

July 13, 2017

Luke Esch, Administrator
Wyoming Department of Environmental Quality
Division of Solid and Hazardous Waste
200 West 17th Street
Cheyenne, Wyoming 82002

Subject: Naughton Power Plant
NAU FGD Pond 1
No Annual Inspection

Dear Mr. Esch,

The purpose of this letter is to provide WDEQ with an explanation for the absence of formal annual inspections for NAU FGD Pond 1 at PacifiCorp's Naughton Power Plant. Annual inspections are required for all existing and new CCR surface impoundments per §257.83(b) of EPA's Coal Combustion Residuals (CCR) Rule - 40 CFR Part 257 and 261, "Hazardous and Solid Waste Management System; Disposal of Coal Combustion Residuals From Electric Utilities; Final Rule (the CCR Rule) published in the Code of Federal Regulations (CFR) on April 17, 2015 with an effective of October 19, 2015.

On June 14, 2016, the United States Court of Appeals (D.C. Circuit) ordered a partial vacatur of the CCR Rule. On August 5, 2016, the EPA proposed an extension of compliance deadlines in the Federal Register for certain inactive surface impoundments in response to the partial vacatur. No adverse comments to the proposed extension rule were received by the EPA and the direct final rule was effective on October 4, 2016. On December 21, 2016, the D.C Circuit formally vacated 40 CFR § 257.100, except for the clause in § 257.100(a) that reads "inactive CCR surface impoundments are subject to all of the requirements of this subpart applicable to existing CCR surface impoundments." Per the CCR extension rule, annual inspections of inactive surface impoundments are to be completed no later than July 19, 2017.

PacifiCorp ceased operation of NAU FGD Pond 1 on April 11, 2014, prior to the effective date of the CCR Rule. Per the CCR Rule, PacifiCorp notified the Wyoming Department of Environmental Quality – Division of Solid and Hazardous Waste, on December 9, 2015, of the intent to initiate closure of the NAU FGD Pond 1 qualifying the surface impoundment as an inactive surface impoundment under the CCR extension rule. The closure of NAU FGD Pond 1 was initiated in 2016 by the placement of general fill (soil) on the pond to provide a subgrade for the final cover system and installation of a well dewatering system. Following completion of dewatering activities scheduled for the end of 2017, a low-permeability cover system and associated stormwater controls is anticipated to be performed during the summer of 2018. Although dewatering of the pond contents is expected to continue through the end of 2017, the pond is considered dewatered as it pertains to eliminating the potential for releases due to a dam failure. Post-closure monitoring will be implemented to observe the performance of the proposed and final

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closure in accordance with 40 CFR 257.104 and the Wyoming Department of Environmental Quality Water Quality Division (WDEQ-WQD) Permit to Construct (Permit # 14-373).

The operation of NAU FGD Pond 1 was ceased well before the effective date of the CCR Rule and the Pond is presently in an inactive and partially dewatered condition as the result of ongoing closure activities. Due to this status and based on regular visual observations, it is judged that an embankment failure resulting from the release of residuals is highly unlikely to a virtual impossibility. With a post closure plan developed and poised for implementation in accordance with 40 CFR 257.104 and the State of Wyoming requirements, it is justified that no annual inspections be required.

If you have any questions pertaining to the content of this letter, please contact me at 801 617 3390.

Sincerely,

MWH, now part of Stantec



Chad Tomlinson, PE, PMP
Project Manager

