

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Coyote Creek Mining Company, L.L.C
Revision 13, Permit NACC-1302
Application

Case No. RC-24-244

REVISION OF PERMIT TO ENGAGE IN
SURFACE COAL MINING AND RECLAMATION OPERATIONS

October 9, 2024

Based on the application for **Revision 13 to Permit Number NACC-1302** submitted by Coyote Creek Mining Company, L.L.C. (CCMC) for the Coyote Creek Mine on June 18, 2024, and as revised through August 30, 2024, and all information and documentation contained therein, the North Dakota Public Service Commission (Commission) finds that the application meets all applicable requirements of Chapter 38-14.1 of the North Dakota Century Code (NDCC) and Article 69-05.2 of the North Dakota Administrative Code (NDAC). On the basis of the information set forth in the application or from that otherwise available and known by the applicant, the Commission finds that:

Finding No. 1. The permit application is accurate and complete and complies with the requirements of NDCC Chapter 38-14.1 and NDAC Article 69-05.2 [NDCC 38-14.1-21(3)(a)].

The applicant verified all information included in the permit application is true and correct to the best of their knowledge. Permit NACC-1302 will allow surface coal mining and reclamation operations on 8,443.616 acres of land for the Coyote Creek Mine in Mercer County, North Dakota. Permit NACC-1302 includes the 84.24 acres previously approved by Permit NACC-1301 for the mine's shop/office area. Commission staff conducted completeness and technical reviews to ensure the required information was provided, and the mining and reclamation plans meet all applicable requirements. The Reclamation Division sent completeness and technical review letters to the applicant on June 24, 2024; June 27, 2024; July 26, 2024; and August 27, 2024. Responses to each letter were received and appropriate changes were made to the application to address the concerns that were noted. The applicant provided leases and other documents showing that they have the right to mine the lands where coal removal is proposed and to disturb the surface of other lands in the permit area. The Commission concludes that the application is now accurate and complete.

The applicant published the required notices in the Hazen Star and Bismarck Tribune and the Commission sent notices to all surface owners that will be affected by Permit NACC-1302 and to numerous local, state, and federal agencies. Advisory committee members also reviewed relevant portions of the application and comments were received from several agencies. No objections or requests for an informal conference were received on this application. However, the Commission received comments on the

application on behalf of Casey and Julie Voigt from their attorney on August 26, 2024. The Commission responded to their comments on September 25, 2024.

The applicant provided evidence that it has the right to disturb the surface of all lands within the permit area. The applicant has these rights based on coal and surface leases, copies of which are included in the application. However, a coal lease was not obtained for Section 31 and therefore the mining plans do not show any coal mining in that section. In addition, the applicant has not obtained the right to mine all coal on tracts where the United States of America owns the coal interest. No mining of unleased federal coal tracts is proposed at this time, only surface disturbances are proposed over these tracts. However, the applicant is planning to apply for federal coal leases in the future. Before overburden and coal removal is allowed to begin on any of the federal coal tracts, a federal coal lease must be issued and the Department of the Interior needs to approve the mine plan covering federal coal tracts that will be mined as required by 30 CFR 746.11. This section of federal regulations states no person shall conduct surface coal mining and reclamation operations on lands containing leased federal coal until the Secretary has approved the mining plans. Special Condition No. 1 attached to the original permit continues to prohibit overburden and coal removal from these tracts until the appropriate leases are issued, the permit is revised to provide the detailed operations and reclamation plans for mining the federal coal tracts, and the Department of the Interior approves the mine plan.

On November 12, 2020, the Coyote Creek Mining Company, LLC received federal Coal Lease NDM 110277 from the Bureau of Land Management for the SW¼ of Section 24 and the SE¼ of Section 26, T143N, R89W and mine plan approval was granted on March 14, 2024. The SW¼ of Section 24 contains a woodland exclusion area which restricts mining to 124 acres in this section.

