



BEFORE THE PUBLIC SERVICE COMMISSION  
OF NORTH DAKOTA

Dakota Resource Council,	)	Case No. RC-09-032
Neil and Laura Tangen,	)	
Myron and Nancy Eberts,	)	
and Frank and Lucy Hurt,	)	
	)	
Complainants,	)	
	)	
vs.	)	RESPONDENT'S MOTION FOR PROTECTIVE ORDER
	)	
GTLE Dakota Plant 1 LLC,	)	
	)	
Respondent.	)	

Pursuant to North Dakota Century Code § 28-32-33 and Rule 26(c)(1) of the North Dakota Rules of Civil Procedure, Respondent GTLE Dakota Plant 1 LLC, hereby moves the Public Service Commission and the Administrative Law Judge for a protective order to stay discovery recently requested by Complainant pending determination of Respondent's Motion to Dismiss or in the Alternative Motion for Summary Judgment, dated August 12, 2009.

The Temporary Administrative Law Judge in his Memorandum of Procedure for Further Proceedings, dated September 30, 2009, indicated that the Respondent's Motion to Dismiss or in the Alternative Motion for Summary Judgment may be dispositive of this case, which requires that the Motions be determined upon consideration and vote by the Commissioners. The Temporary Administrative Law Judge then referred said Motions to the Commissioners for determination. Because of said Memorandum and the authority granted by North Dakota Administrative Code 69-02-04-07(1)(i), Respondent respectfully suggests that it may be appropriate that this Motion for Protective Order also be referred to the Commissioners for determination.

Attached hereto is the brief of Respondent in support of this Motion for Protective Order.

Dated this 25<sup>th</sup> day of November, 2009.

CROWLEY FLECK PLLP  
Attorneys for Respondent,  
GTLE Dakota Plant 1 LLC  
P.O. Box 2798  
Bismarck, North Dakota 58502

By   
BRIAN R. BJELLA (#03549)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was on the 25<sup>th</sup> day of November, 2009, mailed to the following:

Derrick Braaten  
SARAH VOGEL LAW FIRM, PC  
222 North Fourth Street  
Bismarck, ND 58501-4004

Paul Blackburn  
Plains Justice  
P.O. Box 251  
Vermillion, SD 57069

Honorable Al Wahl  
Temporary Administrative Law Judge  
138 East Edmonton Drive  
Bismarck, ND 58503

Illona Jeffcoat Sacco  
North Dakota Public  
Service Commission  
600 E. Boulevard Ave., Dept. 408  
Bismarck, ND 58505-0480

  
BRIAN R. BJELLA

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Neil and Laura Tangen,	)	
Myron and Nancy Eberts,	)	
and Frank and Lucy Hurt,	)	
	)	
Complainants,	)	RESPONDENT'S BRIEF
	)	IN SUPPORT OF ITS MOTION
vs.	)	FOR PROTECTIVE ORDER
	)	
	)	
GTLE Dakota Plant 1 LLC,	)	
	)	
Respondent.	)	

COMES NOW, GTLE Dakota Plant 1 LLC ("GTLE"), in support of its Motion for Protective Order to stay discovery requested by Complainants.

GTLE filed on August 12, 2009, a Motion to Dismiss Complainant's First Amended and Supplemented Complaint for Failure to State a Claim Upon Which Relief can be Granted, or in the Alternative, Motion for Summary Judgment ("Motions"). These Motions are still pending before the North Dakota Public Service Commission ("Commission").

Should either of the Motions be granted, this case would be concluded before the Commission, and there would be no need for GTLE to respond to the discovery requests.

The onerous discovery requests are intrusive in the extreme and go well beyond the Complainants original claim that the PSC erred in its determination that the GTLE coal beneficiation and research plant did not constitute a mining operation and therefore a 'mining permit' was not required. Attached hereto as Exhibit 1 is the Complainant's First Discovery Request to GTLE Dakota Plant 1 LLC, dated November 19, 2009.

