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600 E. Boulevard Ave. Dept 408
Bismarck, North Dakota 58505-0480
web: www.psc.state.nd.us
e-mail: ndpsc@psc.state.nd.us
TDD 800-366-6888
Fax 701-328-2410
Phone 701-328-2400

March 31, 2004

Mr. Guy Padgett, Director
Casper Field Office
Office of Surface Mining Reclamation and Enforcement
100 East "B" Street
Casper, WY 82601-1918

Re: Eligibility Determination for Beulah Emergency Sites

Dear Mr. Padgett:

This letter is submitted under 30 CFR 874.12 as the required eligibility determination for reclamation of the land included in the 2004 Beulah Emergency Project. The Michaelson and Eslinger sites are located in the NE1/4 of Section 12, T144N, R88W, the Sailer site in the S1/2 Section 7, T144N, R87W, and the North Dakota Game and Fish Site in the N1/2 of Section 7 and S1/2 of Section 6, T144N, R87W. All sites are in Mercer County near the city of Beulah. It is our intent that all sites combined will make up the 2004 Beulah Emergency Project.

Eligibility Determination - 30 CFR 874.12

The requirements of this section of the Abandoned Mine Reclamation Program set forth the following criteria for eligibility for reclamation activities (paraphrased):

- a. Was the real property subjected to coal mining and related processes?
- b. Did the coal mining processes on the real property occur prior to August 3, 1977 and was said real property left or abandoned in an unreclaimed or inadequately reclaimed condition? And;
- c. Is there continuing responsibility for reclamation by the operator, permittee, or agent of the permittee under statutes of the State of North Dakota or the government of the United States?

Based upon available historical information, I find that the described real property was mined for coal, that the coal mining activity occurred prior to August 3, 1977 and that the property has been left in an abandoned and unreclaimed state. I further find that there is no continuing responsibility for reclamation by the operator, permittee or agent of the permittee under statutes of the State of North Dakota or the government of the United States.

Based on these findings, it is my opinion that the described real properties meet the eligibility requirements of 30 CFR 874.12 for abandoned mine reclamation.

Sincerely,


William W. Binek
Chief Counsel