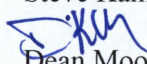




**Public Service Commission
Reclamation Division**

Memorandum

To: Commissioners Kroshus, Fedorchak, and Christmann
Illona Jeffcoat-Sacco and John Schuh
Steve Kahl – Acting Executive Secretary

From:  Dean Moos,  Zanna Brinkman, and Bill Gunnerson


Date: February 1, 2019

Subject: Bond Release No. 1 application approval for Surface Coal Mining Permit No. GRGR-0501, held by Leonardite Products, LLC, Case No. RC-17-369

Summary: On September 29, 2017, Leonardite Products, LLC filed the application for final Bond Release No. 1 to Surface Coal Mining Permit GRGR-0501 requesting release of all reclamation liabilities on 15.49 acres of industrial and commercial land at the Stony Creek Mine located east of Williston. The bond release tract was subsequently revised to 15.15 acres located in the W $\frac{1}{2}$ of Section 8 (T154N, R100W) of Williams County. The bond release tract consists of mined and partially backfilled commercial leonardite (oxidized lignite) pits, and also topsoil, subsoil, and overburden stockpiles originating from the pit excavations as shown on Figure 1. The entire permit area has an industrial and commercial postmine land use and is owned by Ellis/Olson LLC. The ND Department of Health - Division of Waste Management issued Permit 0384 to Will Chamley, doing business as Eco Park Landfill, LLC, on June 28, 2016 to develop mined pits in the bond release tract as an inert waste landfill. The Division of Waste Management will assume regulatory authority of the bond release tract on the effective date of bond release approval. Leonardite Products, LLC expects to submit successive final bond release applications allowing for inert waste landfill expansion as mining progresses northward as indicated by the mining plan boundary depicted on Figure 1. Policy Memorandum No. 15 to Mine Operators requires that the postmine industrial land use be implemented prior to final bond release to allow an exemption from the ten-year revegetation liability period pursuant to NDAC Section 69-05.2-12-09(2). Postmine industrial land use implementation includes appropriate permit issuance by the Division of Waste management and Williams County, as well as disposal facility construction to a degree that it is ready for use. The Reclamation Division has completed a review of this bond release application and respectfully recommends its approval.

Discussion: About 7 acres of the 15.15 acre bond release tract were mined during the years of 2006 to 2013. Most of the remaining acreage is associated disturbance used for stockpiles and surface water management, but about 1 $\frac{1}{2}$ acres in the tract's northeast corner and along the south boundary are undisturbed as shown on Figure 1. Topsoil, subsoil, and overburden removed from the tract was stockpiled east of the mining disturbance as shown on Figure 1. Policy Memorandum No. 15 to Mine Operators requires that sufficient topsoil and subsoil have been set aside to provide a total respread thickness of at least 24 inches of soil for sites where the cover material is non-sodic spoil before granting final bond release on mined areas used for long-term waste disposal activities.

Variances from the 180-day backfilling and grading rule (NDAC 69-05.2-21-01(2)) and the three-year contemporaneous reclamation requirement (NDCC 38-14.1-24(14)) for mining in the bond release tract were approved with Revision No. 7 on October 14, 2015. Variance approval was based on the type of mining operation, the slow pit progression, and the expectation that mined pits in the bond release tract would be developed as an inert waste landfill.

Postmine land use for the entire GRGR-0501 permit area was changed to industrial and commercial with Revision No. 5 approved on April 7, 2015. The Williams County Commission approved changing the permit area zoning from agriculture to industrial/commercial/residential at the surface owner's request on July 3, 2012. About 34 acres in the southeast portion of the permit area undisturbed by mining activities were deleted from Permit GRGR-0501 with Revision No. 4 approved on May 8, 2013. Will Chamley, doing business as Chamley Pipe and Salvage, has developed a salvage and recycling yard in a portion of deleted acreage south of the bond release tract as shown on Figure 1.

Surface water runoff from mining and associated disturbance in and adjacent the bond release tract is controlled by other sediment control measures as defined by NDAC 69-05.2-16-04(1)(h) to minimize erosion and prevent additional contributions of sediment to streamflow or to runoff outside the permit area. Surface water runoff from mining disturbance is retained in, or directed to, the pits with berms. Runoff from stockpile areas is controlled by mulching, seeding, and berms.

NDCC 38-14.1-17(1) requires that the notice of bond release application be published once a week for four consecutive weeks in the official county newspaper, and also requires that information in the newspaper notice be provided in letter notifications to specified individuals, agencies, and governmental entities. The newspaper notice of application for Bond Release No. 1 to Permit GRGR-0501 was published in the Williston Herald on February 28, March 7, 14, and 21, 2018. The applicant submitted copies of the affidavit of publication and copies of notification letters to individuals, agencies, and governmental entities. No objections to the bond release application were received.

The field inspection for the bond release application required by NDCC 38-14.1-17(3) was held on March 21, 2018. Participants included representatives for Leonardite Products, LLC, the surface owner, Eco Park Landfill, LLC, the ND Department of Health - Division of Waste Management, and Interstate Engineering, Inc. as the Eco Park Landfill, LLC consulting engineer. Inspection participants met at the Chamley Pipe and Salvage office located about 500 feet south of the southwest corner of the bond release tract, as shown on Figure 1, to discuss two items of the bond release application that must be resolved prior to final bond release approval: (1) an adjustment to the bond release tract boundary submitted with the application; and, (2) stockpiling sufficient overburden inventory within the GRGR-0501 permit area to backfill the current pit.

A new reclamation cost estimate of \$170,102 for the remaining 96 acres of Permit GRGR-0501 depicted on Figure 1 was submitted with the bond release application as required by NDAC 69-05.2-12-12(10). The reclamation liability for Permit No. GRGR-0501 is currently covered by Collateral Bond No. LC-GRGR-0501-03 in the amount of \$281,359 that is supported by a letter of credit issued by The First National Bank and Trust of Williston. Leonardite Products, LLC is requesting a reduction in the bond amount for Bond Release No. 1 to Permit GRGR-0501 of \$111,257. An adequate amount of bond will remain following bond release approval to cover reclamation liability for the remaining permit acreage.

The bond release will become effective March 8, 2019 unless a formal hearing is requested.

Attached are the motion and award form for consideration at the February 6, 2019 Commission meeting.
Attachments

