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Envelope Number: 5273267
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.
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State of North Dakota

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INSPECTION REPORT

AMENDED

DATE OF INSPECTION: September 8, 2022

TYPE OF INSPECTION: Partial

PERMITTEE - MINE: Coyote Creek Mining Company, LLC - Coyote Creek Mine

PERMITS INSPECTED: NACC-1302

PERSONS ACCOMPANYING INSPECTORS: Jason Sailer

INSPECTION CONDITIONS: The inspection was conducted between 9:10 a.m. and 2:00 p.m. CDT. Skies were hazy and the wind was from the northwest at 18 mph with gusts up to 26 mph. The temperature was near 75° F. Access was unrestricted.

OVERBURDEN/COAL REMOVAL

The dragline was down for maintenance near the section line between the NW¼ of Section 6 and the NE¼ of Section 1. The 301 excavator was removing overburden to create a dragline bench in the SW¼ of Section 25. The location where this material was being hauled was not observed. Coal was being removed from an east-west oriented pit in the NE¼ of Section 1.

SURFACE WATER MANAGEMENT

The ponds listed in the table below were briefly observed and the water elevation was estimated in relation to permanent pool elevation (PPE). No surface water discharges were occurring. There has been limited runoff over the past few weeks due to an absence of rainfall.

Water Management Feature	Comment(s)
P30-01	5 to 6 feet below PPE.
P31-01	Sediment recently removed. PPE marker not observed.
P06-02	2 feet below PPE.
P06-01	2 to 3 feet below PPE.
P06-03	1.5 feet below PPE.
P30-02	At PPE.

A permanent pool elevation (PPE) marker was not observed in sediment pond P31-01. Recent sediment removal operations may have affected the PPE marker.

The diversions along the disturbance boundary between sediment ponds P06-01 and P-06-02 were observed from a distance and they appeared to have functioned as intended.

Clean water runoff from undisturbed drainages west of the pit in the NE¼ of Section 1 are currently blocked by mining activities and runoff will pool adjacent to the east-west oriented pit and dragline bench in said quarter section. Runoff from the dragline corridor in the SW¼ of Section 36 will also pool adjacent to the east-west oriented pit in the NE¼ of Section 1. Although SPGM has been stripped from areas where it appears runoff may pool, this situation should be monitored to ensure topsoil is not adversely affected.

SUITABLE PLANT GROWTH MATERIAL REMOVAL/RESPREAD

The 401 loader was removing topsoil in the SW¼ of Section 25 and this material was being hauled to topsoil stockpile TS-41. Scrapers were removing SPGM from the dragline corridor in the SW¼ of Section 36.

STOCKPILES

Signs were in place adjacent to all observed SPGM stockpiles. A temporary topsoil stockpile sign labeled TS-5 temp was on the ground adjacent to a small temporary topsoil stockpile located along the SPGM stripping edge in the NE¼ of Section 1. This sign was placed upright adjacent to the pile by Mr. Sailer. The sign identifying subsoil stockpile SS-54 was lying on the ground.

Mr. Sailer reported that portions of stockpiles SS-36 and TS-39 were reseeded earlier in the growing season and that CCMC was planning to re-seed the top of topsoil stockpile TS-39 since this pile is no longer an active stockpile. There was evidence that the top of stockpile TS-39 had been sprayed to control broadleaf weeds, but a new flush of weeds, primarily kochia and Russia Thistle, have established on the top of this pile. The side slopes associated with this pile have become established with the planted perennial grasses and there was no evidence of wind erosion having occurred on this pile. Mr. Sailer indicated that CCMC might clip the weed growth on topsoil pile TS-39 to prevent them from blowing off-site.

The overburden stockpile north of sediment pond P06-03 was inspected and a corridor to the top of the pile was driven. The seeded perennial vegetation, mainly wheatgrasses, is becoming established on the slopes associated with this pile but the stand is generally thin, and rills and gullies have formed on the side slopes of this pile. All surface water runoff from this pile is directed to sediment ponds. There was no evidence of wind erosion on this pile, but Mr. Sailer was advised to seed the road corridor accessing the top of this pile if it is no longer being used for radio communication purposes.

Topsoil stockpile TS-49 has been clipped to aid grass establishment and prevent weed dispersal.