GTLE is seeking a protective order pursuant to Rule 26(c) of the North Dakota Rules of Civil Procedure to stay discovery pending resolution of the dispositive Motions.

Pursuant to Rule 26(c)(1) a protective order may be sought by a party from whom discovery is sought, for good cause shown, that discovery not be had. A protective order can be issued for good cause when necessary to protect a party from annoyance, oppression, or undue burden or expense. The discovery requests submitted by Complainants are extreme in breadth and it would take GTLE enormous time, resources and expense to prepare responses. GTLE submits that good cause exists in this case due to the pendency of its dispositive Motions, which if granted, would eliminate the need to respond to these onerous discovery requests.

In *Kramer vs. Kramer*, 711 N.W.2d 164(N.D. 2006), the North Dakota Supreme court upheld a district court's granting of a protective order denying discovery for irrelevant matters. The court held that the protective order was not arbitrary, capricious, or unreasonable, and therefore was not an abuse of discretion. *Id.* at 171.

More significantly, in *Kouba vs. State*, 687 N.W.2d 466, (N.D. 2004), the North Dakota Supreme Court, in a case of first impression, found that Rule 26(c)(1) of the North Dakota Rules of Civil Procedure does authorize a district court to stay discovery pending a ruling on a dispositive motion. The Court stated that when considering Rule 26(c), great deference should be given to federal case law interpreting and construing the corresponding federal rule. Federal courts have held that a protective order to stay discovery pending determination of a motion is an appropriate exercise of a court's discretion when the motion would be dispositive of all the claims. *Id.* at 472. Thus, the Supreme Court approved the granting of a protective order while dispositive motions are pending.

GTLE submits that good cause exists to grant its motion for a protective order to stay discovery due to the pendency of its dispositive Motions before the Commission.

Dated this 25<sup>th</sup> day of November, 2009.

CROWLEY FLECK PLLP  
Attorneys for Respondent,  
GTLE Dakota Plant 1 LLC  
P.O. Box 2798  
Bismarck, North Dakota 58502

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Frank and Lucy Hurt,	)	
Complainants,	)	Case No. RC-09-32
	)	
vs.	)	
	)	
GTLE Dakota Plant 1 LLC,	)	
Respondent.	)	

**COMPLAINANTS' FIRST DISCOVERY REQUEST TO  
GTLE DAKOTA PLANT 1 LLC**

PLEASE TAKE NOTICE that Complainants in the above captioned complaint, hereby submit, pursuant to N.D.C.C. § 28-32-33, N.D.A.C, §§ 69-02-05-03, 69-02-05-05, and the North Dakota Rules of Civil Procedure ("N.D.R.Civ.P."), the following interrogatories, requests for documents, and admissions to Respondent. Respondent's response shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the reasons for the objection shall be stated. If objection is made as to part of an item or category, that part shall be specified and inspection permitted of remaining part(s). Respondent's response shall identify the individual(s) who reviewed the records in response to this request.

**INSTRUCTIONS**

1. You are required to stipulate in writing that your responses may be treated exactly as if they were filed under oath.
2. You are requested to identify the individual or individuals or counsel who prepare a response to a request and provide a verification or signature of such individual or individuals or counsel with the answers for such request as an indication of the genuineness and completeness of the responses and documents provided.

3. You are requested to produce not only those writings and any indices thereto in your possession, custody, or control, but also those writings reasonably available to you, including those in the possession, custody, or control of your attorneys, agents, or any other person acting on your behalf.

4. You are requested to produce all writings in the same form and order as they were kept prior to this notice to produce.

5. In the event you are able to produce only some of the writings called for in a particular request, please produce all writings you are able to produce and identify the remainder and state the reason, if any, for your inability to provide the remainder.

6. Every request for production herein shall be deemed a continuing request for production, and you are to supplement your answers promptly if and when you obtain responsive documents which add to or are in any way inconsistent with your initial production.

