



Coal Combustion Residual Legacy Rule Applicability Report

William J. Neal Station, Velva, North Dakota

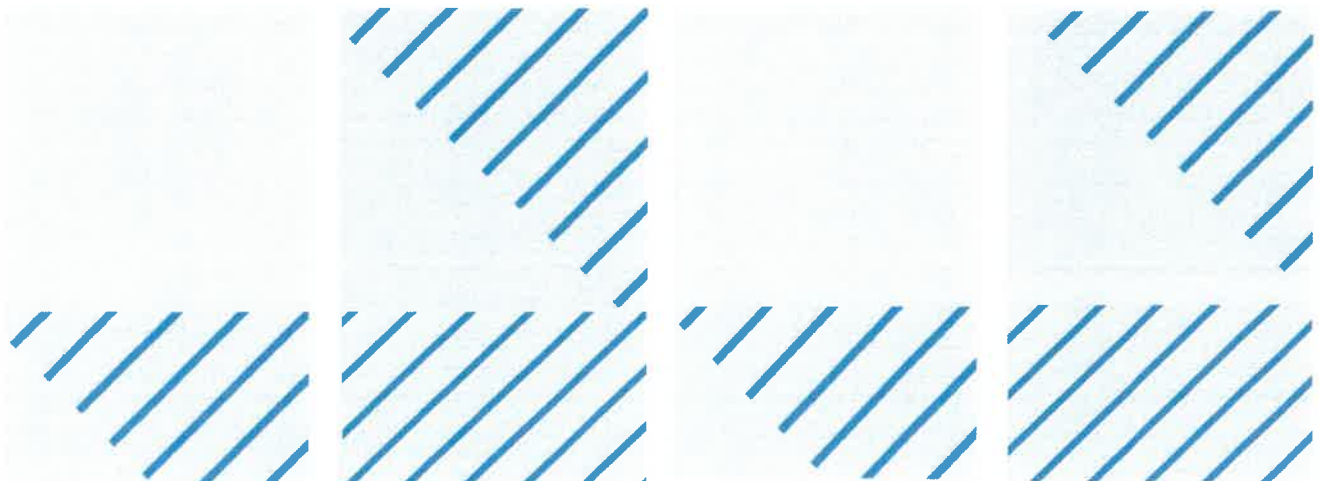
Prepared for:
Basin Electric Power Cooperative
1717 East Interstate Avenue
Bismarck, ND

Prepared by:
Barr Engineering Co.

April 2026

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Certification

I hereby certify that I have examined facility records and, being familiar with the provisions of 40 CFR 257 Subpart D, attest that this Coal Combustion Residuals (CCR) Legacy Rule Applicability Report has been prepared by me or under my direct supervision in accordance with good engineering practice, including consideration of relevant industry standards and the requirements of 40 CFR § 257.100(f)(1). I further certify that I am a duly Licensed Professional Engineer under the laws of the State of North Dakota and that I have professional experience with surface impoundment design, operation, monitoring and closure.

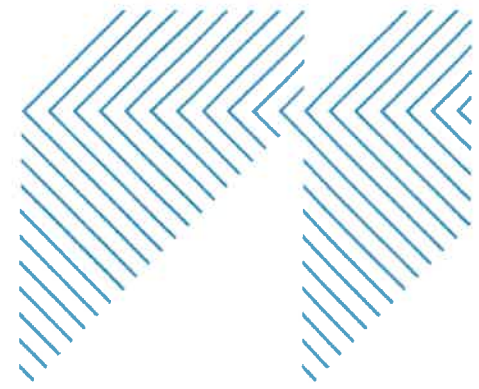
The services performed by Barr for this Project have been conducted in a manner consistent with the level of skill and care ordinarily exercised by other members of the profession currently practicing in this area. No other warranty, expressed or implied, is made.



