



Public Service Commission

State of North Dakota

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July 6, 2011

Mr. David J. Nilson
Reclamation Administrator
Basin Cooperative Services
Leland Olds Power Station
3901 Hwy 200 A
Stanton, ND 58571-9417

Dear Mr. Nilson:

The Reclamation Division has completed an initial review of Bond Release No. 8 to Permit BCGH-8204. Items 1 through 10 listed under Attachments III and IV must be addressed prior to publishing the public notice advertisement. The remaining items may be addressed at this time or may be delayed until our technical review of this application is completed following the required field inspection.

Attachment III - Public Notice Advertisement

1. The heading of the public notice should be revised to state NOTICE OF FILING FOR FINAL RELEASE OF RECLAMATION BOND. Please change the wording of the heading. (BEB)
2. Please reference the accompanying map in the notice narrative. We suggest that it may be most effective to reference the map in the first paragraph of the narrative. (WTG)
3. Please capitalize the word commission in the third paragraph of the public notice, or replace with the words Public Service Commission. (BEB)
4. The narrative of the public notice somewhat confusing and repetitive. The second paragraph states "Prior to mining activities in 1979 this acreage was included in Permit 50 Amendment 1, which was approved by the North Dakota Public Service Commission on June 26, 1979". In the 4th paragraph it states mining resumed in the 1st Quarter of 1979. It is assumed that the mining disturbance which took place in the 1st quarter of 1979 was included in the approval of Permit 50, on November 10, 1978 and continued

into the Amendment 1 area which was approved in the 2nd quarter of 1979. If this is the case, please clarify the public notice. Also the 2nd and 4th paragraphs are repetitive in that they contain much of the same information. It is recommended that the 2nd and 4th paragraphs be combined and restructured into a single paragraph (preferably the 2nd paragraph) and that the mining and reclamation history currently in the 5th paragraph be moved to the 3rd paragraph followed by the postmine land use paragraph (currently the 3rd paragraph). (MDB & DKM)

5. Attachment III indicates that the permanent ponds will be retained for the use as livestock watering facilities and wildlife habitat. However, the ponds will actually be used as sedimentation ponds for the ash disposal site as well as keeping water out of it. Please update accordingly. (MDB)
6. Please revise the map to either list only the township, range and county of the property included in the bond release application (T144N, R84W, Mercer County), or label the township and range boundaries accurately similar to the labeling used on Attachment I. (BEB, GAW, MDB, & WTG)

Attachment IV - Surface Owner and Agency Notifications

7. Please make the following updates to the list of Local, State Agency, or Governmental Entity Notification: (1) Judith Hintz has replaced Barbara Fleming as Oliver County Auditor (although notice does not need to be sent to Oliver County since the bond release tract is not located in Oliver County); and (2), Todd Sando has replaced Dale Frink as State Engineer. (WTG & MDB)
8. Please add the Mercer County Commissioners and the Mercer County Planning and Zoning Board to the list of Local, State Agency, or Governmental Entity Notification. (WTG)
9. Please clarify the history of the bond release tract in the narrative of the proposed local and state agencies or governmental entities notification letter similar to what was discussed in item 4 above (newspaper notice). (MDB)
10. Attachment IV indicates that the permanent ponds will be retained for the use as livestock watering facilities and wildlife habitat. However, the ponds will actually be used as sedimentation ponds for the ash disposal site as well as keeping water out of it. Please update accordingly. (MDB)

Attachment VI - Tract History, Bonding and Vegetation Data

11. The first table on page 1 of Attachment VI incorrectly indicates that 100% of this tract has been disturbed and reclaimed; however, Attachment IX indicates only 256.08 acres were disturbed by mining activities with 68.92 acres being undisturbed. The bond amount calculated to be released is \$963,450 based on the entire disturbed area. This

amounts to \$2964.46 per acre which is comparable to the bond per acre calculations provided in Bond Release No.7. If both bond releases are approved at the same time, this is a moot point since all remaining acres and bond will be released. However, if one of the bond release applications was not approved at the same time as the other, the bond amount may be inadequate to cover the remaining liabilities. Please recalculate the bond amount which will be released for both Bond Releases No. 7 and 8 to reflect the undisturbed acres in the Bond Release No. 8 area. With this adjustment, we have calculated the rate for disturbed acres to be \$3076.89 per acre with a rate of \$200 being applied to undisturbed acres. Please make the necessary updates to the bond release application including the application form and public notice advertisement. (MDB & GAW)

