sincerely,



Steven Best
Planner III

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Response to Advisory Request Letter
North Dakota Department of Water Resources (DWR)
Steven Best, Planner III