

September 15, 2011

VIA E-MAIL

Mr. Allen C. Hoberg
Office of Administrative Hearings
2911 North 14th Street
Suite 303
Bismarck, ND 58503

**RE: South Heart Coal, LLC
Permit SHSH-1001
Application
PSC Case No. RC-10-77
OAH File No. 20110154**

Dear Mr. Hoberg:

We are in receipt of the letters filed with the North Dakota Public Service Commission ("Commission") during the time period of September 1, 2011 through September 7, 2011 in which members of the public requested that an informal public hearing be held in Fargo regarding the South Heart Coal, LLC ("South Heart"), mining permit application. For the reasons set forth below, South Heart opposes the requests for an informal public hearing in Fargo.

Pursuant to North Dakota Century Code, Section 38-14.1-18(5), a request for an informal conference (or informal public hearing, as termed in the letters referenced above) must be made within thirty (30) days after the last publication of the advertisement provided for in North Dakota Century Code, Section 38-14.1-18(1). As set forth in the Affidavit of Publication of the advertisement, which was filed with the Commission by South Heart on March 8, 2011, the last publication of the advertisement occurred on February 13, 2011. Furthermore, the Notice of Receipt of Permit Application sent to surface owners and others by the Commission on January 12, 2011, states that requests for an informal conference must be filed with the Commission by March 15, 2011. Therefore, the requests for an informal conference in Fargo are untimely.

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Letter re request for an informal public hearing in Fargo

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Should you have any questions, please do not hesitate to contact me.

Sincerely,



LAWRENCE BENDER

LB/mms

cc: Mr. Darrell Nitschke (via e-mail)
Ms. Illona Jeffcoat-Sacco (via e-mail)
Mr. Mark Gruman (via e-mail)
Mr. Jim Deutsch (via e-mail)
Mr. Richard Southwick (via e-mail)
Mr. Rich Voss (via e-mail)

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