

2019

**North Dakota
Permanent Program**

Administration and Enforcement

Grant Application for

July 1, 2018 to June 30, 2019

Submitted by

Public Service Commission

Bismarck, North Dakota

May 15, 2018

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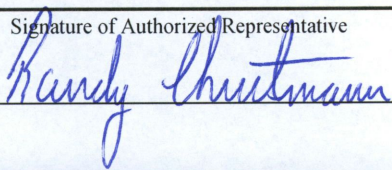
Certification relating to Debarment and Suspension, Drug-free
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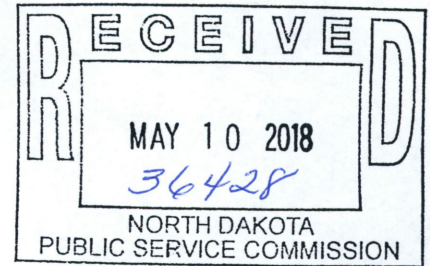
PART A

Standard Form 424

OMB Approval No. 0348-0043

APPLICATION FOR
FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: <i>Application</i> <input checked="" type="checkbox"/> <i>Preapplication</i> <input type="checkbox"/>		2. DATE SUBMITTED 5-15-2018	Applicant Identifier RO34-19
<input type="checkbox"/> Construction <input checked="" type="checkbox"/> Non-Construction		<input type="checkbox"/> Construction <input type="checkbox"/> Non-Construction	3. DATE RECEIVED BY STATE
4. DATE RECEIVED BY FEDERAL AGENCY		State Application Identifier ND180509-0130	
5. APPLICANT INFORMATION		Federal Identifier GR 803383	
Legal Name: North Dakota Public Service Commission		Organizational Unit: Reclamation Division	
Address (give city, county, state, and zip code): 600 E. Boulevard Ave. Department 408 Bismarck, ND 58505-0480		Name and telephone number of the person to be contacted on matters involving this application (give area code) Dean K. Moos 701-328-4099	
6. EMPLOYER IDENTIFICATION NUMBER (EIN): 4 5 -- 0 3 0 9 7 6 4 DUNS# 802-744-946		7. TYPE OF APPLICANT (enter appropriate letter in box) [A] A. State H. Independent School District B. County I. State Controlled Institution of Higher Learning C. Municipal J. Private University D. Township K. Indian Tribe E. Interstate L. Individual F. Intermunicipal M. Profit Organization G. Special District N. Other (Specify)	
8. TYPE OF APPLICATION: <input type="checkbox"/> New <input checked="" type="checkbox"/> Continuation <input type="checkbox"/> Revision If revision, enter appropriate letter(s) in box(es): <input type="checkbox"/> <input type="checkbox"/> A. Increase Award B. Decrease Award <input type="checkbox"/> Increase Duration D. Decrease Duration Other (specify): New Application			
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 1 5 -- 2 5 0		9. NAME OF FEDERAL AGENCY: U.S. OFFICE OF SURFACE MINING	
TITLE: Reclamation Permanent Regulatory Program		11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT: ND Regulatory Program, Administration & Enforcement	
12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.) North Dakota			
13. PROPOSED PROJECT:		14. CONGRESSIONAL DISTRICTS OF:	
Start Date 7-1-2018	Ending Date 6-30-2019	a. Applicant North Dakota	b. Project North Dakota
15. ESTIMATED FUNDING:		16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS? a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON: DATE 5-8-18 b. NO <input type="checkbox"/> PROGRAM IS NOT COVERED BY E.O. 12372 <input type="checkbox"/> OR PROGRAM HAS NOT BEEN SELECTED FOR STATE REVIEW	
a. Federal	\$994,638		
b. Applicant			
c. State	\$559,483		
d. Local			
e. Other			
f. Program Income		17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? <input type="checkbox"/> Yes If "Yes," attach an explanation <input checked="" type="checkbox"/> No	
g. TOTAL	\$1,554,121		
18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.			
a. Typed Name of Authorized Representative Randy Christmann		b. Title Chairman, ND Public Service Commission	c. Telephone number 701-328-2400
d. Signature of Authorized Representative 		e. Date Signed May 15, 2018	



May 9, 2018

Dean Moos
ND Public Service Commission, Reclamation Division
600 East Boulevard Ave.
Dept. 408
Bismarck, ND 58505-0480

"Letter of Clearance" In Conformance with the North Dakota Federal Program Review System -
State Application Identifier No.: ND180509-0130

Dear Mr. Moos:

SUBJECT: ND Regulatory Program, Administration & Enforcement

The above referenced application has been reviewed through the North Dakota Federal Program Review Process. As a result of the review, clearance is given to the project only with respect to this consultation process.