Kevin L. Solie
North Dakota PE-9488



April 24, 2026
Date



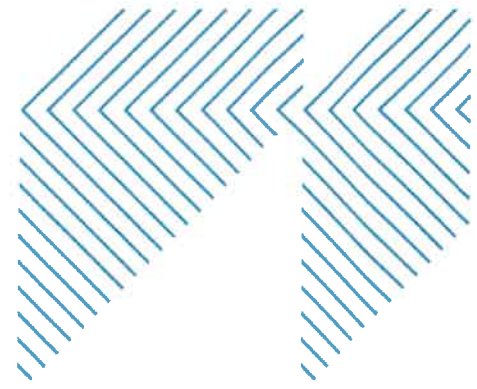
CCR Legacy Rule Applicability Report

April 2026



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Figure 1 Site Location Map

1. Background and purpose

Basin Electric Power Cooperative (BEPC) owns and previously operated William J. Neal (WJN), a coal-fired electrical generation station located near Velva, ND. A single, 45-megawatt unit operated at the site from 1952 until WJN ceased operations in the late 1980s. WJN was subsequently decommissioned and demolished in the late 1990s. Coal Combustion Residuals (CCRs), including fly ash and sludge, from WJN were deposited in a disposal area (surface impoundment) located west of the plant site. The site had been previously reviewed by the EPA and received a No Further Remedial Action Planned (NFRAP) designation.

Based on the date WJN ceased providing power to electric power transmission systems, it is considered an "inactive facility" under the 2024 CCR Legacy Rule and potentially falls under Legacy Rule regulation. Owners of Legacy surface impoundments must make an applicability determination and prepare an applicability report, indicating whether or not the unit is subject to the Rule.

2. CCR Legacy Rule

On May 8, 2024, the EPA finalized the Coal Combustion Residual (CCR) Legacy Rule (Legacy Rule or Rule), establishing new requirements for inactive surface impoundments at inactive electric utilities, termed "legacy CCR surface impoundments." Owners of these units are required to determine applicability and prepare an applicability report, specifying whether their unit falls under the scope of the Legacy Rule. Applicability reports were to be completed by November 8, 2024, unless existing and available information did not provide a sufficient basis to determine Legacy Rule applicability, i.e., it was not evident that the unit contained free liquids on or after October 19, 2015. In these cases, the Legacy Rule offered owners the ability to secure additional time (up to 18 months, in 6-month increments) to complete the applicability report for the sole reason of determining through field investigation whether the unit contains both CCRs and liquids.

Basin Electric Power Cooperative (BEPC) conducted a field investigation as described in the applicability extension reports. Drilling and piezometer installation at the site were completed in early May 2025. After piezometer installation, water levels were obtained on a periodic basis over the course of twelve months to observe any seasonal fluctuations in pore water elevations. The most recent water level measurements occurred in April 2026. The first CCR Legacy Rule 6-month extension report was issued on November 6, 2024; the second and third extension reports were issued on April 25, 2025 and on October 24, 2025, respectively.

After the Legacy Rule was published, EPA provided guidance for determining the presence of liquids. EPA issued a memorandum on July 10, 2025 entitled "Memorandum: Considerations for the Identification and Elimination of Free Liquids in Coal Combustion Residuals (CCR) Surface Impoundments and Landfills (40 CFR Part 257, Subpart D) Docket ID No. EPA-HQ-OLEM-2020-0107-106." The memorandum, from Steven Cook, Principal Deputy Assistant Administrator, essentially rescinded the April 22, 2024, EPA memorandum that was used to guide WJN field efforts. The July 10, 2025 memorandum explains that the previously issued EPA guidance on how to identify and interpret free liquids was not to be relied upon or used to implement regulatory requirements. Further, as discussed in the proposed rule published April 13, 2026, EPA is providing additional clarification on these issues, which may affect the definitions that were the basis for the WJN field investigation or status of the facility. Accordingly, the applicability determination presented in this document may be updated based on future EPA rulemaking.

3. Applicability determination

After evaluating the data acquired during the course of the field investigation, it was determined that small portions of the William J. Neal Station surface impoundment footprint appear to contain both CCRs and liquids and therefore meets the definition of a legacy surface impoundment (based on 2024 CCR Legacy Rule). Accordingly, BEPC ceased operating under the extension provisions and, on behalf of BEPC, Barr Engineering Co. (Barr) prepared this CCR Legacy Rule Applicability Report (Applicability Report) for the legacy surface impoundment at WJN. BEPC will also comply with the remaining Legacy Rule requirement deadlines under new timeframes, by adding the total length of the extensions (18 months) to each of the deadlines specified in the Legacy Rule. This applicability determination may be reevaluated based on proposed or future regulatory decisions.

