

**2009**

**North Dakota  
Permanent Program**

**Administration and Enforcement**

**Grant Application for**

**July 1, 2008 to June 30, 2009**

**Submitted by**

**Public Service Commission**

**Bismarck, North Dakota**

**April 23, 2008**

**3**

**RC-08-161 Filed: 4/23/2008 Pages: 30**  
**2009 Administration and Enforcement Grant**  
**Application to OSM**

Public Service Commission

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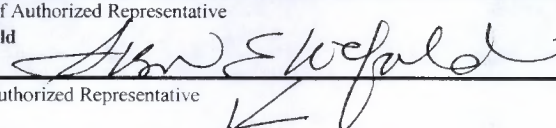
DI 2010 (March 1995)  
SF 424B

# PART I

Standard Form 424

OMB Approval No. 0348-0043

APPLICATION FOR  
FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: <i>Application</i> <input checked="" type="checkbox"/> <i>Preapplication</i> <input type="checkbox"/>		2. DATE SUBMITTED 4-23-08	Applicant Identifier RO34-09
<input type="checkbox"/> Construction <input checked="" type="checkbox"/> Non-Construction		3. DATE RECEIVED BY STATE	State Application Identifier ND080410-0159
<input type="checkbox"/> Construction <input type="checkbox"/> Non-Construction		4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier GR 803383
5. APPLICANT INFORMATION			
Legal Name: <b>North Dakota Public Service Commission</b>		Organizational Unit: <b>Reclamation Division</b>	
Address (give city, county, state, and zip code): <b>600 E. Boulevard Ave. Department 408 Bismarck, ND 58505-0480</b>		Name and telephone number of the person to be contacted on matters involving this application (give area code) <b>James R. Deutsch 701-328-2251</b>	
6. EMPLOYER IDENTIFICATION NUMBER (EIN):  <b>4 5 -- 0 3 0 9 7 6 4 DUNS# 802-744-946</b>		7. TYPE OF APPLICANT (enter appropriate letter in box) <b>[A]</b> A. State      H. Independent School District B. County     I. State Controlled Institution of Higher Learning C. Municipal J. Private University D. Township   K. Indian Tribe E. Interstate   L. Individual F. Intermunicipal M. Profit Organization G. Special District N. Other (Specify)	
8. TYPE OF APPLICATION: <input type="checkbox"/> New <input checked="" type="checkbox"/> Continuation <input type="checkbox"/> Revision  If revision, enter appropriate letter(s) in box(es): <input type="checkbox"/> <input type="checkbox"/> A. Increase Award   B. Decrease Award <input type="checkbox"/> Increase Duration D. Decrease Duration Other (specify):  New Application			
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:  <b>1 5 -- 2 5 0</b>		9. NAME OF FEDERAL AGENCY: <b>U.S. OFFICE OF SURFACE MINING</b>	
TITLE: <b>Reclamation Permanent Regulatory Program</b>		11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT: <b>ND Regulatory Program, Administration &amp; Enforcement</b>	
12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.) <b>North Dakota</b>			
13. PROPOSED PROJECT:		14. CONGRESSIONAL DISTRICTS OF:	
Start Date <b>7-1-2008</b>	Ending Date <b>6-30-2009</b>	a. Applicant <b>North Dakota</b>	b. Project <b>North Dakota</b>
15. ESTIMATED FUNDING:		16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS? a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:  DATE <b>4-16-08</b> b. NO <input type="checkbox"/> PROGRAM IS NOT COVERED BY E.O. 12372 <input type="checkbox"/> OR PROGRAM HAS NOT BEEN SELECTED FOR STATE REVIEW	
a. Federal	<b>644,571</b>		
b. Applicant			
c. State	<b>347,077</b>		
d. Local			
e. Other			
f. Program Income		17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? <input type="checkbox"/> Yes If "Yes," attach an explanation <input checked="" type="checkbox"/> No	
g. TOTAL	<b>991,648</b>		
18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.			
a. Typed Name of Authorized Representative <b>Susan E. Wefald</b>		b. Title <b>President, ND Public Service Commission</b>	c. Telephone number <b>701-328-2400</b>
d. Signature of Authorized Representative 		e. Date Signed <b>April 23, 2008</b>	



RECEIVED

APR 16 2008  
# 30799

PUBLIC SERVICE COMMISSION

Community Services   Economic Development & Finance   Tourism   Workforce Development

FROM DIRECTOR - RECLAMATION DIV.

