

LAW OFFICES OF

FLECK, MATHER & STRUTZ, LTD.

400 East Broadway, Suite 600, Wells Fargo Bank Building

P. O. Box 2798, Bismarck, North Dakota 58502

Telephone: 701-223-6585 Facsimile: 701-222-4853 E-Mail: fms@flecklaw.com Website: www.flecklaw.com

GARY R. WOLBERG+
PAUL W. SUMMERS
BRIAN R. BJELLA*
JOHN W. MORRISON

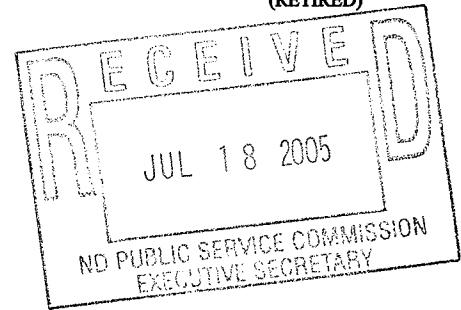
ALSO LICENSED IN:

* Minnesota
° Montana
+ Iowa
^ Wyoming
▫ Nebraska

CURTIS L. WIKE**
CRAIG C. SMITH°
SHANE A. HANSON
MICHAEL C. WALLER°
PETRA H. MANDIGO°
ERNEST R. FLECK
(1921-1995)
RUSSELL R. MATHER
(RETIRED)
WILLIAM A. STRUTZ
(RETIRED)

July 15, 2005

Ms. Illona Jeffcoat-Sacco
Executive Secretary
North Dakota Public Service Commission
600 E. Boulevard, Dept. 408
Bismarck, ND 58505-0408



Dear Ms. Jeffcoat-Sacco:

In re: In the matter of FPL Energy Burleigh County Wind, LLC (Burleigh County Wind) and Central Power Electric Cooperative Inc. (Central Power)'s Amended Application
Case No. PU-05-205
Our File No. 1248-25812

The Amended Application was submitted on June 22, 2005. Attached are eleven copies of letters from various agencies for filing in this matter. They include the following:

- ND Department of Health regarding the potential for environmental impact
- ND Department of Commerce regarding economic benefits/disruptions
- Tribal Historic Preservation Office Standing Rock Sioux Tribe regarding cultural preservation in the project area
- ND Public Service Commission regarding mining operations in the area

Should you have any questions with respect to this filing, please call.

Very truly yours,

BRIAN R. BJELLA

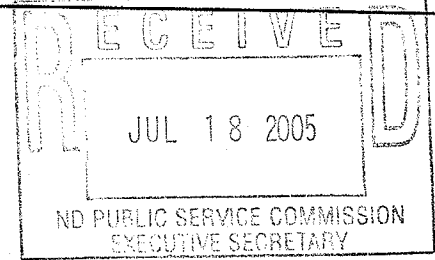
bw

Enc.

cc: Burleigh County Auditor



June 21, 2005



Mr. Matthew Kearns
Tetra Tech EC, Inc.
133 Federal Street
6th Floor
Boston, MA 02110

Re: New Electrical Transmission Line Between Wilton Wind Energy Center
and Western's Garrison-Bismarck Transmission Line, Burleigh County, ND

Dear Mr. Kearns:

This department has reviewed the information concerning the above-referenced project submitted under date of June 16, 2005, with respect to possible environmental impacts.

This department believes that environmental impacts from the proposed construction will be minor and can be controlled by proper construction methods. With respect to construction, we have the following comments:

1. All necessary measures must be taken to minimize fugitive dust emissions created during construction activities. Any complaints that may arise are to be dealt with in an efficient and effective manner.
2. Care is to be taken during construction activity near any water of the state to minimize adverse effects on a water body. This includes minimal disturbance of stream beds and banks to prevent excess siltation, and the replacement and revegetation of any disturbed area as soon as possible after work has been completed. Caution must also be taken to prevent spills of oil and grease that may reach the receiving water from equipment maintenance, and/or the handling of fuels on the site. Guidelines for minimizing degradation to waterways during construction are attached.
3. Projects disturbing one or more acres are required to have a permit to discharge storm water runoff until the site is stabilized by the reestablishment of vegetation or other permanent cover. Also, cities may impose additional requirements and/or specific best management practices for construction affecting their storm drainage system. Check with the local officials to be sure any local storm water management considerations are addressed.
4. Noise from construction activities may have adverse effects on persons who live near the construction area. Noise levels can be minimized by ensuring that construction equipment is equipped with a recommended muffler in good working order. Noise effects can also be

