



Public Service Commission

State of North Dakota

COMMISSIONERS

Susan E. Wefald, President
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Executive Director
Illona A. Jeffcoat-Sacco

600 E. Boulevard Ave. Dept 408
Bismarck, North Dakota 58505-0480
web: www.nd.gov/psc
e-mail: ndpsc@nd.gov
TTY 800-366-6888 or 711
Fax 701-328-2410
Phone 701-328-2400

August 5, 2008

Brian R. Bjella
Fleck, Mather & Strutz, Ltd.
400 East Broadway, Suite 600
P.O. Box 2798
Bismarck, ND 58502-2798

Re: Jurisdictional Determination for a Coal Beneficiation Facility
Case No. RC-08-611

Dear Mr. Bjella:

On July 28, 2008 you filed a request on behalf of GTL Energy (USA) Limited for a jurisdictional determination from the Commission pursuant to N.D.C.C. Chapter 38-14.1 for a proposed coal beneficiation facility. The proposed facility to be located near South Heart will upgrade lignite by removing a significant amount of moisture and then be provided to third party end users.

This request is somewhat similar to one filed last year on behalf of a joint venture between The North American Coal Corporation and Great River Energy for another type of coal beneficiation facility. The Commission discussed that request and determined that the coal beneficiation facility was not a surface coal mining operation under N.D.C.C. Chapter 38-14.1. Since the coal beneficiation facility proposed by GTL Energy (USA) Limited will not be operated "in connection with" the proposed coal mine near South Heart or any other coal mine and because it is not a "coal preparation plant", the facility is not a "surface coal mining operation" under N.D.C.C. Chapter 38-14.1. Therefore, GTL Energy (USA) Limited does not have to obtain a surface coal mining permit from the Commission for the coal beneficiation facility.

Sincerely,

James R. Deutsch
Director
Reclamation Division

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RC-08-611 Filed: 8/5/2008 Pages: 1
Letter Sent Stating the Facility is not Jurisdictional
under NDCC 38-14.1

Public Service Commission

Jim Deutsch