4. Applicability Report requirements

The Legacy Rule Applicability Report consists of two parts. First, the Applicability Report must include general identifying information about the legacy impoundment, including the owner or operator of the site, the name associated with the unit, information about the location of the unit, state identification number (if issued by permitting authority), and a description of the current site conditions, including the current use of the inactive facility. These information requirements are described in § 257.100(f)(1)(i)(A) through (E).

Second, the owner or operator of any legacy CCR surface impoundment must certify the applicability report with a statement signed by the owner or operator or an authorized representative in accordance with § 257.100(f)(1)(ii)(A).

Following a restatement of the regulatory text, each Applicability Report requirement is addressed in *italics*.

4.1 Owner contact information

§ 257.100(f)(1)(i)(A). The name and address of the person(s) owning and operating the legacy CCR surface impoundment with their business phone number and email address.

The William J. Neal ash pond disposal site is owned by Basin Electric Power Cooperative, 1717 East Interstate Avenue, Bismarck, ND.

Basin Electric Power Cooperative's business phone number is 701.223.0441.

Basin Electric Power Cooperative's corporate email address is webeditorbepc@bepc.com

4.2 CCR surface impoundment name

§ 257.100(f)(1)(i)(B). The name associated with the legacy CCR surface impoundment.

The name commonly associated with the legacy CCR surface impoundment is William J. Neal ash pond disposal site.

4.3 Location

§ 257.100(f)(1)(i)(C). Information to identify the legacy CCR surface impoundment, including a figure of the facility and where the unit is located at the facility, facility address, and the latitude and longitude of the facility.

The facility is located south and west of the intersection of US Highway 52 and 14th Ave N in Velva, ND, Latitude 48.026647 N, Longitude 100.885697 W. Figure 1 shows the general location of the facility.

4.4 Identification number

§ 257.100(f)(1)(i)(D). The identification number of the legacy CCR surface impoundment if one has been assigned by the state.

The facility was permitted by the ND Department of Health (now ND Department of Environmental Quality or NDDEQ) under Permit SU-024.

4.5 Current site conditions

§ 257.100(f)(1)(i)(E). A description of the current site conditions, including the current use of the inactive facility.

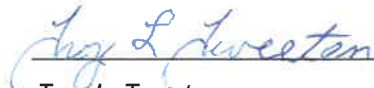
The original surface impoundment encompassed approximately 44 acres. During closure, Basin Electric consolidated waste into a smaller area (estimated to be 15 acres) located in the eastern portion of the 44-acre site. The unit has been closed and reclaimed in accordance with NDDEQ requirements, including the installation of a cover system comprised of including an 18-inch-thick compacted clay layer overlain by an additional 18 inches of cover soil. The cover system was graded to promote runoff and has been revegetated with native grasses. Site closure was completed in 1990 under NDDEQ oversight, and an affidavit of closure (a.k.a. deed notice) was completed by Basin Electric and was subsequently recorded by the McHenry County Register of Deeds in September of the same year. The site was reviewed by the EPA and received a No Further Remedial Action Planned (NFRAP) designation in March 2000. The site serves as wildlife habitat and is occasionally hayed to manage the vegetation.

4.6 Owner certification

§ 257.100(f)(1)(ii)(A). The owner or operator of any legacy CCR surface impoundment must certify the applicability report required by paragraph (f)(1)(i) of this section with the following statement signed by the owner or operator or an authorized representative:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this demonstration and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

I, Troy L. Tweeten, certify under penalty of law that I have personally examined and am familiar with the information submitted in this demonstration and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.