If the proposed project changes in duration, scope, description, budget, location or area of impact, from the project description submitted for review, then it is necessary to submit a copy of the completed application to this office for further review.

We also request the opportunity for complete review of applications for renewal or continuation grants within one year after the date of this letter.

Please use the above SAI number for reference to the above project with this office. Your continued cooperation in the review process is much appreciated.

Sincerely,

Rikki Roehrich
Program Administrator
Division of Community Services

cmh

PART B

U.S. DEPARTMENT OF THE INTERIOR
Office of Surface Mining Reclamation and Enforcement
Budget Information Report

A. Program - North Dakota Permanent Program		E. Budget Period (Month, Day, Year)				F. Mark 'X' in Appropriate Box			
B. Grantee - Public Service Commission		Beginning Date - July 1, 2018				<input checked="" type="checkbox"/> New Budget			
C. Grant Program - Administration & Enforcement		Ending Date - June 30, 2019				<input type="checkbox"/> Revised Budget (Enter Grant Number)			
D. Rate of Federal Sharing (%) - 64%						<input type="checkbox"/> Grant Number			
Program Functions:		(a) Permits	(b) Inspection/Enf.	(c) Lands Unsuit.	(d) Administrative	(e)	(f) Federal Lands	TOTAL (g)	
1. Personnel		\$ 296,787	\$ 121,412	\$ -	\$ 121,412	\$ -	\$ 209,849	\$ 749,460	
2. Fringe Benefit		\$ 118,714	\$ 48,565	\$ -	\$ 48,565	\$ -	\$ 83,940	\$ 299,784	
3. Travel		\$ 1,478	\$ 14,778	\$ -	\$ 13,300	\$ -	\$ 11,494	\$ 41,050	
4. Equipment		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
5. Supplies		\$ -	\$ -	\$ -	\$ 7,884	\$ -	\$ 3,066	\$ 10,950	
6. Contractual		\$ -	\$ -	\$ -	\$ 5,634	\$ -	\$ 2,191	\$ 7,825	
7. Construction		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
8. Other		\$ -	\$ -	\$ -	\$ 68,040	\$ -	\$ 26,460	\$ 94,500	
9. Total Direct Charges		\$ 416,979	\$ 184,755	\$ -	\$ 264,835	\$ -	\$ 337,000	\$ 1,203,569	
10. Indirect Charges		\$ 138,819	\$ 56,789	\$ -	\$ 56,789	\$ -	\$ 98,155	\$ 350,552	
11. Total		\$ 555,798	\$ 241,544	\$ -	\$ 321,624	\$ -	\$ 435,155	\$ 1,554,121	
Section B by Source		\$ 277,899	\$ 120,772		\$ 160,812		\$ -	\$ 559,483	
Section C by Income		\$ 277,899	\$ 120,772		\$ 160,812		\$ 435,155	\$ 994,638	
Section D Indirect Cost		\$ -	\$ -		\$ -		\$ -	\$ -	
15. Detail on Indirect Cost		Type of Rate (mark 'X' in Box) (X) Predetermined () Provisional () Final () Fixed () Estimated							
		Rate 33.41 % Total Amount \$350,552 Base \$1,049,244							
E. Signature of Authorizing Official		F. Name and Title (type or print)				G. Telephone Number (Area Code, Number and Extension)		H. Date Report Submitted	
<i>Dean K. Moos</i>		Dean K. Moos, Director, Reclamation Division				(701) 328-4099		May 15, 2018	

PART C

BUDGET NARRATIVE

The budgeted amounts in Form OSM-47 for permitting, inspection and enforcement, and administrative activities are based on the estimated time that Public Service Commission (PSC) staff will spend on each activity. However, these amounts do not include all such costs since similar activities on Federal lands are listed separately on Form OSM-47. Costs for the PSC to regulate coal mining on Federal lands (pursuant to the Cooperative Agreement between the Department of the Interior and North Dakota) are considered 100% federal costs, whereas costs for the regulatory program activities on other lands are equally split between OSM and the PSC. The percent of the total grant amount that will be used for regulatory program activities on the Federal lands (at the 100% federal rate) comes to 28%. The remaining 72% of the program costs are split 50-50 between OSM and the PSC. This results in the overall Federal share being 64% and the State share is 36%.

The PSC will maintain detailed accounting records to support all direct charges to the regulatory program grant. Staff will also complete monthly time sheets to document the amount of time spent on permitting, inspection and enforcement, and administrative activities, plus any unexpected activities related to designating lands unsuitable for mining. The total anticipated budget for the 2019 Administrative & Enforcement Grant is shown in Table 1. This grant covers a 12-month period, beginning July 1, 2018 and ending on June 30, 2019.

