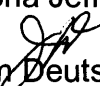
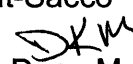



PUBLIC SERVICE COMMISSION
Reclamation Division

Memorandum

TO: Commissioners Clark, Kalk, and Cramer
Darrell Nitschke
Illona Jeffcoat-Sacco

FROM: Jim  Deutsch, Dean  Moos, and Michael  Berg

DATE: February 22, 2012

SUBJECT: Self bond increase and replacement of the collateral bond covering all permits held by the Coteau Properties Company, Case No. RC-12-79

Summary

The Coteau Properties Company filed the application for Revision No. 18 to Permit No. NACT-0401 for the Freedom Mine to revise the consolidated ground water monitoring plan, to update the worst-case reclamation cost estimate for the consolidated bond area and some other changes. The worst-case reclamation cost estimate was updated to use the Reclamation Division's July 2011 variable costs under Policy Memo No. 16. It was determined that the bond amount for the consolidated bond area needed to be increased. Coteau submitted a rider to increase the current self-bond and a new collateral bond replacing the existing collateral bond to cover the increased liability. We respectfully recommend that the Commission approve the increase in the self bond, the replacement collateral bond, and bond rider that effectively cancels the existing collateral bond for the Freedom Mine.

Discussion

The total bond amount for the consolidated bond area covering all permits at the Freedom Mine had been \$107,390,779. The total bond amount needed to be increased as a result of updates to the 2011 variable costs. The new minimum bond amount was determined to be \$117,646,351. The increase to the self-bond and the new collateral bond provided by Coteau totals \$119,000,000. This amount includes a \$1,353,649 contingency for future increases in reclamation costs.

The amount of the new collateral bond is \$11,900,000 and the self-bond amount is being increased to \$107,100,000 with Basin Electric Power Cooperative as the third party guarantor. Mining companies are allowed to provide up to 90% of the bond amount in the form of a self-bond. The other 10% must be in the form of a

collateral or surety bond. Funds from collateral or surety bonds would be more readily available than funds from a self-bond to begin reclamation work in the unlikely event of bond forfeiture.

We have reviewed the self-bond documents and found they have been properly executed. Coteau and Basin meet the applicable self-bonding requirements. Basin also guarantees a self-bond for the Glenharold Mine. Certain financial criteria must also be met in order to guarantee a self-bond. Basin has met these criteria by having current bond ratings of "A2" from Moody's Investors Service and an "A" rating from Standard and Poor's.

With regard to the new collateral bond, Coteau will roll-over the funds for the existing collateral bond (Collateral Bond No. CB-9501-6) being held in escrow at the Bank of North Dakota into the new bond. A cashier's check for the additional \$1,000,000 will be provided on or prior to February 28, 2012. Coteau will use the funds from the existing collateral bond, plus an additional \$1,000,000, for the new collateral bond that will be in the amount of \$11,900,000. The escrow agreement for the new collateral bond (CB-9501-7) will need to be executed by the Commission as well as the Bank of North Dakota following Commission approval of the new collateral bond.

Coteau has also submitted a rider to effectively cancel the existing collateral bond for the Freedom Mine. Collateral Bond No. CB-9501-6 must be canceled in order to roll the funds into the new collateral bond.

Attached for your consideration at the February 29, 2012 Commission meeting is the proposed motion. The escrow agreement for the new collateral bond will also need to be signed by all three Commissioners following the meeting.

Attachments