

BEFORE THE STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

IN THE MATTER of Issuing a Certificate of Completion of Reclamation to the Inspiration Development Company for the Shullsburg Mine Site in Lafayette County.

NOTICE OF HEARING ON ISSUANCE OF A CERTIFICATE OF COMPLETION OF RECLAMATION

NOTICE IS HEREBY GIVEN pursuant to section 293.63 Wis. Stats., that the Department of Natural Resources (the Department) will hold an informational hearing concerning issuance of a Certificate of Completion of Reclamation (“COC”) to the Inspiration Development Company (“IDC”) for its Shullsburg Mine site. The site is situated in the Town of Shullsburg in Lafayette County, Wisconsin.

The background that gives rise to the hearing is summarized as follows:

In 1949, the Calumet & Hecla Consolidated Copper Company opened an underground zinc and lead mine as well as milling and support operations at the site in the Town of Shullsburg, Lafayette County, Wisconsin. In 1954, the mine and facilities were purchased by the Eagle-Pitcher Company.

Eagle-Pitcher Industries, Inc., submitted a Permit Application and a Reclamation Plan (“Plan”) on December 19, 1977. On April 18, 1978, the Department issued a Mining Permit to Eagle-Pitcher Industries, Inc., for continued operation of the Shullsburg mine and mill. The Shullsburg mine ceased operations in 1979. Jig tailings continued to be sold by Eagle-Pitcher Industries for road aggregate up until the purchase of remaining assets by Inspiration Development Company (“IDC”) in 1981. IDC continued to sell jig tailings and in 1982 initiated reclamation activities, mainly revegetation test plantings on the flotation tailings. The Permit and Reclamation Plan for the Shullsburg site covers approximately 75 acres of surface area and includes areas affected by the underground mine, associated processing and support facilities and the flotation tailings pile. IDC owns the majority of the land surface covered by the Permit and Reclamation Plan with the remainder of the site leased from other landowners. In compliance with its permit, IDC is responsible for reclamation of the entire site, regardless of ownership. Reclamation entailed removal of all structures, sealing of all shafts and inclines, abandonment of all wells and revegetation of the flotation tailings waste pile. IDC also reclaimed other locations, including the road to the incline (1988) and the former plant site (1989), to facilitate reclamation in support of the post mining land use of wildlife habitat. In 1994 and 1995, mill reagents were removed, jig tailings consolidated, and general site clean-up was conducted. In 1995, the remaining buildings and equipment were removed. In 1996, full scale revegetation of the flotation tailings pile was accomplished.

Section 293.63 Wis. Stats., requires that the permittee notify the Department of the completion of the reclamation plan. Upon Department concurrence, the mandatory minimum four-year monitoring period required per ch. NR 132.13(1) Wis. Adm. Code begins. After the four-year monitoring period elapses, the permittee may petition the Department for a Certificate of Completion of reclamation. At that time, the Department must determine whether or not reclamation has been successfully completed in accordance with the reclamation plan and that the permittee has fulfilled its duties under the reclamation plan.

IDC submitted its initial request for a COC in 1997. However, when IDC petitioned for its COC in 2002, Department inspections determined that the southern slope of the flotation tailings pile had deteriorated and signs of erosion were detected. This prompted IDC, in 2002, to propose and carry out major earthwork to reconfigure the flotation waste pile to reduce the steeper southern slope and to remove woody vegetation that interfered with survival of the desired vegetative cover. Revegetation of the pile was completed following the grading and reconfiguration work.

On October 8, 2004, IDC provided the Department with a Notice of Completion of the Reclamation Plan (NOC). The Department concurred that all reclamation success criteria set forth in the Reclamation Plan had been met and established the starting date for the four-year monitoring period as required per ch. NR 132.13(1) Wis. Adm. Code. However, during an inspection conducted by the Department on September 7, 2006, it was determined that initial success had not been maintained. The inspection report noted the emergence of “red spots”, corresponding localized deterioration of the vegetative cover, increased potential for erosion and issues with undesirable species that could jeopardize its capacity as wildlife habitat—the approved post-mining land use. Consequently, the Department suspended the monitoring period in a letter to IDC dated October 25, 2007. This prompted IDC to work with their environmental consultant, and, in consultation with the Department, to develop plans for site remediation, control of undesirable species, numerical success criteria to quantify reclamation success, site maintenance, monitoring and a “Contingency Plan” for the period after COC issuance. Ultimately, these resulted in the collection of final documents compiled in one binder titled “Documents in Support of the Application for Certificate of Completion” and submitted to the Department on September 6, 2013.

