



# Public Service Commission

## State of North Dakota

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### COMMISSIONERS

Brian P. Kalk  
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Darrell Nitschke

600 East Boulevard, Dept. 408  
Bismarck, North Dakota 58505-0480  
Web: [www.psc.nd.gov](http://www.psc.nd.gov)  
E-mail: [ndpsc@nd.gov](mailto:ndpsc@nd.gov)  
Phone: 701-328-2400  
ND Toll Free: 1-877-245-6685  
Fax: 701-328-2410  
TDD: 800-366-6888 or 711

February 25, 2013

Cherie Harms  
President  
Leonardite Products, LLC  
PO Box 548  
Williston, ND 58802-0548

Dear Ms. Harms:

The Reclamation Division has conducted a review of the application for Revision No. 4 to Permit GRGR-0501 for the Stony Creek Mine. The revision proposes to delete 34.17 acres of land from the permit area that have not been disturbed by mining activities in the N $\frac{1}{2}$ SW $\frac{1}{4}$  of Section 8 to facilitate the construction and operation of a solid waste transfer and recycling station.

As you are aware, the division has been communicating with the property development consulting engineer Patrick Reinsour of Interstate Engineering in Fergus Falls, Minnesota regarding the metes and bounds description that was submitted with the revision application. Please note that Permit GRGR-0501 was approved with a permit area described by Public Land Survey System (PLSS) parcels (the S $\frac{1}{2}$ NW $\frac{1}{4}$  and N $\frac{1}{2}$ SW $\frac{1}{4}$  of Section 8) but a metes and bounds description is necessary to delete the acreage proposed with Revision No. 4 because the deleted acreage's irregular shape and location cannot be described by the PLSS. Regardless of the deleted acreage's shape and location, the deletion boundary's proximity to areas disturbed by mining would likely render the PLSS description imprecise. Correspondence with Mr. Reinsour on January 15 and 16, 2013 cited several potential concerns with the metes and bounds description, including: (1) the proposed deletion boundary appeared to be very close to, or may include, the N-NE/S-SW-trending mine haulroad. The boundary coordinate(s) must be relocated as necessary to retain the mine haulroad within the permit; (2) a 75 foot segment of the property entrance road off of Williams County Road 9 appeared to be retained in the permit. The 75 foot segment should be deleted from the permit by extending the deletion boundary westward to the centerline of Williams County Road 9; and, (3) a coordinate system (North Dakota State Plane NAD 1927 or NAD 1983) must be applied to the metes and bounds description to provide a spatial reference for the deletion boundary.

A partial inspection of the Stony Creek Mine was conducted on January 31, 2013 to resolve the aforementioned potential deletion boundary concerns with you, the property developer, and an Interstate Engineering land surveyor. A copy of the inspection report is enclosed. Coordinates of the submitted deletion boundary identified by flagged lath were evaluated during the inspection, and agreement was reached to relocate several coordinates as necessary to comply with NDAC 69-05.2-11-02(6) while maintaining the desired acreage and configuration of the property proposed for permit deletion. Based on recent conversations with Interstate Engineering staff, it appears that the survey has been revised to conform to the January 31, 2013 agreed coordinate relocations and a revised deletion boundary metes and bounds description with spatial reference will be submitted shortly. We will again re-inspect the area proposed to be deleted from the permit once the coordinates are received and the area is marked in the field.

Although the three items above will likely be resolved with the revised deletion boundary metes and bounds description, they are listed for the record below along with other items that must be adequately addressed prior to recommending Commission approval of Revision No. 4 to Permit GRGR-0501.

1. Please submit the following revised application documents resulting from the revised deletion boundary metes and bounds description: Application form (SFN 10574 (1-2004)) to describe the revised deletion acreage; Exhibit No. 1 to depict and describe the revised boundary; and, the permit revision application narrative to describe the revised acreage and boundary. (WTG)
2. The deletion acreage listed in the submitted metes and bounds description (34.17 acres) differs from the deletion acreage labeled on the drawing (Exhibit No. 1). Please ensure that the deletion acreage listed in the revised metes and bounds description agrees with the deletion acreage labeled on the revised drawing. (MDB/BEB/WTG)
3. Please relocate the deletion boundary coordinate(s) to retain the N-NE/S-SW-trending mine haulroad within the permit. (WTG/MDB)
4. Please delete the 75 foot segment of the property entrance road off of Williams County Road 9 from the permit by extending the deletion boundary westward to the centerline of Williams County Road 9. (BEB/MDB)
5. Please apply a coordinate system (North Dakota State Plane NAD 1927 or NAD 1983) to the metes and bounds description to provide a spatial reference for the deletion boundary. (MDB)
6. Please revise the permit area on page L-2 of Section II in the permit to exclude the 34.17 (or as revised) acres that will be removed. The new legal description should read similar to what follows: (MDB)

*“S 1/2NW1/4, Section 8, T154N, R100W, 5<sup>th</sup> P.M, Williams County, North Dakota, and the N1/2SW1/4 of Section 8, T154N, R100W, 5<sup>th</sup> P.M, Williams County, North Dakota, excluding a parcel beginning at the point NXXX, EXXXX, Thence (insert metes and bounds)... feet to the point of beginning. Said exclusion parcel contains 34.17 acres, more or less.”*

7. Please provide a description of the markers, fencing, or other materials that will be installed to mark the permit boundary for the parcel of land that will be deleted as required by NDAC 69-05.2-13-04(4). It appears that the permit revision application narrative may be the most convenient place for this description. (MDB)
8. Please update the following maps to depict the parcel that will be deleted from the permit with Revision No. 4: (MDB/BEB)
  - a. Permit Location Map B in Section IX (B);
  - b. Property Map C in Section IX (C);
  - c. Mine Plan Map D in Section IX (D);
  - d. Final Contours Map in Section IX (G);
  - e. Surface Water Management Map in Section IX (H); and,
  - f. Additional maps may require updating in the future as requested during permit midterm or renewal reviews or future revisions.

Following revision approval you will need to submit State Form Number 19366 Collateral Bond Rider to Reduce Bond Area and Amount to remove the acres deleted from the bond area. At that time, the First National Bank and Trust Company of Williston should be notified of the change to the permit area. However, the bond amount will remain the same.

If you have any questions, please contact this office.

Sincerely,



James R. Deutsch  
Director  
Reclamation Division

Enclosure