PERSONNEL

The North Dakota Public Service Commission (PSC) will use 9.4 full-time equivalents (FTE) to administer the approved state program for this 12-month grant period. Total salaries for this administration and enforcement grant period are expected to be \$749,460. Staff members who spend 100% of their time on the regulatory program include the assistant director of the Reclamation Division, two environmental engineers, one hydrologist, and four environmental scientists. The following is the list of other PSC staff that spend part of their time working for the Reclamation Division and the estimated percentage of time that each will spend on coal regulatory program matters: the director of the Reclamation and AML Divisions – 65%, administrative assistant – 55%, and GIS specialist – 20%.

FRINGE BENEFITS

The estimated total fringe benefits for 9.4 FTE positions for this grant period are \$299,784. Included under fringe benefits are state retirement, FICA, worker's compensation, medical insurance, and unemployment insurance. The fringe benefit rate of 40% is used based on historic costs plus the increased cost of health insurance.

TRAVEL

The PSC estimates travel costs of approximately \$41,050 during this grant period. These travel costs are related to work efforts such as partial and complete mine inspections, bond releases, public meetings, training, state/federal programmatic meetings, and technical conferences. The estimated travel budget is based on motor pool mileage costs, air transportation, lodging, and per diem expenses.

EQUIPMENT

OMB A-87 circular states that equipment purchases of less than \$5,000 are considered supplies and allowable as direct expenditures without specific awarding agency approval. For the 2019 grant period, no equipment will be purchased.

SUPPLIES

The Reclamation Division has estimated \$10,950 for supplies in this budget. The costs for repairs and printing are also included in this category.

CONTRACTUAL

This budget category totals \$7825 for this grant. It is anticipated that the Commission will pass through these funds to the North Dakota Geological Survey for coal exploration activities during the grant period.

CONSTRUCTION

No construction costs will be incurred under this grant.

OTHER

The Reclamation Division has estimated \$94,500 for "other" expenses. This includes costs for office space rent charged by OMB, professional development, half of the annual IMCC dues, administrative hearing officers, audit services, outside attorney fees for hearings, publishing newspaper notices, lab testing services, central service charges by OMB, and miscellaneous fees and services.

TOTAL DIRECT CHARGES

The estimated total of direct charges (Items 1 through 8) is \$1,203,569.

INDIRECT CHARGES

The estimated indirect costs are \$350,552. The approved indirect cost rate of 33.41 percent is used for this grant period. This is the indirect cost rate that has been approved by the Office of the Inspector General for the two-year biennium that began July 1, 2017 and ends June 30, 2019. The indirect cost rate will be only charged to the salary and fringe benefit line items.

TOTAL COST

The estimated total budget for North Dakota's 2019 Permanent Program Administration and Enforcement Grant is \$1,554,121 for the 12-month period (July 1, 2018 to June 30, 2019). Based on the federal lands funding formula shown below and as noted above, the federal share will be 64%. The total federal share will be \$994,638 which is the amount OSM allocated to North Dakota for this grant period.

PROGRAM INCOME

The Reclamation Division anticipates that some permit fees and penalty assessments will be collected during the grant period. This income will be deposited in the State's general fund which will offset a small portion of the State share outlays for the program.

COOPERATIVE AGREEMENT FUNDING

The following calculations show the overall federal funding share for the regulatory program following OSM's federal lands funding policy that was adopted in February 1995. The Area-Weighted Average Option was used in the following calculations. However, this option was slightly modified to take into account several small Leonardite permits which are regulated by North Dakota, but do not come under SMCRA jurisdiction. Therefore, the funding formula shows these permits as receiving no federal funds since they are considered 100% state funded. The funding calculations below show that the overall federal share of the program costs will be 64% and the state share will be 36% for the 2019 grant period. Activities pertaining to federal lands during the grant period include conducting mine inspections and reviewing and approving applications for new permits, revisions, renewals, and bond releases. Most of these activities, as well as any enforcement actions, will normally be carried out in conjunction with similar actions for adjacent non-federal lands. The Reclamation Division will prepare draft decision documents required for Department of the Interior mine plan approval on leased federal coal tracts.

