



Public Service Commission

State of North Dakota

COMMISSIONERS

Tony Clark, President
Susan E. Wefald
Kevin Cramer

Executive Secretary
Illona A. Jeffcoat-Sacco

600 E. Boulevard Ave. Dept 408
Bismarck, North Dakota 58505-0480
web: www.psc.state.nd.us
e-mail: ndpsc@nd.gov
TDD 800-366-6888
Fax 701-328-2410
Phone 701-328-2400

Policy Memorandum No. 9 to Mine Operators

DATE: July 12, 2006 (Updated)
(Original Issue Date November 10, 1982, reissued August 10, 1984, March 8, 1995, December 19, 2001)

TO: All Mine Operators and Lignite Energy Council

FROM: Commissioners Clark, Wefald and Cramer

SUBJECT: Clarification of Bond Release Notice Requirements of NDCC 38-14.1-17

The reclamation of lands mined after July 1, 1975, are to the point where areas are eligible for either partial or total bond release. In the past, this office received several inquiries as to who must be notified of a bond release application. The notice requirements of subsection 1 of North Dakota Century Code (NDCC) Section 38-14.1-17 apply to all areas mined after July 1, 1975. This memorandum is intended to clarify and specifically state what is required by that subsection.

Subdivision (a) of the above cited subsection requires that a notice be placed for four (4) consecutive weeks "in the official newspaper of each county wherein the surface coal mining operation is located." If a proposed bond release area is in two (2) counties, the notice must be published in the official newspaper of each of those counties. Following is a listing of the counties in which mining occurs, the official newspaper for each county, and the city in which the paper is printed if it is not apparent from the newspaper title:

Adams County	-	Adams County Record (Hettinger)
Bowman County	-	Bowman County Pioneer
Burke County	-	Burke County Tribune (Bowbells)
Divide County	-	The Journal (Crosby)
McLean County	-	McLean County Independent (Washburn)
Mercer County	-	The Hazen Star
Oliver County	-	Center Republican
Stark County	-	Dickinson Press
Williams County	-	Williston Daily Herald

The notice must contain all the information identified in paragraphs (1) through (5) of subdivision a of subsection 1 of NDCC 38-14.1-17. Paragraph 1 requires that the notice include the precise location of the area for which bond release is requested. This can be satisfied by delineating the bond release area on a map and including it with the notice. The map must contain sufficient information and be at a scale large enough to allow an interested person to accurately locate the area. This paragraph also requires that the notice contain the number of acres in the area for which bond release is requested.

Paragraph 2 is rather explicit; the notice must contain the permit number and date the permit was approved.

Paragraph 3 requires that the notice contain the amount of bond filed and portion sought to be released. The amount of bond filed means the total dollar amount of the bond which has been posted for the specific area or acreage for which the bond release is requested, not the total amount of the bond instrument being affected by the release request. The portion sought to be released means that percentage of the total bond amount which is requested for release, the specific dollar amount sought to be released, or the total bond, whichever is appropriate. This discussion should also include the stage (i.e. backfilling and grading, soil respreading, vegetation establishment, final release, or a combination of these stages) of bond release being requested under NDCC 38-14.1-17(7). If more than one stage of bond release is being requested, that should also be clearly indicated in the notice.

Paragraph 4 requires that the notice include a description of the type of reclamation work completed for which the bond release is requested, when the work was performed, and how the completed reclamation relates to the requirements in the approved reclamation plan. This description should be brief yet provide enough specific information so that an interested person can determine the type of reclamation, when it was conducted and completed, and how the end result compares to the reclamation plan.

Paragraph 5 is explicit in that it requires that the notice include a statement providing a person the right to file objections and request a formal hearing or informal conference within 30 days of the last publication date of the notice.