7. These discovery requests are not intended to be duplicative. All requests should be responded to fully and to the extent not covered by other requests. If there are documents that are responsive to more than one request, please note and produce each such document first in response to the request that is more specifically directed to the subject matter of the particular document.

8. Any word written in the singular herein shall be construed as plural or vice versa when necessary to facilitate the response to any request.

9. "And" as well as "or" shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of the request all responses which otherwise might be construed to be outside its scope.

## DEFINITIONS

1. "You" and "yours" and "Respondent" shall mean GTLE Dakota Plant 1 LLC and its officers, directors, employees, agents, partners, corporate parents, subsidiaries, affiliates, or successors, including but not limited to GTL Energy (USA) Limited, and GTL Energy, Ltd, (Australia), and the officers, directors, employees, and partners of these companies, as well as any parent, subsidiary, or affiliate of these companies.
2. "Facility" shall mean the coal "beneficiation" plant that Respondent is currently constructing at 3850 125th Avenue SW, South Heart, Stark County, ND, 58655, SW1/4NW1/4, Section 20, TWP. 139W Range 98W.
3. "End user" shall mean a person that burns, oxidizes, or otherwise consumes beneficiated coal such that the beneficiated coal is converted to thermal or electrical energy and/or converted to a gas or liquid product.

4. "Commission" refers to the North Dakota Public Service Commission.
5. "GNPD" shall mean Great Northern Power Development, also known as Great Northern Project Development, and, where applicable, its officers, directors, employees, partners, corporate parent, subsidiaries, shareholders, or affiliates, including but not limited to South Heart Coal, LLC, Great Northern Properties, and their officers, directors, employees, partners, corporate parent, subsidiaries, owners, shareholders, or affiliates.
6. "Allied Syngas" shall mean Allied Syngas Corporation and, where applicable, its officers, directors, employees, partners, corporate parent, subsidiaries, shareholders, or affiliates, including but not limited to Allied Resource Corporation.
7. "Request" includes any and all interrogatories, requests for production of documents, requests for admission, information requests, or other document request.
8. "Person" or "persons" shall mean any individual, association, partnership, corporation, firm, organization, governmental entity, or other entity.
9. "Document" is defined in the same meaning and equal in scope to the usage of such term in North Dakota Rule of Civil Procedure 34. A draft or non-identical copy shall be considered a separate document within the meaning of this term.
10. "Concerning" or "concern" shall mean relating to, referring to, describing, evidencing, or constituting.
11. "Relate(s) to," "related to" or "relating to" means to refer to, reflect, concern, pertain to or in any manner be connected with the matter discussed.
12. "Identify" shall mean, when used in relation to:
  - i) a real person: the provision of: that person's full name; social security number if known; last known home and work addresses; last known home and work phone numbers; and a description of his/her relationship to Respondent;
  - ii) a document: the provision of: the name and address of the custodian of the document; the location of the document and all copies; and a general description of the document, including: (1) the type of document (i.e., correspondence, memorandum, facsimile, etc.); (2) the general subject matter of the document; (3) the dates of creation and distribution; (4) Identification of the author of the document; (5) Identification of the recipients of the document; and (6) the relationship of the author and each recipient to each other;
  - iii) a communication: the provision of: Identification of all parties to the communication; the date of the communication; the manner of the communication; and the substance of the communication;
  - iv) a corporate or business entity or other non-individual association or entity: the provision of: full entity name; "dba" or trade name (if any); principal business address; state of incorporation (if any); Identification of the officers, directors, and registered agent of the entity; and the Tax ID number of the entity; and

- v) (e) any other object or thing (i.e., when "Identify" is not capitalized as a term-of-art): its normal and customary meaning in the context of the particular discovery request in which it appears.