Environmental Health
Section Chief's Office
701.328.5150

Air
Quality
701.328.5188

Municipal
Facilities
701.328.5211

Waste
Management
701.328.5166

Water
Quality
701.328.5210

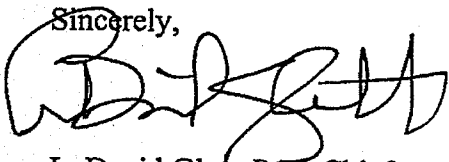
minimized by ensuring that construction activities are not conducted during early morning or late evening hours.

The department owns no land in or adjacent to the proposed improvements, nor does it have any projects scheduled in the area. In addition, we believe the proposed activities are consistent with the State Implementation Plan for the Control of Air Pollution for the State of North Dakota.

These comments are based on the information provided about the project in the above-referenced submittal. The U.S. Army Corps of Engineers may require a water quality certification from this department for the project if the project is subject to their Section 404 permitting process. Any additional information which may be required by the U.S. Army Corps of Engineers under the process will be considered by this department in our determination regarding the issuance of such a certification.

If you have any questions regarding our comments, please feel free to contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read "L. David Glatt". The signature is stylized and cursive.

L. David Glatt, P.E., Chief
Environmental Health Section

LDG:cc
Attach.



Construction and Environmental Disturbance Requirements

These represent the minimum requirements of the North Dakota Department of Health. They ensure that minimal environmental degradation occurs as a result of construction or related work which has the potential to affect the waters of the State of North Dakota. All projects will be designed and implemented to restrict the losses or disturbances of soil, vegetative cover, and pollutants (chemical or biological) from a site.

Soils

Prevent the erosion of exposed soil surfaces and trapping sediments being transported. Examples include, but are not restricted to, sediment dams or berms, diversion dikes, hay bales as erosion checks, riprap, mesh or burlap blankets to hold soil during construction, and immediately establishing vegetative cover on disturbed areas after construction is completed. Fragile and sensitive areas such as wetlands, riparian zones, delicate flora, or land resources will be protected against compaction, vegetation loss, and unnecessary damage.

Surface Waters

All construction which directly or indirectly impacts aquatic systems will be managed to minimize impacts. All attempts will be made to prevent the contamination of water at construction sites from fuel spillage, lubricants, and chemicals, by following safe storage and handling procedures. Stream bank and stream bed disturbances will be controlled to minimize and/or prevent silt movement, nutrient upsurges, plant dislocation, and any physical, chemical, or biological disruption. The use of pesticides or herbicides in or near these systems is forbidden without approval from this Department.

Fill Material

Any fill material placed below the high water mark must be free of top soils, decomposable materials, and persistent synthetic organic compounds (in toxic concentrations). This includes, but is not limited to, asphalt, tires, treated lumber, and construction debris. The Department may require testing of fill materials. All temporary fills must be removed. Debris and solid wastes will be removed from the site and the impacted areas restored as nearly as possible to the original condition.

Department of Commerce

Community Services

Economic

Development & Finance

Tourism

Workforce Development



Century Center

1600 E. Century Ave

Suite 2

PO Box 2057

Bismarck, ND 58502-2057

Phone 701-328-5300

Fax 701-328-5320

www.ndcommerce.com

July 7, 2005

Matthew Kearns
Tetra Tech EC
133 Federal Street, 6th FL
Boston, MA 02110

Dear Mr. Kearns:

The following comments concern our review of the draft environmental assessment for the FPL Energy Burleigh County Wind Energy Center:

While wind energy projects result in gradual long term economic benefits to the local area such as wind lease income, employment of maintenance personnel, and other maintenance expenditures, they accrue gradually and do not result in major disruptions to the local economy. The socioeconomic consequences of construction, both direct and indirect, are short term in nature and should not result in significant disruptions to the area's economy and infrastructure.