The slightly modified Area-Weighted Average Option for determining the federal funding for state regulation on federal lands is based on the following table:

Percent Federal Lands	Federal Lands Funding Percent	Overall Federal Funding Percent
Leonardite mining permits	0	0
0	0	50
>0 but <25	25	62.5
>25 but <50	50	75
>50 but <75	75	87.5
>75	100	100

The following provides the breakdown of all State Program permits that have been issued and pending applications and new applications expected in the grant period that propose to permit additional lands using the formula presented in the above table:

- 1) Permits for Leonardite mines; this acreage receives no federal funding since it is 100% State funded:

<u>Permit No.</u>	<u>Total Acres</u>
ACPG-9701	657
GRGR-0501	<u>111</u>
Total	768

768 acres at 0% Federal Funding

- 2) Permits with no Federal lands; the total of this acreage is federally funded at the 50% rate:

<u>Permit No.</u>	<u>Total Acres</u>
NACT-8102	1,353
BNCR-8106	1,169
NACT-8401	159
NACT-8503	<u>1,832</u>
Total	4,513

4,513 acres at 50% Federal Funding

- 3) Permits with some Federal coal but less than 25% of the total permit area; the total of this acreage is federally funded at the 62.5% rate:

<u>Permit No.</u>	<u>Total Acres</u>	<u>Federal Coal Acres</u>
NAFK-8405	10,257	406
NAFK-8705	10,486	258
KRSB-8802	4,906	975
NACT-9101	8,299	532
BNCR-9401	369	25
NACT-9501	6,526	1184
NAFK-9503	29,110	1513
NAFK-9601	2,356	160
BNCR-9702	7,656	1556
NACT-0401	6,070	160
Permit BNCR-1101	8,360	600
Permit NACC-1302	8,444	1788
Permit Application SHSH-1001	<u>4,581</u>	120
Total	107,420	

107,420 acres at 62.5% Federal Funding

4) Permits with more than 25% Federal coal but less than 50% of the total permit area; the total of this acreage is federally funded at the 75% rate:

<u>Permit No.</u>	<u>Total Acres</u>	<u>Federal Coal Acres</u>
NACT-8203	1,155	319
NACT-8601	772	320
BNCR-8602	312	103
KRSB-8603	3,871	988
NACT-0201	17,171	5500
NACT-9001	<u>2,221</u>	558
Total	25,502	

25,502 acres at 75% Federal Funding

5) Permits with more than 50% Federal coal but less than 75% of the total permit area; the total of this acreage is federally funded at the 87.5% rate:

<u>Permit No.</u>	<u>Total Acres</u>	<u>Federal Coal Acres</u>
KRGC-8101	688	510

688 acres at 87.5% Federal Funding

6) Permits with more than 75% Federal coal; this acreage is federally funded at the 100% rate:

<u>Permit No.</u>	<u>Total Acres</u>	<u>Federal Coal Acres</u>
BNCR-8202	728	578
KRGC-8404	<u>222</u>	222
Total	950	

950 acres at 100% Federal Funding

Summaries and calculation of overall funding rates:

0% Federal Funding	768 acres
50% Federal Funding	4,513 acres
62.5% Federal Funding	107,420 acres
75% Federal Funding	25,502 acres
87.5% Federal Funding	688 acres
100% Federal Funding	950 acres
Total Acres	139,841 acres

Calculation of federally funded areas:

768 x 0%	=	0 acres federally funded
4,513 x 50%	=	2,257 acres federally funded
107,420 x 62.5%	=	67,137 acres federally funded
25,502 x 75%	=	19,126 acres federally funded
688 x 87.5%	=	602 acres federally funded
950 x 100%	=	<u>950</u> acres federally funded
Total		90,072 acres federally funded

Calculation of overall federal funding percentage:

$$90,072 \text{ acres (federally funded)} \div 139,841 \text{ acres (total)} = 64\%$$

Overall, the Federal share is 64% and the State share is 36% for the 2018 grant period.

Table 1

**North Dakota Permanent Program Budget Summary
July 1, 2018 to June 30, 2019**

1. Personnel *	(assumes average 0% increases on 7-1-18)		\$	749,460	
2. Fringe Benefits *	(40% of salary)		\$	299,784	
3. Travel			\$	41,050	
	Meals and Lodging				
	In-State	\$	2,000		
	Out-of-State	\$	8,850		
	Air Transportation	\$	8,500		
	Motor Pool (30K @\$0.38/mile + \$10,300 depr)	\$	21,700		
4. Equipment			\$	-	
5. Supplies			\$	10,950	
	Office Equipment	\$	1,500		
	Specialized Computer Software & Hardware	\$	3,000		
	Repairs	\$	1,250		
	Printing	\$	500		
	Resource Materials & Scientific Supplies	\$	2,750		
	Miscellaneous Supplies and Equipment	\$	1,950		
6. Contractual			\$	7,825	
	ND Geological Survey	\$	7,825		
7. Construction			\$	-	
8. Other			\$	94,500	
	Office Rent	\$	28,000		
	Professional Development	\$	3,000		
	Membership dues (IMCC)	\$	8,600		
	Administrative Hearings	\$	7,500		
	Audit Services	\$	1,000		
	Other Operating Fees & Services*	\$	40,000		
	Advertising (Public Notices) & transcripts	\$	1,600		
	Laboratory Services	\$	900		
	Central Service Costs	\$	3,900		
9. Total Direct Costs			\$	1,203,569	
10. Indirect Costs					
	Rate - 33.41% X Base =	\$	1,049,244	\$	350,552
11. Total			\$	1,554,121	
	Federal Share - 64% of Total Costs		\$	994,638	