## INTERROGATORIES

These interrogatories are served upon you pursuant to N.D.R.Civ. P. 33. You are required to answer the following interrogatories separately and fully in writing under oath, within the time permitted by the provisions of the Rules of Civil Procedure and to serve copies of your responses upon counsel for all parties. These interrogatories are continuing and if at any time after you have answered these interrogatories, new or additional information responsive to any of these interrogatories comes to your attention, you are required to furnish such new or additional information to this propounding party and serve upon all counsel for all parties supplemental answers to these interrogatories in accordance with the provisions of the Rules of Civil Procedure.

These interrogatories, and answers hereto, are to include and are to be based upon, information in the possession of or gathered by you, your agents, servants, representatives, investigators, attorneys, and all other persons who have investigated or gathered information at your request or on your behalf.

You are advised that the propounding party understands the attorney client privilege and the attorney work product privilege. The propounding party is not seeking information which is truly attorney client or attorney work product privileged. However, your response will be considered insufficient and a motion to compel will be filed if you respond generally that the information sought is attorney client or attorney work product privileged. If in response to a particular interrogatory or request there is some information which is privileged and some information which is not privileged a general objection is not acceptable. The propounding party is seeking only non-privileged information and documents. To the extent you withhold privileged information, please provide a log.

You are requested to respond to the following interrogatories:

1. State the date on which Respondent intends to first beneficiate coal at the Facility. If Respondent has not chosen a specific date, state the month and year during which Respondent anticipates that it will first beneficiate coal at the Facility.
2. State the date on which Respondent intends to first process North Dakota coal for sale into the stoker market. If Respondent has not chosen a specific date, state the month and year during which Respondent anticipates that it will first process North Dakota coal for sale into the stoker market.
3. State the name and address of each person with whom Respondent has in the past entered into a written or oral agreement, contract, understanding, or other formal or informal arrangement to provide coal for beneficiation at the Facility.

4. For each coal mine owner or operator or coal supplier that will supply coal for beneficiation at the Facility pursuant to a written or oral agreement, contract, understanding, or other formal or informal arrangement, identify the coal mine or mines from which such owner, operator or supplier will supply coal.
5. Identify the amount of coal to be provided (per month, per annum, or overall, the time period during which coal is to be provided) pursuant to each existing written or oral agreement, contract, understanding, or other formal or informal arrangement to provide coal for beneficiation at the Facility. For each such agreement, identify the coal mine owner, coal mine operator, coal supplier, and coal mine that will supply coal for beneficiation at the Facility.
6. For each mine that will be a source of coal to be beneficiated by the Facility pursuant to a written or oral agreement, contract, understanding, or other formal or informal arrangement, describe the physical characteristics of the coal from such mine, including but not limited to the moisture content of the coal, the BTU content of the coal, and other characteristics that Respondent typically includes in reports on the benefits of its technology.
7. State the name and address of each coal supplier or coal mine owner or operator contacted by Respondent for the purpose of entering into a written or oral agreement, contract, understanding, or other formal or informal arrangement to provide coal for beneficiation at the Facility, and describe the substance of any communications, if any, between such coal supplier or coal mine owner or operator and you.
8. If Respondent has not yet entered into any written or oral agreement, contract, understanding, or other formal or informal arrangement to provide coal for beneficiation at the Facility, describe how you will arrange for coal to be provided to the Facility for beneficiation in the future, including but not limited to your identification of possible sources of coal for beneficiation at the Facility, your schedule for entering into arrangements to obtain coal for beneficiation at the Facility, the approximate amounts of coal that you intend to beneficiate at the Facility on a monthly and annual basis, and your anticipated commercial arrangements related to beneficiation of coal at the Facility.
9. Identify the individual or individuals responsible for obtaining coal or soliciting potential providers of coal to be beneficiated by Respondent at the Facility.
10. Identify the names and locations of all end users of the coal to be beneficiated by the Facility. If no end users are known at this time, identify the types of end users, *e.g.*, power plants, gasification plants, universities, hospitals, penitentiaries, and agricultural facilities, to which you intend to provide beneficiated coal, the amount of beneficiated coal that you intend to provide to end users, the amount of revenue that you expect to generate from sales to end users, and describe the geographic extent of the market you intend to serve.
11. If some amounts of beneficiated coal are not shipped to end users, describe what you will do with such beneficiated coal.