April 15, 2008

Date: \_\_\_\_\_

Action: \_\_\_\_\_

Info. Only: \_\_\_\_\_

Info & File: \_\_\_\_\_

Jim Deutsch  
ND Public Service Commission  
600 E Boulevard Ave., Dept 408  
Bismarck, ND 58505-0480

"Letter of Clearance" In Conformance with the North Dakota Federal Program Review System -  
State Application Identifier No.: ND080410-0159

Dear Mr. Deutsch:

SUBJECT:     2009 ND Reclamation Regulatory Program Administration and Enforcement  
                 Grant

The above referenced application has been reviewed through the North Dakota Federal Program Review Process. As a result of the review, clearance is given to the project only with respect to this consultation process.

If the proposed project changes in duration, scope, description, budget, location or area of impact, from the project description submitted for review, then it is necessary to submit a copy of the completed application to this office for further review.

We also request the opportunity for complete review of applications for renewal or continuation grants within one year after the date of this letter.

Please use the above SAI number for reference to the above project with this office. Your continued cooperation in the review process is much appreciated.

Sincerely,

James R. Boyd  
Manager of Governmental Services  
Division of Community Services

bb

*"We lead North Dakota's efforts to attract, retain and expand wealth."*

# PART II

U.S. DEPARTMENT OF THE INTERIOR  
Office of Surface Mining  
**PROJECT APPROVAL INFORMATION**  
**SECTION A**

OMB Approval No. 80-40184

<p><u>Item 1.</u> Does this assistance require State, local, regional or other priority rating? _____ Yes, <input checked="" type="checkbox"/> No</p>	<p>Name of Governing Body:  Priority Rating</p>
<p><u>Item 2.</u> Does this assistance require State, or local advisory, educational or health clearances? _____ Yes, <input checked="" type="checkbox"/> No</p>	<p>Name of Agency or Board:  (Attach Documentation)</p>
<p><u>Item 3.</u> Does this assistance require clearinghouse review in accordance with OMB Circular A-95? <input checked="" type="checkbox"/> Yes, _____ No</p>	<p>(Attach Comments)  SEE ATTACHMENT</p>
<p><u>Item 4.</u> Does this assistance require State, local, regional or other planning approval? _____ Yes, <input checked="" type="checkbox"/> No</p>	<p>Name of Approving Agency: Date:</p>
<p><u>Item 5.</u> Is the proposed project covered by an approved comprehensive plan? <input checked="" type="checkbox"/> Yes, _____ No</p>	<p>Check one: State <input checked="" type="checkbox"/> ND PERM. PROGRAM Local <input type="checkbox"/> Regional <input type="checkbox"/> Location of Plan: PUBLIC SERVICE COMMISSION</p>
<p><u>Item 6.</u> Will the assistance requested serve a Federal Installation? _____ Yes, <input checked="" type="checkbox"/> No</p>	<p>Name of Federal Installation: Federal Population benefiting from Project:</p>
<p><u>Item 7.</u> Will the assistance requested be on Federal land or installation? _____ Yes, <input checked="" type="checkbox"/> No</p>	<p>Name of Federal Installation: Location of Federal Land: Percent of Project:</p>
<p><u>Item 8.</u> Will the assistance requested have an impact or effect on the environment? _____ Yes, <input checked="" type="checkbox"/> No</p>	<p>See instructions for additional information to be provided.</p>
<p><u>Item 9.</u> Will the assistance requested cause the displacement of individuals, families, businesses or farms? _____ Yes, <input checked="" type="checkbox"/> No</p>	<p>Number of: Individuals: Families: Businesses: Farms:</p>
<p><u>Item 10.</u> Is there other related assistance on this project previous, pending, or anticipated? <input checked="" type="checkbox"/> Yes, _____ No</p>	<p>See instructions for additional information to be provided. SEE ATTACHMENT</p>
<p><u>Item 11.</u> Is the project in a designated flood hazard area? _____ Yes, <input checked="" type="checkbox"/> No</p>	<p>See instructions for additional information to be provided.</p>

