

Casey and Julie Voigt v. Coyote Creek Mining Company, LLC

Case No. RC-23-348

Inspection Reports

**Voigt Exhibit 40**



# Public Service Commission

## State of North Dakota

JWE

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### INSPECTION REPORT

DATE OF INSPECTION: May 10, 2023

TYPE OF INSPECTION: Complete

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

PERMITS INSPECTED: NACC-1302

PERSONS ACCOMPANYING INSPECTORS: Jeremy Eckroth

INSPECTION CONDITIONS: The inspection was conducted between 9:00 a.m. and 12:30 p.m. CDT. Skies were initially overcast but cleared as the inspection proceeded. The temperature ranged from 60 to 75° F. Access was unrestricted.

### OFFICE RECORDS

Office records in the table below were available and reviewed at the Mine Office.

Record	Comment(s)
Coyote Creek MSHA Identification Number	32-01028
Certificate of Liability Insurance	On file, expires 2/1/2024
Surface Water Monitoring Report	1 <sup>st</sup> Quarter 2023 report is on file, sent 4/12/2023
Ground Water Monitoring Report	1 <sup>st</sup> Quarter 2023 water level report, sent 4/19//2023
Air Pollution Control Permit	Permit to Operate AOP-28007 v2.0 is on file, expires 11/4/2026
NDPDES Discharge Permit	Permit ND0026697 on file, expires 9/30/2024
NDPDES Discharge Monitoring Report	1 <sup>st</sup> Quarter 2023 report filed electronically on 4/26/2023
NDPDES Storm water Permit	NDR32-0772, expires 12/31/2024
NDPDES Storm water Monitoring Report	2022 Annual report filed electronically on 1/30/2023
Pond Inspection Reports	1 <sup>st</sup> Quarter 2023 report was on file. Inspections were completed February 18 and March 29, 2023.
Annual Pond Inspection Report	2022 Annual report is on file.

<b>Record</b>	<b>Comment(s)</b>
Pond Certifications	The most recent certification on file was for sediment pond P25-03 dated 11/9/22
Haul Road Certifications	Annual Primary Haul Road certification letter dated 12/14/2022 is on file.
Mercer County Conditional Use Permits	Conditional use zoning permits were on file for the permit area and haul road. An industrial use permit was on file for the shop/office facilities area. These permits were dated 8/6/2014, 1/21/2015, and 1/2/2014, respectively.
Mercer County Road Closures and Setbacks	Closure and setback information is on file
US Corps of Engineers Permit	Permit No. NW0-2012-2475-BIS on file, expires 5/21/2048
Temporary Water Use Permit	Expires 8/19/2023

### SIGNS & MARKERS

Mine entrance signs containing the appropriate MSHA identification, permit number, operator, and contact information required by NDAC 69-05.2-13-04 were observed at entrances to the mine. Permit boundary markers were observed throughout the mine along the inspection route.

### OVERBURDEN/COAL REMOVAL

The 101 dragline was operating in Section 25. A loaded coal truck was observed traveling on the primary haul road, but coal loading operations were not observed.

### SURFACE WATER MANAGEMENT

The sediment ponds listed below were briefly viewed. The water elevation was estimated in relation to the permanent pool elevation (PPE).

<b>Sediment Pond</b>	<b>Comment(s)</b>
P06-03	Discharging at approximately 750 gpm. Water in the pond looked clean but slightly stained. Floc applied about 10 days ago. Water elevation below discharge pipe.
P06-02	Water at PPE.
P07-01	Water about 8 feet below spill elevation, Discharging
Clean Water Sump	Water was low, it was pumped to P06-03.
P25-01	Water 1 foot below PPE.
P25-02	Water reported to be ½ foot below PPE. Observed from Co. Rd No. 13.
P25-03	Water 3 feet below PPE.
P24-04	Water 3 to 4 feet below PPE.
P24-03	Water 3 to 4 feet below PPE.
P24-01	Water 6 inches above PPE.
P24-02	Nearly dry, cattails obscure pool area.
P19-01	Discharging to Coyote Creek. Water 1 foot below PPE.
P30-02	Water 1 foot below PPE. Planning to dredge since sediment has accumulated.
P30-03	Water 1.5 feet below PPE.

P31-01	Water 12 feet below spill.
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PPE markers were not observed in sediment ponds P31-01, P06-03, P06-02, and P07-01. Mr. Eckroth indicated that CCMC was planning to install new markers as soon as practical. Sediment ponds P06-03, P07-01, and P19-01 were being discharged. The water in P06-03 looked stained but clean and the water in ponds P07-01 and P19-01 looked clean and clear. Mr. Eckroth said that floc was sprayed on ponds P07-01 and P19-01 prior to discharge.

Sediment pond P25-03 was constructed last fall and there was evidence that the embankment and perimeter of the pool area had been mulched. Drill marks indicated that the embankment and perimeter of the pool area were seeded. Matting was not placed on top of the emergency spillway so it will need to be monitored to ensure vegetation becomes established. Rock has been placed in the spillway along the west side of the embankment.

#### SUITABLE PLANT GROWTH MATERIAL REMOVAL/RESPREAD

No SPGM was being salvaged or respread.

#### STOCKPILES

Portions of SPGM stockpiles TS-39, SS-36, TS-53, TS-51, TS-41, SS-52, SS-42, SS-56, SS-48, TS-43, SS-46, SS-40, SS-30, TS-35, TS-33, SS-20, TS-13, SS-12, TS-9, and SS-6 were observed during the inspection. The north side of subsoil stockpile SS-36 is not well established with vegetation and a significant gully is present on the north side of subsoil stockpile SS-20. The older non-active SPGM stockpiles appear to be supporting perennial vegetation adequate to protect the soil from erosion.

#### BACKFILLING & GRADING

Backfilling and grading appeared contemporaneous or in compliance with plans in the permit.

#### REVEGETATION

A tractor pulling a drill was observed operating on the reclaimed grassland in the SE<sup>1</sup>/<sub>4</sub> of Section 24. It was reported that the permanent native grassland seed was being planted in this area where seeding has been delayed to allow for the control of non-native invasive grass species.

#### ROADS

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

#### WILDLIFE

Canada geese were observed near sediment ponds P06-02 and P07-01 and deer were observed near subsoil stockpile SS-20.

#### MISCELLANEOUS

Evidence of a spoil slide was observed in the pit in the W<sup>1</sup>/<sub>2</sub> of Section 6.

GENERAL

A GPS tracklog of the route traveled is on file with the Reclamation Division as are photographs taken.

  
\_\_\_\_\_  
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Permit Administrator

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Coyote Creek Mine\Inspection Reports\2023\230510c



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**INSPECTION REPORT**

DATE OF INSPECTION: May 24, 2023  
 TYPE OF INSPECTION: Partial  
 PERMITTEE - MINE: Coyote Creek Mining Company, LLC - Coyote Creek Mine  
 PERMITS INSPECTED: NACC-1302  
 PERSONS ACCOMPANYING INSPECTORS: Jeremy Eckroth

INSPECTION CONDITIONS: The inspection was conducted between 10:05 a.m. and 12:40 p.m. CDT. Skies were sunny. The temperature was 80° F, and the wind was southeast at 18 miles per hour. Access was unrestricted.

**OVERBURDEN/COAL REMOVAL**

The 101 dragline was removing overburden in the NW¼ of Section 25. The 301 shovel was prebenching overburden in the SW¼ of Section 25 and hauling that material to a fill area in the SE¼ of Section 25. Coal was being removed from Ramp 5.

**SURFACE WATER MANAGEMENT**

The sediment ponds listed in the table below were briefly inspected and the water elevation was estimated in relation to permanent pool elevation (PPE). Ponds P06-03 and P06-02 were being discharged, and the effluent was clean and clear.

Sediment Pond	Comment(s)
P30-01	Water 3 feet below PPE.
P31-01	Approximately 1 foot below PPE. No PPE marker but will be installed soon.
P06-03	Water 1 foot above PPE. Discharging at approximately 1500 gallons per minute.
P06-02	Water about 3 inches below PPE. Discharge was recently shut off but was restarted to approximately 800 gallons per minute. Water was clean and clear.
P07-01	Water 4 feet below PPE
P30-03	Water 1 foot below PPE.
P30-02	Water 1 foot below PPE. Dredging is planned to occur in approximately 10 days.
P10-02	Dry.
P10-01	Water 4.5 feet below PPE.

Sumps located along the main haulroad appeared full of sediment. Mr. Eckroth stated that these sumps are scheduled to be cleaned out in the near future.

As noted in the April 25, 2023 inspection report, tree branches, and sediment have accumulated in front of the box culverts on the south side of the access road in Coyote Creek. The silt fences in the access road ditch adjacent to Coyote Creek need repair.

#### SUITABLE PLANT GROWTH MATERIAL REMOVAL/RESPREAD

A front-end loader and truck fleet were removing subsoil in the SW $\frac{1}{4}$  of Section 24 and directly respreading that material on grade approval COY-036 in the SE $\frac{1}{4}$  of Section 25.

#### STOCKPILES

The observed SPGM stockpiles were supporting vegetative growth and appeared stable.

#### BACKFILLING & GRADING

The scraper fleet was grading spoil in the NE $\frac{1}{4}$  of Section 36 to reshape the existing deadhead route.

#### REVEGETATION

Reclaimed cropland in the NE $\frac{1}{4}$  of Section 25, COY-031 grade approval, has pre-cropland vegetation emerging. The pre-cropland seed mixture consists of switchgrass, western wheatgrass, and alfalfa.

#### ROADS

The primary haulroad and ancillary access road were being watered to suppress dust.

#### WILDLIFE

A beaver dam was observed in a drainage south of the haul road in Section 18.

#### MISCELLANEOUS

A GPS tracklog of the traveled inspection route is on file with the Reclamation Division as are photographs taken.



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Coyote Creek Mine Partial Inspection Report

May 24, 2023

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Coyote Creek Mine\Inspection Reports\2023\230524



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## INSPECTION REPORT

DATE OF INSPECTION: June 15, 2023  
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 9:15 a.m. and 11:45 a.m. CDT. Skies were cloudy, and the wind was from the north at 5 to 8 mph. The temperature ranged from 67 - 69° F. Access was unrestricted.

### SIGNS and MARKERS

Mine entrance signs and permit boundary markers were in place at inspected access and boundary locations. The mine entrance signs contained the appropriate information as specified in NDAC 69-05.2-13-04(3).

### OVERBURDEN/COAL REMOVAL

The 101 dragline was down for maintenance in the SE¼ of Section 36. Coal removal/hauling was occurring out of Ramp 5 in the W½ of Section 6.

A front-end loader was removing overburden in the open mine pit in the N½ of Section 36, in an area inaccessible to the dragline, and the material was being hauled upslope to the adjacent spoil piles.