Given the proximity of the project to the cities of Bismarck and Mandan, it can be expected that much of the temporary work force will look to these communities for their accommodations and living arrangements. These communities are of sufficient size to absorb the temporary work force for the project and the additional demand for goods and services.

In general the addition business resulting from this project should be viewed as having a positive impact to the economy as a whole.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul T. Govig".

Paul T. Govig, Director
Division of Community Services
ND Dept. of Commerce

sk



T RIBAL HISTORIC PRESERVATION OFFICE
S TANDING ROCK SIOUX TRIBE
Administrative Service Center
North Standing Rock Avenue
Fort Yates, N.D. 58538
Tel: (701) 854-2120
Fax: (701) 854-2138

July 8, 2005

Tetra Tech EC
133 Federal Street
Boston, MA 02210

Dear Sir:

We were emailed a report titled, "A Reconnaissance Survey for Traditional Cultural Properties at the Wilton Wind Farm Project, Burleigh County, North Dakota" by Kadie M. Ferris and Bruce F. Nadeau. Our Tribal Archaeologist has reviewed the report and concurs with the recommendations given in the report.


Two kinds of stone features that our tribal elders and traditional spiritual leaders consistently assess as Traditional Cultural Properties are stone circles and rock cairns. Our understanding of stone circles is that while many of them may have served functional purposes, many others had ceremonial functions or were burial locations. Attached is a short list we have compiled of ethnographic references describing Sioux use of tipis as burial lodges.

We strongly urge you in future expansion of your wind farm to preserve all stone circles and cairns. Avoidance is not only respectful of tribal perspectives, but often it also makes good business sense since less time and money is spent in the regulatory process. There is no need for archaeological testing to determine National Register Eligibility since the site is avoided.

Mr. Ferris mentioned that a protective easement is being considered that would ensure the long term preservation of the stone circles and cairns. We hope this is being actively considered. It is the kind of forward-looking step that we fully support.

Sincerely,

STANDING ROCK SIOUX TRIBE


Tim Mentz, Sr.
Preservation Officer.

Attachment

Cc: Métis Cultural Resource Consultants

Tim Mentz, Sr. ♦ Tribal Historic Preservation Officer ♦ e-mail: tmentz@westriv.com
Leo Red Horse, Jr. ♦ Program Assistant ♦ e-mail: lredhorse@westriv.com
Wasté Win Young ♦ Tribal Historian ♦ e-mail: wyoung@westriv.com
Byron Olson ♦ Tribal Archaeologist ♦ e-mail: bolson@westriv.com
Mary Wilson ♦ Environmental Protection Specialist ♦ e-mail: mwilson@westriv.com
George Ironshield ♦ Repatriation Coordinator ♦ e-mail: gishield@westriv.com

Ethnographic Notes on Sioux Use of Tipis as Burial Lodges

Byron Olson
Tribal Archaeologist
SRST

Teton and/or Middle Sioux: "Only very specially favored people were "cause to live in their own tipi." It meant that the burial scaffold was erected and the dead bound thereon and a completely equipped tipi was built over it. The doorway was carefully fastened and the base weighted down with heavy logs to insure its security during storms. A tipi on a lonely prairie, with no smoke coming out, and no sign of life about, was avoided as the abode of a ghost" (Deloria 1932:227n)

Lower Yanktonai, 1735: Entry in the John K. Bear winter count reads, "A woman was laid to rest in a tipi" (Howard 1976:31).

Yanktonai 1842-43: Entry in the Blue Thunder winter count: "Man 'Holy Tracks Buffalo' die. Bury him in a striped tipi. A big man but not a chief man" (Howard 1960: 376).

Whirlwind's band of the Oglala, 1847: "He [Shaw] and Henry prepared to return homeward; first, however, they had placed the presents they had brought near the body of the squaw, which, most gaudily attired, remained in a sitting posture in one of the lodges. A fine horse was picketed not far off, destined to be killed that morning for the service of her spirit, for the woman was lame, and could not travel on foot over the dismal prairies to the villages of the dead. Food, too, was provided, and household implements, for her use on this last journey" (Parkman nd. 101-102)

Dakota burial lodge, 1863. "They saw just the top of a teepee in the timber on the east bank of the river [Missouri River] and heard afterwards that it contained the body of a Dakota killed in the fight with the white men" (Libby 1976:186). [This may be a reference to a Sioux casualty from the battle with General Sully's troops at Whitestone Hill.]