Federal Domestic Assistance Catalog		<u>Status</u>	<u>Amount</u>
Dept. of Interior	<u>Number</u> <u>Program Name</u>		
	15-250 Initial Regulatory Program	Closed	\$240,062.04
	15-250 Interim Reg. Prog. 1st Year	Closed	\$179,400.24
	15-250 Interim Reg. Prog. 2nd Year	Closed	\$100,376.27
	15-250 State Prog. Devel. 1st Year	Closed	\$439,051.92
	15-250 State Prog. Devel. 2nd Year	Closed	\$568,851.34
	15-250 State Prog. Devel. 3rd Year	Closed	\$142,831.04
	15-250 Permanent Program - 1st Year	Closed	\$306,521.78
	15-250 Permanent Program - 2nd Year	Closed	\$892,427.04
	15-250 Permanent Program - 3rd Year	Closed	\$665,446.34
	15-250 1984-85 ND Permanent Program	Closed	\$552,277.06
	15-250 1986 ND Permanent Program	Closed	\$630,562.78
	15-250 1987 ND Permanent Program	Closed	\$629,470.02
	15-250 1988 ND Permanent Program	Closed	\$596,553.19
	15-250 Applicant Violator System	Closed	\$595.42
	15-250 1989 ND Permanent Program	Closed	\$607,351.12
	15-250 1990 ND Permanent Program	Closed	\$576,447.32
	15-250 1991 ND Permanent Program	Closed	\$585,808.73
	15-250 1992 ND Permanent Program	Closed	\$609,426.45
	15-250 1993 ND Permanent Program	Closed	\$625,697.48
	15-250 1994 ND Permanent Program	Closed	\$693,360.35
	15-250 1995 ND Permanent Program	Closed	\$665,595.15
	15-250 1996 ND Permanent Program	Closed	\$705,972.20
	15-250 1997 ND Permanent Program	Closed	\$727,112.22
	15-250 1998 ND Permanent Program	Closed	\$653,957.17
	15-250 1999 ND Permanent Program	Closed	\$670,067.28
	15-250 2000 ND Permanent Program	Closed	\$649,291.88
	15-250 2001 ND Permanent Program	Closed	\$662,859.92

15-250	2002 ND Permanent Program	Closed	\$784,452.24
15-250	2003 ND Permanent Program	Closed	\$621,319.75
15-250	2004 ND Permanent Program	Closed	\$748,695.76
15-250	2005 ND Permanent Program	Closed	\$782,949.40
15-250	2006 ND Permanent Program	Closed	\$767,009.30
15-250	2007 ND Permanent Program	Closed	\$807,259.02
15-250	2008 ND Permanent Program	Open	

# PART III

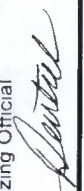
**U.S. DEPARTMENT OF THE INTERIOR**  
Office of Surface Mining  
BUDGET INFORMATION REPORT

OMB Approval No. 1029-0059  
Exp. Date: 12/31/2002

**IMPORTANT: Please read instructions before completing this form.**

A. Program	North Dakota Permanent Program	
B. Grantee	Public Service Commission	
C. Grant Program	Administration & Enforcement	
D. Rate of Federal Sharing (%)	65%	
E. Budget Period (MM,DD,YY)	Beginning Date	7/1/2008
	Ending Date	6/30/2009
F. Mark X in Appropriate Box		
X New Budget		
Revised Budget (Enter Grant Number)		
Grant Number GR	803383	

PROGRAMS/FUNCTIONS/ACTIVITIES	Permits (a)	I & E (b)	Lands Unsuitable (c)	Admin & Support (d)	SOAP Admin (e)	Other (f)	TOTAL (g)
1. Personnel	260,280	106,478	0	106,478	0	0	473,236
2. Fringe Benefit	83,290	34,073	0	34,073	0	0	151,436
3. Travel	1,000	18,500	0	11,500	0	0	31,000
4. Equipment	0	0	0	0	0	0	0
5. Supplies	0	0	0	19,100	0	0	19,100
6. Contractual	0	0	0	6,150	0	0	6,150
7. Construction	0	0	0	0	0	0	0
8. Other	0	0	0	60,982	0	0	60,982
9. Total Direct Charges	344,570	159,051	0	238,283	0	0	741,904
10. Indirect Charges	137,359	56,192	0	56,193	0	0	249,744
11. Total	481,929	215,243	0	294,476	0	0	991,648
Section II							
by							
Source							
12. Non-Federal Share	168,675	75,335	0	103,067	0	0	347,077
13. Federal Share	313,254	139,908	0	191,409	0	0	644,571
Section III							
by							
Income							
14. Program Income	0	0	0	0	0	0	0

Section IV	Indirect Cost	15. Detail on Indirect Cost	(X) Predetermined	( ) Provisional	( ) Final	( ) Fixed
		Type of Rate (mark X in one box)	Total Amount \$249,744	Base \$624,672		
		Rate 39.98%				
Signature of Authorizing Official		Name and Title (type or print)	James Deutsch Director, Reclamation Division			
		Telephone Number (Area Code, N and Extension)	701-328-2251			
		Date Report Submitted	23-Apr-08			

OSM-47 (8/97)

**Paperwork Reduction Act Statement**

The Paperwork Reduction Act of 1995 (44U.S.C.3501) requires us to inform you that: Federal Agencies may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. This information is being collected in order to better you in the future and as part of OSM's performance of its responsibilities under the Government Performance and Result Act. The obligation to respond is required to obtain a benefit.