### SURFACE WATER MANAGEMENT

The ponds listed in the table below were briefly observed and the water elevation was estimated in relation to the permanent pool elevation (PPE). No surface water discharges were occurring.

Water Management Feature	Comment(s)
P07-01	2 feet below PPE
P30-01	6 feet below PPE
P06-02	0.5 feet below PPE

P06-03	2 feet below drawdown pipe; PPE marker not visible
P30-03	1 foot below PPE
P25-02	At PPE
P25-03	1 foot below PPE
P25-01	1 foot below PPE
P24-04	2 feet below PPE
P24-03	4 feet below PPE
P10-02	Dry
P10-01	3 feet below PPE
P31-01	Reported as below PPE, but the PPE marker was not visible

Sediment pond P30-02 was in the process of being dredged (**Figure 1**). The sediment slurry removed from the dredging operation was being pumped to the open mine pit in the NW¼ of Section 25.

Significant head cutting erosion was observed near the stripping edge in the SW¼ of Section 25 (**Figure 2**). Coyote Creek Mine will have to mitigate this to prevent the erosion feature from expanding to the adjacent undisturbed land.

#### SUITABLE PLANT GROWTH MATERIAL REMOVAL/RESPREAD

An excavator was stripping subsoil and loading trucks in the SW¼ of Section 6, which was being directly respread on grade approval COY-035 by a dozer (**Figure 3**). Several SPGM monuments showing deep lift subsoil removal were observed in the removal area, and it appeared that adequate subsoil had been salvaged. Coyote Creek Mine predicted that the subsoil removal would be completed in the coming days and an official subsoil removal approval request would be submitted to the Reclamation Division prior to overburden removal.

Subsoil respread on grade approval COY-037 in the SE¼ of Section 25 appeared to have been completed.

#### STOCKPILES

SPGM stockpiles observed along the inspection route appeared to be well vegetated with no significant erosion features observed.

#### REVEGETATION

Grade approval areas COY-022 and COY-029 in the N½ of Section 6 were inspected (**Figure 4**). COY-022 appeared to be well vegetated, and it was currently being spot sprayed for brome. COY-029 was sparsely vegetated with weeds and little to no grass was observed. It was reported that COY-029 was reseeded two weeks ago since the original seeding last fall was ineffective.

Grade approval areas COY-004 and COY-005 were observed from the NE¼SE¼ of Section 25. They appeared to be well vegetated with grasses and were recently mowed.

#### ROADS


Motor graders were observed blading and a water truck was observed watering the main haul road and access roads.

WILDLIFE

A mule deer was observed alongside the haul road near topsoil stockpile TS-9 in the SW¼ of Section 30.

MISCELLANEOUS

A GPS track log of the inspection route and photographs taken during the inspection are on file with the Reclamation Division.

  
\_\_\_\_\_  
Monty Johnson  
Environmental Scientist

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Figure 1. Dredging operation in sediment pond P30-02.



Figure 2. Head cut erosion near the stripping edge in the SW $\frac{1}{4}$  of Section 25.



Figure 3. Subsoil stripping in the SW¼ of Section 6.



Figure 4. Spot spraying weeds on grade approval COY-022 near the boundary between COY-029.





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## INSPECTION REPORT

DATE OF INSPECTION: June 22, 2023  
TYPE OF INSPECTION: Partial  
PERMITTEE - MINE: Coyote Creek Mining Company LLC – Coyote Creek Mine  
PERMITS INSPECTED: NACC-1302  
PERSONS ACCOMPANYING INSPECTOR: Jason Sailer  
INSPECTION CONDITIONS: The inspection was conducted between 10:00 a.m. and 11:45 a.m. CDT. Skies were cloudy. The temperature was near 65°F. Access was severely restricted due to recent precipitation.

### OVERBURDEN/COAL REMOVAL

The 101 dragline was removing overburden in the SE¼ of section 36. The 301 shovel was prebenching overburden near the quarter line between NW¼ and SW¼ of Section 6. The material was being hauled to a pit in the SE¼ of section 36.

### SURFACE WATER MANAGEMENT

No sedimentation ponds were being discharged during the inspection. The following ponds are listed in the order inspected and their water elevations are noted in relation to Permanent Pool Elevation (PPE).

Pond ID	Estimated Water Elevation	Comment
P30-01	4 feet below PPE	
P07-01	1 foot below PPE	
P06-02	At PPE	
P06-03	0.5 feet below drawdown pipe	
P30-02	6 feet below spill	Dredging machine idle in pond
P10-02		Holding minimal water
P10-01	6 feet below PPE	

### BACKFILLING AND GRADING

A scraper was observed “brown capping” spoil in the SE¼ of Section 36.

SUITABLE PLANT GROWTH MATERIAL (SPGM) REMOVAL and RESPREAD

An SPGM removal area, encompassing approximately 9.6 acres in the E½ of Section 1, T142N, R89W and the SW¼ of Section 6, T142N, R88W was inspected. Numerous stripping monuments were observed in the removal area, and it appeared that an adequate amount of subsoil had been salvaged.

Subsoil had been spread on grade approval COY-035 in Section 6.

REVEGETATION

An alfalfa field in the NE¼ of section 25 had recently been cut.

MISCELLANEOUS

Photos and a GPS tracklog of the inspection route are on file with the Reclamation Division.

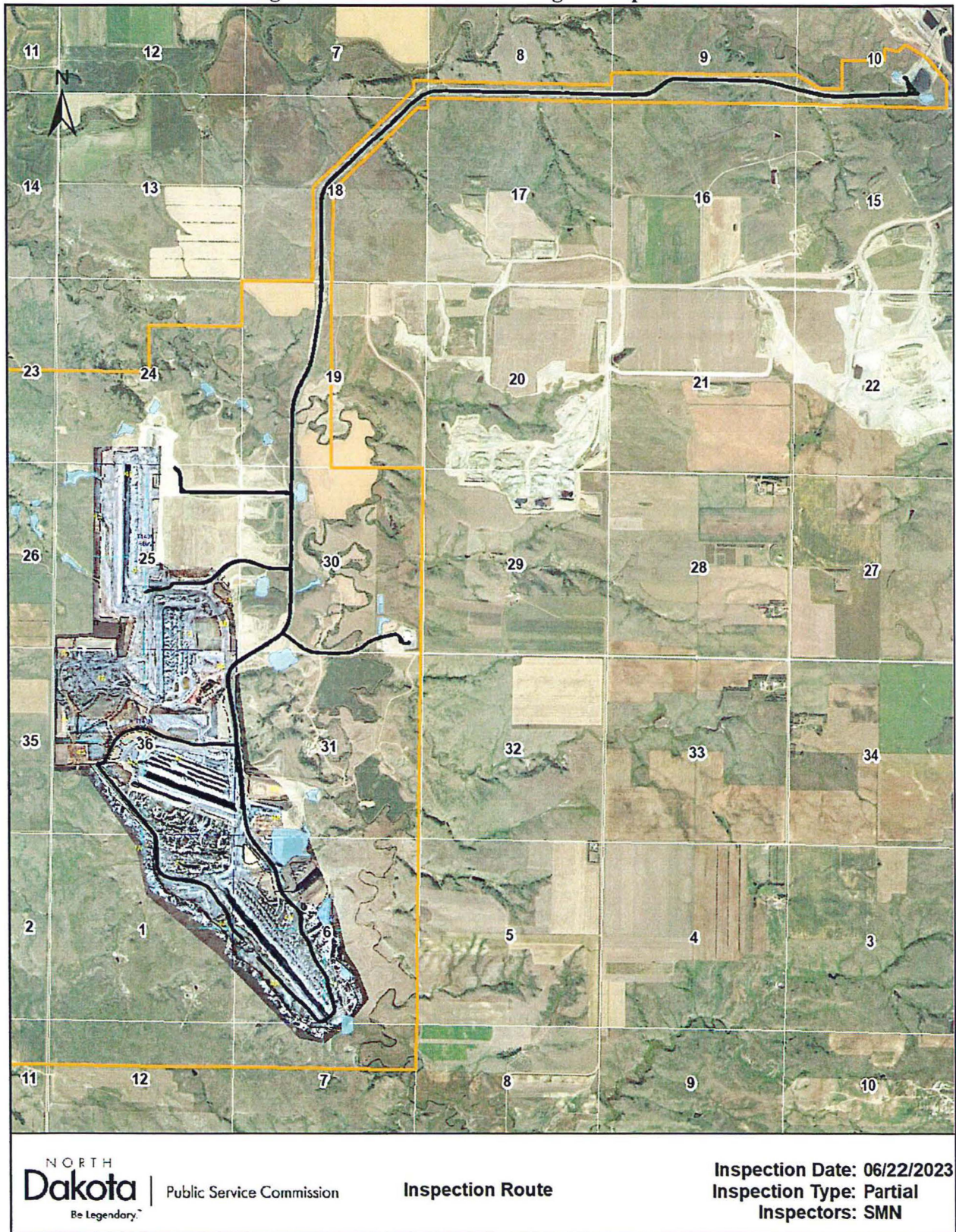


Shawn Nixon  
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Figure 1 – Route traveled during the inspection.





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## INSPECTION REPORT

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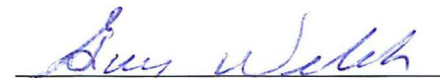
DATE OF INSPECTION: June 27, 2023  
TYPE OF INSPECTION: Partial  
PERMITTEE - MINE: Coyote Creek Mining Company, LLC - Coyote Creek Mine  
PERMITS INSPECTED: NACC-1302  
PERSONS ACCOMPANYING INSPECTORS: Kia Engstroem, Pilot, Executive Air  
INSPECTION CONDITIONS: The inspection was conducted between 10:00 a.m. and 10:15 a.m. CDT. Skies were hazy from fires in Canada. The temperature was near 65° F. Access was unrestricted.


### GENERAL

The permit and adjacent areas were flown and viewed from an altitude of approximately 1500 feet above the ground surface with a Cessna 172 high-winged plane. The route flown over the mine is depicted in Attachment A.

Backfilling and rough grading operations appeared contemporaneous and in compliance with approved reclamation plans. No operational or reclamation concerns were identified that required immediate attention or action. It appeared all surface water runoff from affected lands was being directed to water management features. A drainage adjacent to an access corridor northeast of subsoil stockpile SS-52 should be inspected to ensure a gully is not encroaching into the topsoil stripping edge (photo P2670372) and a drainage adjacent to an access corridor above sediment pond P25-03 should be inspected (photo P6270377).

Photographs and video taken during the flyover are on file with the Reclamation Division and copies were sent to the Coyote Creek Mine.

