

**Public Service Commission  
Reclamation Division**

**Memorandum**

To: Commissioners Christmann, Haugen-Hoffart, and Fedorchak  
Steven Kahl, Executive Director  
John Schuh, General Counsel

From: <sup>JE</sup> Jonathan Emmer, <sup>MJ</sup> Monty Johnson, and <sup>BM</sup> Brandon Myran

Date: August 28, 2024

Subject: Bond Release No. 2 application approval for Surface Coal Mining Permit No. GRGR-0501, held by Leonardite Products, LLC, Case No. RC-24-092

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**Summary:** On February 1, 2024, Leonardite Products, LLC filed the application for final Bond Release No. 2 to Surface Coal Mining Permit GRGR-0501 requesting release of all reclamation liabilities on 28.9 acres of industrial and commercial land at the Stony Creek Mine located east of Williston, North Dakota. The bond release consists of two tracts of land totaling approximately 28.9 acres located in the W½ of Section 8 (T154N, R100W) of Williams County. The bond release tracts consist of undisturbed land, mined and partially backfilled commercial leonardite (oxidized lignite) pits, and topsoil and subsoil stockpiles originating from the pit excavations as shown in Figure 1. The entire permit area has industrial and commercial postmine land use and is owned by Ellis/Olson LLC. The ND Department of Environmental Quality - Division of Waste Management issued Permit 0384 to Will Chamley, doing business as Eco Park Landfill, LLC, on June 28, 2016, and subsequently reissued on April 22, 2022, 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 in Figure 1. Policy Memorandum No. 15 to Mine Operators requires that 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 § 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:** Approximately 7.65 acres in Tract 2A were mined during the years of 2014 to 2022 and approximately 7.82 acres in Tract 2B were mined during the years of 2019 to 2022. The remaining acreage consists of undisturbed land and associated disturbance used for stockpiles and surface water management as shown in Figure 1. There are two topsoil stockpiles and two subsoil stockpiles designated for the reclamation of Tracts 2A and 2B, and they are all located within Tract 2A as shown in Figure 1. Policy Memorandum No. 15 to Mine Operators requires 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 (N.D.C.C. § 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.

Although reclaimed areas are subject to the ten-year revegetation responsibility period, Policy Memorandum No. 15 to Mine Operators allows for an exemption from the ten-year revegetation responsibility period if certain conditions are met. This includes the issuance of proper permits and the implementation of industrial land use. As outlined above, the appropriate permits have been issued, the industrial postmine land use has been approved, and Eco Park Landfill, LLC has been disposing of inert waste in the area south of Tract 2B.

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.

Surface water runoff from mining and associated disturbance in and adjacent to 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 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 the notice of bond release application be published once a week for four consecutive weeks in the official county newspaper, and also requires 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. 2 to Permit GRGR-0501 was published in the Williston Herald on June 8, 15, 22, and 29, 2024. The applicant submitted a copy of the affidavit of publication and copies of the notification letters sent 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 June 26, 2024. Participants included two representatives for Leonardite Products, LLC, two representatives for Eco Park Landfill, LLC, and three representatives from the ND Department of Environmental Quality - Division of Waste Management. Inspection participants met at the Stony Creek Mine entrance to discuss any items that may need to be addressed prior to final bond release approval. Upon inspection, no comments by attendees were made requiring action. The Reclamation Division did require a portion of the existing haul road that crosses the northeast corner of Tract 2A will have to be relocated so future mining operations utilizing the haul road do not occur outside of the permit area. Leonardite Products, LLC notified the Reclamation Division on August 20, 2024, the haul road was successfully relocated, and the haul road relocation was confirmed during the August 27, 2024, inspection conducted by Reclamation Division staff.

The reclamation liability for Permit No. GRGR-0501 is currently covered by Collateral Bond No. LC-GRGR-0501-06 in the amount of \$427,029 that is supported by Irrevocable Standby Letter of Credit No. 00630 issued by BNC National Bank of Bismarck, ND. Leonardite Products, LLC is requesting a reduction in the bond amount for Bond Release No. 2 to Permit GRGR-0501 of \$142,945. 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 October 11, 2024, unless a formal hearing is requested.

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August 29, 2024

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Attached is the motion and award form for consideration at the September 11, 2024, Commission meeting.

