



America's Strategic Resource for Energy Independence

November 26, 2007

Susan E. Wefald, President
Tony Clark, Commissioner
Kevin Cramer, Commissioner
North Dakota Public Service Commission
State Capitol Building
600 East Boulevard Avenue – Department 408
Bismarck, North Dakota 58505-0480

Re: Case No. RC-07-163
Proposed Mining and Reclamation Rule Change
North Dakota Administrative Code 69-05.2-12-05.1

Dear North Dakota Public Service Commissioners:

This letter is to evidence The North American Coal Corporation's support of the proposed rule change to North Dakota Administrative Code 69-05.2-12-05.1, to update and expand one of the three financial tests required to be met by a third-party guarantor of a self-bond.

Section 69-05.2-12-05.1 of the NDAC allows for the provision of a self-bond if certain conditions are met, including subsection 1(c), which states, in part, "The applicant submits financial information in sufficient detail to show one of the following: (1) The applicant has a current Moody's investors service or Standard and Poor's rating for its most recent bond issuance of "A" or higher." This NDAC language originated from 30 CFR 800.23, as authorized in accordance with Section 509(c) of the federal Surface Mining Control and Reclamation Act of 1977, and was established approximately twenty-five years ago.

As you know, North American Coal is the parent company of two North Dakota surface coal mining and reclamation operations, The Coteau Properties Company and The Falkirk Mining Company. In its April 20, 2007, letter to the Commission, Falkirk proposed that this rules provision be amended to include credit rating agencies that have been defined by the United States Securities and Exchange Commission as a Nationally Recognized Statistical Rating Organization, which is an organization designated by the SEC as being nationally recognized and permitted for use for certain regulatory purposes. Currently, there are five NRSROs, including Moody's Investors Service, Fitch Ratings (since 1975), Standard & Poor's Corporation, A. M. Best Company (since 2003), and Dominion Bond Rating Service, Ltd (since 2005). The top three NRSROs, in terms of market share, include Moody's, S&P, and Fitch.

**The North American Coal Corporation
1957-2007**

Producing North Dakota Lignite for Fifty Years

As stated in Falkirk's April 20 letter, a number of initiatives were begun across the nation to identify solutions to assist in the restoration of what had become a non-responsive surety market and to develop alternatives to surety to satisfy financial assurance requirements. Without this financial assurance, the continuation of existing mining operations and the development of new and expanding operations across the nation, which are essential in order to satisfy our government's initiatives to reduce dependence on foreign sources of energy, is jeopardized. North American Coal's objective throughout this process has been to continue to assure the reliable supply of lignite at a competitive price to our customers while complying with state and federal regulatory requirements, and to consider only those regulatory changes that do not compromise the current high standards established within our state regulatory framework and that do not transfer any risk, however improbable, for reclaiming a mine site to the North Dakota taxpayer.

Falkirk has been able to obtain surety bonds the last several years, and without collateralization, due to the financial stability of its customer and the overall character of the project. Falkirk's customer has also recently obtained ratings from three NRSROs, which would now allow Falkirk to self-bond its reclamation performance liability. Moreover, since April Falkirk has received an overall reduction in premium rate, which reduction is directly related to the current and perceived long-term financial stability of the project.

Even though both our Coteau and Falkirk subsidiary companies are able to provide self-bonds to meet the State's financial assurance requirements, North American Coal continues to support the proposed amended rule because it recognizes the fact that, in the over twenty years since the original rule was enacted, various rating organizations with strong credentials, in addition to Moody's and S&P, are now available and are being widely used by both business and government. The utilization of NRSROs provides for reliance upon SEC's vast expertise to ensure that any ratings agency is not only credible and reliable but utilizes what has become a market-based standard for ratings designations.

North American Coal believes that this proposed rules amendment continues to achieve the objectives and purpose of Chapters 38-14.1-03 and 38-14.1-16 of the North Dakota Century Code, and continues to provide as high, if not higher, a degree of risk protection to the State of North Dakota.

Sincerely,

THE NORTH AMERICAN COAL CORPORATION



David J. Straley

Manager, Government and Public Affairs – North Dakota Operations