


**PUBLIC SERVICE COMMISSION  
Reclamation Division**

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**Memorandum**

**TO:** Commissioners Clark, Wefald and Cramer  
Illona Jeffcoat-Sacco  
Bill Biniek

**FROM:**  Jim Deutsch, Reclamation Division

**DATE:** May 18, 2006

**SUBJECT:** Submittal of the rule changes in Case No. RC-05-591 to OSM as State Program Amendment No. XXXVI

On May 15<sup>th</sup> we received a favorable legal opinion from the Attorney General on the rule changes proposed in Case No. RC-05-591. Before the Commission can adopt these changes, we also need to receive the Office of Surface Mining's approval of the changes through the State Program Amendment process. The necessary documents have been prepared for the amendment and I recommend the rule changes be submitted to OSM as State Program Amendment No. XXXVI.

The most significant changes pertain to data requirements for proving reclamation success and adding new language to revegetation success standards on the counting of volunteer trees and shrubs. These changes are very similar to those proposed by OSM in the spring of 2005. We understand OSM will soon be issuing a final rule with these changes.

The other changes are more minor in nature. These include provisions that will allow some lease documents to be deleted from a mining permit once mining is completed or when a lease is otherwise terminated; dropping the name of the United States Geological Survey map containing the permit area and not listing the names of subsurface owners who are not affected by mining activities in newspaper notices for permit applications; copies of newspaper advertisements and information that must be submitted with bond release applications; clarifying inspection requirements for sedimentation ponds and other impoundments; and correcting a cross reference error in the general requirements for roads.

The program amendment contains a cover letter to OSM, narrative describing the changes, the rule changes, a copy of the Attorney General's opinion, and a side-by-side comparison of our state rules to the counterpart federal rules.

Attached is a motion for the May 24<sup>th</sup> Commission meeting to submit the changes to OSM. Also attached is a copy of the materials that will be submitted as State Program Amendment No. XXXVI.

Attachments