Public reporting burden for this form is estimated to average 5 hours per response, including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments regarding the burden estimate or any other aspect of this form to the Information Collection Clearance Officer, Office of Surface Mining Reclamation and Enforcement, Room 210 SIB, 1951 Constitution Ave., NW, Washington, D.C. 20240; and the Interior Desk Officer, OMB control number 1029-0059, Office of Information and Regulator Affairs, Office of Management and Budget.

## **BUDGET NARRATIVE**

The PSC will use OSM's Option 1 and maintain detailed accounting records to support functions of the grant total cost. Staff will complete activity time sheets and sign them on a monthly basis. The total budget that the PSC needs for this grant is shown in Table 1. The 2009 A & E Grant covers a 12-month period.

## **PERSONNEL**

The North Dakota Public Service Commission (PSC) will use 8.30 full-time equivalents (FTE) to administer the approved state program for this 12-month grant period. Table 2 lists each position by title, annual salary rate, and the amount of time to be devoted to the program by each employee. Total salaries for this administration and enforcement grant period are expected to be \$473,236.

## **FRINGE BENEFITS**

The estimated total fringe benefits for 8.30 FTE positions for this grant period are \$151,436. Included under fringe benefits are state retirement, FICA, worker's compensation, medical insurance, and unemployment insurance. The fringe benefit rate was increased from the previous grant period due to higher costs for medical insurance. Table 2 also lists the estimated fringe benefit costs by position.

## **TRAVEL**

The PSC estimates travel costs of approximately \$31,000 during this grant period. These travel costs are related to work efforts such as partial and complete mine inspections, bond releases, public meetings, training and technical conferences. The estimated travel budget is based on motor pool mileage costs, air transportation, lodging, and subsistence expenses.

## **EQUIPMENT**

OMB A-87 circular states that equipment purchases of less than \$5,000 are considered to be supplies and allowable as direct expenditures without specific awarding agency approval. For the 2008 grant period, no equipment purchases are planned.

## **SUPPLIES**

The Reclamation Division has estimated \$19,100 for supplies in this budget. The most significant purchases will be for specialized computer software and hardware.

## **CONTRACTUAL**

This budget category totals \$6,150 for this grant. It is anticipated that the Commission will pass through these funds to the North Dakota Geological Survey for coal exploration activities during the grant period.

## **CONSTRUCTION**

Construction costs will not be incurred under this grant.

## **OTHER**

The Reclamation Division has estimated \$60,982 for "other" expenses. This includes costs for administrative hearings, mailings, central service costs, office space rent, publishing newspaper notices, hearing transcripts, audit changes, lab testing services, cell phones, IMCC dues, registration fees for technical conferences and training, and miscellaneous fees and services.

**TOTAL DIRECT CHARGES**

The estimated total of direct charges (Items 1 through 8) is \$741,904.

**INDIRECT CHARGES**

The estimated indirect costs are \$249,744. This is based on the 39.98% rate that has been approved by the Office of the Inspector General for the two-year period that began on July 1, 2007 and ends June 30, 2009. The indirect cost rate will be charged based on the salary and fringe benefit items.

**TOTAL COST**

The estimated total budget is \$991,648 for the 12-month period (July 1, 2008 to June 30, 2009) under North Dakota's 2009 Permanent Program Administration and Enforcement Grant. Based on the federal lands funding formula, the federal participation rate will be 65%. The total federal share will be \$644,571 for the program year.

**PROGRAM INCOME**

The Reclamation Division anticipates that there will be about \$25,000 in permit fees collected during the grant period. This income will be deposited in the State's general fund which will offset a small portion of the State share outlays for the program.

