



Mar. 13, 2026

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Mr. Jonathan Emmer

MAR 16 2026

**Public Service Commission
600 East Boulevard Ave
Dept 408
Bismarck, ND 58505-0480
ndpsc@nd.gov
(701) 328-2400**

**NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

Dear Mr. Emmer,

This is in response to your request for a review of the environmental impacts associated with the Coyote Creek Mining Company, L.L.C. application for Revision No. 14 to Surface Coal Mining Permit NACC-1302 for Coyote Creek Mine.

The proposed project has been reviewed by Department of Water Resources (DWR), and the following comments are provided:

- Projects that take place within the ordinary high water mark of a North Dakota navigable waterbody (as outlined in North Dakota Century Code ch. 61-33) require prior authorization to construct from DWR. The Project(s), as described, does not appear to take place within a currently identified navigable waterbody, and does not require a North Dakota state sovereign land permit. For further information, contact Amy Winkelman, State Sovereign Land Manager, at awinkelman@nd.gov, (701) 328-4935 or Travis Thyberg, State Sovereign Land Specialist, at tthyberg@nd.gov (701) 328-4988.
- There is a FEMA National Flood Insurance Program (NFIP) regulatory floodplain identified or mapped where this proposed project is to take place. Impacted areas are designated to be in NFIP Zone AE. The State of North Dakota has no formal NFIP permitting authority, as all NFIP permitting decisions are considered by impacted NFIP participating communities, which is the community with zoning authority for the area in question. Please work directly with the local floodplain administrator of the zoning authority impacted to achieve NFIP and community

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Revision 14 Advisory Review Response Letter

North Dakota Department of Water Resources (DWR)
Kyle Yrkoski

compliance. Tyler Spomer, NFIP Coordinator, (701) 328-2452, tlspomer@nd.gov.

- Initial review indicates the project does not require additional conditional or temporary permits for water appropriation based on Revision No. 14. If surface water or groundwater will be diverted for construction or operation of the project, or water will be put to a beneficial use other than solely for the purpose of sedimentation control during mining activities, a water permit is required per North Dakota Century Code § 61-04-02. For example, Coyote Creek Mining Company should continue to obtain temporary water permits for dust control. Please consult with the Water Appropriations Division of the Department of Water Resources at (701) 328-2754 or appropinfo@nd.gov if you have any questions.
- If surface water or groundwater will be diverted for construction or operation of the project, or water will be put to a beneficial use other than solely for the purpose of sedimentation control during mining activities, a water permit is required per North Dakota Century Code § 61-04-02. Please consult with the Water Appropriations Division of the Department of Water Resources at (701) 328-2754 or appropinfo@nd.gov if you have any questions.
- The DWR Regulatory Division's Engineering and Permitting Section reviewed the project and determined no drainage permits, or construction permits for dikes, diversions, or restorations are likely required so long as no watercourses, as defined under N.D.C.C. § 61-01-06, are modified (i.e., deepened, widened, rerouted, etc.). For more information, please visit the Regulation & Appropriation tab on the DWR website (dwr.nd.gov) or contact the Regulatory Division at (701) 328-2750 or dwrregpermits@nd.gov.

Thank you for the opportunity to provide review comments. Should you have further questions, please contact me at (701) 328-4970 or kyrkoski@nd.gov.

Sincerely,



Kyle Yrkoski
Planner III

KY:mg/1570