12. State the name and address of each end user with whom Respondent has entered into a written or oral agreement, contract, understanding, or other formal or informal arrangement in which Respondent agrees to provide beneficiated coal or coal beneficiation services to such end user.

13. For each source of coal from which coal will be beneficiated by the Facility pursuant to an existing written or oral agreement, contract, understanding, or other formal or informal arrangement, describe how the Facility's beneficiation process is expected to alter the physical characteristics of that coal and the commercial advantages of such beneficiation.

14. Describe all past and current discussions and negotiations between Respondent, coal mine operators or owners, other coal suppliers, and end users, or any combination thereof, related to the future beneficiation of coal by the Facility, including but not limited to the identity of the parties to such discussions or negotiations, arrangements related to amounts of coal to be beneficiated, the ownership of coal before, during or after beneficiation, the cost of coal to be beneficiated, the price or value of beneficiated coal or coal beneficiation services, or terms of shipping arrangements related to transportation of coal prior to beneficiation, or the terms of shipping arrangements related to the transportation of beneficiated coal to an end user or other person.

15. Describe how coal will be transported to the Facility, including but not limited to the form of transportation (rail or truck), your anticipated delivery schedule, the number of deliveries per day, month, and year, whether transportation services will be provided by a common carrier, and, if transportation is not via common carrier, describe the commercial relationship between the transportation service provider, the person providing coal to be beneficiated, and you.

16. Describe how beneficiated coal will be transported from the Facility, including but not limited to where the beneficiated coal will be loaded for such transportation, the form of transportation (*e.g.*, rail, truck or both), whether transportation services will be provided by a common carrier, and, if transportation is not via common carrier, describe the commercial relationship between the transportation service provider, the end user, and you.

17. Describe the major pieces of coal beneficiation equipment currently contained in the Facility as well as major pieces of coal beneficiation equipment not yet installed but that will be contained in the Facility prior to the start of operations, including a general description of the purpose of such equipment and the manner in which the equipment contributes to the Facility's coal beneficiation process.

18. Describe how Respondent will use the Facility to process bulk samples of low rank coal for potential users of the technology from around the world, including the total combined weight of such samples (if known), the typical individual weight of such samples, the means of transporting such samples to the Facility, the shipment size of such samples, the disposal, sale, or return of such samples after beneficiation, and forecasts for the number of such samples that the Facility will process in each of the next five years.

19. Identify existing written or oral agreements, contracts, understandings, or other formal or informal arrangements the purpose of which are to provide bulk samples of low rank coal from potential users of the technology from around the world for processing at the Facility.
20. Describe how and where Respondent will dispose of coal waste produced by the Facility.
21. Identify the owner of the real property upon which the Facility is constructed, and any agreements, formal or informal, in writing or otherwise, related to the interests in the real property upon which the Facility is constructed.
22. Identify the meaning of the acronym "GTL" as used in GTL Energy or what the acronym stands for, if anything.
23. Identify past and current owners of the Facility, past and current investors in the Facility, persons that have provided loans, cash, or any other funds for the construction of the Facility, and persons with a right or option for a future financial interest in the Facility.
24. Identify past and current managers of the Facility and persons who will have management control over the Facility during operations, including, if available, an organization chart.
25. Identify past and current owners of Respondent and Respondent's corporate parents.
26. Identify past and current investors in Respondent, past and current persons that have provided loans or funds to Respondent, and persons with a right or option to acquire a future ownership interest or investment option in Respondent, where such investors, lenders, funders, or option holders have provided equity, debt, or other valuable consideration for the purpose of development, construction, or operation of the Facility.
27. Identify past and current management of Respondent and persons with management control over Respondent, including but not limited to past and current officers and directors of Respondent and if available, an organizational chart.
28. Identify the witnesses and exhibits that Respondent intends to present at hearing, and provide a brief description of the subject matter of the testimony of each witness.
29. For each affirmative defense set forth in your Answer set forth in detail each principle fact or theory and identify each principle document which supports or relates to such defense, identify each person with knowledge of each such fact setting forth the facts you believe each individual is aware of, and identify each person in possession each document identified.