**Table 1**

**North Dakota Permanent Program Budget Summary  
July 1, 2008 to June 30, 2009**

1. Personnel *		\$	473,236
2. Fringe Benefits * (32% of salary)		\$	151,436
3. Travel		\$	31,000
Meals and Lodging			
In-State	\$	3,000	
Out-of-State	\$	5,000	
Air Transportation	\$	6,500	
Motor Pool (30,000 miles @\$0.55/mile)	\$	16,500	
4. Equipment		\$	-
5. Supplies		\$	19,100
Office	\$	600	
Specialized Computer Software & Hardware	\$	13,500	
Repairs	\$	500	
Printing	\$	500	
Resource Materials & Scientific Supplies	\$	3,000	
Miscellaneous	\$	1,000	
6. Contractual		\$	6,150
ND Geological Survey	\$	6,150	
7. Construction		\$	-
8. Other		\$	60,982
Administrative Hearings	\$	2,000	
Mailing and Shipping	\$	900	
Central Service Costs	\$	9,500	
Office Rent	\$	30,000	
Advertising (Public Notices) & transcripts	\$	1,200	
Audit Services	\$	1,500	
Laboratory Services	\$	500	
Other Operating Fees & Services	\$	1,000	
Professional Development	\$	5,000	
Membership dues (IMCC)	\$	9,000	
Telephone (Cell phone)	\$	382	
9. Total Direct Costs		\$	741,904
10. Indirect Costs			
Rate - 39.98% X Base	\$	624,672	249,744
11. Total		\$	991,648
	Federal Share - 65% of Total Costs	\$	644,571

\* - Included in Indirect Cost Base

Table 2

Salary and Benefits Budget  
July 1, 2008 to June 30, 2009

**Assumes salary increase of 4% effective 7-1-08**

Position	Total Time (FTE)	Annual Salary Rate	Fringe Benefit Rate (32% rate used)	Total Cost per Year
Director	0.60	\$ 52,910	\$ 16,931	\$ 69,841
Assistant Director	1.00	\$ 65,245	\$ 20,878	\$ 86,123
Env. Engineer III	1.00	\$ 61,452	\$ 19,665	\$ 81,117
Env. Engineer III	1.00	\$ 53,102	\$ 16,993	\$ 70,095
Hydrologist III	1.00	\$ 57,620	\$ 18,438	\$ 76,058
Env. Scientist III	1.00	\$ 53,414	\$ 17,092	\$ 70,506
Env. Scientist III	1.00	\$ 53,015	\$ 16,965	\$ 69,980
Env. Scientist III	1.00	\$ 51,792	\$ 16,573	\$ 68,365
Admin. Assistant	0.65	\$ 20,686	\$ 6,620	\$ 27,306
Attorney	<u>0.05</u>	<u>\$ 4,000</u>	<u>\$ 1,280</u>	<u>\$ 5,280</u>
	8.30	\$ 473,236	\$ 151,436	\$ 624,672

# PART IV

**U.S. DEPARTMENT OF THE INTERIOR  
Office of Surface Mining  
Washington, DC 20240**

Performance Report       Program Narrative Statement

1. Type of Program (Check Appropriate Box)			
<input type="checkbox"/> Abandoned Mine Land Program		<input checked="" type="checkbox"/> State and Federal Program	
2. Grant Recipient	Type of Report	Reporting Period	Control Number(s)
Public Service Commission 600 E. Boulevard Ave. Bismarck, ND 58505-0480	Administration & Enforcement Grant Narrative	July 1, 2007 to June 30, 2008	
3. Project Title/Program			
Administration & Enforcement Reclamation Program			
4. Performing Organization			
Same as above			
5. Program Narrative			
SEE THE FOLLOWING PAGES			

OSM-51(12/80)

**Paperwork Reduction Act Statement**

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501) requires us to inform you that: Federal Agencies may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. This information is being collected in order to better you in the future and as part of OSM's performance of its responsibilities under the Government Performance and Results Act. The obligation to respond is required to obtain a benefit.

Public reporting burden for this form is estimated to average 5 hours per response, including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments regarding the burden estimate or any other aspect of this form to the Information Collection Clearance Officer, Office of Surface Mining Reclamation and Enforcement, Room 210 SIB, 1951 Constitution Ave., NW, Washington, D.C. 20240; and the Interior Desk Officer, OMB control number 1029-0059, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

## **PROGRAM NARRATIVE**

The North Dakota Legislature has assigned the North Dakota Public Service Commission (PSC) the responsibility to regulate surface coal mining operations within the state under North Dakota Century Code Chapter 38-14.1. The PSC has adopted the appropriate rules and policies to implement and enforce the laws established by the Legislature. The primary goal of the PSC during this grant period is to ensure that surface coal mining and reclamation operations are conducted in compliance with the OSM approved North Dakota Permanent Program and that timely action is taken on permit related applications. The PSC has defined four major program functions/activities to achieve this overall goal. The functions/activities are: reviewing permit related applications; inspection and enforcement; evaluating bond release applications; and administrative activities. Although very unlikely, it is possible there may be some activity involving designating lands unsuitable for mining and/or small operator assistance.

