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Envelope Number: 5274551
Case Number: 08-2023-CV-01338
Case Style: Casey Voigt, et al. vs. North Dakota
Public Service Commission, et al.

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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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Public Service Commission

State of North Dakota

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sent via email only

June 14, 2023

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Mr. Jeremy Eckroth
Environmental Manager
Coyote Creek Mining Company, LLC
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Jeremy.Eckroth@nacoal.com

Dear Mr. Eckroth:

The Reclamation Division has reviewed Coyote Creek Mining Company's April 19, 2023 response to our September 12, 2022 technical review letter for Revision No. 12 to Permit NACC-1302. Please note that the follow-up items below reference the item number in our September 12, 2022 technical review letter. The following items must be adequately addressed prior to revision approval.

Section 1.1 – Introductory Information

1. Please revise Section 1.1.2 – Revision Summary Pages to include any sections that were updated but were not listed. For example, Sections 3.1.1.8.1, 3.1.1.8.3, 3.1.1.8.4, 3.1.1.8.5, 3.1.1.8.6, 3.1.1.8.7, 3.1.1.8.8, 4.1.3, and 4.2.1 were revised but not listed in Section 1.1.2. (BSM)

Section 2.2 – Surface Water Hydrology

2. Please update the ND Department of Health (NDDOH) references to the ND Department of Environmental Quality (NDDEQ) on pages 2 and 3 of Section 2.2.4, Surface Water Hydrologic Reclamation Plan and Probable Hydrologic Consequences. (JAR)

Section 2.5 – Soils Resources

3. Follow up to Item No. 3: It appears that Coyote Creek made the requested edits to Section 2.5.4.2 to account for the previous changes made to the projected respread thicknesses in Section 25. However, the totals for the "Required Respread based on Section 2.5.7" and the "Excess/Deficit" columns were not updated. It is also apparent that numerous summation errors exist throughout the table. Please review and revise the table to ensure that all quantities within the table are accurately reflected in the intended calculations. (MLJ, BSM)
4. Please review and verify all parcels under the Revision 1 Haulroad Corridor¹ within Section 2.5.4.2 (Soil Respread Depth Table) are included for the resulting totals. (BSM)
5. Follow up to Item No. 7 in the midterm review items: Section 2.5.8.1 (Deep Lift Soil Survey Map) appears to have been correctly revised to eliminate salvage depths greater than 120 inches. However, after further review of the map, it appears that other errors and/or inconsistencies are

evident according to Table 3 of Section 2.5.8 (Deep Lift Soil Survey). For example, delineations 12 and 17 are shown to have a symbol of 0/120 in Table 3 but are shown as 0/60 in Section 2.5.8.1. Please revise Section 2.5.8.1 so that it is consistent with Table 3 in Section 2.5.8. (MLJ)

Section 3.1 – Operations- General

6. Please revise Section 3.1.1.3, Reclamation Procedures and Schedule, to clearly state if the Reclamation Schedule and Variance Map, Section 3.1.1.3.1, depicts all areas where revegetation is being delayed or if the map only identifies areas where backfilling, grading, and SPGM respread may be delayed. The Project Reclamation Time Schedule table includes a revegetation timeline but the Reclamation Schedule and Variance Map, Section 3.1.1.3.1, does not depict all areas where native grassland plantings have been delayed. It is not clear why delayed seedings in Section 25 and Section 6 are not included in variance areas whereas delayed seedings in Section 36 are included in a variance area. To aid interpretation and for compliance with the Commissions November 3, 2022 Order in Case No. RC-22-233 for Revision No. 12, please cross hatch all areas where the final seed mixture plantings have been delayed or are planned to be delayed. (GAW)
7. Asterisk No. 4 on page 2 in Section 3.1.1.3, Reclamation Procedures and Schedule, indicates that a variance from the 3-year seeding rule is being requested for cropland and native grassland for management purposes. Previously, delayed seedings only applied to native grassland and woodland plantings. Please clarify if CCMC is planning to not plant the approved pre-cropland hayland mix during the first favorable planting period after SPGM respread. (GAW)

Section 3.3 - Surface Water Management

8. A watershed in the southwest corner of Section 25 is tied to the watershed above sediment pond P26-01 in the Surface Water Management Plan Map (Section 3.3.2), but surface topography will not allow runoff to flow northward along County Road No. 13 to sediment pond P26-01. Moreover, there is no culvert under County Road No. 13 that will allow runoff to flow westward. This area currently drains to pre-mine wetland WS-SW25-1-143-89 that may have formed due to the construction of County Road No. 13. Please consider updating Section 3.3 to clarify how CCMC is planning to manage surface water runoff from this watershed in the southwest corner of Section 25. (GAW)
9. The Pond Construction and Reclamation Schedule, Section 3.3.4, incorrectly indicates that sediment ponds P24-05 and P24-06 were constructed in 2022. Please correct this error. (GAW)

Section 4.2 – Revegetation Procedures, Establishment and Management

10. Please provide a narrative in Section 4.2.1 that discusses how CCMC is planning to manage reclaimed croplands during the revegetation responsibility period. It is not clear if all the reclaimed cropland, except for Section 19, will be planted to the pre-cropland hayland seed mixture and managed as hayland. (GAW)

Section 4.3 – Vegetation Assessment and Success Standards

11. Please review the delayed native grass seeding narrative on page 2 of Section 4.3.1, Narrative, to ensure the information provided is consistent with Sections 3.1.1.3 and 4.2.1, Reclamation

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Procedures and Schedule, and Revegetation Narrative, respectively. Section 1.1.2, Revision Summary, states that the timing of native grassland seedings in the variance areas are being aligned with Section 4.3.1. Section 3.1.1.3 is being altered to reference Section 4.2.1 rather than Section 4.3.1 and it states that seedings may be delayed on tracts 10 acres or less up to 3 years after topsoil respread whereas Section 4.3.1 indicates that seedings may be delayed at least 2 years before a tract can be managed with cattle grazing. Section 4.2.1 is being revised to state that seedings will no longer be delayed on larger tracts of native grassland. For compliance with the Commissions November 3, 2022 Order in Case No. RC-22-233 for Revision No. 12, please revise to provide clarity and consistency between the various sections of the permit. (GAW)

If you have any questions, please contact this office.

Sincerely,



Zanna Brinkman
Director
Reclamation Division

cc via email only: Desirae Zaste (desirae@braatenlawfirm.com)
 Derrick Braaten (derrick@braatenlawfirm.com)