### **REQUEST FOR ADMISSIONS**

1. Admit that GTL Energy Ltd., has developed a proprietary process of coal beneficiation to upgrade low rank coal, such as North Dakota's lignite coal.

2. Admit that the coal beneficiation process to be used by the Facility removes a significant amount of water from coal processed by the Facility.
3. Admit that the coal beneficiation process to be used by the Facility raises the energy content of the coal per unit weight of coal.
4. Admit that the coal beneficiation process to be used by the Facility improves the transportation and handling characteristics of the coal.
5. Admit that the coal beneficiation process to be used by the Facility crushes coal and reforms the crushed coal into briquettes.
6. Admit that the coal beneficiation process to be used by the Facility increases the market value of the coal.
7. Admit that Respondent will use the Facility to process bulk samples of low rank coal for potential users of the technology from around the world.
8. Admit that Respondent will use the Facility to provide proof of concept that large volumes of coal beneficiated by the Facility can be transported, stockpiled and handled without the problems generally associated with dried coal (*e.g.*, dustiness, propensity to absorb moisture and propensity to spontaneously combust).
9. Admit that Respondent will use the Facility to provide proof of concept related to the combustion characteristics of the beneficiated coal to be produced by the Facility by providing such beneficiated coal to end users for combustion;
10. Admit that Respondent will use the Facility to provide first revenues to Respondent through sales of beneficiated coal into the domestic US market.
11. Admit that Respondent will use the Facility to process North Dakota coal for sale into the US stoker market.
12. Admit that Respondent has the objective of displacing coal imports into North Dakota from Montana and Wyoming with North Dakota lignite beneficiated at the Facility.
13. Admit that the Facility is a full scale commercial plant.
14. Admit that Respondent plans to deploy its technology in larger capacity plants (*e.g.*, 1 million tons per annum plus) by installing multiple modules of the Facility.
15. Admit that GNPD and Allied Syngas purchased 2,000,000 options from Respondent each at a price of \$1.00 per option with an exercise price of \$3.00 per option and an exercise date of 31 December 2012.

16. Admit that GNPD and Allied Syngas also have rights to acquire a further 9,723,600 options on the same terms by 31 December 2009.

### **DOCUMENT REQUESTS**

1. Produce all contracts, agreements, memoranda of understanding, letters, or other documents that embody formal or informal agreements between you and coal mine owners, coal mine operators, or other coal sources or suppliers related to providing coal to the Facility for the purpose of beneficiating such coal or providing coal beneficiation services to such mine owners or operators or coal suppliers.
2. Produce all contracts, agreements, memoranda of understanding, letters, or other documents that embody formal or informal agreements between you and end users, where such agreements concern the use by an end user of coal beneficiated by the Facility; the purchase by an end user of coal beneficiated by the Facility; the purchase of coal beneficiation services by an end user; or the transportation of beneficiated coal from the Facility to an end user.
3. Produce all contracts, agreements, memoranda of understanding, letters, or other documents that embody formal or informal agreements between you and wholesale or retail suppliers of coal to end users, where such agreements concern the acquisition, purchase, control, resale, or transportation of coal beneficiated by the Facility.
4. Produce all contracts, agreements, memoranda of understanding, letters, or other documents that embody formal or informal agreements between you and shipping companies, whether common carriers or otherwise, where such agreements relate to the transportation of coal to the Facility or the transportation of beneficiated coal from the Facility.
5. Produce all documents in which Respondent describes how the beneficiation process to be used in the Facility will change the physical characteristics of coal to be provided to the Facility pursuant to contracts, agreements, memoranda of understanding, letters, or other documents that embody formal or informal agreements, including but not limited to before-and-after comparisons of non-beneficiated and beneficiated coal.
6. Produce all non-confidential documents that provide an overview of the beneficiation process and equipment to be used in the Facility.
7. Produce all communications and documents related to communications between Respondent and coal mine owners or operators or other coal suppliers related to beneficiation at the Facility of coal provided by such owners, operators, or suppliers.
8. Produce all communications and documents related to communications between Respondent and prospective end users of coal to be beneficiated at the Facility.