Troy L. Tweeten
Sr. Vice President Generation

April 24, 2026

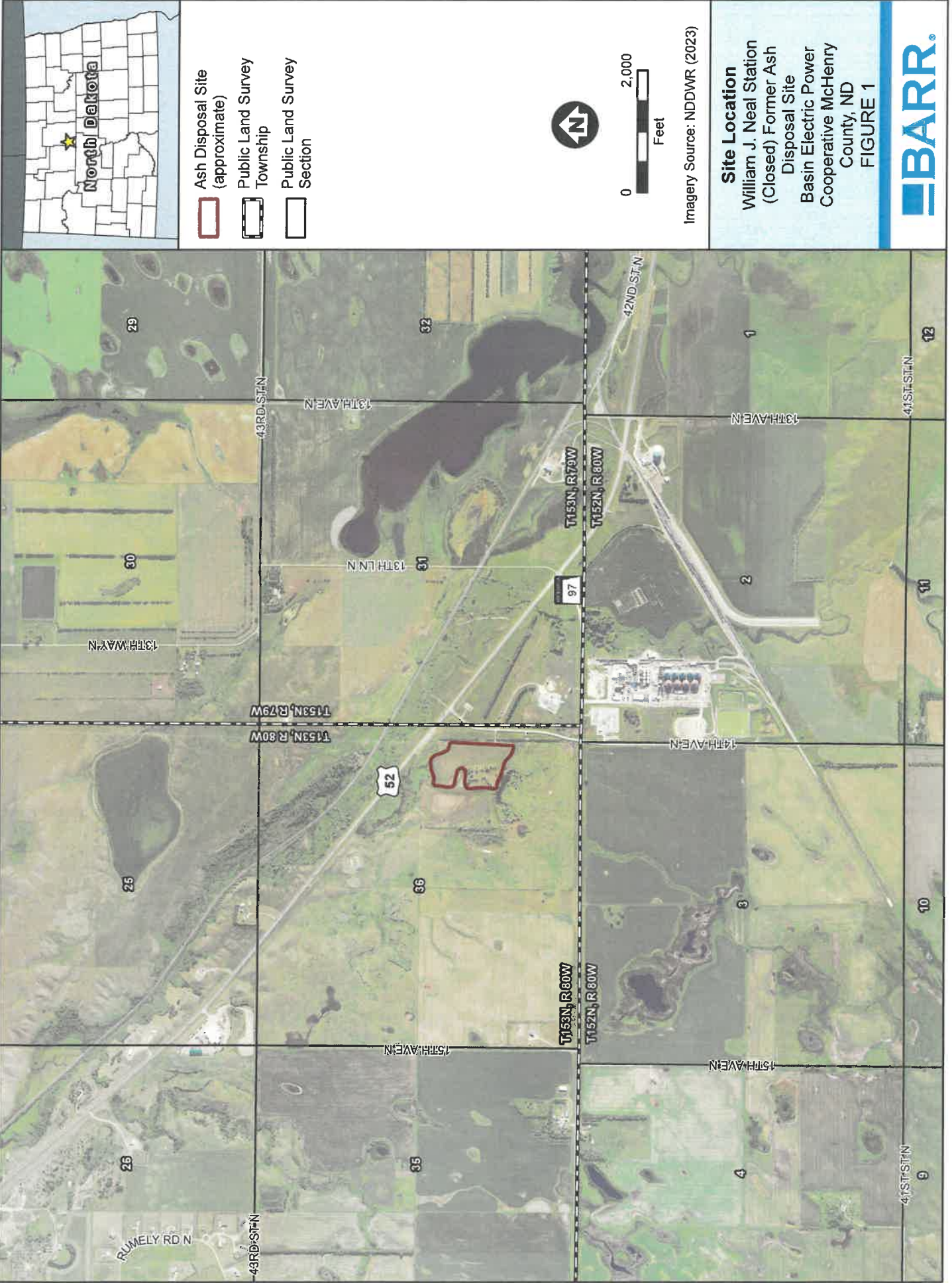


Figures





Figure 1
Site Location Map



Site Location
William J. Neal Station
(Closed) Former Ash
Disposal Site
Basin Electric Power
Cooperative McHenry
County, ND
FIGURE 1



Imagery Source: NDDWR (2023)