The results of the program functions will be evaluated and reported in the semi-annual performance and closeout reports.

## **PERMITS**

Permitting activity will be a major work effort during the grant period. The PSC will continue to review and process applications for permits, permit renewals, permit revisions and permit transfers to insure full compliance with regulatory program requirements. This includes permit mid-term and pre-renewal reviews as well as completeness and technical reviews of significant and insignificant revisions to ensure compliance with the appropriate application requirements. This also involves providing the appropriate notices to other agencies and landowners and coordinating the review of certain applications with other state and federal agencies. The appropriate information will also be entered into the Applicant Violator System and queries run before approval of the pertinent applications.

## **INSPECTION AND ENFORCEMENT**

Inspection and enforcement is another major program function and will continue to be an essential component of the State's Permanent Program. The PSC plans to monitor and inspect each coal mine operation averaging not less than one partial inspection per month and one complete inspection per quarter. However, mines that are totally reclaimed and revegetated may be inspected on a quarterly basis. During the field season (April - November) the division will conduct coal mine inspections at active mines on a more frequent basis such as once every two weeks. Other related tasks include preparing inspection reports, reviewing monitoring reports, responding to grade approval and special requests, and coordinating with other regulatory agencies and local officials. Enforcement actions will be taken as needed and any complaints will be investigated.

## **BOND RELEASE**

Bond release activities will be another significant work effort during the grant period. The PSC will review and evaluate the completed reclamation work to ensure the required standards have been met. The review of bond release applications includes a thorough technical analysis of the data provided in the application. The processing of bond releases also includes public notice with opportunity for hearings.

## **ADMINISTRATION**

The administrative function involves the day-to-day implementation and oversight of the program, developing and recommending rule and policy changes, responding to requests for information on the coal regulatory program, participating in meeting with industry, OSM and other stakeholders, retention of records, and other activities as needed. Administrative activities include assigning and reviewing staff work, scheduling meetings and hearings, and personnel matters. The administrative activity also includes some of the work associated with the development of a Geographic Information System to manage and analyze the vast amount of data that the Reclamation Division receives.

**COOPERATIVE AGREEMENT FUNDING**

The following calculations show the overall federal funding share for the regulatory program following OSM's federal lands funding policy that was adopted in February 1995. The Area-Weighted Average Option was used in the following calculations. However, this option was slightly modified to take into account several small leonardite permits which are regulated by North Dakota, but do not come under SMCRA. Therefore, the funding formula shows these permits as reducing no federal funds since they are considered 100% state funded. The funding calculations below show that the overall federal share of the program costs will be 65%, and the state share will be 35% for the 2009 grant period. Activities pertaining to federal lands during the grant period include conducting mine inspections and reviewing and approving applications for new permits, revisions, renewals, and bond releases. Most of these activities, as well as any enforcement actions, will normally be carried out in conjunction with similar actions for adjacent non-federal lands. The Reclamation Division will prepare draft decision documents required for Department of the Interior mine plan approval on leased federal coal tracts.

The slightly modified Area-Weighted Average Option for determining the federal funding for state regulation on federal lands is based on the following table:

Percent Federal Lands	Federal Lands Funding Percent	Overall Federal Funding Percent
Leonardite mining permits	0	0
0	0	50
>0 but <25	25	62.5
>25 but <50	50	75
>50 but <75	75	87.5
>75	100	100

The following provides the breakdown of all State Program permits that have been issued and pending applications and new applications expected in the grant period that propose to permit additional lands using the formula presented in the above table:

- 1) Permits for leonardite mines; this acreage receives no federal funding since it is 100% State funded:

<u>Permit No.</u>	<u>Total Acres</u>
BDSU-8011	99
GRGR-8403	50
ACPG-9701	507
GRGR-0501	<u>160</u>
Total	816

816 acres at 0% Federal Funding

- 2) Permits with no Federal lands; the total of this acreage is federally funded at the 50% rate:

<u>Permit No.</u>	<u>Total Acres</u>
CCGH-8003	1,017
NACT-8102	1,353
HKHK-8105	77
BNCR-8106	1,557
NACT-8401	159
NACT-8503	1,976
ROJK-8701	116
BCGH-8801	<u>848</u>
Total	7,103