Attachments

Leonardite Products\Permits\0501\Bond Release\Bond Release 2\BR2\_apprvl\_memo\_8-29-24

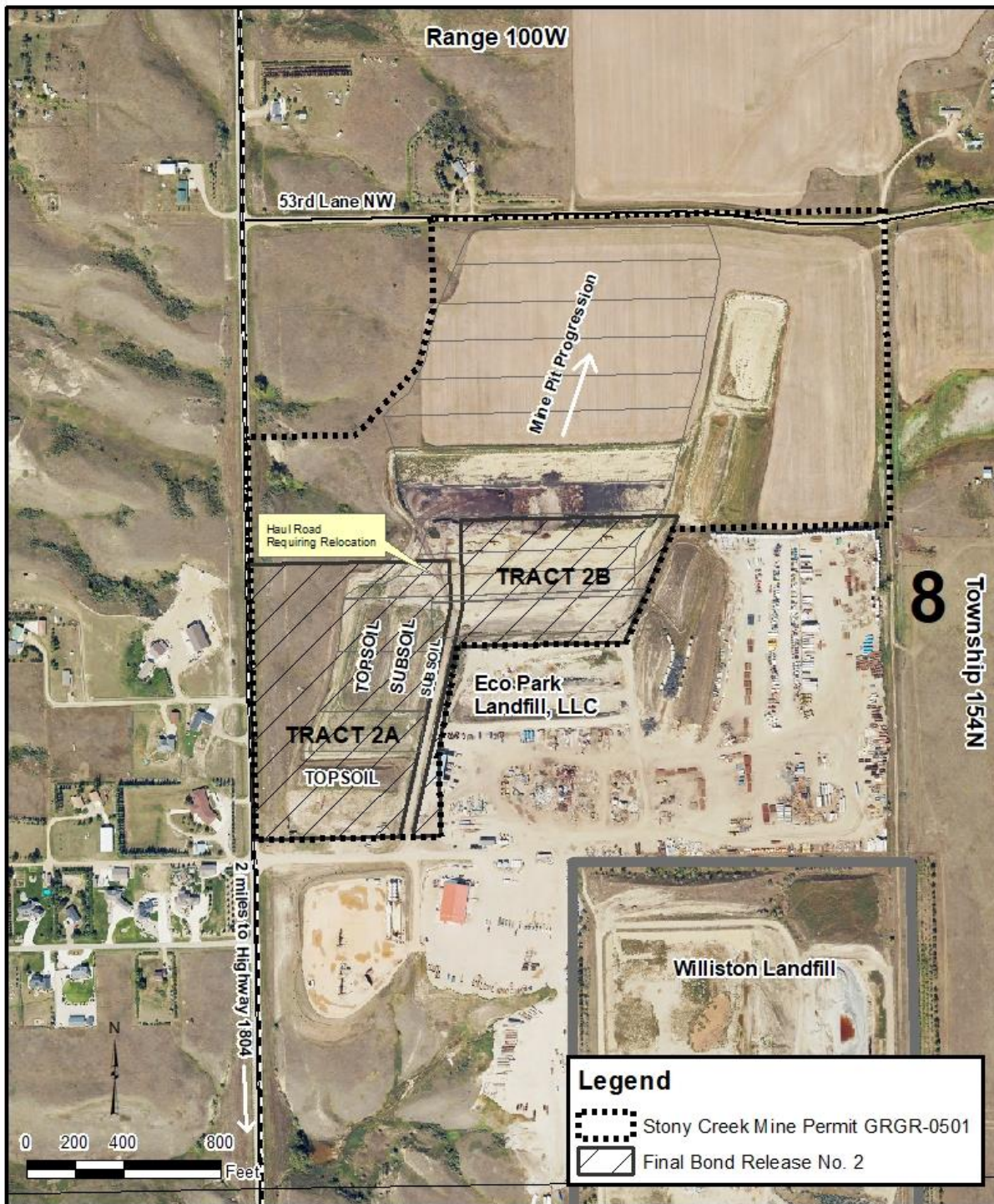


Figure 1: Final Bond Release No. 2 at Stony Creek Mine, Permit GRGR-0501.  
Two (2) tracts totaling approximately 28.9 acres located in the W1/2 of Section 8, T154N, R100W, Williams County, ND.  
Area will be released for industrial land use for the expansion of the existing Eco Park LLC inert waste landfill.

2023 aerial photography courtesy of USDA-NAIP