* - Included in Indirect Cost Base

PART D

**U.S. DEPARTMENT OF THE INTERIOR
Office of Surface Mining
Washington, DC 20240**

Performance Report

Program Narrative Statement

1. Type of Program (Check Appropriate Box)			
<input type="checkbox"/> Abandoned Mine Land Program		<input checked="" type="checkbox"/> State and Federal Program	
2. Grant Recipient	Type of Report	Reporting Period	Control Number(s)
Public Service Commission 600 E. Boulevard Ave. Bismarck, ND 58505-0480	Administration & Enforcement Grant Narrative	July 1, 2018 to June 30, 2019	
3. Project Title/Program			
Administration & Enforcement Reclamation Program			
4. Performing Organization			
Same as above			
5. Program Narrative			
SEE THE FOLLOWING PAGES			

OSM-51(12/80)

Paperwork Reduction Act Statement

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501) requires us to inform you that: Federal Agencies may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. This information is being collected in order to better you in the future and as part of OSM's performance of its responsibilities under the Government Performance and Results Act. The obligation to respond is required to obtain a benefit.

Public reporting burden for this form is estimated to average 5 hours per response, including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments regarding the burden estimate or any other aspect of this form to the Information Collection Clearance Officer, Office of Surface Mining Reclamation and Enforcement, Room 210 SIB, 1951 Constitution Ave., NW, Washington, D.C. 20240; and the Interior Desk Officer, OMB control number 1029-0059, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

OBJECTIVE AND NEED FOR ASSISTANCE

The 2019 Administration & Enforcement grant is to request funding for the federal share of the cost to continue North Dakota's coal regulatory program for the fiscal year that begins July 1, 2018 and ends June 30, 2019. The Public Service Commission has the responsibility to regulate surface coal mining operations within the state under North Dakota Century Code Chapter 38-14.1. The PSC has adopted the appropriate rules and policies to implement and enforce the law enacted by the Legislature.

The primary goal of the PSC during this grant period is to ensure that surface coal mining and reclamation operations are conducted in compliance with North Dakota's Permanent Program as approved by OSM and that appropriate and timely action is taken on permit related applications. The PSC has defined four major program functions/activities to achieve this overall goal. The functions/activities are: reviewing permit related applications; inspection and enforcement; evaluating bond release applications; and administrative activities. Although very unlikely, it is possible there may be some activities involving designating lands unsuitable for mining. The PSC's Reclamation Division expects to use 9.4 FTE's to carry out the coal regulatory program efforts during the grant period.

Permitting – Staff time on permitting activity will be a major work effort during the grant period. The PSC will continue to review and process applications for permits, permit renewals, permit revisions and permit transfers to insure full compliance with regulatory program requirements. This includes permit mid-term and pre-renewal reviews as well as completeness and technical reviews of significant and insignificant revisions to ensure compliance with the appropriate application requirements. This also involves providing the appropriate notices to other agencies and landowners and coordinating the review of certain applications with other state and federal agencies. The appropriate information will also be entered into the Applicant Violator System and queries run before approval of the pertinent applications.

During the 2019 A & E Grant period, the Reclamation Division does not expect to receive any new permit applications; however, there is one permit application that has been pending for several years. It is uncertain if and when this applicant will respond to staff's technical review letter. If approved, this permit application would permit an additional 4581 acres. About thirty revision applications are expected to be received and/or approved during the grant period. Several of these applications will be significant revisions, most of which will be associated with permit renewals. Renewal applications for four permits will likely be received and/or approved during the grant period. In addition, at least two significant revision applications that will add acreage to an existing permits are expected to be received and/or approved during the grant period.

Inspection and Enforcement – Conducting mine inspections is another major program function and will continue to be an essential component of North Dakota's Permanent Program. The PSC plans to monitor and inspect each coal mine operation averaging not less than one partial inspection per month and one complete inspection per quarter. However, mines that are totally reclaimed and revegetated may be inspected on a quarterly basis as allowed under the program. The Reclamation Division typically conducts mine inspections at the large active mines on a more frequent basis, usually at least twice a month. Other related tasks include preparing inspection reports, reviewing monitoring reports, responding to grade approval and special requests, and coordinating with other regulatory agencies and local officials. Enforcement actions will be taken as needed and any complaints will be investigated.