Finding No. 2. The applicant has demonstrated that reclamation as required by NDCC Chapter 38-14.1 and NDAC Article 69-05.2 can be accomplished under the reclamation plan contained in the permit application [NDCC 38-14.1-21(3)(b)].

Slightly more than half of the land in the permit area will be mined during the nearly 30 years of mining described in the permit. Additional areas will be disturbed for support activities including soil and overburden stockpiles, access and haulroads, and water management structures. Overburden from the coal removal areas will be removed using a truck/shovel fleet and one large dragline. Reclamation of disturbed areas will be carried out using reclamation procedures that have been successful in the past and satisfy the requirements of the North Dakota law and rules. Reclamation methods and practices that will be used by the applicant have proven effective in the past. Similar lands have been surface mined and successfully reclaimed at the former Indian Head and Glenharold Mines in Mercer County using comparable reclamation methods.

The applicant has demonstrated that sufficient soil materials are available to meet the soil redistribution requirements of NDAC 69-05.2-15 and the revegetation requirements of NDAC 69-05.2-22. The application includes information on sources of non-sodic glacial till material that may be selectively handled to cover sodic spoils or potentially used as other suitable strata to supplement subsoil materials in order to achieve the required respread thickness over sodic spoil material. The actual soil removal volumes and expected respread depths will be calculated annually and presented in an annual soils handling plan prepared by the applicant.

The proposed postmining topography that is shown for the mining that will occur through 2040 meets the requirements of NDCC 38-14.1-24(3) and NDAC 69-05.2-21-02. The average postmining slope proposed for the mining disturbance area is lower than the average pre-mine slope in this area. No thin overburden exists within this permit area. The reclaimed lands will be capable of supporting the premine uses, or higher or better uses, that existed prior to mining. The predominant premining land uses in the permit area are native grassland (6,892 acres) and cropland (159 acres for annual crops and 855 acres for hay crops). Lesser amounts are used for shelterbelts, fish and wildlife habitat (wetlands), woodlands, developed water resources, and roads. The acreage of each postmining land use will be somewhat similar to the premine conditions; however, the cropland acreage will increase by about 513 acres, while hayland will decrease by about 48 acres and the native grassland acreage will decrease by about 483 acres. There is one occupied farmstead located in the permit area. At this time, the applicant does not propose to disturb the farmstead or to conduct mining operations within 500 feet of any farm building.

The applicant also evaluated premine lands that are not currently being used for cropland to identify areas with soils, slopes and size suitable to be considered potential cropland. The only potential cropland area identified in the permit area was found in Section 36, T143N, R89W. An equivalent sized area of potential cropland has been delineated on the postmining land use map within a tract that will be returned to native rangeland. The soil respread depth for the potential cropland area will be determined in the annual soils handling plan in a manner to ensure that the premine capabilities are restored as required by NDCC 38-14.1-24(2).

With regard to the reclamation schedule the applicant has demonstrated the need for variances from the contemporaneous reclamation requirements that normally require rough grading to be completed within 180 days of coal removal, NDAC 69-05.2-21-01(2), and that all reclamation efforts through the initial seeding be completed within three years of completion of mining activities, NDCC 38-14.1-24(14). The requested variances described in the application are related to the backfill area required to accommodate pre-benching operations and to incorporate the box cut spoils into the postmining topography. The requested variances from the 180-day grading and three-year seeding requirements have been justified and have been previously approved by Commission as allowed by NDAC 69-05.2-21-01(2) and NDCC 38-14.1-24(14).

Revision 13 has not requested any new variance areas from the contemporaneous reclamation requirements that normally require rough grading to be completed within 180 days of coal removal, NDAC 69-05.2-21-01(2), and that all reclamation efforts through the initial seeding be completed within three years of completion of mining activities, NDCC 38-14.1-24(14). Revision 13 updates and modifies existing variance areas that have been previously approved. The revised variance areas have been justified and are being approved by Commission as allowed by NDAC 69-05.2-21-01(2) and NDCC 38-14.1-24(14).