12. Please review the native grassland seed mixture listed in the table on Page 2 of Attachment VI to ensure that all seed mixtures used on the bond release tract are included. The cover data included in the application and past field inspections indicate that other native species, such as switchgrass and big bluestem, were also seeded some years. (GAW)
13. Please clarify the status of the water resources and the standards that will apply to Ponds 1 and 2 and Wetlands A and B under the Water Resources and NDPDES Pond Discharge Summary section. Please indicate how these features will be used to support the LOS Ash Pit Expansion area or otherwise clarify their purpose. A sentence in the second paragraph on page 5 states that the wetlands were not disturbed by mining activities but the annual map indicates otherwise and the statement that Ponds 1 and 2 will provide a water source for grazing is inconsistent with the approved industrial land use. Attachment XI indicates Pond G144-84-31-3H will be used as a “sediment pond for storm water control from disturbed areas” and Ponds 1 and 2 as well as wetlands A and B “will capture water from undisturbed portions of the permit area.” These ponds and wetlands may provide a secondary use as a livestock watering source and wildlife but that is not their primary purpose. The requirements of NDCC 38-14.1-24 (7) must be addressed if these permanent impoundments are not going to be used to support the LOS Ash Pit expansion. (GAW & MDB)
14. Since Pond G144-84-31-3H will be retained as a sedimentation pond for future use by Leland Olds Station, please provide documentation from the North Dakota Department of Health stating the pond meets the requirements of its intended purpose and the discharge point can be obtained/transferred per NDCC 38-14.1-24(7)(a) & (c). (MDB)
15. In the last paragraph on Page 6 of Attachment VI, please clarify that the ground cover standard for reclaimed land that will be used for industrial purposes is 73% basal ground cover. The standards listed in Tables 1 through 8 of Attachment VI were calculated as if the original reclaimed land uses apply and the ground cover standard values listed are higher than required. It is not necessary to remove this information but it should be clear in the tables that the cover standard for industrial land is 73%. (GAW)

16. In the last paragraph on Page 6 of Attachment VI, please clarify why cover data for the 1996 seeded area and Pond 5 diversion disturbance is presented separately in Tables 5 - 8 and why these areas are not combined with the balance of the LOS Expansion Area. We understand that these areas were sampled separately due to seed mixture and species composition differences. (GAW)
17. In the last paragraph on Page 6 of Attachment VI, please explain that an orphan spoils reference was established and show the location of this reference area on Attachment IX and explain that the standard is 73%, provided that the ground cover on the reference area spoils is greater than 73%. (GAW)
18. Table 1 (Cover Summary) of Attachment VI includes a subarea labeled P-1, BCS (32: Spoil), but no cover data for this area was included on the CD. Please explain why this area is being treated separately. Also, please include the cover sampling data and identify the area on Attachment IX. Table 1 indicates that this area is subject to 1979 law but this is not correct if the area was not redisturbed and used in support of present law mining. (GAW)

Attachment VIII - Post-Mine Topography and Land Use

19. Labeling of the permanent pond names/numbers that are provided on the Post-Mine Topography and Land Use map are illegible. Please enlarge and bold the font set of the permanent pond labels. (BEB)

Attachment XI - Pond Information, Designs, and Water Quality Information

20. Provided in this attachment are July 2010 water quality analyses for Pond 31-3H, Wetlands 31-A and 31-B, and also 32-Pit West and 32-Pit East. We are unsure of the location of the 32-Pits or their relevance to this application because nowhere in the application have we been able to find mention of these water sources or their location. Please address. (BEB & GAW)
21. Narrative provided under the *Water Resources and NDPDES Pond Discharge Summary* in Attachment VI states that in addition to the other ponds listed, that Ponds 1 and 2 (144-84-31-5B and 144-84-31-3A, respectively) will provide a long term water source for grazing as well as wetland habitat and a water source for migratory and resident wildlife species. Please incorporate water quality analyses of these ponds into Attachment XI of the application. [NDCC 38-14.1-24(7)(c)] (BEB & GAW)
22. Water quality data for developed water resources that is provided in the CD differs from the information that is provided in the hard copy application. Water quality data in the CD provides analyses of water quality for at least 7 or 8 ponds/developed water resources that are not located within the bond release tract. Please review the water quality information provided on the CD's, and eliminate the information for those ponds that are not included within the proposed bond release area. (BEB)

Mr. David Nilson
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If you have any questions, please contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read "James R. Deutsch". The signature is fluid and cursive, with a large initial "J" and "D".

James R. Deutsch
Director
Reclamation Division

cc: Mike Murray

Minedata/Glenharold/Permits/BCGH-8204/BondRelease/BondRelease8.docx