

Thompson, Pamela J.

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Sent: Tuesday, July 18, 2023 4:12 PM
To: Thompson, Pamela J.
Subject: Filing Accepted for Case: 08-2023-CV-01338; Casey Voigt, et al. vs. North Dakota Public Service Commission, et al.; Envelope Number: 5273073

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**North Dakota
Court System**

Filing Accepted

Envelope Number: 5273073
Case Number: 08-2023-CV-01338
Case Style: Casey Voigt, et al. vs. North Dakota
Public Service Commission, et al.

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| Filing Details | |
|----------------------------|--|
| Court | Burleigh County |
| Case Number | 08-2023-CV-01338 |
| Case Style | Casey Voigt, et al. vs. North Dakota Public Service Commission, et al. |
| Date/Time Submitted | 7/18/2023 1:52 PM CST |
| Date/Time Accepted | 7/18/2023 4:11 PM CST |
| Accepted Comments | |
| Filing Type | Exhibit |
| Filing Description | CR Exhibit 12 - Agency Correspondence Comments |
| Activity Requested | EFileAndServe |
| Filed By | Pamela Thompson |
| Filing Attorney | John Schuh |

| Document Details | |
|---------------------------------|--|
| Lead Document | CR Exhibit 12 - Agency Correspondence Comments.pdf |
| Lead Document Page Count | 2 |
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United States Department of the Interior



FISH AND WILDLIFE SERVICE

North Dakota Ecological Services
3425 Miriam Avenue
Bismarck, North Dakota 58501



IN REPLY REFER TO:
Revision 12 to NACC-
1302
Coyote Creek Mine

July 22, 2022

Ms. Zanna Brinkman
Director, Reclamation Division
North Dakota Public Service Commission
600 East Boulevard, Department 408
Bismarck, North Dakota 58505-0480

Dear Ms. Brinkman:

This letter is in response to the notice of Receipt of Revision Application dated July 6, 2022 for comments regarding the revision of permit NACC-1302 for the Coyote Creek Mine located near Beulah, North Dakota.

The Threatened and Endangered Species list for Mercer County, North Dakota can be generated by using the IPAC tool from the US Fish & Wildlife Service (FWS). The current listings include: Endangered; Whooping crane, Pallid sturgeon, Threatened; Piping plover and its critical habitat, Rufus red Knot, Northern long-eared bat and Dakota Skipper. The FWS does not concur on "No Effect" determinations for species, but ask that documentation be placed in your administrative record for those species.

New populations of Dakota skippers have been observed in Oliver County during the past two flight periods. Information defining suitable habitat for Dakota skippers is included in the 2022 Dakota skipper Survey Protocol. The United States Fish and Wildlife Service (FWS) recommends that habitat surveys be conducted. We recommend areas determined to be suitable habitat for Dakota Skipper be surveyed by permitted surveyors for Dakota skipper occupancy, prior to surface disturbance in the areas of concern covered by Revision 12 of Permit NACC-1302.

The 2020 White Nose Syndrome distribution map now includes most of counties in North Dakota. We encourage that if any tree removal is necessary by the project that such tree removal occur outside the northern long-eared bat active season. The active season in North Dakota is likely mid-April through mid-October and if tree removal cannot be avoided during that time we encourage that trees not be removed during the maternity season for northern long-eared bats, particularly June and July.

If changes are made in the project plans or operating criteria, or if additional information becomes available, the FWS should be informed so that the above comments can be reconsidered.

The FWS appreciates the opportunity to provide comments to the PSC and North American Coal Corporation. If you have any questions on these comments, please contact Jerry Reinisch of my staff at 701-425-2133 or me at 701-319-0127

Sincerely,

**DREW
BECKER**

Digitally signed by DREW
BECKER
Date: 2022.07.25 06:42:39
-05'00'

Drew N. Becker
ND Ecological Services Office Supervisor

cc: Greg Link, North Dakota State Game and Fish Department
Sarah Flath, Coteau Properties, North American Coal Corporation