Finding No. 3. Based on the assessment of the probable cumulative impacts of all anticipated mining in the area, the proposed operation has been designed to prevent material damage to the hydrologic balance outside the permit area [NDCC 38-14.1-21(3)(c)].

An assessment of the probable cumulative hydrologic impacts of all anticipated mining in the area has been made as required by NDCC 38-14.1-14(1)(o). The Commission finds that the proposed operation has been designed to maintain the quantity, quality, and hydrologic regime of surface and ground water systems in the area. The cumulative effects of all existing and proposed mining operations should not damage the hydrologic balance outside the permit area. The detailed cumulative hydrologic impact assessment is on file with Permit NACC-1302 in the Commission's offices.

Finding No. 4. Lands within the permit area are not within an area designated unsuitable for surface coal mining operations, nor within areas under study or administrative proceedings under a petition to have an area designated as unsuitable for surface coal mining operations [NDCC 38-14.1-21(3)(d)].

None of the lands in Permit NACC-1302 have been designated unsuitable for surface coal mining operations pursuant to NDCC 38-14.1-05, nor are they within an area under study or administrative proceedings under a petition to have an area designated as unsuitable for surface coal mining operations.

Finding No. 5. The proposed mining operations will not interrupt, discontinue, or preclude farming on alluvial valley floors that are irrigated or naturally sub-irrigated or materially damage the quantity or quality of water in surface or underground water systems that supply these alluvial valley floors [NDCC 38-14.1-21(3)(e)].

Based on an examination of the geologic and geomorphic characteristics, soils, land use, and the water quality and quantity of streams occurring within or adjacent to the permit area, it has been determined that there are no alluvial valley floors within or adjacent to the permit area. In addition, portions of Coyote Creek near the permit area were previously evaluated for alluvial valley floor potential and Commission staff determined that this creek does not have the characteristics to be considered an alluvial valley floor. Detailed alluvial valley floor investigation reports and determinations are on file with the Commission.

Finding No. 6. In cases where the mineral estate has been severed from the surface estate, the applicant complied with the requirements of NDCC 38-18 [NDCC 38-14.1-21(3)(f)].

The applicant included copies of the necessary leases and other documents in the permit application demonstrating compliance with the North Dakota Surface Owner Protection Act, North Dakota Century Code Chapter 38-18. This documentation included copies of notice that was given to the surface owners before the application was filed with the Commission.

Finding No. 7. Lands within the permit area are not subject to the prohibitions or limitations of NDCC 38-14.1-07 except for areas that receive specific approvals after complying the applicable review procedures of NDAC Chapter 69-05.2-04 [NDAC 69-05.2-10-03(6)(a)].

Lands in the permit area are:

- a) Not on any lands within the boundaries of units of the North Dakota Park System, the National Park System, the National Wildlife Refuge Systems, the National System of

Trails, the National Wilderness Preservation System, the National Wild and Scenic Rivers System, including study rivers designated under Section 5(a) of the Wild and Scenic Rivers Act, and national recreation areas.

