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December 11, 2024

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Public Service Commission
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Derrick Braaten
Braaten Law Firm
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RE: Coyote Creek Mining Company/ Case Nos. RC-24-244; RC-24-245
Revision No. 13, Permit NACC-1302
Renewal 2, Permit NACC-1302
OAH File No. 20240452

Counsel:

Please accept this letter as a follow-up to and summary of the prehearing conference held this afternoon in the above referenced matter. The hearing in this case is scheduled for Friday, December 13, 2024. On December 10, 2024, Mr. Braaten filed a motion to continue the hearing and on December 11, 2024, Mr. Mann filed an objection to the motion. The Commission has not yet ruled upon the motion. As of now, the hearing is set to proceed on Friday.

The purpose of the prehearing conference was to address the issues for hearing. The Commission previously requested Mr. Braaten file a "clear and concise statement of the claims, including non-compliance or violation of applicable statutes or rules, and relief sought by the Voigts." Mr. Braaten filed a response requesting the Commission specify the authority for this request. Mr. Braaten reiterated at the prehearing conference that he did not believe his clients were required to specify issues for hearing. Without providing a specific cite, Mr. Braaten referenced the SMCRA public participation regulations and argued that under those regulations a request for hearing must be treated as if this were a new application. Mr. Braaten indicated that his clients' concerns were generally outlined in their August 26, 2024 comment letter (PSC Dkt. #18); although Mr. Braaten has not yet met with his clients or finalized his witnesses or exhibits. Mr. Braaten also noted that the Voigts concerns have been discussed with PSC staff at several meetings.

Mr. Mann objected to the Voigts raising any issues outside of their August 26, 2024 comment letter due to lack of notice. Mr. Mann argued that it is impossible for Coyote Creek Mining Company to adequately prepare for the hearing when they do not know what the contested issues are. Mr. Mann also requested that any experts and expert reported not be allowed since they have not been provided to Coyote Creek.

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Prehearing Conference Follow Up Letter
Office of Administrative Hearings
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Timothy J. Dawson DIRECTOR

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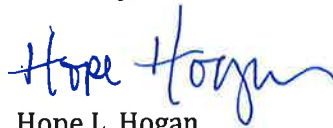
Mr. Johnson, Mr. Mann, Mr. Braaten

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As I indicated at the prehearing, I have been designated as a procedural hearing officer which means I do not set the issues for the case. Therefore, the Commission will need to determine whether limiting the issues is warranted in this case. For me to make such a decision would potentially be considered a substantive decision which is outside of the authority I have been designated. To mitigate the situation, I suggested setting a deadline for the filing of witness and exhibit lists. However, due to the short timeline the parties did not believe that would be beneficial.

Thank you.

Sincerely,



Hope L. Hogan

Administrative Law Judge