



United States Department of the Interior  
OFFICE OF SURFACE MINING  
RECLAMATION AND ENFORCEMENT  
Regions 5, 7-11  
P.O. Box 25065, 1 Denver Federal Center, Bldg #41  
Lakewood, CO 80225



March 19, 2026

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CO-0021

Mr. Jonathan Emmer  
Director Reclamation & AML Divisions  
North Dakota Public Service Commission  
600 E Boulevard Ave Dept 408  
Bismarck, ND 58505

MAY 27 2026

NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

Re: The Office of Surface Mining Reclamation and Enforcement's Federal Mining Plan Modification Determination for Coyote Creek, State Permit No. NACC-1302, Permit Revision 14, Federal Coal Lease NDM 110277.

Mr. Emmer,

The Office of Surface Mining Reclamation and Enforcement (OSMRE) determines that Coyote Creek Mining Company's (CCMC) proposed revision to State Permit NACC-1302, Permit Revision No. 14 at Coyote Creek *does not* constitute a mine plan modification requiring approval from the Assistant Secretary for Land and Minerals Management (ASLM).

On February 4, 2026, the North Dakota Public Service Commission (PSC) notified OSMRE of the Coyote Creek Mining Company's proposed permit revision. Mining plan approvals by the Secretary of the Interior are required under the Mineral Leasing Act of 1920, 30 U.S.C. 181, *et seq.* before coal mining can occur on Federal lands.

**Proposed Action**

CCMC's Revision 14 revises the post-mining topography in portions of Sections 23, 24, 25, 26 and 36, T143N, R89W; and Section 6, T142N, R88W. Revision 14 also updates the introductory information, pre-mining land use, general operations, surface water management, post-mining land use plans and topography, revegetation procedures, establishment and management, and vegetation assessments and success standards sections of the permit. Specific updates include updated design plans for sediment pond P24-06, the addition of design plans for diversion D25-01, post mining land use acreage adjustments in Sections 24 and 25, T143N, R89W to accommodate larger blocks of cropland and native grassland and modifications to the native grassland and woodland planting seed mixtures. The revision also finalizes the location of the Section 36 farmer access road (18<sup>th</sup> Street SW) and finalizes the use of several ecological sites as native grassland reference areas.

Mine Plan approval to mine 284 acres of federal coal (NDM-110277) in the SW ¼ of Section 24 and the SW ¼ of Section 26, T143N, R89W was approved by the Department of the Interior on March 14, 2024. All federal coal consists of privately owned surface.

### **Determination Criteria and Decision**

Based on OSMRE's review of the Permit NACC-1302 materials submitted by CCMC, OSMRE has determined that the proposed action *does not* constitute a mining plan modification requiring approval by the ASLM. OSMRE has considered the criteria described in the Federal regulations at 30 CFR 746.18(d)(1) through (d)(6) defining when a permit revision constitutes a mining plan modification:

1. *Any change in the mining plan which would affect the conditions of its approval pursuant to Federal law or regulation other than SMCRA.*

The proposed change does not affect the conditions of mining permit approval pursuant to Federal law or regulations other than SMCRA.

2. *Any change which would adversely affect the level of protection afforded any land, facility, or place designated unsuitable for mining.*

The proposed change area does not include any land, facility, or place designated unsuitable for mining.

3. *Any change in the location or amount of coal to be mined, except where such change is the result of: (i) A minor change in the amount of coal actually available for mining from the amount estimated; or (ii) An incidental boundary change<sup>1</sup>.*

The proposed change does not extend coal mining and reclamation operations onto leased Federal coal lands for the first time.

4. *Any change which would extend coal mining and reclamation operations onto leased Federal coal lands for the first time.*

The proposed change does not extend coal mining and reclamation operations onto leased Federal coal lands for the first time.

5. *Any change which requires the preparation of an environmental impact statement under the National Environmental Policy Act or 1969, 42 U.S.C. 4321 et seq.*

The proposed change is not a major action normally requiring the preparation of an Environmental Impact Statement<sup>2</sup>

6. *Any change in the mining operations and reclamation plan that would result in a change in the postmining land use where the surface is federally-owned.*

The proposed change would not result in a change in the postmining land use where the surface is federally-owned. All surface is privately-owned.

### **Consultation**

The Federal Regulation at 30 CFR 740.13(d)(2) requires that the OSMRE “shall review each permit revision in consultation with the Bureau of Land Management and the appropriate Federal land management agency to determine whether the permit revision constitutes a mining plan modification requiring the Secretary’s approval under § 746.18 of this chapter.”

On February 11, 2026, OSMRE consulted with BLM about the proposed action. On March 19, 2026, BLM responded via email that they concur with OSMRE’s determination that the permit revision at Coyote Creek, Permit No. NACC-1302, *does not* constitute a mining plan modification requiring approval by the ASLM.

Please contact Federal Lands Coordinator Erica Trent at [etrent@osmre.gov](mailto:etrent@osmre.gov) with any questions.

Sincerely,

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TRENT**

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Erica Trent,  
Natural Resource Specialist

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<sup>1</sup> OSMRE Directive REG-19 establishes the agency-wide policy for determining when an extension of the area covered by a Federal permit constitutes an incidental boundary revision.

<sup>2</sup> Major actions requiring the preparation of an EIS are described in the DOI Department Manual, Managing the NEPA Process – Office of Surface Mining (516 DM 13)