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June 15, 2010

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JUN 15 2010

VIA FACSIMILE: 328-3254

PUBLIC SERVICE COMMISSION

Mr. Darrell Nitschke
Executive Secretary
North Dakota Public Service Commission
600 East Boulevard, Department 408
Bismarck, ND 58505-0480

Re: Coal Lake Project, RC-08-640

Dear Secretary Nitschke:

The North Dakota Department of Transportation and North Dakota Game & Fish Department respectfully submits the original and seven (7) copies of its Petition to Intervene in the above-referenced matter.

Sincerely,

Zachary B. Smith
Assistant Attorney General

jjt

Enclosures

cc: Derrick Braaten (w/encs.)
Brian Bjella (w/encs.)
Ladd Erickson (w/encs.)

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**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

)	
)	PETITION TO INTERVENE
Falkirk Mining Company)	
Revision No. 13, Permit NAFK – 9601)	Case No. RC-08-640
)	
)	

**PETITION TO INTERVENE OF NORTH DAKOTA DEPARTMENT OF
TRANSPORTATION AND NORTH DAKOTA GAME AND FISH DEPARTMENT**

Under N.D.A.C. § 69-02-02-05, the North Dakota Department of Transportation (“DOT”) and North Dakota Game & Fish Department (“Game & Fish”) petition to intervene in this case. In support of this petition, the Departments state:

1. Under federal law DOT must dedicate, for wildlife habitat purposes, a certain amount of acreage in highway rights-of-way as No-Mow. No Mow areas in rights-of-way can, however, be substituted with other lands. DOT is awaiting the pending transfer to it of the 86 acres, which are the subject of this case (“Acreage”), from the Falkirk Mining Company as part of a larger plan to eliminate No-Mow lands within highway rights-of-way.

2. Game & Fish has agreed to manage the Acreage on behalf of the DOT after it has been transferred from Falkirk to DOT. Game & Fish will manage the Acreage as part of a greater Wildlife Management Area. Further, Game & Fish plans to continue agricultural production on the Acreage by working with local producers.

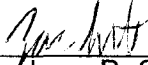
3. This case directly relates to the interests of the DOT and Game & Fish as the pending recipient and manager of the Acreage.

4. The PSC will hold a July 1, 2010, hearing on this case. The PSC did not set a date for filing petitions to intervene, but this petition is filed more than ten days before the hearing and is timely under N.D.A.C. § 69-02-02-05(2).

5. The DOT and Game & Fish have substantial interests in this case that will be affected by the PSC's final determination. The DOT and Game & Fish are not adequately represented by existing parties. They have a right to intervene as a party and fully participate.

Dated this 15 day of June, 2010.

State of North Dakota
Wayne Stenehjem
Attorney General

By: 

Zachary B. Smith
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Attorneys for Petitioners.

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

)
) **AFFIDAVIT OF SERVICE BY FACSIMILE**

Falkirk Mining Company)
Revision No. 13, Permit NAFK – 9601)
)
)
)

Case No. RC-08-640

STATE OF NORTH DAKOTA)
) ss.
COUNTY OF BURLEIGH)

Donna J. Connor states under oath as follows:

1. I swear and affirm upon penalty of perjury that the statements made in this affidavit are true and correct.

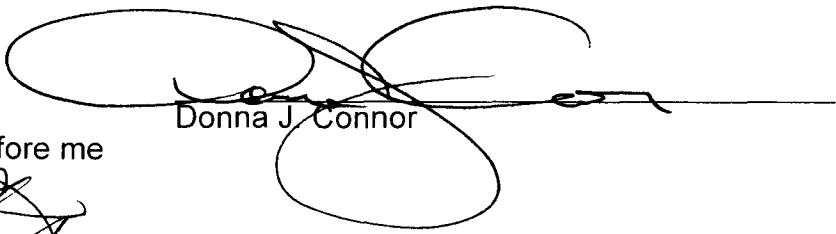
2. I am of legal age and on the 15th day of June, 2010, I served the attached **PETITION TO INTERVENE** upon Derrick Braaten, Brian Bjella, and Ladd Erickson, by placing a true and correct copy thereof in an envelope addressed as follows:

Derrick Braaten
Attorney at Law
222 North 4th Street
Bismarck, ND 58501-4004

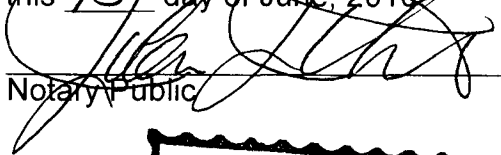
Brian Bjella
Attorney at Law
400 E. Broadway Ave., Ste. 600
PO Box 2798
Bismarck, ND 58502-2798

Ladd Erickson
Attorney at Law
PO Box 1108
Washburn, ND 58577-1108

and depositing the same, with postage prepaid, in the United States mail at Bismarck, North Dakota.


Donna J. Connor

Subscribed and sworn to before me
this 15th day of June, 2010


Notary Public