During the 2019 A & E Grant, there are expected to be 25 inspectable units (permits) and that number may increase if the pending permit application is approved. Of these inspectable units, 20 are for active mining operations and 5 are for permits under reclamation only. Inspections of the inspectable units are expected to total 100 complete inspections and about 525 partial inspections will be conducted. Based on past history, it is likely that one to three notices of violation will be issued, with an administrative hearing for one NOV. Also, it is likely that one or two citizen complaints will be received and resolved.

Bond Release – The review and evaluation of bond release applications will be another significant work effort during the grant period. The PSC will inspect and evaluate the completed reclamation work to ensure the required standards have been met. The review of bond release applications includes a thorough technical analysis of the data provided in the application. The processing of bond releases also includes public notice with opportunity for hearings.

During the 2019 A & E Grant, the Reclamation Division will continue its review of several pending applications for final bond release. It is also expected that several final bond release applications will be filed during the grant period and several of the new and pending final bond release applications will be approved.

Administrative – The administrative function involves the day-to-day implementation and oversight of the program, developing and recommending rule and policy changes, reviewing federal rule changes proposed by OSM, responding to requests for information on the coal regulatory program, participating in meetings with industry, OSM and other stakeholders, retention of records, training, and other activities as needed. Administrative activities include assigning and reviewing staff work, scheduling meetings and hearings, and dealing with personnel matters. The administrative activity also includes some of the work associated with updating the GIS used to manage and analyze geospatial data.

RESULTS AND BENEFITS EXPECTED

The permitting, inspection and enforcement, bond release, and administrative activities performed by Reclamation Division staff will ensure that surface coal mining and reclamation operations in North Dakota fully comply with the state's reclamation law and rules that are based on SMCRA and OSM rules.

APPROACH

The approach will be to carry out reviews of permit and bond release applications and mine inspections as required under North Dakota's approved coal regulatory program. Other activities include the management and administration of the program in accordance with state and federal laws and rules.

GEOGRAPHIC LOCATION

The activities under the grant cover all surface coal mining operations that are located in western North Dakota.

PART E

ASSURANCES – NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

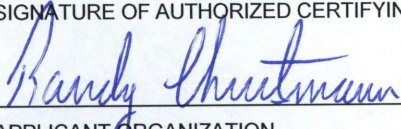
1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directive.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These includes but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or who property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

Standard Form 424B (4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

Standard Form 424B (cont'd.)

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (g) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national and wild scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of Historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL 	NAME AND TITLE Randy Christmann, Chairman
APPLICANT ORGANIZATION North Dakota Public Service Commission	DATE SUBMITTED May 15, 2018

PART F

U.S. DEPARTMENT OF THE INTERIOR
Office of Surface Mining Reclamation and Enforcement

**Certifications Regarding Debarment, Suspension and
Other Responsibility Matters, Drug-Free Workplace
Requirements and Lobbying**

Persons signing this form should refer to the regulations referenced below for complete instructions.

Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions. (See Appendix A of Subpart D of 43 CFR 12).

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions (See Appendix B of Subpart D of 43 CFR 12).

Certification Regarding Drug-Free Workplace Requirements (Grantees Other Than Individuals) (See Appendix C of Subpart D of 43 CFR 12).

Certification Regarding Lobbying (See 43 CFR 18).

Signature on this form provides for compliance with certification requirements under 43 CFR Parts 12 and 18. The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Office of Surface Mining determines to award the covered transaction, grant or cooperative agreement.

PART A: Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions
--

X CHECK IF THIS CERTIFICATION IS FOR A PRIMARY COVERED TRANSACTION AND IS APPLICABLE

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principles:
 - (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.
 - (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
 - (c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local)
2. The prospective primary participant agrees by submitting this proposal that it will include the clauses under Part B: Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
3. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

PART B: Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions

— *CHECK IF THIS CERTIFICATION IS FOR A LOWER TIER COVERED TRANSACTION AND IS APPLICABLE.*

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

PART C: Certification Regarding Drug Free Workplace Requirements

X *CHECK IF THIS CERTIFICATION IS FOR AN APPLICANT WHO IS NOT AN INDIVIDUAL.*

1. The grantee certifies that it will or continue to provide a drug-free workplace by:
 - (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - (b) Establishing an ongoing drug-free awareness program to inform employees about --
 - (1) The dangers of drug abuse in the workplace;
 - (2) The grantee's policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
 - (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
 - (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will --
 - (1) Abide by the terms of the statement and
 - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
 - (e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification numbers(s) of each affected grant;
 - (f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted --
 - (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency;

- (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).
2. The grantee shall provide below the site(s) of the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

North Dakota Public Service Commission
600 East Boulevard Ave., Dept. 408
Bismarck, ND 58505-0480

Check if there are workplaces on file that are not identified here.