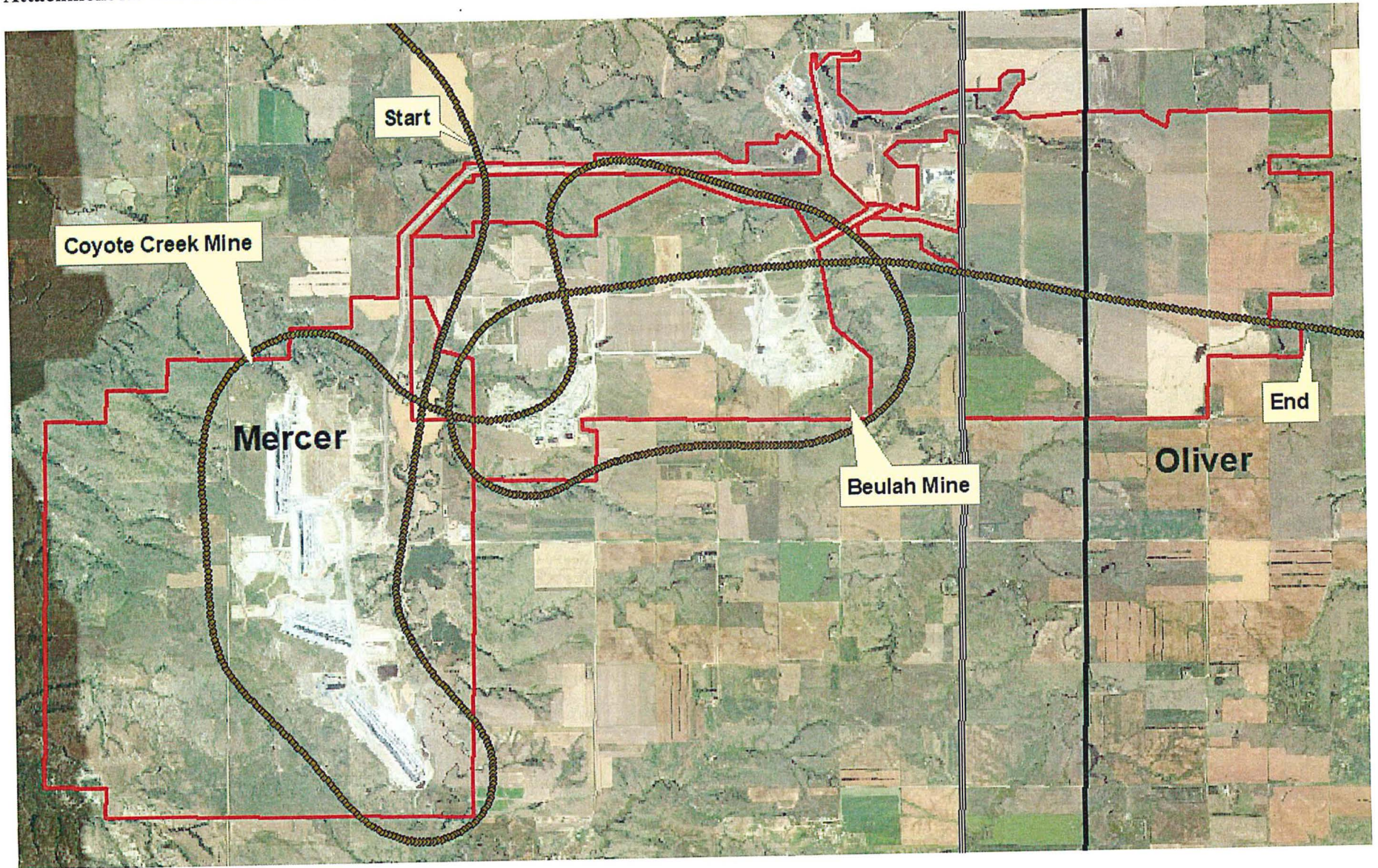
  
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Coyote Creek Mine\Inspection Reports\2023\230627\_aerial

Attachment A: Route flown over mine



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## INSPECTION REPORT

DATE OF INSPECTION: July 11, 2023  
TYPE OF INSPECTION: Partial  
PERMITTEE - MINE: Coyote Creek Mining Company, LLC - Coyote Creek Mine  
PERMITS INSPECTED: NACC-1302  
PERSONS ACCOMPANYING INSPECTORS: Jeremy Eckroth  
INSPECTION CONDITIONS: The inspection was conducted between 9:30 a.m. and 12:00 p.m. Skies were overcast and approximately 0.4 inches of rain fell during the inspection. The temperature was near 55° F. Access was restricted due to muddy conditions.

### OVERBURDEN/COAL REMOVAL

The dragline was operating in the S½ of Section 36. Coal hauling and removal operations were temporarily ceased due to rain and slippery road conditions.

### SURFACE WATER MANAGEMENT

The sediment ponds in the table below were briefly observed and the water elevations were estimated in relation to the permanent pool elevation (PPE). Sediment pond P06-03 was reportedly being discharged but discharge operations were discontinued at about 11:00 a.m. because turbid surface water runoff began entering the pond. No other sediment ponds or sumps were being discharged.

Water Management Feature	Comment(s)
P30-01	Water 4 to 5 feet below PPE.
P31-01	Water 4 to 5 feet above PPE. PPE marker not seen.
P30-03	Water about 1 foot below PPE.
P30-02	Water 8 to 10 feet below spill elevation. PPE marker not seen.
P24-04	Water well below spill elevation. Observed from a distance.
P10-02	Essentially dry.
P10-01	Water 3.5 feet below PPE.
P06-03	Water 6 to 8 feet below spill elevation. Observed from a distance.

Sediment pond P30-02 was being dredged to remove sediment which was being pumped to spoils in the SW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 24 where reclamation is being delayed pending federal mine plan approval to mine federal coal in the SW $\frac{1}{4}$  of Section 24.

Surface water runoff from rainfall was observed flowing down a drainage in the SW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 36 that had recently been reshaped and stabilized with fabric. Surface water runoff was also observed flowing into sediment pond P30-02 and from graded spoil south of the farmer access road in Section 36. Runoff was flowing in incised channels in recreated drainages that have not been respread with SPGM in Section 36 and it appeared that water may be flowing under a culvert in the farmer access road in the SE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 36. The haul road ditch west of sediment pond P10-02 should be reshaped to ensure runoff from the haul road does not pass southward onto undisturbed lands or perhaps a silt fence should be installed along the topsoil stripping edge to direct runoff westward or other measures should be taken.

#### SUITABLE PLANT GROWTH MATERIAL REMOVAL/RESPREAD

No SPGM was being removed. Mine personnel said that prior to the rainfall event, SPGM was being salvaged from Section 6 and respread on grade approval COY-035, which is located near the center of Section 6. Wet and muddy conditions prevented access into this area.

#### STOCKPILES

A stockpile with a sign labeled TS-1 was observed near the center of the NW $\frac{1}{4}$  of Section 25. This pile is located adjacent to the 2022 stripping edge and the drainage above sediment pond P25-03.

#### BACKFILLING & GRADING

The 301 excavator was down for maintenance at the shop office complex. Wet and muddy conditions limited access throughout the mine but backfilling and rough grading operations appeared contemporaneous in all areas observed where variances to the contemporaneous reclamation requirements have not been granted.

#### REVEGETATION

Reclaimed cropland and native grassland in Sections 24 and 25 were observed as having been mowed and bales were observed on reclaimed cropland in the N $\frac{1}{2}$  of Section 25. Mr. Eckroth said that CCMC spot sprayed small patches of smooth brome grass on reclaimed native grasslands earlier in the growing season. He also stated that weedy areas are being rotary mowed to aid grass stand establishment.

#### ROADS

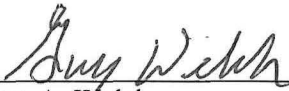
The primary haul road was wet from rainfall.

#### WILDLIFE

Two deer were observed south of the permit in the NW $\frac{1}{4}$  of Section 15.

#### GENERAL

A GPS tracklog of the route traveled is on file with the Reclamation Division as are photographs taken during the inspection.

  
\_\_\_\_\_  
Guy A. Welch  
Permit Administrator

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Coyote Creek Mine\Inspection Reports\2023\230711



# Public Service Commission

## State of North Dakota

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### INSPECTION REPORT

DATE OF INSPECTION: July 20, 2023

TYPE OF INSPECTION: Partial

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

PERMITS INSPECTED: NACC-1302

PERSONS ACCOMPANYING INSPECTORS: Jeremy Eckroth

INSPECTION CONDITIONS: The inspection was conducted between 9:45 a.m. and 1:15 p.m. CDT. Skies were partly cloudy with haze from fires in Canada. The temperature ranged from 75 to 80° F. Access was unrestricted.

#### OVERBURDEN/COAL REMOVAL

The dragline was observed operating in Section 6. Coal removal operations were not observed.

#### SURFACE WATER MANAGEMENT

The sediment ponds listed in the table below were briefly observed and the water elevation was estimated in relation to permanent pool elevation (PPE). No water was being discharged. Mr. Eckroth said that pond P31-01 had been recently flocced and that pre-discharge samples had been taken for analysis.

Sediment Pond	Comment(s)
P30-01	Water 4 to 5 feet below PPE.
P31-01	Water estimated to be 5 to 6 feet above PPE. PPE marker not seen.
P30-03	Water 3 feet below PPE. Recently discharged.
P30-02	Water 7 to 8 feet below spill elevation. Being dredged, PPE marker not seen.
P24-03	Water 5 feet below spill. Observed from a distance. PPE marker not seen.

#### SUITABLE PLANT GROWTH MATERIAL REMOVAL/RESPREAD

Topsoil was being respread on grade approval COY-036 which is mostly located in the NE¼ of Section 25. The location where this soil was coming from was not observed.

#### BACKFILLING & GRADING

The revised version of grade approval COY-034 was inspected. This grade approval request comprises 16.09 acres and is located on Voigt and State-owned property near the center of Section 36. The topography of the grade approval request generally conforms closely with the approved post-mining topography, although it appeared that additional fill may be needed where a 2092 contour interval is located along the east side of the grade approval in the SW¼ of Section 36. Relocated county road 18<sup>th</sup> Voigt-022

Street SW is to be reconstructed at the top of the watershed break through this grade approval request. The road is to be built out of subsoil with a surface elevation grade approximately 2 feet higher than the adjacent respread topsoil.

### REVEGETATION

Reclaimed native grasslands in Sections 24, 25, 31, and 36 were inspected. Grass and forb species in the native grassland seed mixture that were not in the delayed native grassland seed mixture were planted on all delayed native grassland seedings this spring. The species planted this spring would have included green needlegrass, blue grama, sideoats grama, little bluestem, big bluestem, prairie sandreed, and native forbs species. Western wheatgrass, switchgrass, slender wheatgrass, and sand dropseed have successfully established on the older delayed native grassland seedings and these species, along with volunteer species, are providing ground cover and protection from erosion. Other species observed established on these reclaimed lands included grasses and forbs that apparently established through the direct respread of native grassland topsoil. This included blue grama, big bluestem, little bluestem, sand bluestem, needle and threadgrass, prairie sandreed, cudweed sagewort, prairie coneflower, purple prairie clover, prairie rose, silverleaf scurfpea, golden pea, wavyleaf thistle, heath aster or daisy fleabane, fringed sagewort, purple coneflower, and western snowberry.