Hunkpapa, 1869: "Three months later [after the battle between the Crow and the Hunkpapa on Prior Creek, Montana], when the weather had moderated and their relatives had all assembled, the Hunkpapa returned to the scene of the battle, camping about three miles away. They went to the place and recovered the bones of their dear ones. The relatives of Looks-for-Home carried him back to the camp, placed him upon a fine bed in a tipi, and when the camp moved, left him there in the burial lodge, lying in state" (Vestal 1957:116).

Sans Arc burial lodge, June 25, 1876, Battle of the Little Big Horn: "The Young Hawk came. He got off on the north side of the teepee, took a knife from his belt, pierced the tent through and ran the knife to the ground. Inside of the lone teepee he saw a scaffold,

and upon it a dead body wrapped in a buffalo robe" (Libby 1976:94). All the Scouts stopped at the lodge perhaps half an hour. One of them called out: "There is plenty of grub here." One Feather went into the tipi and drank the soup left for the dead Dakota warrior and ate some of the meat" (Libby 1976:121). This warrior was Old Elk, also called Old She Bear, who was wounded in the fight on June 17, 1876 with Crook on the Rosebud. The lone tipi was left on the campsite of June 23th which was on Reno Creek, about four miles from its junction with the little Big Horn.

Lakota burial lodges left after the Battle of the Little Big Horn, 1876: "The Dakotas then moved towards the ford, only five tents were standing on their camping place [along the Greasy Grass]. . . . Then the party [of Arikara scouts] approached the five Dakota tents and they rode among them. . . . The soldiers in the party were busy stripping off the buckskin shirts from the bodies of the dead Dakotas there and taking their ear rings. . . . The five teepees in the deserted Dakota camp were thrown down and some of the bodies stripped by the soldiers they had seen there. They went on to the Dakota camp and found the body of a young Dakota lying on a tanned buffalo hide. Young Hawk recognized this warrior as one who had been a scout at Fort Lincoln, Chat-ka. He had on a white shirt, the shoulders were painted green, and on his forehead, painted in red, was the sign of a secret society. In the middle of the camp they found a drum and on one side lying on a blanket was a row of dead Dakotas with their feet toward the drum. Young Hawk supposed that a tent had covered them, with the entrance to the tent at the side opposite where the dead bodies lay, that is, at the holy or back side of the tent. When alive these braves would sit on the other side and drum. The drum was cut up and slashed. Farther on they found three more groups of dead Dakota lying on canvas, buffalo hides, or blankets at the back side of where the tent had stood, that is, opposite the opening. All the fine buckskin shirts they had worn as well as beads and ear-rings had been stripped off by the soldiers. These groups of bodies were two, three, or four" (Young Hawk's statement in Libby 1976:106-110).

Lakota Burial Lodges on the Greasy Grass from fight with Crows on June 20, 1876:

"The bodies of the seven Sioux had been brought to the new encampment [on the Greasy Grass] on travoix and were placed in a tepee on the extreme right, or south, of the town of tepees" [1886 statement of Mrs. Spotted Horn Bull(Hunkpapa) in Graham 1986:83]. The fight with Crows is probably a reference to the fight with Crook on June 17, 1876 during which the Cheyenne and Lakota fought with Crook's Crow scouts. The only know burial lodge on the extreme south end was the lone lodge found on Reno Creek in which was buried one man, Old Elk, who had been shot during the Rosebud conflict. Perhaps Mrs. Spotted Horn Bull is referring to an earlier encampment that was set up after the Rosebud conflict but before the great encampment on the Greasy Grass.

References Cited:

Deloria, Ella

1932 *Dakota Texts. Publications of the American Ethnological Society*, Vol. XIV.

Graham, W. A.

1986 *The Custer Myth*. Lincoln and London: University of Nebraska Press

Howard, James H.

1960 *Dakota Winter Counts as a Source of Plains History. Anthropological Papers No. 61, Smithsonian Institution, Bureau of American Ethnology, Bulletin 173*, pp 339-416, Washington D.C.

