You should know...

North Dakota Public Service Commission

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North Dakota Public Service Commission

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Revegetation of Mined Lands

INTRODUCTION

Successful revegetation of mined lands is one of the most critical parts of the reclamation process involving the surface mining of coal in North Dakota. The revegetation requirements must be met before the mine operator or permittee can be relieved of his legal liability to reclaim the land. The purpose of this Fact Sheet is to supply an overview of those requirements.

LANDOWNER PREFERENCE STATEMENTS

An applicant for a surface mining permit must obtain the landowner's postmining land use preference statement as part of the permit application process so that the appropriate postmining topography, seed mixes and soil thicknesses can be made a part of the reclamation plan. Postmining land uses include cropland, native grassland, tame pastureland, shelterbelts, wetlands and others.

PERFORMANCE BOND AND BOND RELEASE

An applicant for a surface mining permit must supply a performance bond in an amount that will ensure reclamation at no cost to the State or to the public if the permit is revoked. Performance bond release in North Dakota during normal surface mining and reclamation operations takes place in four (4) stages. Up to 40% of the bond can be released for backfilling the mined-out pits, establishing drainage control and shaping the disturbed area; another 20% can be released once subsoil and topsoil have been respread; and additional bond can be released once vegetation has been established. Vegetation establishment is the key to reducing erosion and sedimentation on the disturbed acreage. Enough bond is retained to cover revegetation and associated costs for a ten-year liability period after the last year of seeding and must be held until all reclamation requirements have been satisfied.

LIABILITY PERIOD AND MEASURES OF REVEGETATION SUCCESS

Since July 1, 1975, North Dakota law has required that reclaimed lands designated for agricultural purposes be restored to a level of productivity equal to or greater than that which existed prior to mining. Since July 1, 1979, all land disturbed for coal mining is subject to a ten-year period of responsibility for successful revegetation. Vegetation established on the land must meet or exceed targets set for properties such as production (yield), diversity and seasonality. Lands mined between July 1, 1975 and June 30, 1979 are required to meet yield targets but the 10-year period does not apply. Neither yield targets nor the ten-year period apply to lands mined prior to July 1, 1975.

To meet the requirements for third-stage bond release (i.e., vegetation establishment), the properties to be measured are as follows.

- For native grassland and tame pastureland: ground cover. All grasses used for measuring ground cover must be perennial and not detrimental to the postmining land use.
- For cropland: vegetation is considered established after the successful seeding of either the crop being grown or a precropland mixture of grasses and legumes.

There are also third-stage bond release requirements for less-common land uses such as wetlands, woodland, prime farmland, and fish and wildlife habitat.

Revegetation of Mined Lands
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The measures of success for revegetation on the permit area at the time of final bond release must be determined for each postmining land use as shown below. Each must be demonstrated for at least two years near the end of the responsibility period.

- For native grassland: ground cover, productivity, diversity, seasonality and permanence.
- For tame pastureland: ground cover and productivity.
- For cropland: production (yield).

Again, there are also final bond release requirements for less-common land uses such as wetlands, woodland, fish and wildlife habitat, recreation, industrial and commercial uses, etc.

A more detailed presentation of the revegetation requirements can be obtained from the Commission's rules governing surface-mined land, and from the Commission's "Standards for Evaluation of Revegetation Success and Recommended Procedures for Pre- and Postmining Vegetation Assessments" document. Both are available from the Reclamation Division and are available online at the Commission's website: www.psc.state.nd.us/jurisdiction/reclamation.html.