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October 16, 2008

ERNEST R. FLECK
(1921-1995)
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(RETIRED)
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(RETIRED)

Mr. James R. Deutsch
Director
Reclamation Division
NORTH DAKOTA PUBLIC
SERVICE COMMISSION
600 E. Boulevard Ave., Dept 408
Bismarck, ND 58505-0480

Dear Mr. Deutsch:

On behalf of GTL Energy (USA) Limited (hereinafter "GTL"), we acknowledge receipt of the Dakota Resource Council's (hereinafter "DRC") appeal of the jurisdictional determination of August 5, 2008, by the Director of the Reclamation Division of the Public Service Commission that GTL's proposed coal beneficiation plant does not have to obtain a surface coal mining permit.

In its appeal, the DRC requests the Public Service Commission (hereinafter "PSC") to order GTL to stop construction. GTL is very opposed to any such stay of construction.

DRC has been aware of the Reclamation Division's decision at least since August 29, 2008. Thus, the DRC had over six weeks to perfect this very appeal prior to the start of construction. GTL has complied with the necessary regulatory requirements and obtained its building permit from Stark County on Monday. Thus, with the rezoning of the land, the building permit, and the Reclamation Division's determination, GTL sought and obtained all necessary approvals. Construction commenced on Tuesday, October 14.

GTL intends to proceed with construction. The DRC has failed to perfect a timely appeal. To stay construction now that the contractors are on site and working, will cause significant monetary harm to GTL.

GTL accepts and agrees with the PSC determination based on the facts and based on precedent. It must be remembered that there is no coal mine at South Heart, and likely will not be for some time,

if ever. The fate of coal mining at South Heart is entirely a separate matter than the construction and operation of the GTL plant and is outside the control of GTL. Thus, there is no way by which this coal beneficiation facility is being built "in connection with" a coal mine.

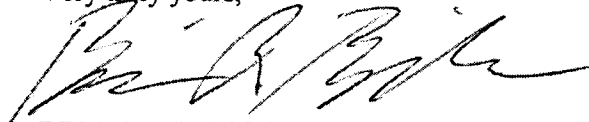
The PSC will have every opportunity to consider the permitting requirements of the South Heart mine and can address any issues regarding its permitting directly with the parties who control such resources, of which GTL is not one. The GTL facility will process coals from other mines in the region and from around the world. In the event the South Heart mine is opened, GTL will continue to process coals from North Dakota, including the South Heart mine and the rest of the world.

GTL sought and obtained from the Reclamation Division of the PSC a determination as to whether its proposed facility was a "surface coal mining operation." The answer was "no."

Thus, in our reading of the enforcement powers of the PSC under the Surface Mining and Reclamation Operations Act, Chapter 38-14.1, NDCC; the PSC could not issue a stay unless and until it were to reverse the decision of the Reclamation Director and find that the proposed facility does constitute a surface coal mining operation.

In summary, GTL respectfully requests that the PSC not issue a stay or cessation order while the DRC appeal is pending. GTL also requests the PSC address the DRC appeal as quickly as possible.

Very truly yours,

A handwritten signature in black ink, appearing to read "Brian R. Bjella", written in a cursive style.

BRIAN R. BJELLA