ND Coal Mine Zoning Affirmed by Court

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BISMARCK, N.D. (AP) — The Stark County Commission acted properly when it approved land-use changes to allow development of a new coal mine, gasification factory and electric power plant in southwestern North Dakota, the state Supreme Court ruled Thursday.

The Dakota Resource Council, an environmental group based in Dickinson, and several neighboring landowners said the commission granted the changes without demanding more information, including the project's suggested coal hauling routes, water drainage maps and land reclamation plans.

The Supreme Court rejected those arguments in a unanimous opinion Thursday. Its opinion, written by Justice Mary Muehlen Maring, said the mine developer will have to provide the data later, when it applies for a "land disturbance permit" that it will need to begin digging coal.

Great Northern Project Development LP, a Houston company that controls vast coal reserves in southwestern North Dakota, wants to construct a coal mine and processing facilities on more than 8,000 acres near South Heart, a community about 12 miles west of Dickinson.

Great Northern's coal mining plan, which was filed by a subsidiary, South Heart Coal LLC, is pending before the state Public Service Commission. The Dakota Resource Council and another environmental group, the Dacotah chapter of the Sierra Club, are suing the commission's three members, saying they illegally accepted campaign contributions from a project developer.

The Stark County Commission has already approved zoning and land-use changes that would allow the project. The Dakota Resource Council argued that during that process, Great Northern should have provided the detailed information that it must supply to get a land disturbance permit.

Derrick Braaten, an attorney for the Dakota Resource Council, said the distinction was important because the Stark County Commission will not be required to hold public hearings on the land disturbance permit application.

Information about Great Northern's mining and land reclamation plans would have been useful for affected property owners to examine during the zoning process, which did require a public hearing, Braaten said Thursday.

Richard Voss, a Great Northern vice president for project development, said the company hoped to get its coal mining siting permit from the Public Service Commission by year's end.

He said the scope of the project was flexible. Construction of coal gasification and electric power plants and a chemical fertilizer factory "is not cast in stone, but that's what we're shooting for, is to develop it to that extent," Voss said.

"A lot of it will depend, of course, on the economy, the final customers and so forth," Voss said Thursday. "The markets and the technologies, as they evolve, will really dictate what the products will be."

Braaten said the Stark County Commission could hold public hearings on the land disturbance permit, even though the county's rules do not require the commission to do so.

"When (Great Northern) goes back, there's a lot of information that they need to submit here, and it's going to be through a process that does not require them to allow the community to be involved," Braaten said. "I think that community involvement is really important."

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