9. Produce all documents related to past and ongoing discussions and negotiations between Respondent, coal mine operators or owners, other coal suppliers, end users, coal transporters, or any combination thereof, related to the future beneficiation of coal by the Facility.
10. Produce all documents created by Respondent concerning possible sources of coal to be beneficiated by the Facility, including but not limited to lists of coal mines, coal mine owners, coal mine operators, or coal suppliers; descriptions of the coal produced by such possible sources of coal; and Respondent's planning and efforts to acquire coal for beneficiation from such sources.
11. Produce the business plan for the Facility and planning documents related to the commercial development and operation of the Facility.
12. Produce all communications and documents related to communications concerning the Facility between Respondent and GNPD, including but not limited to communications with persons known by Respondent to be the managers, investors, owners, employees, affiliates, agents, or successors of GNPD.
13. Produce all documents created by Respondent concerning GNPD, its managers, investors, owners, employees, affiliates, agents, or successors.
14. Produce all documents provided by GNPD, its managers, investors, owners, employees, affiliates, agents, or successors, to Respondent.
15. Produce all documents related to ownership of real estate interests for the real property upon which the Facility is located.
16. Produce all leases and mortgages related to Respondent's interests in the real property upon which the Facility is constructed.
17. Produce all agreements between Respondent and GNPD and/or Allied Syngas related to licensing of Respondent's technology, equity investment in Respondent or the Facility, or deployment of Respondent's technology.
18. Produce all communications concerning the Facility between Respondent and those known or believed by Respondent to own subsurface coal rights within North Dakota, including but not limited to communications with persons known by Respondent to be the managers, investors, owners, employees, affiliates, agents, or successors of such owners of subsurface coal rights.
19. Produce all communications concerning ownership of or investment in either the Facility or Respondent or both by coal mine owners or operators, or the managers, investors, owners, employees, affiliates, agents, or successors of such coal mine owners or operators.
20. Produce all communications concerning participation in the management of or planning for the Facility or Respondent or both by coal mine owners or operators, or the managers,


investors, owners, employees, affiliates, agents, or successors of such coal mine owners or operators.

21. Produce all documents showing sources of coal that Respondent currently intends to beneficiate at the Facility, including but not limited to the identity of the owners or operators of such sources, the locations of such sources, or the amounts of coal to be provided by such sources.

22. Produce all documents concerning the future sales of beneficiated coal by the Facility, including the amounts of beneficiated coal to be sold and existing or prospective purchasers of such beneficiated coal.

Dated November 19, 2009.

PLAINS JUSTICE



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By: Paul C. Blackburn  
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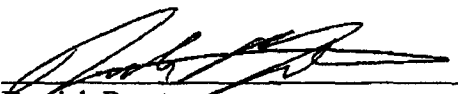
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing **COMPLAINANTS'**  
**FIRST DISCOVERY REQUEST TO GTLE DAKOTA PLANT 1 LLC** was on November  
19, 2009, mailed to the following:

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Bismarck, ND 58502

  
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Sarah Vogel Law Firm, P.C.