



Public Service Commission

State of North Dakota

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June 9, 2006

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Mr. Willis Gainer, Acting Director
Office of Surface Mining Reclamation and Enforcement
Casper Field Office
PO Box 11018
Casper, WY 82602-5004

Re: Eligibility Determination for 2006 Garrison Emergency

Dear Mr. Gainer:

This letter is submitted under 30 CFR 874.12 as the required eligibility determination for reclamation of the land included in the 2006 Garrison Emergency Project. The site is located on property owned by Dean Folden and David Mautz in Section 17 and 18, T148N, R84W, McLean County, immediately south of the City of Garrison, North Dakota.

Eligibility Determination - 30 CFR 874.12

The requirements of this section of the Abandoned Mine Reclamation Program set forth the following criteria for eligibility for reclamation activities (paraphrased):

- a. Was the real property subjected to coal mining and related processes?
- b. Did the coal mining processes on the real property occur prior to August 3, 1977 and was said real property left or abandoned in an unreclaimed or inadequately reclaimed condition? And;
- c. Is there continuing responsibility for reclamation by the operator, permittee, or agent of the permittee under statutes of the State of North Dakota or the government of the United States?

Based upon available historical information, I find that the described real property was mined for coal, that the coal mining activity occurred prior to August 3, 1977 and that the property has been left in an abandoned and unreclaimed state. I further find that there is no continuing responsibility for reclamation by the operator, permittee or agent of the permittee under statutes of the State of North Dakota or the government of the United States.

Based on these findings, it is my opinion that the described real properties meet the eligibility requirements of 30 CFR 874.12 for abandoned mine reclamation.

Sincerely,

William W. Binek
Chief Counsel