7,103 acres at 50% Federal Funding

- 3) Permits with some Federal coal but less than 25% of the total permit area; the total of this acreage is federally funded at the 62.5% rate:

<u>Permit No.</u>	<u>Total Acres</u>	<u>Federal Coal Acres</u>
BNLS-8109	446	20
NAFK-8405	8,776	200
KRSB-8603	1,776	20
NAFK-8705	11,074	400
KRSB-8802	4,851	920
NACT-9001	2,819	558
NACT-9101	10,346	760
BNCR-9401	266	10
NACT-9501	7,245	1224
NAFK-9503	12,386	160
NAFK-9601	2,784	160
BNCR-9702	6,342	958
NACT-0401	5,710	160
Revision 7 to Permit NACT-0401 (pending)	360	
Revision 24 to Permit KRSB-8603 (pending)	<u>54</u>	
Total	75,235	

75,235 acres at 62.5% Federal Funding

- 4) Permits with more than 25% Federal coal but less than 50% of the total permit area; the total of this acreage is federally funded at the 75% rate:

<u>Permit No.</u>	<u>Total Acres</u>	<u>Federal Coal Acres</u>
KRGC-8101	1,881	683
NACT-8203	1,155	319
BCGH-8204	4,464	1638
NACT-8601	1,170	320
BNCR-8602	312	103
NACT-0201	<u>17,051</u>	5500
Total	26,033	

26,033 acres at 75% Federal Funding

- 5) Permits with more than 50% Federal coal but less than 75% of the total permit area; the total of this acreage is federally funded at the 87.5% rate:

None

0 acres at 87.5% Federal Funding

- 6) Permits with more than 75% Federal coal; this acreage is federally funded at the 100% rate:

<u>Permit No.</u>	<u>Total Acres</u>	<u>Federal Coal Acres</u>
BNCR-8006	210	158
BNCR-8202	886	737
KRGC-8404	<u>222</u>	222
Total	1,318	

1,318 acres at 100% Federal Funding

Summaries and calculation of overall funding rates:

0% Federal Funding	816 acres
50% Federal Funding	7,103 acres
62.5% Federal Funding	75,235 acres
75% Federal Funding	26,033 acres
87.5% Federal Funding	0 acres
100% Federal Funding	1,318 acres
Total Acres	110,505 acres

Calculation of federally funded areas:

$816 \times 0\% = 0$  acres federally funded  
 $7,103 \times 50\% = 3,552$  acres federally funded  
 $75,235 \times 62.5\% = 47,022$  acres federally funded  
 $26,033 \times 75\% = 19,535$  acres federally funded  
 $0 \times 87.5\% = 0$  acres federally funded  
 $1,318 \times 100\% = 1,318$  acres federally funded  
Total 71,427 acres federally funded

Calculation of overall federal funding percentage:

$71,427 \text{ acres (federally funded)} \div 110,505 \text{ acres (total)} = 65\%$

**Overall, the Federal share is 65% and the State share is 35% for the 2008 grant period.**

#### INDIRECT COST RATE

An indirect cost rate of 39.98 percent has been approved by the Office of the Inspector General for the two-year period that runs from July 1, 2007 to June 30, 2009.

# PART V

## **Regulatory Program Activities for the 2009 Grant Period**

The Reclamation Division may receive one new mining permit application during the period between July 1, 2008 and June 30, 2009. Considerable staff time will also be spent reviewing a few significant revision applications that have already been filed and those that will be filed in the 2009 grant period. These applications will permit another 1500 acres. About thirty other revision applications will be filed during the grant period and about the same number will be issued. Some of these applications will likely be significant revisions; including several that are associated with permit renewals. Renewal applications for five permits are expected, and most of these should be approved during the grant period. It is expected that five to ten bond release applications will also be approved. Some of these will be for partial bond release, but most will be for final bond release.

The regulated facilities will include 31 inspectable units (permits). Of these, 20 will be for active mining operations and 11 will be for permits under reclamation only. Inspections for these inspectable units are expected to total 125 complete inspections and about 500 partial inspections. Based on past history, it is likely that one to three notices of violation will be issued, with one administrative hearing. Also, it is likely a few citizen complaints will be received and resolved.

The Reclamation Division does not expect there will be any petitions for designating lands unsuitable for mining, and no small operator assistance requests are anticipated.