1976 *Yanktonai Ethnohistory and the John K. Bear Winter Count. Plains Anthropologist Memoir 11*, Vol. 23, Number 73, Part 2.

Libby, Orin G.

1976 *The Arikara Narrative*. Glorieta, New Mexico: Rio Grande Press, Inc. [Reprint of 1920 edition.]

Parkman, Francis, Jr.

nd *The Oregon Trail*. New York: Caxton House. [undated edition, possibly 1847.]

Vestal, Stanley

1957 *Sitting Bull Champion of the Sioux*. Norman: University of Oklahoma Press. [Reprint of 1932 edition].



Public Service Commission State of North Dakota

COMMISSIONERS

Tony Clark, President
Susan E. Wefald
Kevin Cramer

Executive Secretary
Hilona A. Jeffcoat-Sacco

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

June 27, 2005

Brian Bjella
Fleck, Mather & Strutz, LTD
PO Box 2798
Bismarck, ND 58502

Dear Mr. Bjella:

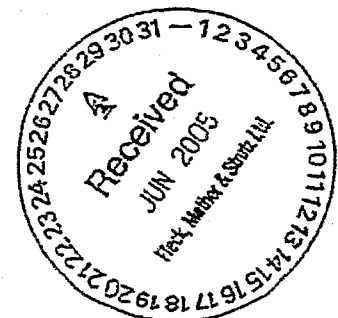
My name is Lou Ogaard, and I administer the abandoned mine lands division of the North Dakota Public Service Commission (Commission). I have been informed that you have plans to construct a wind farm in several sections of Burleigh County, North Dakota.

We have historical records on two small underground mining operations in two sections within your wind farm development area. I have enclosed the information we have.

If you have any questions, please feel free to contact me at 701-328-4096.

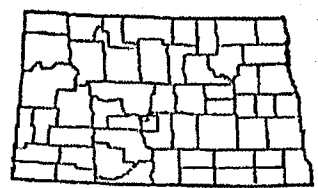

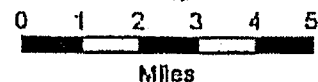
Sincerely,

Lou Ogaard, Director
AML Division










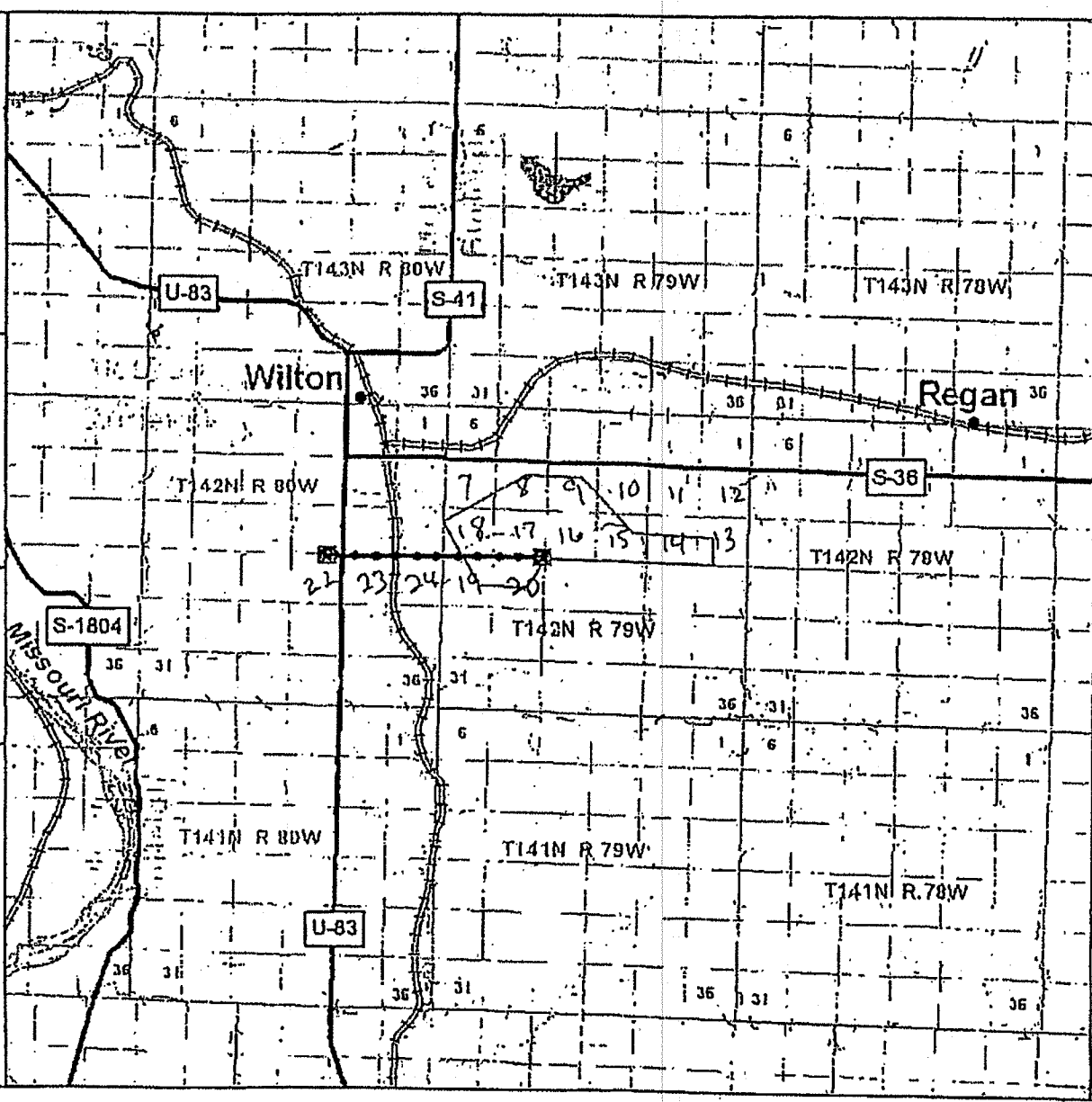
Proposed Facilities Including Turbine Array, Substations, and Transmission Route to Point of Western Area Power Administration Interconnect