- b) Not on any federal lands within the boundaries of any national forest.
- c) Not within 300 feet of any publicly owned park or places included in the State Historic Sites Registry or the National Register of Historic Places. A cultural resource survey and inventory of the area being permitted was conducted. All sites that were identified have been properly tested and evaluated. Several historic and prehistoric sites were identified, and several prehistoric sites have been determined to be eligible for listing on the National Register of Historic Places. The field work for mitigation of one of the eligible sites, 32ME2350, was completed in 2013 and the mitigation report has been accepted by the State Historical Society and the site has been cleared for disturbance. All other eligible sites will be either avoided or mitigated. A cultural resource management plan and data recovery plan was developed for the remaining eligible sites with input from the State Historical Society and Native American consultation from the Three Affiliated Tribes. The cultural resource management plan was approved by the State Historical Society in a letter to Coyote Creek Mining Company dated May 27, 2014. Coyote Creek Mining Company has committed to reporting, testing and mitigating, if necessary, any previously unrecorded archeological, cultural, or historical materials that may be discovered as a result of mining related activities.
- d) Within 100 feet of the outside right-of-way line of public roads. However, no disturbances will occur within 100 feet of the outside right-of-way of any public road unless the road authority, Mercer County, has temporarily vacated the road right-of-way or granted permission to conduct mining operations within 100 feet of the road right-of-ways. The approvals previously obtained for public roads within the Permit NACC-1301 area have been included in Permit NACC-1302. The applicant will request additional road right-of-way closures in the future. Special Condition No. 2 attached to the original permit requires Coyote Creek Mining Company to provide the Commission with copies of the road authority's approval documents and include the written findings made by the road authority. North Dakota Administrative Code Section 69-05.2-04-01.3 requires the Commission to make a written finding on protecting the interests of the public and affected landowners if this is not included in the road authority's approval process. Special Condition No. 6 being added to Revision 13 requires the CCMC to provide the Commission with copies of the road authority's approval documents to relocate County Road No. 13 and Special Condition No. 7 being added to Revision 13 requires CCMC to include detailed design plans for relocated County Road No. 13 and haul roads and corridors passing over or under existing or relocated County Road No. 13.
- e) Includes an occupied dwelling that is part of a farmstead belonging to Casey and Julie Voigt in the SW $\frac{1}{4}$ of Section 31, T143N, R88W. However, coal mining operations will not occur within 500 feet of the occupied dwelling, or within 500 feet of any farm building. In the future the applicant may exercise an option in the lease obtained from the building owners to purchase the buildings. No other occupied buildings are located within the permit area.

- f) Not within 300 feet of any public building, school, church, community, or institutional building.
- g) Not within 100 feet of any cemetery.

Finding No. 8. With respect to prime farmland within the permit area, the post-mining land use for the pre-mining prime farmland will be cropland, the reclamation plan was reviewed by the Natural Resources Conservation Service (NRCS) and their suggestions were considered, operations will be conducted in compliance with NDAC 69-05.2-26 and NDCC 38-14.1, and the applicant has the technological capability to restore the productivity on reclaimed lands [NDAC 69-05.2-10-03(6)(c) and NDCC 38-14.1-21(6)].

The applicant included a prime farmland reclamation plan with the submittal of the original permit that satisfies the requirements of NDAC 69-05.2-09-15 and the performance standards of NDAC Chapter 69-05.2-26. The postmining land use for the prime farmlands that will be disturbed is cropland. The prime farmland tracts in the permit area will be affected by associated disturbances only, not actual mining. Based on the type of disturbances no separate handling for soils from prime areas is planned. The NRCS provided review comments on the application and did not object to mixing prime and nonprime soils, provided the selective handling plan for soil material as outlined in the application is followed. The selective soils handling plan in the permit application identifies soils and soil depths suitable for salvage and use in reclamation. The prime farmland areas will be reclaimed in the same location, with the same topography that existed prior to disturbance. The applicant is responsible for replacing soil materials and managing reclaimed lands as necessary to meet productivity standards. The reclamation methods that will be used by the applicant for associated disturbance areas have been proven to be successful in the past at other mines. Therefore, the Commission finds the technological capability exists to restore the productivity of reclaimed land to a level that is equal to or greater than non-disturbed prime farmland in the surrounding area under equivalent management practices.

Finding No. 9. The operations will not affect the continued existence of threatened or endangered species or result in the destruction or adverse modification of their critical habitats [NDAC 69-05.2-10-03(6)(d)].

Surface coal mining and reclamation activities will not jeopardize or adversely affect any proposed, threatened or endangered species or proposed or designated critical habitat. No federal threatened, endangered or proposed species have been observed within or adjacent to Permit NACC-1302, and there are no proposed or designated critical habitats in or adjacent to the permit.

The U.S. Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC) identifies five threatened or endangered species and designated piping plover critical habitat in Mercer County, North Dakota. The Piping Plover, Rufa Red Knot, and Dakota skipper are listed Threatened and the Whooping Crane and Northern Long-eared Bat are listed Endangered. The Monarch Butterfly is a Candidate species.

