

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Public Service Commission
Reclamation
Rulemaking**

Case No. RC-09-543

STAFF TESTIMONY

September 16, 2009

I am Jim Deutsch, Director of the Public Service Commission's Reclamation Division, and I will discuss the rule changes in Case No. RC-09-543. A few changes are proposed to North Dakota Administrative Code Article 69-05.2, rules for surface coal mining and reclamation operations. The rule changes are due to a statutory change to North Dakota's surface coal mining and reclamation law that was enacted by the 2009 Legislature. The statutory change reduces the revegetation responsibility period from ten years to five years for eligible lands that are re-mined. Lands disturbed by coal mining activities prior to January 1, 1970 are eligible for the shortened responsibility period if they are re-mined or otherwise re-disturbed by permitted mining operations. The rules adopted by the Commission must be as effective as counterpart federal rules issued by the federal Office of Surface Mining.

A new subsection is being added to NDAC Section 69-05.2-09-02 to require a permit applicant to 1) clearly identify any previously mined lands that will be re-mined; 2) describe any potential environmental and safety problems related to the prior mining activities at the site and those that could be expected to occur with re-mining or re-affecting these lands; and, 3) if potential problems are anticipated, the applicant must describe the measures that will be taken to ensure the applicable reclamation requirements can be met.

Additional language is also being added to subsection 2 and subdivision i of subsection 4 of NDAC Section 69-05.2-22-07 to reflect the shortened liability period of eligible lands that are re-mined. This rule contains the revegetation success standards that must be met prior to bond release.

Regulatory and takings assessments for these rule changes have been prepared and copies are available for review. This concludes my testimony on the mining and reclamation rule changes proposed in Case No. RC-09-543.