BACKFILLING & GRADING

Backfilling and grading appeared contemporaneous or in compliance with plans approved in the permit. The area associated with proposed Variance Area No. 7 with Revision No. 12 was inspected. This area is located primarily in the NW¼ of Section 6. Most of the coal was removed from this area in 2019 with a small portion of coal removed in 2020. This variance area has been rough graded except for a spoil peak or pile immediately south of sediment pond P06-03. The surface of the spoil on this proposed variance area appears to consist of heavy clay soil that is very hard when dried and it does not appear that this spoil

material is susceptible to wind erosion; however, it may be highly susceptible to water erosion. There was no evidence of wind erosion has occurred on the spoil in this area. Additionally, no wind erosion was observed occurring during this inspection with winds gusting up to 26 mph. Scattered Russian thistle and kochia plants have established on the rough graded spoil.

Grade approval requests COY-033 and COY-034 in Section 36 of Permit NACC-1302 were inspected. The topography or surface contours of both areas conform to the topography approved in the permit and the surface is generally smooth and ready for subsoil respread. Mr. Sailer was reminded that steep slopes must be scarified prior to subsoil respread to reduce the potential for soil slippage. Mr. Sailer indicated that CCMC was planning to respread grade approval COY-033 beginning at the lowest elevation and moving upslope to reduce compaction.

Portions of grade approval requests for COY-033 and COY-034 include land along the quarter line between the NE $\frac{1}{4}$ and SE $\frac{1}{4}$ of Section 36. The approved post-mining land use map indicates that a permanent access road is to be constructed on this quarter line. CCMC staff verbally indicated that the Mine, Mercer County, and Mr. Casey Voigt are in the process of revising the agreement regarding the location of this access road. Reclamation Division staff indicated that CCMC may need to provide a written account of the changes planned regarding this road prior to grade approval. This issue should also be addressed in each grade approval request to explain why a road is not shown on these grade approval requests.

REVEGETATION

The temporary seed mixture, western wheatgrass, slender wheatgrass, switchgrass, and sand dropseed have successfully established on grade approval COY-022 in the NW $\frac{1}{4}$ of Section 6. This stand was reportedly sprayed to suppress annual weed competition last spring, but a few scattered Russian thistle and kochia plants have grown along with pigeon grass. The vegetation on this grade approval has not been clipped.

The COY-028 grade approval in the NW $\frac{1}{4}$ of Section 6 has been recently mulched and seeded to the delayed native grassland seed mixture. The nurse crop planted with the seeding is an inch or two tall and there was no evidence of wind or water erosion. An erosion control blanket was observed within a drainage in the grade approval.

In Section 36, the COY-18 and COY-21 grade approvals were observed as having been clipped to suppress weed competition. The delayed seed mixture seeded within the COY-017 grade approval is well established. The COY-032 grade approval has been recently respread with topsoil.

The COY-031 grade approval, which is in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 25, has been seeded, rocks have been picked, and mulch was being applied and incorporated into the soil surface. This area is to be reclaimed to cropland. Additionally, COY-030 grade approval, which is in the W $\frac{1}{2}$ E $\frac{1}{2}$ of Section 25, has recently been respread with topsoil and rocks were picked. This area has been reclaimed to cropland.

Reclaimed lands in the SE $\frac{1}{4}$ of Section 24 and E $\frac{1}{2}$ of Section 25 were driven and observed. Portions of these areas have been hayed and the established vegetation is protecting the soil from wind and water erosion. The reclaimed cropland is becoming established with alfalfa, but a few thin spots exist and the delayed native grassland seed mixture is established on areas to be reclaimed to native grassland. The steeper slopes above the woody draws in the SE $\frac{1}{4}$ of Section 24 were not hayed or clipped. The grass stand is generally thin on the reclaimed native grassland in the SE $\frac{1}{4}$ of Section 24.

ROADS

The primary haul road was being watered to suppress fugitive dust.

MISCELLANEOUS

After the field portion of this inspection, Mr. Eckroth provided an update regarding the work that has been completed for testing soil compaction on reclaimed lands. CCMC has purchased equipment that facilitates probing and the result of each probe is saved in a digital format. Probe data includes the date, GPS location, and a graph of depth versus pressure of each probe location. Mr. Eckroth also indicated that proposed native grassland ecological sites were sampled this summer and that CCMC is awaiting the results of the sampling data.

GENERAL

A GPS tracklog of the route traveled is on file with the Reclamation Division as are photographs taken. A map showing the main body of Permit NACC-1302 and the route traveled is depicted in Figure 1. Figure 1 depicts the location of proposed Variance Area No. 7 and grade approval requests — COY-033 and COY-034.


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Figure 1: GPS point tracklog of the inspection route (black) and the permit area (orange).

