

Deutsch, James R.

From: Deutsch, James R.
Sent: Wednesday, October 15, 2008 4:32 PM
To: 'Mark Trechock'
Cc: Brian Bjella (brbjella@flecklaw.com); Jeffcoat-Sacco, Illona
Subject: RE: appeal of non-jurisdiction finding

Mark,

This is to acknowledge receipt of your request for Commission review of the administrative determination that the GTL Energy coal beneficiation facility is not jurisdictional under the reclamation law. The Commissioners are out of the office today but Illona has sent them an e-mail message asking if they would like to hold a work session on this matter tomorrow. We will let you know if a work session or any other type of meeting is scheduled to discuss this matter.

Also, I am forwarding a copy of this message, as well as your request, to Brian Bjella, counsel for GTL Energy. You should be sending him copies of any correspondence related to this matter. Likewise, GTL Energy should provide you with copies of their correspondence on this matter.

Jim Deutsch

From: Mark Trechock [mailto:mark@drcinfo.com]
Sent: Wednesday, October 15, 2008 2:45 PM
To: Deutsch, James R.
Subject: appeal of non-jurisdiction finding

Date: October 15, 2008
To: Jim Deutsch, PSC Reclamation Division, jdeutsch@nd.gov
From: Mark Trechock, Dakota Resource Council
Subject: Response to October 14 telephone call

Thank you for responding to my October 13 e-mail on the GTL Energy matter. I appreciated the opportunity to talk with you and Illona Jeffcoat-Sacco yesterday about our options for review of the earlier administrative decision that the North Dakota Public Service Commission has no authority over the construction of the GTL Energy coal beneficiation plant near South Heart.

In the conversation, you confirmed our understanding that there are no specific regulations (and apparently no precedent) to guide Dakota Resource Council in making a formal appeal of this administrative decision.

You did, however, suggest that DRC could write an informal letter to the PSC urging a reconsideration of the jurisdictional decision.

It would seem to us that the October 3 letter to the U.S. Office of Surface Mining and Reclamation Enforcement, of which a copy was sent to your office, could serve as just such an "informal" request, and we ask you to treat it as such. In addition, we respectfully request that the PSC immediately stay its jurisdictional determination and direct GTL energy immediately to undertake no further ground-disturbing activities which would upset the status quo ante until this matter has been resolved.

Because you have stated that the PSC has been actively reviewing our October 3 letter, we respectfully request a response—including a response to our request for a stay—by close of business tomorrow, Thursday, October 16. Thank you again for staying in touch with us about this matter