The Coyote Creek Mine has done an excellent job of spot spraying smooth brome grass and crested wheatgrass plants establishing in the reclaimed native grasslands to keep these invasive species from propagating. A few Kentucky bluegrass plants were also observed as having been sprayed. Most of these spray spots were small comprising only a few square feet as can be seen in the attached photographs, Figures 1 and 2. No State listed noxious weeds were observed growing on these reclaimed lands. Native grasslands initially planted in 2023 were not closely inspected but it was observed that annual weed growth in these areas had been clipped. Mr. Eckroth said that areas with heavier weed growth were baled and that the bales are being kept separate from non-weedy bales.

The reclaimed lands in Sections 24 and 25 have been mowed (sickle mower), raked and baled and haying equipment was in the process of being moved to reclaimed grasslands in Section 36. Hay bales have been moved off the reclaimed native grasslands in Section 24 and portions of Section 25. Raking operations were occurring on a small portion of Section 25 and rocks were being picked from these reclaimed lands as raking operations were occurring. The steeper sloped areas in Section 24 and all observed reclaimed drainageways on these reclaimed lands in Sections 24 and 25 were generally well vegetated and stable with no evidence of erosion having occurred during snowmelt or rainfall runoff events. Smooth brome grass and Kentucky bluegrass were observed growing in the undisturbed native grasslands adjacent to the reclaimed lands in Section 24.

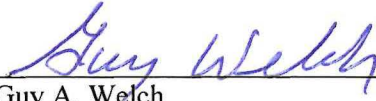
The reclaimed native grassland south of the shop office complex has not yet been clipped or mowed. Slender wheatgrass was more prominent in the reclaimed native grasslands in Section 36 compared to Sections 24 and 25. A strip of reclaimed cropland in Section 25 is supporting a dense stand of alfalfa while other areas have a more balanced mix of the pre-cropland hayland mix, switchgrass, western wheatgrass, and alfalfa.

### ROADS

The primary haul road was being watered to suppress dust.

### GENERAL

A GPS tracklog of the route traveled is on file with the Reclamation Division as are photographs taken.

  
\_\_\_\_\_  
Guy A. Welch  
Permit Administrator

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Coyote Creek Mine\Inspection Reports\2023\230720

Figure 1: Smooth brome grass spot sprayed on reclaimed native grassland in Section 36.



Figure 2: Smooth Brome grass spot sprayed in SE<sup>1</sup>/<sub>4</sub> of Section 24.





# Public Service Commission

## State of North Dakota

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### INSPECTION REPORT

DATE OF INSPECTION: August 3, 2023

TYPE OF INSPECTION: Complete

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

PERMITS INSPECTED: NACC-1302

PERSONS ACCOMPANYING INSPECTORS: Jeremy Eckroth, Coyote Creek, and PSC  
 Commissioner Sheri Haugen-Hoffart

INSPECTION CONDITIONS: The inspection was conducted between 09:47 a.m. and 12:51 p.m. CDT. Skies were clear and sunny. The temperature ranged from 74°F to 83°F, and the wind was from the east at 8 mph. Access was unrestricted.

### OFFICE RECORDS

Office records in the table below were available and reviewed at the Mine Office.

Record	Comment(s)
Coyote Creek MSHA Identification Number	32-01028
Certificate of Liability Insurance	On file, expires 2/1/2024
Surface Water Monitoring Report	2 <sup>nd</sup> Quarter 2023 report is on file, sent 7/21/2023
Ground Water Monitoring Report	2 <sup>nd</sup> Quarter 2023 water level report, sent 6/21/2023
Air Pollution Control Permit	Permit to Operate AOP-28007 v2.0 is on file, expires 11/4/2026
NDPDES Discharge Permit	Permit ND0026697 on file, expires 9/30/2024
NDPDES Discharge Monitoring Report	2 <sup>nd</sup> Quarter 2023 report filed electronically on 7/31/2023
NDPDES Storm water Permit	NDR32-0772, expires 12/31/2024
NDPDES Storm water Monitoring Report	2022 Annual report filed electronically on 1/30/2023
Pond Inspection Reports	2 <sup>nd</sup> Quarter 2023 report was on file. Inspections were completed on the 9 <sup>th</sup> , 11 <sup>th</sup> , 17 <sup>th</sup> , 18 <sup>th</sup> , 26 <sup>th</sup> , 27 <sup>th</sup> of May and on June 22, 2023.
Annual Pond Inspection Report	2022 Annual report is on file.
Pond Certifications	The most recent certification on file was for sediment pond P25-03 dated 11/9/22.

<b>Record</b>	<b>Comment(s)</b>
Haul Road Certifications	Annual Primary Haul Road certification letter dated 12/14/2022 is on file.
Mercer County Conditional Use Permits	Conditional use zoning permits were on file for the permit area and haul road. An industrial use permit was on file for the shop/office facilities area. These permits were dated 8/6/2014, 1/21/2015, and 1/2/2014, respectively.
Mercer County Road Closures and Setbacks	Closure and setback information is on file
US Corps of Engineers Permit	Permit No. NW0-2012-2475-BIS on file, expires 5/21/2048
Temporary Water Use Permit	Expires 8/20/2024 through email.

SIGNS & MARKERS

Mine entrance signs containing the appropriate MSHA identification, permit number, operator, and contact information required by NDAC 69-05.2-13-04 were observed at entrances to the mine. Permit boundary markers were observed throughout the mine along the inspection route.

OVERBURDEN/COAL REMOVAL

The 101 dragline was down for maintenance in the SW¼ of Section 6. A Komatsu excavator was observed down in the NW¼ of Section 6. A loaded coal truck was observed traveling on the primary haul road coming from a coal pit located in the W½ of Section 25. Coal loading operations was not observed.

SURFACE WATER MANAGEMENT

No sedimentation ponds were observed or reported being discharged during the inspection. The following ponds are listed in the order inspected and their water elevations are noted in relation to Permanent Pool Elevation (PPE) or their spillway (spill).

<b>Sediment Pond</b>	<b>Elevation</b>	<b>Comment(s)</b>
P30-01	4-5 feet below PPE	
P31-01	5 feet above PPE	Pond has once again filled with sediment and will need to be dredged.
P30-03	At PPE	
P30-02	8 feet below spill; PPE marker was laying over and needs to be reinstalled.	Dredger was observed in P30-02, but it wasn't operating. Dredging of P30-02 began in June of 2023.
P10-02	Dry	
P10-01	4 feet below PPE	
P06-03	2 feet above PPE	
P06-02	6 inches below PPE	

The south embankment of the primary haul road in Section 10 has been recently graded to address some gully erosion caused by surface water runoff. An additional silt fence at the toe of the south embankment and a ridged edge was also observed serving to protect the existing vegetation south of the toe from sediment deposition during rain events (**Figure 1**).

Mr. Eckroth stated that erosion began forming from surface water runoff from undisturbed native grassland west of the dragline access trail located in the N½ of Section 1; therefore, the mine installed riprap to minimize the water erosion within the tie-in embankment (**Figure 2**).

#### BACKFILLING AND GRADING

Grade approval request COY-034, submitted originally on September 6, 2022, for approximately 4.92 acres, withdrawn from PSC review, and subsequently resubmitted on July 10, 2023, for approximately 16.09 acres in Section 36, T143N, R89W in Permit NACC-1302 was briefly inspected. Mr. Eckroth stated that the north/south contour that was called out by Guy Welch during the previous inspection on 7/20/2023 has been corrected. The grade approval has also been revised to account for the permanent landowner access road. The topography of the request area appeared consistent with the post-mine topography approved in the permit.

#### SUITABLE PLANT GROWTH MATERIAL (SPGM) REMOVAL/RESPREAD

The grade approval COY-036, located in the NE¼ of Section 25 and approved 5/9/2023, has been fully respread with SPGM. This tract was being chiseled to pull up rocks, which were being removed. This area is to be reclaimed to cropland and native rangeland.


The grade approval COY-035, located in Section 6 and approved 5/9/2023, has been respread with SPGM, seeded with oats, and mulched. The mulch did not appear to be crimped (**Figure 3**). CCMC plans to seed with the native grassland seed mixture next spring. This tract is to be reclaimed to native rangeland.

#### ROADS

The primary haul road was observed to have several sections that were rutting and pumping. A motor grader was observed grading one of the locations that had signs of rutting and pumping. A water truck was observed watering the shop access road and portions of the primary haul road that appeared to drain well. No fugitive dust was observed.

#### MISCELLANEOUS

A GPS tracklog of the route traveled during the inspection (**Figure 4**) and additional photographs taken are on file with the Reclamation Division.

  
\_\_\_\_\_  
Brandon S. Myran  
Environmental Engineer

  
\_\_\_\_\_  
Guy A. Welch  
Permit Administrator

Coyote Creek Mine Complete Inspection Report

August 3, 2023

Page 4 of 7

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Coyote Creek Mine\Inspection Reports\2023\230803c

**Figure 1:** The south embankment along the primary haul road located in Section 10 has been regraded to address gully and rill erosion that was observed on previous inspections. A silt fence has been installed on the east end of the embankment toe. The ridged edge bordering the existing undisturbed vegetation has been defined to direct water to the west where more erosion control features exist such as another silt fence and a sump.



