

**Thompson, Pamela J.**

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**Sent:** Wednesday, April 10, 2024 8:49 AM  
**To:** Thompson, Pamela J.  
**Subject:** Filing Accepted for Case: 08-2024-CV-00694; Casey Voigt, et al. vs. North Dakota Public Service Commission, et al.; Envelope Number: 5616692

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# Filing Accepted

Envelope Number: 5616692  
Case Number: 08-2024-CV-00694  
Case Style: Casey Voigt, et al. vs. North Dakota Public Service Commission, et al.



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Filing Details	
<b>Court</b>	Burleigh County
<b>Case Number</b>	08-2024-CV-00694
<b>Case Style</b>	Casey Voigt, et al. vs. North Dakota Public Service Commission, et al.
<b>Date/Time Submitted</b>	4/9/2024 6:43 PM CST
<b>Date/Time Accepted</b>	4/10/2024 8:48 AM CST
<b>Accepted Comments</b>	
<b>Filing Type</b>	Exhibit
<b>Filing Description</b>	CR Exhibit 92 - Exhibit PSC-10 - 2023 Soil Handling Plan - Approval Letter
<b>Activity Requested</b>	EFileAndServe
<b>Filed By</b>	Pamela Thompson
<b>Filing Attorney</b>	John Schuh

Document Details	
<b>Lead Document</b>	CR Exhibit 92 - Exhibit PSC-10 - 2023 Soil Handling Plan - Approval Letter.pdf
<b>Lead Document Page Count</b>	1
<b>File Copy</b>	<a href="#">View Document</a>

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## Public Service Commission State of North Dakota

### COMMISSIONERS

Randy Christmann  
Sheri Haugen-Hoffart  
Julie Fedorchak

600 East Boulevard, Dept. 408  
Bismarck, North Dakota 58505-0480  
Web: [www.psc.nd.gov](http://www.psc.nd.gov)  
E-mail: [ndpsc@nd.gov](mailto:ndpsc@nd.gov)  
Phone: 701-328-2400  
ND Toll Free: 1-877-245-6685  
Fax: 701-328-2410  
TDD: 800-366-6888 or 711

*sent via email only*

May 30, 2023

Jason Sailer, P.E.  
Mining Engineer  
Coyote Creek Mining Company, L.L.C.  
6502 17<sup>th</sup> Street SW  
Zap, ND 58580  
[jason.sailer@nacoal.com](mailto:jason.sailer@nacoal.com)

Dear Mr. Sailer:

The Reclamation Division has reviewed the April 5, 2023 Coyote Creek Mining Company, L.L.C. (Coyote Creek) 2023 Soils Handling Plan for topsoil and subsoil removal for mining disturbance and associated disturbance. Coyote Creek demonstrates that approximately 158 acres of topsoil and 202 acres of subsoil will be stripped in the 2023 stripping increment. The 2023 Soils Handling Plan for Coyote Creek is approved, except for Coyote Creek's request to waive approval of subsoil removal operations as noted below.

The 2023 Soils Handling Plan demonstrates that a 2.4 percent subsoil deficit (131,543 cubic yard shortage) existed for respreading subsoil on 1,287.29 acres for mixing agreement ownership in the Main Body of Permit NACC-1302 as of January 1, 2023. The 2022 Soils Handling Plan projected an end of 2022 subsoil surplus of 3.4 percent. The plan projects an end of 2023 subsoil surplus of 0.3 percent (19,691 cubic yard excess) following salvage of 984,721 cubic yards of subsoil from the 1,094,135 cubic yards of subsoil available in the 2023 removal areas. Coyote Creek predicts salvaging less subsoil than what is available by estimating that only 90 percent of the available subsoil is operationally viable to salvage, which results in a conservative estimate for predicting the end of 2023 subsoil surplus.

Coyote Creek's request to waive the subsoil removal approval process as allowed by NDAC 69-05.2-15-02(2)(a) is not approved based on the 2023 Soils Handling Plan showing an existing subsoil deficit and predicts a subsoil surplus of 0.3 percent by the end of 2023. Coyote Creek Mine continues to selectively handle good quality overburden to reduce the actual suitable plant growth material (SPGM) respread depths required by graded spoil properties compared to the projected SPGM respread depths depicted in Section 2.5.7 (Projected Soil Respread Depth Map) in Permit NACC-1302. Approval to waive the subsoil removal approval process can be reevaluated during the next soils handling plan if Coyote Creek can demonstrate a suitable subsoil surplus. Commission inspectors must approve all subsoil and/or other suitable strata (deep lift) removal operations before further mining disturbance can be conducted.

Please contact us with any questions.

Sincerely,

A handwritten signature in black ink that reads "Zanna Brinkman".

Zanna Brinkman  
Director  
Reclamation Division

cc via email only:      Jeremy Eckroth ([Jeremy.Eckroth@nacoal.com](mailto:Jeremy.Eckroth@nacoal.com))  
Donn Steffen ([Donn.Steffen@nacoal.com](mailto:Donn.Steffen@nacoal.com))  
Derrick Braaten ([derrick@braatenlawfirm.com](mailto:derrick@braatenlawfirm.com))  
Desirae Zaste ([desirae@braatenlawfirm.com](mailto:desirae@braatenlawfirm.com))  
Casey Voigt ([vv ranch4@westriv.com](mailto:vv ranch4@westriv.com))