

PUBLIC SERVICE COMMISSION

Abandoned Mine Lands Division

Memorandum

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

From: Jim Deutsch, Director - AML Division

Date: April 30, 2008

Subject: Lien waiver for reclamation work that will be performed at the Williams County Road 9, Phase 3 AML project

Earlier this year we requested an opinion from OSM on waiving the lien provisions for AML projects that are intended to eliminate hazardous conditions at abandoned surface and underground coal mines. NDCC 38-14.2-14(1)(b) of our AML reclamation law allows the Commission to waive a lien if the reclamation work performed on private land primarily benefits health, safety, or environmental values of the greater community in which the land is located. Unless a review of the title history for an AML site shows that the current surface owner also owned the land when the mining occurred or was otherwise involved in that mining activity, we informed OSM that we would recommend the Commission waive any possible liens before any AML reclamation work begins. OSM sent us a response concurring with the waiver of liens in these situations.

While much of this year's work will be conducted in public road right-of-ways, some work will also be done in the Grandview Subdivision east of Williston. All of the current owners in this area purchased the land after May 2, 1977, therefore they did not own the land when it was mined more than 60 years ago. Therefore, I recommend the Commission waive any liens for properties that will be affected by this year's project.

Attached is a motion for the May 7th Commission meeting to waive any liens on the properties that will be affected by reclamation work at the Williams County Road 9, Phase 3, project.

Attachment

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Staff Summary

Public Service Commission

Jim Deutsch