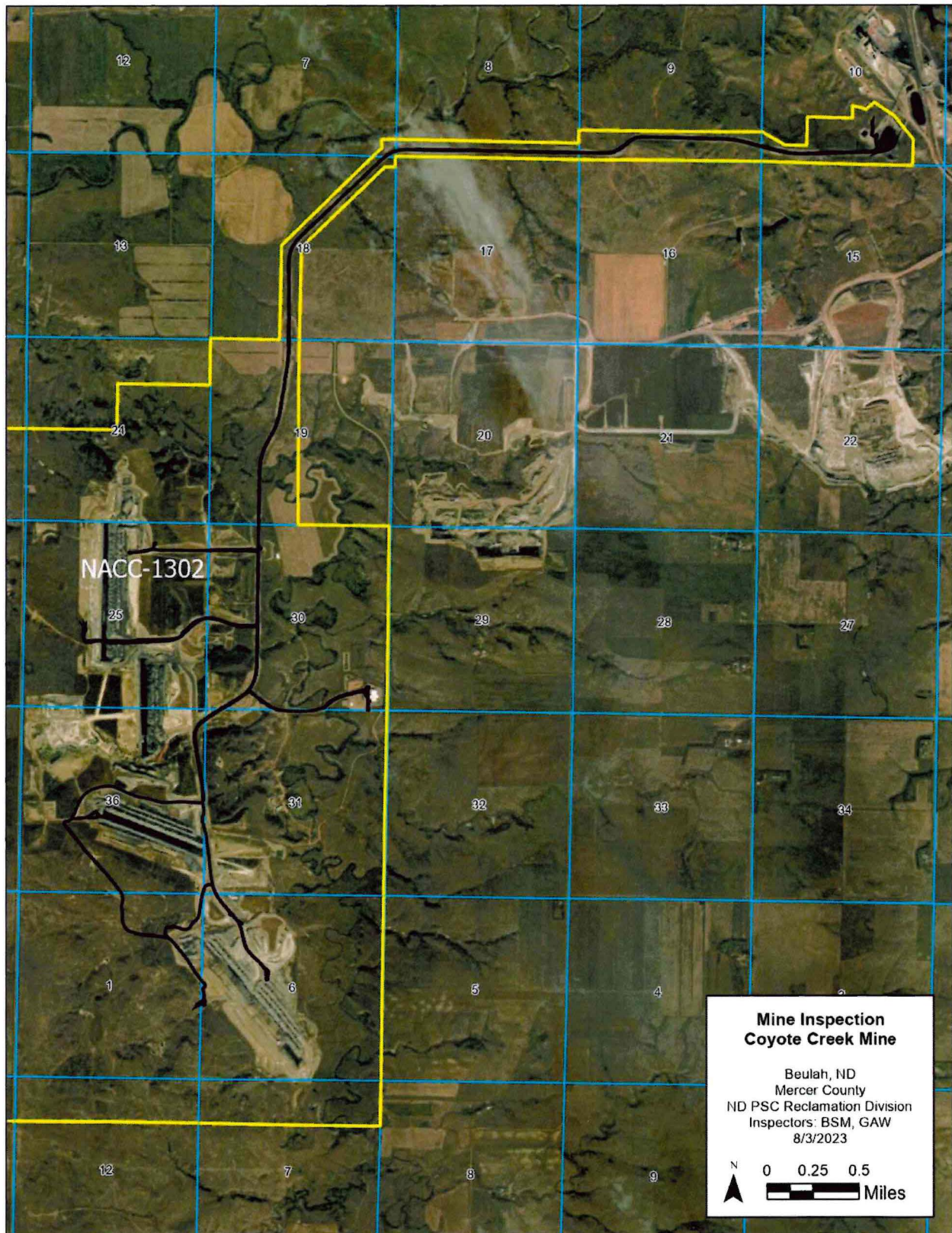
**Figure 2:** Riprap has been installed to minimize water erosion within the tie-in embankment of the west ditch of the dragline access trail located in the N½ of Section 1.



**Figure 3:** Grade approval COY-035, located in Section 6 and approved 5/9/2023, has been respread with SPGM, seeded with oats, and mulched.



**Figure 4:** GPS point tracklog of the inspection route (black) including Permit boundary (yellow).





**Public Service Commission**  
State of North Dakota

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**INSPECTION REPORT**

DATE OF INSPECTION: August 24, 2023

TYPE OF INSPECTION: Partial

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

PERMITS INSPECTED: NACC-1302

PERSONS ACCOMPANYING INSPECTOR: Jeremy Eckroth

INSPECTION CONDITIONS: The inspection was conducted between 10:00 a.m. and 11:45 a.m. CDT. Skies were partly cloudy. The temperature ranged from 78°F to 81°F. Access was unrestricted.

**OVERBURDEN/COAL REMOVAL**

The 101 dragline was idle in the NE¼ of Section 1. It was presumed that unscheduled maintenance was occurring. The 301 excavator was prebenching overburden in the S½ of Section 36. The material was being used to brown cap a rough graded area in the SE¼ of Section 36. Coal was being hauled out of Ramp 4.

**SURFACE WATER MANAGEMENT**

No sedimentation ponds were being discharged during the inspection. The following ponds are listed in the order inspected and their water elevations are noted in relation to Permanent Pool Elevation (PPE).

Pond ID	Estimated Water Elevation	Comment
P30-01	4 – 5 feet below PPE	
P31-01	2 – 3 feet above PPE	
P06-03	3 – 4 feet above PPE	Discharging
P06-02	N/A	Reportedly discharged yesterday
P07-01	3 – 3.5 feet below PPE	Discharging
P30-04	10 – 12 feet below spill	PPE marker not visible
P30-02	8 feet below spill	

Sediment pond 31-01 was reportedly discharged on August 23<sup>rd</sup> but the pump was shut off when the discharge water started to become cloudy. Coyote Creek staff indicated that this pond would be dredged

after P30-02 is dredged. A dredging machine was being set up beside sediment pond P30-02. Coyote staff indicated that the dredging would begin next week.

Sediment pond P06-03 was being discharged and the water was clear. Coyote Creek staff indicated that sediment would possibly be removed next year.

Sediment pond P07-01 was discharging clear water. A wood palette and a road sign, in addition to rocks, were dissipating the outflow.

Sediment pond P30-04 was discharging into the plunge pool. A sample was taken by CCMC staff to visibly inspect the effluent and the water was clear.

#### BACKFILLING AND GRADING

A dozer was grading "brown-cap" material in the SE<sup>1</sup>/<sub>4</sub> of section 36.

#### SUITABLE PLANT GROWTH MATERIAL (SPGM) REMOVAL and RESPREAD

Grade Approval GOY-036 had been mulched and seeded.


Topsoil was being spread on Grade Approval COY-037.

#### REVEGETATION

Grade Approval COY-028 had been recently mowed to control weed growth.

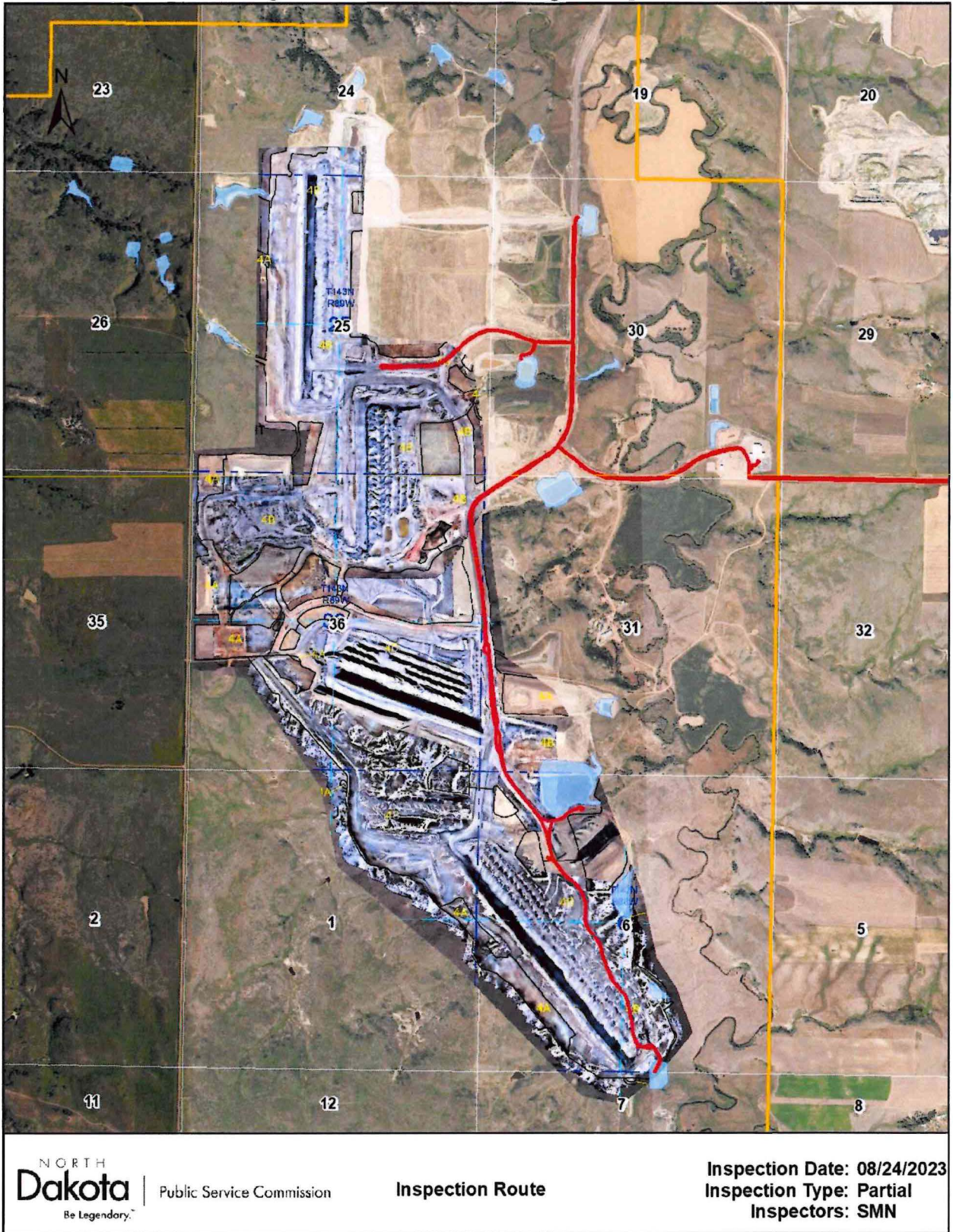
#### MISCELLANEOUS

Photos and a GPS tracklog of the inspection route are on file with the Reclamation Division.

  
\_\_\_\_\_  
Shawn Nixon  
Environmental Engineer

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Figure 1 – Route traveled during the inspection.





# Public Service Commission State of North Dakota

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## INSPECTION REPORT

DATE OF INSPECTION: September 6, 2023  
TYPE OF INSPECTION: Partial  
PERMITTEE - MINE: Coyote Creek Mining Company, LLC - Coyote Creek Mine  
PERMITS INSPECTED: NACC-1302  
PERSONS ACCOMPANYING INSPECTORS: Jeremy Eckroth  
INSPECTION CONDITIONS: The inspection was conducted between 10:00 a.m. and 12:30 p.m. CDT. Skies were sunny with haze. The temperature ranged from 63 to 70° F. Access was restricted with muddy conditions.

### OVERBURDEN/COAL REMOVAL

The dragline was removing overburden in the NW¼ of Section 25. Coal was being hauled from Ramp 5 in Section 6.

### SURFACE WATER MANAGEMENT

The permit area received approximately 1.5 inches of precipitation a day or two preceding this inspection. The sediment ponds captured runoff and Coyote Creek was transporting water at a higher rate than normally observed. No discharges were occurring. The water in the sediment ponds looked turbid.