PART D: Certification Regarding Lobbying

CHECK IF CERTIFICATION IS FOR THE AWARD OF ANY OF THE FOLLOWING AND THE AMOUNT EXCEEDS \$100,000: A FEDERAL GRANT OR COOPERATIVE AGREEMENT; SUBCONTRACT, OR SUBGRANT UNDER THE GRANT OR COOPERATIVE AGREEMENT.

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress and officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

As the authorized certifying official, I hereby certify that the above specified certifications are true.



SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL

Randy Christmann, Chairman, Public Service Commission

May 15, 2018

TYPED NAME AND TITLE

DATE

This form consolidates DI-1953, DI-1954, DI-1955, DI-1956 and DI-1963.

DI-2010 (March 1995)
Modified for OSM Use



United States Department of the Interior

INTERIOR BUSINESS CENTER

Indirect Cost Services
650 Capitol Mall, Suite 7-400
Sacramento, CA 95814-4706



April 24, 2017

Mr. Darrell Nitschke, Executive Secretary
North Dakota Public Service Commission
600 East Boulevard Avenue
Bismarck, ND 58505-0480

Dear Mr. Nitschke:

Enclosed is the signed original Negotiated Indirect Cost Rate Agreement that was processed by our office. If you have any questions concerning this agreement, please refer to the signature page for the name and contact number of the negotiator.

As a recipient of federal funds, the regulations require you to maintain a current indirect cost rate agreement. For provisional/final indirect cost rates, Indirect Cost Proposals should be submitted on an annual basis, and they are due within six (6) months after the close of your fiscal year. For predetermined rates and approved rate extensions, proposals are due in our office six (6) months prior to the expiration of your current rate agreement. Please note that proposals are processed on a first-in, first-out basis.

Common fiscal year end dates and proposal due dates are listed below:

Fiscal Year End Date	Proposal Due Date
September 30 th	March 31 st
December 31 st	June 30 th
June 30 th	December 31 st

Please visit our website for guidance and updates on submitting future indirect cost proposals. The website includes helpful tools such as a completeness checklist, indirect cost and lobbying certificates, sample proposals, Excel worksheet templates, and links to other websites.

Sincerely,

Doris W. Jensen
Office Chief (A)

Enclosure

Ref: J:\States & Local Gov\North Dakota\North Dakota Public Service Commission (Ndpc214)\FY 2018-2019\Ndpc-Issue.ltr.19B.docx

Phone: (916) 930-3803
Fax: (916) 930-3804

Email: ICS@ibc.doi.gov
Website: <http://www.doi.gov/ibc/services/finance/Indirect-Cost-Services>

**State and Local Governments
Indirect Cost Negotiation Agreement**

EIN: 45-0309764

Organization:

North Dakota Public Service Commission
600 East Boulevard Avenue
Bismarck, ND 58505-0480

Date: April 24, 2017

Report No(s): 17-A-0753

Filing Ref.:

Last Negotiation Agreement
dated December 28, 2015

The indirect cost rate contained herein is for use on grants, contracts, and other agreements with the Federal Government to which 2 CFR Part 200 applies for fiscal years beginning on or after December 26, 2014 subject to the limitations in Section II.A. of this agreement. Applicable OMB Circulars and the regulations at 2 CFR 225 will continue to apply to federal funds awarded prior to December 26, 2014. The rate was negotiated by the U.S. Department of the Interior, Interior Business Center, and the subject organization in accordance with the authority contained in applicable regulations.

Section I: Rate

Type	Effective Period		Rate*	Locations	Applicable To
	From	To			
Fixed Carryforward	07/01/17	06/30/19	33.41%	All	All Programs

Note: The Commission's indirect cost rate is negotiated and finalized on a biennial basis (24 months).

***Base:** Total direct salaries and wages, including fringe benefits. The rate applies to all programs administered by the non-federal entity. To determine the amount of indirect costs to be billed under this agreement, direct salaries and wages and related fringe benefits should be summed and multiplied by the rate. All other program costs should be eliminated from the calculation.

Treatment of fringe benefits: Fringe benefits applicable to direct salaries and wages are treated as direct costs; fringe benefits applicable to indirect salaries and wages are treated as indirect costs.

Section II: General

Page 1 of 3

A. Limitations: Use of the rate(s) contained in this agreement is subject to any applicable statutory limitations. Acceptance of the rate(s) agreed to herein is predicated upon these conditions: (1) no costs other than those incurred by the subject organization were included in its indirect cost rate proposal, (2) all such costs are the legal obligations of the grantee/contractor, (3) similar types of costs have been accorded consistent treatment, and (4) the same costs that have been treated as indirect costs have not been claimed as direct costs (for example, supplies can be charged directly to a program or activity as long as these costs are not part of the supply costs included in the indirect cost pool for central administration).