Success in remediating and revegetating the site allowed IDC to request that the Department lift the suspension of the four-year monitoring period and set a new date for the end of the monitoring period. The Department concurred in a letter dated October 8, 2010, and established September 22, 2012, as the earliest date for completion of the mandatory four-year monitoring period.

On September 6, 2013, IDC petitioned the Department to issue a COC acknowledging the successful completion of the reclamation and fulfillment of the permittees duties under the reclamation plan. On that day, the Department received a “Petition of Inspiration Development Corporation for Issuance of a Certificate of Completion of Reclamation” pursuant to Sections 293.43(3) and 293.61(1), Wis. Stats., and s. 131.13(1), Wis. Adm. Code and received all necessary supporting documentation in a binder titled “Documents in Support of the Application for Certificate of Completion” (August 2013). In response, the Department evaluated quantitative data on vegetation and soils contained in the “Performance Criteria Report” and, on a September 12, 2013, conducted an inspection to field-verify continued reclamation success and site stability. Subsequently, the Department determined that IDC met all performance criteria set forth in the reclamation plan, successfully reclaimed the Shullsburg Mine site, and fulfilled its duties under the reclamation plan.

Sections 293.43(3) and 293.61(1), Wis. Stats., and s. 131.13(1), Wis. Adm. Code, specify that, prior to issuing a Certificate of Completion, the Department must conduct a public hearing and solicit comments on its intent to issue the COC. The Department intends to issue a Certificate of Completion for the mine site following closure of the hearing record. The Department has also determined that a statement under s. 1.11, Wis. Stats., is not required in this case.

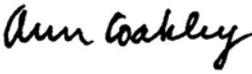
The issuance of a COC is conditioned upon the implementation of all commitments set out in the aforementioned “Documents in Support of the Application for Certificate of Completion”, which includes: “Long-Term Care Plan” (periodic site monitoring and maintenance) and a “Contingency Plan” to be invoked should monitoring detect any threats to long term site stability. Finally, IDC will post financial assurance with the Department in an amount adequate to guarantee that all plans to ensure site stability and productivity included under the cover “Documents in Support of the Application for Certificate of Completion” (August 2013), will be implemented for a minimum of 20 years after the date of issuance of the COC.

The hearing on issuance of the Certificate of Completion will be conducted as an informational public hearing to be held in Lafayette County at 10:00 a.m. on Wednesday April 9, 2014, at the USDA Service Center, 1900 Ervin Johnson Drive, Darlington, Wisconsin. Any interested person may present oral or written comments on the proposed issuance of the Certificate of Completion of reclamation to Inspiration Development Company for its Shullsburg mining site during the hearing or may send comments to the Department until the public comment period ends.

Any person wishing to change the format of the hearing to a contested case public hearing may do so by petitioning the Department of Natural Resources for such a change and requesting to be party to such proceedings. Any such petition must demonstrate the petitioner's interest in the matter and must meet the applicable requirements of ch. 227, Wis. Stats., and ch. NR 2, Wis. Adm. Code. Contested case hearings are conducted under the accepted rules of discovery and evidence and all testimony is given under oath and subject to cross examination by the other parties to the hearing. Petitions to convene a contested case hearing on the issuance of a Certificate of Completion of reclamation should be served on the Secretary of the Department of Natural Resources, P.O. Box 7921, Madison, Wisconsin 53707-7921, and must be received prior to March 8, 2014.

The Department will accept written comments regarding the proposed issuance of a Certificate of Completion of reclamation throughout the public comment period that ends on May 9, 2014. Comments should be sent to Tom Portle, Bureau of Waste and Materials Management - WA/5, Department of Natural Resources, P.O. Box 7921, Madison, Wisconsin 53707-7921. After that time the Department will render its final decision concerning issuance of the Certificate of Completion of reclamation.

Dated at Madison, Wisconsin January 31, 2014
State of Wisconsin
Department of Natural Resources

By 

Ann M. Coakley, Director
Bureau of Waste and Materials Management