The water elevation in the ponds listed in the table below was estimated in relation to permanent pool elevation (PPE).

Sediment Pond	Comment(s)
P30-01	Water about 5 feet below PPE.
P06-03	Water estimated 6 feet above PPE.
P06-02	Water near PPE.
P31-02	Water about 4 feet below PPE.
P30-03	Water at PPE.

### SUITABLE PLANT GROWTH MATERIAL REMOVAL/RESPREAD

The PC2000 excavator was removing topsoil from a temporary pile in the NW¼ of Section 25 and trucks

were hauling this soil to the southwest portion of grade approval COY-034, which is located near the center of Section 36. A dozer was leveling the topsoil on the grade approval and two dozers were operating near the PC2000. The soil in the temporary pile was much dryer than surface conditions. The eastern portion of this grade approval has been respread with subsoil and topsoil and the farmer/rancher access road that passes through this grade approval has been constructed with subsoil.

Soil monuments were in place where topsoil and subsoil have been removed west of the pit in Section 25. Stakes on the monuments identify the depths of topsoil and subsoil according to the detailed soil survey. These soil monuments were generally about 5 feet in height which is consistent with the soil survey.

### STOCKPILES

Annual weeds, primarily kochia and Russian thistle, were observed on portions of topsoil stocks TS-39 and TS-41. It was recommended that the weed growth on these piles be rotary mowed or otherwise controlled to prevent them from dispersing. All other observed SPGM stockpiles were stabilized with perennial vegetation.

### BACKFILLING & GRADING

Backfilling and grading appeared contemporaneous and in compliance with approved plans.

### REVEGETATION

Three native grass plantings on grade approvals in Section 6 were inspected. The COY-022 grade approval is established with the delayed native grass seeding mixture which includes slender and western wheatgrass, switchgrass, and sand dropseed. There are few weeds in this planting. The balance of the species in the native grassland seed mixture were planted on this grade approval this spring/summer and the planting was clipped or hayed. It was difficult to determine if the recently planted species were establishing.

The COY-028 and COY-029 grade approvals have been planted to the approved native grassland seed mixture this spring/summer and these species are establishing. The grass stand establishment appears more uniform on the COY-028 grade approval compared to the COY-029 grade approval where annual weed growth is more prominent. Weeds were clipped on both plantings earlier in the growing season and there was no evidence of wind or water erosion.

The COY-035 grade approval is established with a dense stand of oats that is about 8 inches tall, which should be sufficient growth to protect the soil from erosion this winter. NRCS does not advise planting native grassland seedings during the summer months, which is why the approved seed mixture was not planted on this grade approval.

The older native grass seedings in Section 36 have been clipped or hayed and the species included in the delayed native grassland seed mixture have established in these plantings. Mr. Eckroth said that additional native grass species have been planted on all delayed native grass seedings at the mine. The established vegetation on reclaimed lands in Section 36 is providing ground cover and protection from erosion. Although not closely inspected, there was no apparent evidence of wind or water erosion on the native grass seedings in Section 36 which contains slopes that are quite steep.

Grade approval COY-037 has been respread with SPGM and the topsoil has been chiseled for rock removal operations. The COY-036 grade approval was noticed as having been mulched.

ROADS

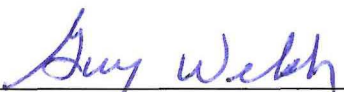
Access was limited due to wet conditions, but the primary haul road was beginning to dry. A portion of the farmer/rancher access road in Section 36 has been constructed at its final or permanent location.

WILDLIFE

A coyote was observed in Section 36.

GENERAL

A GPS tracklog of the route traveled is on file with the Reclamation Division as are photographs taken.

  
\_\_\_\_\_  
Guy A. Welch  
Permit Administrator

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Coyote Creek Mine\Inspection Reports\2023\230906

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## INSPECTION REPORT

DATE OF INSPECTION: September 19, 2023  
TYPE OF INSPECTION: Partial  
PERMITTEE - MINE: Coyote Creek Mining Company, LLC - Coyote Creek Mine  
PERMITS INSPECTED: NACC-1302  
PERSONS ACCOMPANYING INSPECTORS: Jeremy Eckroth and Jason Friedt  
INSPECTION CONDITIONS: The inspection was conducted between 9:00 a.m. and 12:30 p.m. CDT. The sky was clear and sunny. The temperature ranged from 60 to 80° F. Access was unrestricted.

### OVERBURDEN/COAL REMOVAL

The dragline was observed operating in Section 25.

### SUITABLE PLANT GROWTH MATERIAL REMOVAL/RESPREAD

Topsoil was being stripped from the SW¼ of Section 25. This soil was being hauled southward, but its designation was not realized. Soil monuments in Section 25 were inspected. Stakes on the monuments depicted the topsoil and subsoil removal depths. The soil mapping unit in the northern portion of the removal area indicated that 9 inches of topsoil and 0 inches of subsoil were available (Noonan loam), whereas soil monuments further south indicated that 22 inches of topsoil and 38 inches of subsoil were available (Livona fine sandy loam). Monuments depicting 18 inches of topsoil and 0 inches of subsoil and 28 inches of topsoil and 32 inches of subsoil were also observed (Noonan fine sandy loam and Flaxton fine sandy loam, respectively). The topsoil and subsoil depths on the stakes appeared consistent with the values associated with the soil mapping units on the detailed soil survey. Efforts were made to determine rooting depths on the sides of the soil monuments. Rooting depth varied by soil mapping unit. Roots were not observed deeper than about 1 foot on the 9/0 soil mapping unit, whereas roots were observed up to about six feet deep on the 22/38 soil mapping unit.

### STOCKPILES

Topsoil has been stripped along the east side of topsoil stockpile TS-43, which is located southeast of sediment pond P25-01. This stockpile will need to be relocated or respread to allow mining to advance westward.

MISCELLANEOUS

The purpose of this inspection was to evaluate the ecological condition of six proposed native grassland reference areas in Sections 12 and 19 of Permit NACC-1302. These sites were selected by the Coyote Creek Mine and their consultant, Kelly Krabbenhoft, KDK Consulting, a few years ago and Mr. Krabbenhoft collected vegetation sampling data from the proposed sites in 2022. The soil(s) associated with the proposed reference areas are included in the mine's detailed soil survey. The proposed native grassland reference areas all appeared to be in good ecological condition, meaning that the plant community species composition on each site was consistent with what should be growing on the site according to NRCS's Ecological Site Descriptions. The 2022 sampling data was evaluated at each site and the species composition listed was consistent with what was observed on each site. All of these proposed native grassland reference areas are in larger tracts of native grassland that are being managed with livestock grazing. Utilization levels were generally light to moderate on the sites in 2023 and all these sites yielded well in 2023. Kentucky bluegrass was present on all of the sites and was most prominent on the loamy and sandy ecological sites. Small patches of smooth brome were observed in or around all proposed ecological sites.

Figures 1 and 2, attached show the location of the proposed native grassland reference areas. Four of the proposed native grassland sites are in the NW¼ of Section 19. This includes a Sandy ecological site on soil mapping unit 47C (Livona fine sandy loam), a Shallow Loamy ecological site on soil mapping unit 132F (Cabby silt loam), a Sands ecological site on soil mapping unit 39B/D (Krem fine sandy loam), and a Claypan ecological site on soil mapping unit 21D (Janesburg silt loam). The two sites in Section 12 include a Thin Claypan ecological site on soil mapping unit 19C (Rhoades silt loam) and a Loamy ecological site on mapping unit 42B (Williams loam). There was a considerable amount of western snowberry on the Loamy ecological site in Section 12 so species composition on this site may vary considerably annually depending upon where yield sampling data are collected. Likewise, species composition differences were apparent within the Sands ecological site where sand and big bluestem species were more prominent on steeper sloping areas within the site. Photographs were taken at each of these sites to provide photo documentation of the vegetative communities. Mr. Krabbenhofft had recommended that enclosures not be placed on these sites and the Reclamation Division concurs with that recommendation as cattle tend to concentrate and adversely affect areas around fenced enclosures.

GENERAL

A GPS tracklog of the route traveled is on file with the Reclamation Division as are photographs taken.

  
\_\_\_\_\_  
Guy A. Welch  
Permit Administrator

  
\_\_\_\_\_  
Alexis A. Craig  
Environmental Scientist

Coyote Creek Mine Inspection Report

September 19, 2023

Page 3 of 5

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Figure 1: Proposed Native Grassland Ecological Sites in Section 19