The authorized positions to carry out the regulatory program total 8.30 FTE's.

# PART VI

**U.S. DEPARTMENT OF THE INTERIOR**  
**Office of Surface Mining Reclamation and Enforcement**

**Certifications Regarding Debarment, Suspension and  
Other Responsibility Matters, Drug-Free Workplace  
Requirements and Lobbying**

Persons signing this form should refer to the regulations referenced below for complete instructions.

Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions. (See Appendix A of Subpart D of 43 CFR 12).

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions (See Appendix B of Subpart D of 43 CFR 12).

Certification Regarding Drug-Free Workplace Requirements (Grantees Other Than Individuals) (See Appendix C of Subpart D of 43 CFR 12).

Certification Regarding Lobbying (See 43 CFR 18).

Signature on this form provides for compliance with certification requirements under 43 CFR Parts 12 and 18. The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Office of Surface Mining determines to award the covered transaction, grant or cooperative agreement.

<b>PART A: Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions</b>
--

X CHECK IF THIS CERTIFICATION IS FOR A PRIMARY COVERED TRANSACTION AND IS APPLICABLE

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principles:
  - (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.
  - (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
  - (c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local)
2. The prospective primary participant agrees by submitting this proposal that it will include the clauses under Part B: Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
3. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

**PART B: Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions**

\_\_\_ *CHECK IF THIS CERTIFICATION IS FOR A LOWER TIER COVERED TRANSACTION AND IS APPLICABLE.*

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

**PART C: Certification Regarding Drug Free Workplace Requirements**

X *CHECK IF THIS CERTIFICATION IS FOR AN APPLICANT WHO IS NOT AN INDIVIDUAL.*

1. The grantee certifies that it will or continue to provide a drug-free workplace by:
  - (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
  - (b) Establishing an ongoing drug-free awareness program to inform employees about --
    - (1) The dangers of drug abuse in the workplace;
    - (2) The grantee's policy of maintaining a drug-free workplace;
    - (3) Any available drug counseling, rehabilitation and employee assistance programs; and
    - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
  - (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
  - (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will --
    - (1) Abide by the terms of the statement and
    - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
  - (e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification numbers(s) of each affected grant;
  - (f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted --
    - (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

- (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency;
  - (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).
2. The grantee shall provide below the site(s) of the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

North Dakota Public Service Commission  
600 East Boulevard Ave., Dept. 408  
Bismarck, ND 58505-0480

Check if there are workplaces on file that are not identified here.

<b>PART D: Certification Regarding Lobbying</b>
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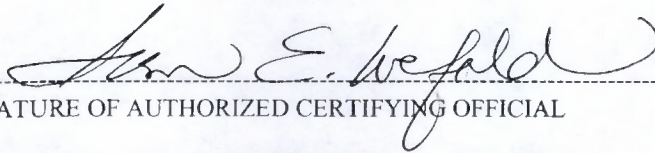
X *CHECK IF CERTIFICATION IS FOR THE AWARD OF ANY OF THE FOLLOWING AND THE AMOUNT EXCEEDS \$100,000: A FEDERAL GRANT OR COOPERATIVE AGREEMENT; SUBCONTRACT, OR SUBGRANT UNDER THE GRANT OR COOPERATIVE AGREEMENT.*

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress and officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

As the authorized certifying official, I hereby certify that the above specified certifications are true.



-----  
SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL

**Susan E. Wefald, President, Public Service Commission**

**April 23, 2008**

-----  
TYPED NAME AND TITLE

DATE

*This form consolidates DI-1953, DI-1954, DI-1955, DI-1956 and DI-1963.*

DI-2010 (March 1995)  
Modified for OSM Use

### ASSURANCES--NON-CONSTRUCTION PROGRAMS

**Note:** Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

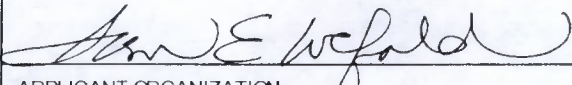
1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directive.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These includes but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or who property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

Standard Form 424B (4-88)  
Prescribed by OMB Circular A-102

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**Standard Form 424B (cont'd.)**

- 10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
- 11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (g) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).
- 12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national and wild scenic rivers system.
- 13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of Historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).
- 14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
- 15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
- 16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.
- 17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.
- 18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL 	NAME AND TITLE Susan E. Wefald, President
APPLICANT ORGANIZATION North Dakota Public Service Commission	DATE SUBMITTED April 23, 2008