North Dakota

0 1 2 3 4 5
Miles

-  New Substations
-  New Transmission Line
-  Wind Energy Center
-  Cities and Towns
-  Highways
-  Townships
-  Sections



BURLEIGH COUNTY

Planning Unit 106: AML Printout #263: T142N, R79W, Section 10, SW

Additional Legal Location: None

Name: Asplund Coal Co. Owner: H.C. Asplund

Category: Commercial/local

Type: Underground, slope

Overburden:	Coal Seam:	Thickness Mined:	Source:
No data	10 ft.	No data	Harrington:1934a

Cultural Resource Site Number: Not formally recorded

Basic Data (excerpted from primary sources):

The Asplund Coal Co. is listed as a new mine in 1931, and it likely began operations in about that year. Although the mine shipped coal in 1934, 1935, 1936, 1937, and 1938, amounts shipped were very small and the mine primarily served a local trade. The mine is listed as not operating in 1943, and since no further listings were noted for the mine, it is assumed that the mine ceased operations at about that time; however, it is possible that the mine continued to be operated but not reported or that the mine was operated and reported under some other name following 1943.

Descriptive information pertaining to this mine is included in:

[source:year(pages)]

WCB Map:1937

Notes:

None

Sources (primary and secondary):

CMID:see table, next page, for appropriate years
Harrington:1934a(3)
WCB:1937

Burleigh-9

Mine: Asplund Coal Co.

Planning Unit: 106
AML Number: 263

<u>Year</u>	<u>Days Operated</u>	<u>Employees</u>	<u>Price Per Ton</u>	<u>Tons Produced</u>	<u>Tons Local Trade</u>	<u>Tons Shipped</u>	<u>Owner or Superintendent*</u>
1931	90	3	1.85	263	263	none	H.C. Asplund**
1932	300	6	1.50	1,973	1,973	none	H.C. Asplund**
1933	200	7	1.50	2,041	2,041	none	H.C. Asplund**
1934	200	6	1.50	2,640	2,040	600	Helmer Asplund**
1935	200	7	1.50	2,500	2,000	500	H.C. Asplund**
1936	180	5	1.50	1,800	1,600	200	H.C. Asplund**
1937	200	6	1.50	1,900	1,860	40	H.C. Asplund**
1938	168	7	1.65	2,514	2,494	20	H.C. Asplund**
1939	165	7	1.65	2,703	2,703	none	H.C. Asplund**
1940	200	7	1.50	2,695	2,695	none	H.C. Asplund**
1941	169	6	1.65	1,829	1,829	none	H.C. Asplund**
1942	200	5	1.75+	1,428	1,428	none	H.C. Asplund**

*Unless otherwise indicated, name listed is that of owner.