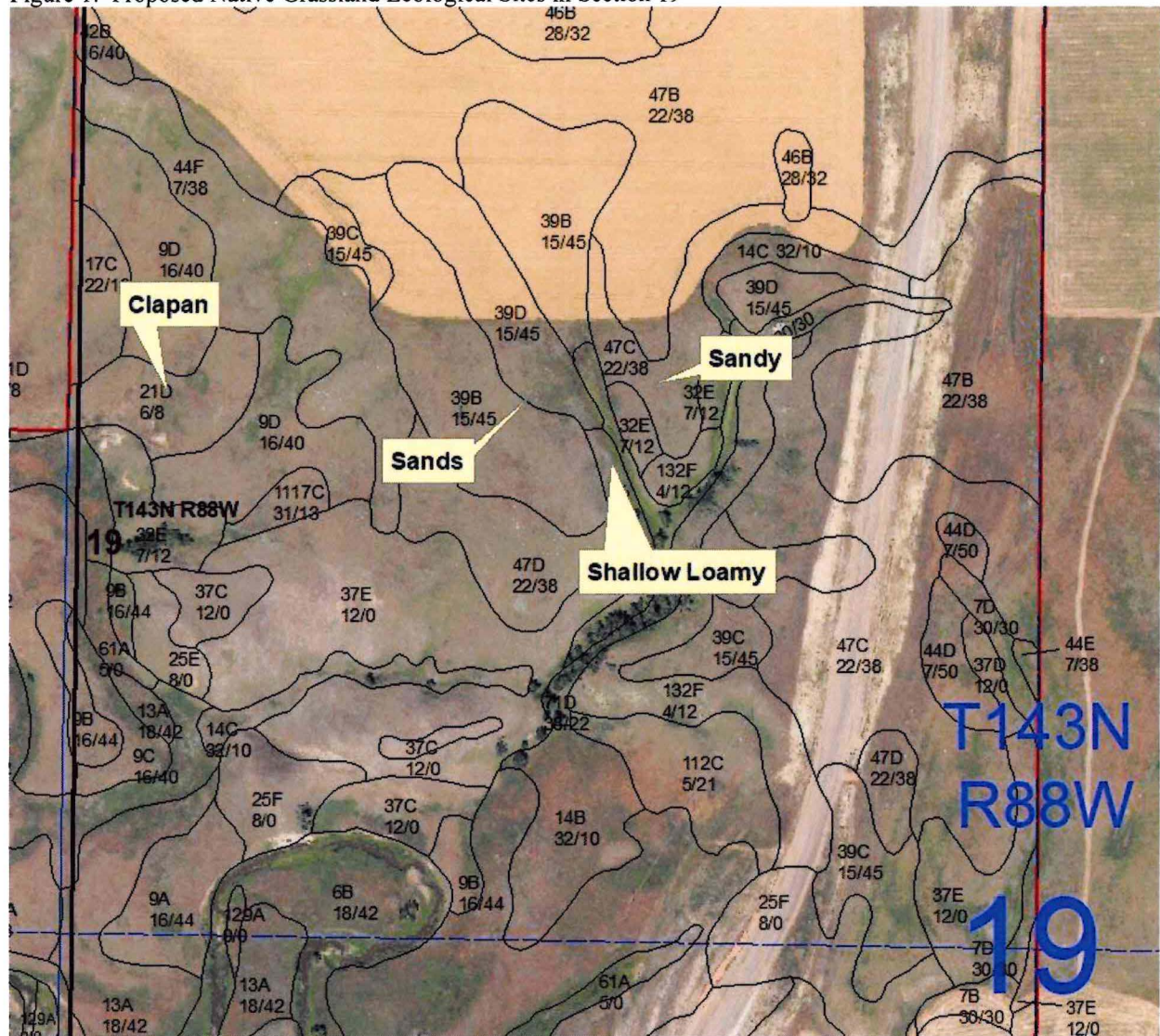
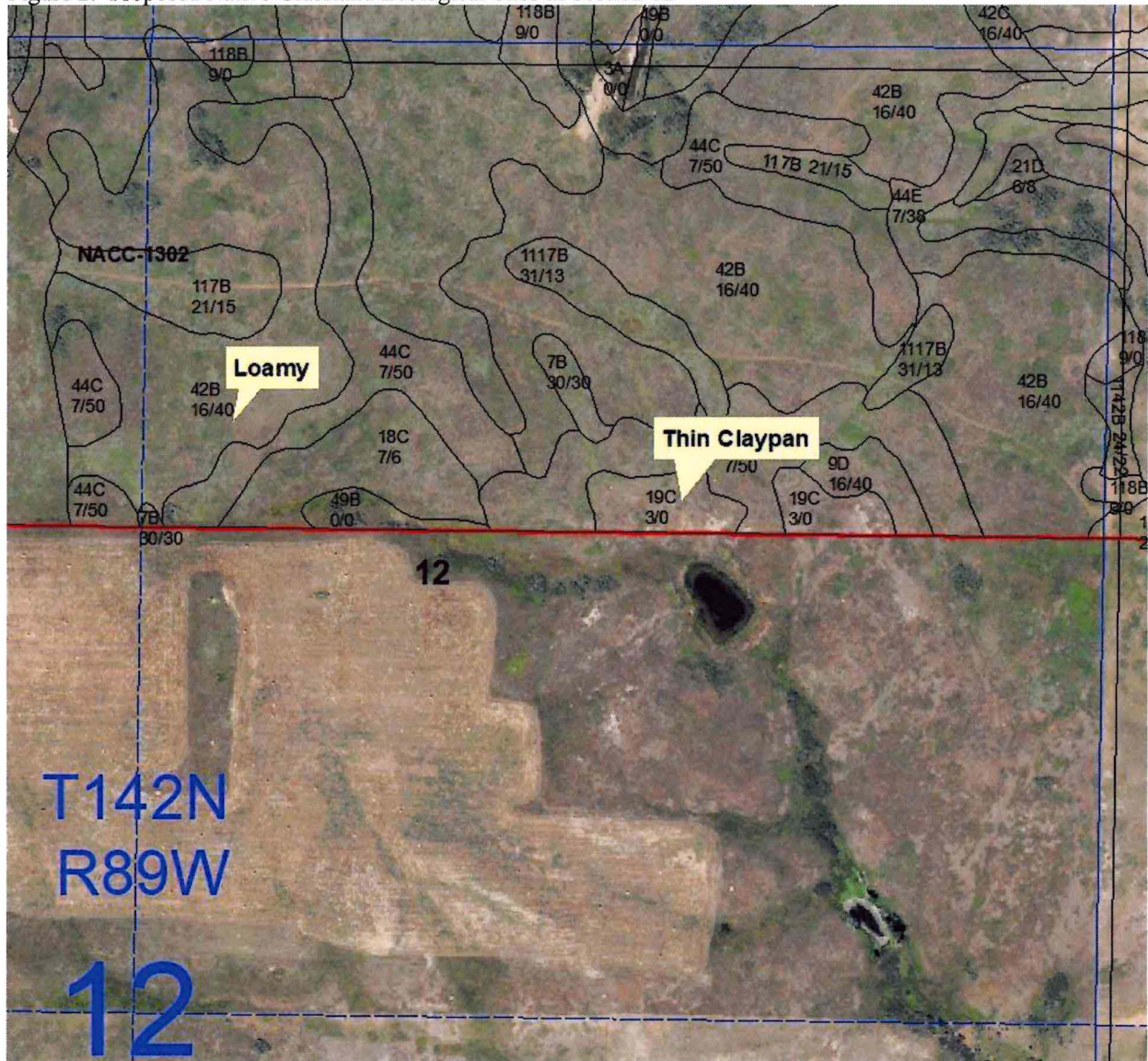


Figure 2: Proposed Native Grassland Ecological Sites in Section 12





# Public Service Commission

## State of North Dakota

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### INSPECTION REPORT

DATE OF INSPECTION: September 26, 2023

TYPE OF INSPECTION: Partial

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

PERMITS INSPECTED: NACC-1302

PERSONS ACCOMPANYING INSPECTORS: Jason Friedt and Tyler Barth

INSPECTION CONDITIONS: The inspection was conducted between 9:30 a.m. and 12:15 p.m. CDT. Skies were sunny, and the wind was from the southeast at 7 to 12 mph. The temperature ranged from 55 - 64° F. Access was unrestricted.

#### SIGNS and MARKERS

Mine entrance signs and permit boundary markers were in place at inspected access and boundary locations. The mine entrance signs contained the appropriate information as specified in NDAC 69-05.2-13-04(3).

#### STOCKPILES

SPGM stockpiles observed along the inspection route appeared to be well vegetated with no significant erosion features observed.

#### OVERBURDEN/COAL REMOVAL

The 101 dragline was down for maintenance near the middle of Section 25. Coal removal/hauling was occurring in the SW $\frac{1}{4}$  of Section 6.

#### 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. Coyote reported that samples were recently taken from numerous ponds, and discharge would occur once the sample results are received, if acceptable.

<b>Water Management Feature</b>	<b>Comment(s)</b>
P07-01	1 foot below PPE
P06-01	0.5 feet below PPE
P06-03	1 foot above PPE
P30-04	Above PPE, approximately 10 feet below spill elevation; PPE marker submerged
P30-02	At PPE
P10-01	2 feet below PPE
P10-02	Dry

Coyote reported that dredging is complete on sediment pond P30-02. The last remaining visible sediment will be removed with an excavator.

#### SUITABLE PLANT GROWTH MATERIAL REMOVAL/RESPREAD

The 301-excavator fleet was stripping subsoil in the W½ of Section 25, which was being hauled to subsoil stockpile SS-52 in Section 36. SPGM monuments were observed in the removal area, and it appeared that adequate subsoil had been salvaged in the areas that were completed. Coyote Creek Mine predicted that the subsoil removal would be completed in the coming days and an official subsoil removal approval request would be submitted to the Reclamation Division prior to overburden removal.

Topsoil respreading on grade approval COY-034 in Section 36 appeared to have been completed. Coyote reported that rock picking and mulching are still needed.

#### BACKFILLING & GRADING

Grade approval area COY-038 for approximately 10.86 acres located in Section 36, T143N, R89W, and grade approval area COY-039 for approximately 7.10 acres located in Section 6, T142N, R88W were inspected. The respective grade approval surfaces appeared smooth graded and generally conformed to the approved postmine topography. Coyote was authorized to respread SPGM once the Reclamation Division approves the grade approval requests. It was also advised that Coyote wait until the grade approval surfaces dry out before respreading SPGM since both areas were muddy.

#### REVEGETATION

Grade approval area COY-033 in the NE¼ of Section 36 was inspected with an emphasis on the northern half of the area where slopes exceed 15 percent. The grade approval area was well vegetated with a native grass seed mix. No significant erosion features were observed.

Grade approval area COY-035 in Section 6 was inspected. The grade approval area was well vegetated with oats. No significant erosion features were observed.

#### ROADS

Motor graders were observed blading, and a water truck was observed watering access roads to the active mine pits.

MISCELLANEOUS

A GPS track log of the inspection route and photographs taken during the inspection are on file with the Reclamation Division.



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Monty Johnson  
Environmental Scientist

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Coyote Creek Mine\Inspection Reports\2023\230926



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## INSPECTION REPORT

DATE OF INSPECTION: September 28, 2023  
TYPE OF INSPECTION: Partial  
PERMITTEE - MINE: Coyote Creek Mining Company, LLC - Coyote Creek Mine  
PERMITS INSPECTED: NACC-1302  
PERSONS ACCOMPANYING INSPECTORS: Jeremy Eckroth and Jason Friedt (CCMC) and Garret Hecker and Cory Barth (ND Department of Trust Lands)  
INSPECTION CONDITIONS: The inspection was conducted between 1:30 p.m. and 3:30 p.m. CDT. Skies were partly cloudy. The temperature ranged from 70 to 74° F. Access was unrestricted.

## REVEGETATION

The purpose of this inspection was to look at lands owned by the ND Department of Trust Lands (Trust Lands) at the Coyote Creek Mine (CCM) that have been affected by surface coal mining and reclamation operations. This would include a portion of the S½S½ of Section 8, T143N, R88W, the SE¼ of Section 24, T143N, R89W, the N½ and SW¼ of Section 36, T143N, R89W and the W ½ and W½E½ of Section 6, T142N, R88W, Mercer County. The N½N½ of Section 12, T142N, R89W and the N½ and SW¼ of Section 26, T143N, R89W are included in Permit NACC-1302 and owned by the ND Department of Trust Lands but these properties have not yet been affected by surface coal mining and reclamation operations.

The Trust Lands in Surface Coal Mining Permit NACC-1302 consisted of native grasslands with woodland communities comprised of hardwood draws and scattered patches of tall shrub and low shrub species, spring seeps and linear drainages classified as wetlands, four developed water resources (stock ponds) and roads and road right-of-way. Low shrubs, wester snowberry, not associated with tall shrubs or trees were classified as native grasslands. Likewise, temporary wetlands were mapped, characterized, and classified as the associated land use, native grassland. A developed water resources was present in each of the 4 quarters associated with the N½ of Sections 26 and 36. The post-mining land uses in each tract are very similar to that which existed prior to mining.