Subdivision (b) of subsection 1 identifies the people, agencies, and governmental bodies which must be notified by the permittee, and further states that copies of the letters must be submitted as part of the application for bond release. Following is an identification and listing of the people, agencies, etc. who must be notified:

1. All surface owners within the permit area proposed for bond release. This includes only those surface owners whose land is being proposed for bond release, not all surface owners in the permit area.
2. The adjoining property owners. These are the surface owners whose land adjoins and is contiguous with a specific area proposed for release from bond.
3. State agencies specified in NDCC 38-14.1-21(2). The name of the appropriate person at each agency and the agency name and address are included in the following list:

Mr. Ed Murphy, Geologist
North Dakota Geological Survey
600 East Boulevard Ave
Bismarck, ND 58505-0840

Mr. Tom Berg
ND Forest Service
Molberg Center 307, 1st Street East
Bottineau, ND 58318-1100

Mr. Merlan Paaverud
State Historical Society of ND
Heritage Center
612 East Boulevard Ave
Bismarck, ND 58505-0830

Mr. Dale Frink
State Engineer
North Dakota Water Commission
900 East Boulevard
Bismarck, ND 58505-0850

Mr. Scott Hochhalter
North Dakota Soil Conservation Committee
2718 Gateway Ave, Unit #104
Bismarck, ND 58503

Mr. Terry Steinwand, Director
North Dakota Game and Fish Department
100 N. Bismarck Expressway
Bismarck, ND 58501-5095

Mr. Dave Glatt
North Dakota Health Department
Environmental Health Section
Gold Seal Center
918 E Divide Ave
Bismarck, ND 58501-1947

4. The heads of local governmental bodies. Specifically, this includes the following:
 - A. The mayor of the town closest to the mining operation must be sent a notice. Where there is more than one town close to the mining operation, the mayor of each town must be notified. A list of mines and towns considered close follows:

American Colloid Company, Page Mine (Reeder, Gascoyne)
American Colloid Company, Ullman Mine (Haynes, Hettinger)
Basin Cooperative Services, Glenharold Mine (Stanton, Center)

Bentonite Performance Minerals, Gaylord Olson Mine (Haynes, Hettinger)
BNI Coal, Ltd., Center Mine (Center)
BNI Coal, Ltd., Larson Mine (Larson, Noonan)
Coteau Properties Co., Freedom Mine (Beulah, Hazen)
Dakota Westmoreland Corporation, Beulah Mine (Beulah, Hazen)
Falkirk Mining Co., Falkirk Mine (Underwood, Washburn)
GeoResources, Inc. (Williston)
Knife River Coal Mining Co., Gascoyne Mine (Gascoyne, Scranton)
Royal Oak (Dickinson)

- B. The county auditor, county commissioners, and planning and zoning commission of the county in which the area proposed for release from bond is located must be sent a notice. If the proposed bond release area is in more than one county, the county auditor, commissioners, and planning and zoning commission of each county must be notified.
- C. The Regional Council for Development (RCD) for the area in which the land proposed for bond release is located must be sent a notice. Following is a list of the RCD's in the counties with mining operations which are covered by them:

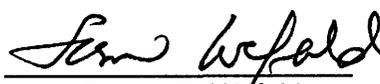
Lewis and Clark
Regional Development Council
400 East Broadway Ave. Suite 418
Bismarck, ND 58501
(This covers Grant, Oliver, Mercer, and McLean Counties.)

Roosevelt-Custer Regional Council
200 Pulver Hall
Dickinson, ND 58601
(This includes Adams, Bowman, and Stark Counties.)

Souris Basin Planning Council
4215 Burdick Expressway East
Minot, ND 58701
(This includes Burke and Ward Counties.)

Tri-County Economic Development Association
22 E Broadway, 2nd Floor
PO Box 697
Williston, ND 58802-1326
(This includes Divide and Williams Counties.)

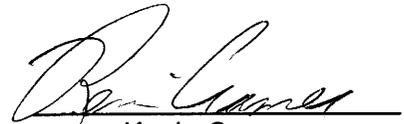
The notice sent to the above people, agencies, and governmental entities must contain the same information that is included in the notice published in the newspapers, i.e., that identified in paragraphs 1 through 5 of subdivision a. To avoid confusion when notifying property owners, it is recommended that the notice state whether they are surface or adjoining owners. A copy of each of the letters must be submitted to this office as part of the bond release application package.



Susan E. Wefald
Commissioner



Tony Clark
President



Kevin Cramer
Commissioner