**Individual was superintendent of the mine; owner not listed.

Burleigh-10

BURLEIGH COUNTY

Planning Unit 106: AML Printout #261: T142N, R79W, Section 15, NW

Additional Legal Location: None

Name:

Owner:

Engstrom Coal Mine

Herman Engstrom

Category: Commercial/local

Type: Underground, slope, single entry

Overburden:	Coal Seam:	Thickness Mined:	Source:
50 ft.	11 ft.	7 ft.	CMID:1926

Cultural Resource Site Number: Not formally recorded

Basic Data (excerpted from primary sources):

This mine is not listed as a new mine in 1923, and it is possible that the mine was in operation prior to that time. A new operator is listed for this mine in 1936; it is not known whether or not the mine owner changed at this time as well. The mine is listed as not operating in 1938, and it is listed as a new mine in 1940. It is not known if the location of the new mine was different than that of the original Engstrom mine; however, since the "new mine" also is a slope mine, it is possible that a new entrance was dug to the old mine. The last listing noted for this mine was in 1950, and it is likely that the mine ceased operation at about that time.

Descriptive information pertaining to this mine is included in:

[source:year(pages)]

CMID:1926(20)
WCB Map:1923

Notes:

None

Sources (primary and secondary):

Brant:1953(25)
CMID:see table, next page, for appropriate years
Harrington:1934a(3)
WCB:1923

Burleigh-14

Mine: Engstrom Coal Mine

Planning Unit: 106
 AML Number: 261

Year	Days Operated	Employees	Price Per Ton	Tons Produced	Tons Local Trade	Tons Shipped	Owner or Superintendent*
1923	30	5	2.00	164	79	85	H. Engstrom**
1924	90	4	2.30	749	449	300	Herman Engstrom**
1925	196	5	2.40	736	736	none	H. Engstrom**
1926	120	4	2.30	1,050	1,050	none	H. Engstrom**
1927	98	4	2.00	716	716	none	H. Engstrom**
1928	182	4	2.00	874	874	none	Herman Engstrom**
1929	240	7	2.00	1,487	1,487	none	Mr. Danielson**
1930	211	7	1.75	1,406	1,406	none	Fred Danielson**
1931	180	5	2.00	1,177	1,177	none	H. Engstrom**
1932	80	5	1.75	930	930	none	H. Engstrom**
1933	150	5	1.50	2,013	2,013	none	H. Engstrom**
1934	129	9	1.50	2,078	1,278	800	H. Engstrom**
1935	no data	9	1.50	3,372	2,272	1,100	Melvin Backman**
1936	no data	no data	no data	no data	no data	no data	no data
1936	"new operator"						
1937	no data	no data	1.50	912	912	none	David Carlson**
1938	120	no data	1.65	800	800	none	Carlson, Bucholz, Soderquist & Johnson**
1938	"not operating"						
1939	no report						
1940	no data	no data	no data	no data	no data	no data	no data
1940	"new mine"						
1941	184	3	1.65	304	304	none	Adolph Engstrom**
1942	250	4	1.75	902	902	none	Adolph Engstrom**
1943	140	1	1.94	416	416	none	Adolph Engstrom**
1944		6	2.25	1,660	106	1,650	Alf. E. Johnson**
1945	95	2	2.50	993	993	none	Alf E. Johnson**
1947	127	4	3.00	1,967	1,945	none	Ralph Taplin**
1948	180	3	3.20	618	618	none	Adolph Engstrom**
1949	200	4	3.20	1,258	1,258	none	Adolph Engstrom**
1950	180	3	3.35	510	510	none	Adolph Engstrom**

*Unless otherwise indicated, name listed is that of owner.
 **Individual was superintendent of the mine; owner not listed.

Burleigh-15