The permit area does not contain suitable whooping crane stopover habitat, and the permit is not within the whooping crane breeding or wintering ranges. It is conceivable that whooping cranes could fly over the permit and that they could utilize the upland

native grassland and cropland sites, but this is unlikely given the absence of suitable wetland habitat in the permit area. Therefore, the Commission finds that the proposed mining and reclamation activities in Permit NACC-1302 will have "no effect" to the continued existence of whooping crane.

There is no suitable habitat for the piping plover within or adjacent to the permit area, which is generally characterized as sparsely vegetated shorelines usually associated with alkaline wetlands and sandbars and shorelines associated with major river systems. The Missouri River and Lake Sakakawea, designated piping plover critical habitat, are located at least 17 miles from the permit and the balance of the designated critical habitat is located north and east of the Missouri River. There are no wetlands with sparsely vegetated shorelines in or adjacent to the permit and the Commission finds that the proposed mining and reclamation activities will have "no effect" to the continued existence of the piping plover.

The Northern Long-Eared Bat is a medium sized bat that is not common in North Dakota. Its historic range includes essentially all of North Dakota and it has been documented in the Little Missouri Badlands, Missouri River Valley, and the Turtle Mountains. The current range of the species corresponds with major river systems in North Dakota, including the Knife River and Coyote Creek floodplains. There is no known hibernacula in North Dakota, according to the federal register final rule listing. This species spends its winters in caves and underground mines, called hibernacula, and during the summer it roosts singly or in colonies underneath bark, in cavities or crevices of both live and dead trees. This species has been listed Endangered because of its decline due to a disease termed White-Nose Syndrome (WNS). If this disease had not emerged, it is unlikely the Northern Long-Eared Bat would be listed. The permit area contains wooded draws and field windbreaks with trees that could potentially provide habitat but very few acres of deciduous woodlands are to be disturbed and there is no wintertime hibernacula present. The permitted portion of the Coyote Creek floodplain supports only a few scattered trees along the stream channel and no additional mining related disturbance is planned within the Coyote Creek and Knife River floodplains during the next term of the permit. Coyote Creek Mining Company (CCMC) has included language in the permit stating that they will limit their impact to trees during the maternity period from June 1 through July 31. Therefore, it is highly unlikely that mining will have any effect on the Northern Long-Eared Bat and the Commission finds that the proposed mining and reclamation activities will have "no effect" on the continued existence of the Northern Long-Eared Bat. There is no proposed or listed designated critical habitat for the Northern Long-Eared Bat in North Dakota.

The Dakota skipper is listed as threatened in Mercer County. There is no designated critical habitat for the Dakota skipper in Mercer County. The Dakota skipper is a small butterfly that requires high quality mixed or tallgrass prairie. Two habitat types have been identified as suitable habitat for this species. A moist lowland bluestem prairie habitat type with wood lily, harebell and smooth camas and a relatively dry upland prairie habitat type found on ridges and hillsides dominated with bluestem grasses, needlegrasses and desirable native forbs such as purple coneflower. The permit and adjacent area do not contain any moist lowland bluestem prairie habitat and the dry upland sites are generally in reduced ecological condition according to native grassland sampling data in the permit. Most of the native grassland in the permit had an NRCS Range Similarity Index value less than 50%, which is its departure from the established Historic Climax Plant Community. One exception to this was a shallow loamy site in the

NW1/4 of Section 7 that had a similarity index of 62.6%. CCMC completed Dakota skipper occupancy surveys in 2022 and 2023 in areas determined to have the most suitable habitat and no Dakota skippers were found. CCMC continues to conduct occupancy surveys on known suitable habitats ahead of active mining in accordance with the most current Dakota skipper protocol and in consultation with the USFWS and the Commission. Additional surveys were conducted in 2024 and the USFWS provided an “absent” determination for the Dakota skipper on lands in the permit east of County Road No. 13.