B. Audit: All costs (direct and indirect, federal and non-federal) are subject to audit. Adjustments to amounts resulting from audit of the cost allocation plan or indirect cost rate proposal upon which the negotiation of this agreement was based will be compensated for in a subsequent negotiation.

C. Changes: The rate(s) contained in this agreement are based on the organizational structure and the accounting system in effect at the time the proposal was submitted. Changes in organizational structure, or changes in the method of accounting for costs which affect the amount of reimbursement resulting from use of the rate(s) in this agreement, require the prior approval of the responsible negotiation agency. Failure to obtain such approval may result in subsequent audit disallowance.

D. Rate Type:

1. **Fixed Carryforward Rate:** A fixed carryforward rate is based on an estimate of the costs that will be incurred during the period for which the rate applies. When the actual costs for such periods have been determined, an adjustment will be made to the rate for future periods, if necessary, to compensate for the difference between the costs used to establish the fixed rate and the actual costs.

2. **Provisional/Final Rates:** Within six (6) months after year end, a final indirect cost rate proposal must be submitted based on actual costs. Billings and charges to contracts and grants must be adjusted if the final rate varies from the provisional rate. If the final rate is greater than the provisional rate and there are no funds available to cover the additional indirect costs, the organization may not recover all indirect costs. Conversely, if the final rate is less than the provisional rate, the organization will be required to pay back the difference to the funding agency.

3. **Predetermined Rate:** A predetermined rate is an indirect cost rate applicable to a specified current or future period, usually the organization's fiscal year. The rate is based on an estimate of the costs to be incurred during the period. A predetermined rate is not subject to adjustment. (Because of legal constraints, predetermined rates are not permitted for Federal contracts; they may, however, be used for grants or cooperative agreements.)

E. Rate Extension: Only final and predetermined rates may be eligible for consideration of rate extensions. Requests for rate extensions of a current rate will be reviewed on a case-by-case basis. If an extension is granted, the non-Federal entity may not request a rate review until the extension period ends. In the last year of a rate extension period, the non-Federal entity must submit a new rate proposal for the next fiscal period.

F. Agency Notification: Copies of this document may be provided to other federal offices as a means of notifying them of the agreement contained herein.

G. Record Keeping: Organizations must maintain accounting records that demonstrate that each type of cost has been treated consistently either as a direct cost or an indirect cost. Records pertaining to the costs of program administration, such as salaries, travel, and related costs, should be kept on an annual basis.

H. Reimbursement Ceilings: Grantee/contractor program agreements providing for ceilings on indirect cost rates or reimbursement amounts are subject to the ceilings stipulated in the contract or grant agreements. If the ceiling rate is higher than the negotiated rates in Section I of this agreement, the negotiated rates will be used to determine the maximum allowable indirect cost.

I. Use of Other Rates: If any federal programs are reimbursing indirect costs to this grantee/contractor by a measure other than the approved rate(s) in this agreement, the grantee/contractor should credit such costs to the affected programs, and the approved rate(s) should be used to identify the maximum amount of indirect cost allocable to these programs.

J. Central Service Costs: If the proposed central service cost allocation plan for the same period has not been approved by that time, the indirect cost proposal may be prepared including an amount for central services that is based on the latest federally-approved central service cost allocation plan. The difference between these central service amounts and the amounts ultimately approved will be compensated for by an adjustment in a subsequent period.

K. Other:

1. The purpose of an indirect cost rate is to facilitate the allocation and billing of indirect costs. Approval of the indirect cost rate does not mean that an organization can recover more than the actual costs of a particular program or activity.

2. Programs received or initiated by the organization subsequent to the negotiation of this agreement are subject to the approved indirect cost rate(s) if the programs receive administrative support from the indirect cost pool. It should be noted that this could result in an adjustment to a future rate.

3. Indirect cost proposals must be developed (and, when required, submitted) within six (6) months after the close of the governmental unit's fiscal year, unless an exception is approved by the cognizant agency for indirect costs.

Section III: Acceptance

Listed below are the signatures of acceptance for this agreement:

By the State & Local Government:

By the Cognizant Federal Government Agency:

North Dakota Public Service Commission
State/Local Government

U.S. Department of the Interior
Agency

Darrell Nitschke /s/

Don W. Jensen /s/

Signature
Darrell Nitschke
Name (Type or Print)

Signature
Don W. Jensen
Name

Executive Secretary
Title

Office Chief (A)
Office of Indirect Cost Services
Title

4/13/2017
Date

U.S. Department of the Interior
Interior Business Center
Agency
APR 24 2017

Date
Negotiated by Elena Chan
Telephone (916) 930-3824