

LAND RECLAMATION DIVISION

MEMORANDUM NO. 02-05

To: All Coal Operators and Permit Application Consultants

Date: December 4, 2002

From: Scott K. Fowler, Supervisor
Land Reclamation Division

Re: Bond issues

As most of you are aware, there has been a nationwide problem in obtaining surety bonds for reclamation. In many cases the premium costs have risen by many times or bonds are not available at all, even though no claims against the reclamation bonds have been made. The Department has been working with interested parties to look at all of the provisions of the regulations to ensure adequate security is provided to reclaim affected land. There are existing alternatives to surety bonds which include cash, letters of credit and self bonding.

For permitted sites which have surety bonds, the Department recommends that permittees initiate bond release requests for eligible lands to reduce outstanding liability.

In addition the Department will be looking at existing bond amounts to check for adequacy.

Increments. Incremental bond amounts may individually total more than the amount needed for the entire permit. This is due to the fact that the bond is calculated for the liability of the increment alone, regardless of whether mining is to progress into a future increment. To address this issue we have a few options. When a CD or LOC is used, the company will have the option of encompassing the new area into the existing increment. It is expected that the bond sum of the two areas combined will be less than the two areas separate. The new areas will then be assigned a revised increment number. In the case of bonds, if the bonding company is willing to do a rider increase or an increased replacement bond and will provide an acknowledgment that the bond is good for both areas, the Department will do the above procedure as well. If the second area will have a new bond, the increment calculations will have to stand for their own respective increment areas.

IBRs. In the event of an IBR, if the Department reviews the bond for the existing permit and finds it adequate to reclaim both the permit and IBR and the bonding company acknowledges the IBR can be covered by the existing bond, no additional bond will be required. For operations with a CD or LOC, no acknowledgment is needed.

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Phase 2 release for prime farmland. OSM has acknowledged that lands that have met one year of the three year productivity requirements are eligible for a Phase 2 bond release. The Department will ensure that sufficient money is held under Phase 3 bond if it determines that deep tillage may be needed. This evaluation will include an assessment of past deep tillage at the mine in order to achieve the three year standard, method of soil replacement technology, which crop has passed the required standard at the time of the Phase 2 release, and history of productivity success at the mine.

If you have any questions regarding this please contact Mr. Dean Spindler of this office at (217) 782-4970 or at dspindler@dnrmail.state.il.us.