Coal removal activities have generally been completed in the SE¼ of Section 24 and the affected lands have been reclaimed to native grassland. Coal was removed from only a portion of the S½ of this tract and efforts were made to avoid disturbance to woody draws beyond the coal removal boundary. Two

sediment ponds, P24-01 and P24-02, and two topsoil stockpiles, TS-33 and TS-35 continue to affect this property as associated mining related disturbance. Reclamation is being delayed in a pit in the southwest corner of this property pending the U. S. Department of Interior's mine plan approval to mine federal coal in the SW¼ of Section 24.

Mining is advancing in a southwesterly direction in Sections 6 and 36. The pit in Section 36 is currently primarily located in the SE¼ of Section 36 and the pit in Section 6 has extended into Section 1. Numerous sediment ponds and stockpiles are located on lands where coal has not been removed in Sections 6 and 36. Some of these features, such as sediment pond P06-03, may remain in place for many years until the entire watershed has been mined and reclaimed. Mineral removal is planned to begin in Section 26 in 2028 and the Trust Land in Section 12 is to be primarily affected by surface disturbance only.

Permitted lands in Section 8, T143N, R88W have been affected by a life-of-mine primary haul road. This tract was not evaluated or observed during this inspection.

Reclaimed land in Sections 24, 36, and 6 were inspected. Figure 1, attached, provides a GPS tracklog of the route traveled during this inspection on 2022 NAIP aerial imagery. Some of the disturbed lands on all these tracts have been reclaimed and seeded to the approved native grassland seed mixture. These native grasslands were planted to a seed mixture that was initially intended to be eliminated to allow CCMC to control invasive non-native grass species prior to planting the approved native grassland seed mixture. This was allowed to facilitate grazing management sooner and to minimize reclaiming small, isolated tracts of native grassland that could only be managed as hayland. However, the species in the initial seeding established successfully and smooth bromegrass, the primary invasive non-native grass species, was spot sprayed and the entire established stand of vegetation was not eliminated as originally planned. Native species not included in the initial seeded were subsequently planted in 2023. The initial seed mixture consisted of slender wheatgrass (5 lbs/ac), western wheatgrass (10 lbs/ac), sand dropseed (0.5 lbs/ac), and switchgrass (4 lbs/ac). Species planted this year to complete the native grassland planting were green needlegrass (1.05 lbs/ac), blue grama (0.9 lbs/ac), sideoats grama (2.25 lbs/ac), little bluestem (1.5 lbs/ac), big bluestem (1.5 lbs/ac), prairie sandreed (1.0 lbs/ac), and three native forb species (0.24 lbs/ac).

As previously mentioned, species included in the initial seed mixture have successfully established. Slender wheatgrass appears more prominent on the reclaimed lands in Section 36 compared to Section 24. There was evidence of smooth bromegrass spot spraying efforts in Sections 24 and 36. The established vegetation was cut and baled earlier in the growing season. Species not included in the initial seeding were planted after haying operations had been completed. Blue grama, sideoats grama, big bluestem, and prairie sandreed were observed establishing in the seedings in Section 36. These species did not appear as prominent in the area inspected in Section 24. The reclaimed lands in Section 6 were not closely inspected but a grade approval that was planted to a mixture of oats and barley this summer was observed. Seed heads were beginning to emerge on the oats and barley. The established vegetation on all inspected areas was sufficient to control erosion and there was no evidence of any erosion having occurred, which is impressive given the slope steepness on some of these reclaimed lands.

Subsoil was being stripped from the SW¼ of Section 25. This material was being respread on grade approval COY-038, which is in the SE¼ of Section 36. A pre-mine road in the S½ of Section 36 is being replaced through this grade approval. Soil monuments in W½ of Section 25 were observed and it was explained that topsoil and subsoil removal depths are determined based upon a detailed soil survey. Topsoil and subsoil removal depths are written on stakes on the monuments. The soil monuments

document or allow one to realize actual topsoil and subsoil removal depths. Kentucky bluegrass was observed as being prevalent on undisturbed native grassland in the SW¼ of Section 25.


The dragline was operating in the SW¼ of Section 25. Coal loading operations were not observed. Deep lift of suitable plant growth material and overburden pre-benching operations were explained by Mr. Eckroth.

WILDLIFE

A flock of Killdeers, presumably migrating, was observed in the S½ of Section 36.

GENERAL

A GPS tracklog of the route traveled during this inspection is on file with the Reclamation Division as are photographs taken.

  
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Permit Administrator

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Coyote Creek Mine\Inspection Reports\2023\230928





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### INSPECTION REPORT

DATE OF INSPECTION: October 12, 2023

TYPE OF INSPECTION: Partial

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

PERMITS INSPECTED: NACC-1302

PERSONS ACCOMPANYING INSPECTORS: Tyler Barth and Jason Friedt

INSPECTION CONDITIONS: The inspection was conducted between 09:50 a.m. and 12:05 p.m. CDT. The skies were cloudy. The temperature ranged from 41°F to 48°F, and the wind was from the east-northeast at 16 mph. Access was unrestricted.

### SIGNS & MARKERS

Mine entrance signs containing the appropriate MSHA identification, permit number, operator, and contact information required by NDAC 69-05.2-13-04 were observed at entrances to the mine. Permit boundary markers were observed throughout the mine along the inspection route.

### OVERBURDEN/COAL REMOVAL

The 101 dragline was observed idle in the SW $\frac{1}{4}$  of Section 25. A Komatsu excavator was observed removing prebench overburden in the NW $\frac{1}{4}$  of Section 36 and that material was being hauled to the SE $\frac{1}{4}$  of Section 25. The 401 front-end loader was removing overburden along the south quarter line of Section 6 and that material was being hauled to a fill area SE $\frac{1}{4}$  of Section 6. Coal loading operations were not observed during the inspection.

### SURFACE WATER MANAGEMENT

No sedimentation ponds were observed or reported being discharged during the inspection. The following ponds are listed in the order inspected and their water elevations are noted in relation to Permanent Pool Elevation (PPE) or their spillway (spill).

Sediment Pond	Elevation	Comment(s)
P25-02	2 feet below PPE	
P06-01	1 foot below PPE	
P07-01	2 feet below PPE	

P06-03	6 inches below PPE	Water was observed as turbid.
P30-03	4 feet below PPE	PPE marker is missing.
P30-02	6 feet below PPE	CCMC plans to use a long-reach backhoe to clear sediment that the dredge was unable to remove ( <b>Figure 1</b> ).
P10-02	Near dry	
P10-01	4 feet below spill	
P31-01	6 feet below spill	PPE marker is missing; CCMC plans to dredge the pond next week.

Two corrugated metal culvert pipes were staged southwest of sedimentation pond P06-03 in the NW¼ of Section 6. Mr. Barth stated that the two culverts will be installed within the access road to the embankment of pond P06-03 in order to protect the access road from future washouts.

SUITABLE PLANT GROWTH MATERIAL (SPGM) REMOVAL/RESPREAD

An SPGM removal request submitted on October 12, 2023, consisting of approximately 20.1 acres spread across three tracts located in the SW¼ of Section 25 and NW¼ of Section 36, T143N, R89W was briefly observed. Multiple stripping monuments were observed in the removal area. The topsoil and subsoil depths on the stakes appeared consistent with the values associated with the soil mapping units on the detailed soil survey, and it appeared that an adequate amount of subsoil had been salvaged. The SPGM that was removed was reported to have been hauled to approved grade approvals COY-036 and COY-037, topsoil pile TS-41, and subsoil pile SS-54. An office review is required prior to approval of this removal request. This request area was adjacent to a lift request dated and approved on October 11, 2023 for the use of overburden to bridge a drainage area in the SW¼ of Section 25 to allow equipment to haul prebench material to the north.

An SPGM removal request submitted on October 12, 2023, consisting of approximately 25.9 acres located in the W½ of Section 25 and SW¼ of Section 24, T143N, R89W, was briefly observed. The request area was previously observed on September 26, 2023 during the end of removal operations. Multiple stripping monuments were observed in the removal area, and it appeared that an adequate amount of subsoil had been salvaged. The SPGM removed was reported as hauled to approved grade approvals COY-034 and COY-038, topsoil pile TS-41, and subsoil pile SS-54. An office review is required prior to approval of this removal request.

Grade approval request COY-038, approved on September 27, 2023 for approximately 10.86 acres in the SE¼ of Section 36 was briefly observed during the inspection. The request area was recently respread with SPGM. A John Deere tractor and a skidsteer with rock picking attachments were observed picking rocks within the respread area.

STOCKPILES

SPGM stockpiles observed along the inspection route appeared to be well vegetated with no significant erosion features observed.

BACKFILLING AND GRADING

Future grade approval request area COY-040 located in the NW¼ of Section 6 was briefly observed. CCMC has not submitted this request area to the PSC, but Mr. Barth stated they expect to submit the

grade approval request COY-040 within a week. The tract appeared to be in good condition, and the tract will be inspected once COY-040 has been submitted.

Future grade approval request area COY-041 located in the NW¼ and S½ of Section 6 was briefly observed. CCMC has not submitted this request area to the PSC, but Mr. Barth stated they expect to submit COY-041 within a week. The tract appeared to have steep slopes within the southeast portion of the request area, and this portion appeared to require more protection from surface water erosion. Mr. Barth stated CCMC is aware that steep slopes within this area will require more erosion control features than standard applications until successful revegetation conditions have been established.

### REVEGETATION

The grade approval COY-032, approved June 20, 2022 for approximately 9.9 acres in the center region of Section 36 was observed consisting of a cover crop with a stand of approximately 8 inches in length.

The grade approval COY-039, approved October 2, 2023 for approximately 7.10 acres in the NW¼ of Section 6 was briefly observed. The approved request area has been respread with SPGM and seeded.


The grade approval COY-035, approved May 9, 2023 for approximately 16.14 acres in Section 6 appears to have a cover crop with a stand of approximately 8 to 12 inches in length. The respread area is planned to be seeded with the native grassland seed mixture in the spring of 2024.

### ROADS

The primary haul road was observed to be in good condition. No fugitive dust was observed while driving the haul road.

### MISCELLANEOUS

A GPS tracklog of the route traveled during the inspection and additional photographs taken are on file with the Reclamation Division.

  
Brandon S. Myran  
Environmental Engineer

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**Figure 1:** Sedimentation Pond P30-02 located in the NW¼ of Section 30 was observed to have sediment within the pond basin. Pond P30-02 was previously dredged in the summer of 2023 but the dredger was unable to successfully remove all of the sediment; therefore, CCMC plans to utilize a long reach backhoe to remove the remaining sediment.