The Bureau of Land Management (BLM) and the Office of Surface Mining Reclamation and Enforcement (OSMRE) jointly prepared an environmental assessment (EA) for which informal Section 7 consultation with the USFWS was initiated. A biological assessment and biological opinion for the federal coal lease were published and Dakota skipper adult occupancy surveys were conducted in 2019. The adult occupancy surveys followed the USFWS 2018 Dakota Skipper Survey Protocol. No Dakota skippers were observed during any of the three rounds of adult occupancy surveys completed on the 840-acre study area. The final Biological Assessment dated January 2019, for the federal coal that is to be mined with Revision No. 11, states that BLM and OSMRE, in coordination with the USFWS, concludes that the proposed action (mining federal coal) “May affect, but is not likely to adversely affect” the Dakota skipper. “No effect” determinations were made for all other listed species. CCMC has updated the permit to include protective measures to avoid and minimize adverse effects to the Dakota skipper and its habitat. Therefore, the Commission finds that the proposed mining and reclamation activities “May affect, but not likely to adversely affect” the Dakota skipper. Mr. Luke Toso, USFWS North Dakota Field Office Supervisor, concurred with this finding on July 18, 2024.

The permit area does not contain habitat for the Rufa Red Knot. The Commission finds that the proposed mining and reclamation activities will have “no effect” to the continued existence of this species.

NDAC 69-05.2-13-08(2) requires the permittee to promptly report to the Commission the presence in the permit area of any state listed or federally listed threatened or endangered species of which the permittee becomes aware. Upon notification, the Commission will then consult with the USFWS and North Dakota Game and Fish Department and the operator, and then decide whether, and under what conditions, the operator may proceed.

Therefore, this action will not jeopardize or adversely affect listed or proposed species or any proposed or designated critical habitat.

Finding No. 10. The applicant will be required to pay all reclamation fees required by 30 CFR subchapter R [NDAC 69-05.2-10-03(6)(e)].

Coyote Creek has paid all reclamation fees required by 30 CFR subchapter R. Records maintained by the Office of Surface Mining’s Applicant Violator System show that all fees have been paid.

Finding No. 11. The applicant has satisfied requirements for approving cropland as a post-mining land use [NDAC 69-05.2-10-03(6)(f)].

The applicant has satisfied the requirements for approval of a cropland post-mining land use under NDAC 69-05.2-22-01. Areas reclaimed to cropland will either be seeded directly to crops commonly grown in the area or to a tame grass/legume pre-cropland mixture. The post-mining topography and soils are suitable for cropland in the areas that will be cropped.

Finding No. 12. No existing structures will be used to support mining activities within the permit area and the requirements of NDAC 69-05.2-09-04 do not apply to the permit area [NDAC 69-05.2-10-04].

No existing structures in the permit area will be used to support mining activities. Design information for the support structures being constructed in Permit NACC-1301 is also included in this permit.

Finding No. 13. No drill holes, boreholes or wells will be retained for other uses [NDAC 69-05.2-14-03].

The applicant has not proposed to retain any drill hole, borehole, or well for other uses.

Finding No. 14. No spoil in the permit area is known to cause toxic mine drainage [NDAC 69-05.2-16-11].

The chemical characteristics of the overburden materials in the permit area are such that they do not produce toxic mine drainage. The analysis of overburden samples included in the permit application do not reveal any substances that would cause any chemical reactions or physical effects that are likely to kill, injure, or impair biota commonly present in the area.

Finding No. 15. The applicant will not conduct mining activities within or near perennial and intermittent stream channels that violate applicable water quality standards or adversely affect the quantity and quality of the water and other environmental resources of the stream [NDAC 69-05.2-16-20].

Revision 13 does not propose additional mining activities within or near streams that have been identified as intermittent and perennial streams. The dragline walkway/access road that crosses Coyote Creek, a perennial stream, in one location and other associated disturbances will be within one hundred feet of Coyote Creek at another location. Both areas are located in the S $\frac{1}{2}$ of Section 30. In addition, a coal haul road crosses Coyote Creek in the SW $\frac{1}{4}$ of Section 19, an unnamed intermittent stream in the SW $\frac{1}{4}$ of Section 10, and Brush Creek, a perennial stream, in the SE $\frac{1}{4}$ of Section 10. No disturbances are planned for the remainder of the perennial streams located within the permit area.

The buffer zones and areas where associated disturbance will occur within one hundred feet of the perennial and intermittent streams are depicted on the pit layout and facilities map and the surface water management map within the permit. The Commission finds the proposed disturbances will not cause or contribute to the violation of applicable state and federal water quality standards and will not adversely affect the water quality of these intermittent and perennial streams. All runoff from disturbances planned within one hundred feet of the perennial stream will be controlled through the use of water management structures and best management practices. The applicant has made a

commitment to properly mark the designated stream buffer zones that will not be disturbed to exclude mining related disturbance as required by NDAC 69-05.2-16-20(2).

Finding No. 16. The applicant does not propose to use any experimental practices in the federal coal tract area [NDAC 69-05.2-27-02].

There are no plans included in the application to use any experimental practices that may be allowed under NDAC 69-05.2-27-02.

Finding No. 17. The applicant does not control and has not controlled surface coal mining and reclamation operations with a demonstrated pattern of willful violations [NDAC 69-05.2-10-03(4)].

Commission records, and those in the Office of Surface Mining's Applicant Violator System, do not show that the applicant, nor any affiliated company, controls and has controlled surface coal mining and reclamation operations with a demonstrated pattern of willful violations of NDCC 38-14.1 or of other states' laws that are based on P.L. 95-87 (the Federal Surface Mining Control and Reclamation Act), of such nature, duration, and with such resulting irreparable damage to the environment as to indicate an intent not to comply with the provisions of these laws.

Finding No. 18. Neither the applicant, nor any affiliated companies, have unabated violations or unpaid civil penalties [NDAC 69-05.2-10-03(1)].

Commission records, and those in the Office of Surface Mining's Applicant Violator System, do not indicate that the applicant, nor any affiliated companies, have any unpaid civil penalties or unabated violations of NDCC 38-14.1 or any other federal or state laws, rules, or regulations pertaining to air or water environmental protection. Staff at the North Dakota Department of Environmental Quality also verified that the applicant has no unabated violations with regard to air and water environmental protection standards.

Finding No. 19. A performance bond in the amount of \$25,219,975 is sufficient for the surface coal mining operations proposed for this permit [NDAC 69-05.2-12-07].

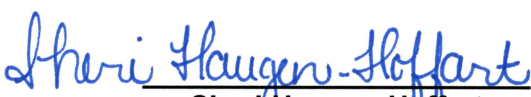
The Commission has determined a performance bond in the amount of \$25,219,975 is sufficient at this time to cover the required reclamation, restoration, and abatement work for the disturbances proposed in Permit NACC-1302. The worst-case reclamation cost estimate was required to be updated as a part of Revision 13. It should be noted that, if the annual update of variable costs in the Commission's policy for calculating reclamation cost estimates for setting bond amounts results in a significant increase in the existing cost estimate, permittees are required to update their reclamation cost estimates and increase bond amounts accordingly.

Revision Number 13 to Permit Number NACC-1302 is hereby granted to The Coyote Creek Mining Company to identify the next five-year coal removal subarea and to update the legal and ownership information, and the mining and reclamation plans for the next five-year permit term as described in the permit revision application received on June 18, 2024.

The approved revision is subject to the requirements of Chapter 38-14.1 of the North Dakota Century Code, Article 69-05.2 of the North Dakota Administrative Code, the conditions of

the approved permit, and any additional or revised permit conditions listed on attached PSC Reclamation Form - 3. Pursuant to Section 38-14.1-23 of the North Dakota Century Code and Article 69-05.2 of the North Dakota Administrative Code, this revision was found to be a significant alteration to the previously approved permit.

PUBLIC SERVICE COMMISSION


Sheri Haugen-Hoffart
Commissioner


Randy Christmann
Chair


Julie Fedorchak
Commissioner

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