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Fischer, Alex

From: Ash, Margaret
Sent: Thursday, November 03, 2011 1:16 PM
To: Fischer, Alex
Subject: North Finn

SCANNED

Overall I can't support this variance request and would recommend that it not be approved. If North Finn is insistent then I would recommend that it be heard before the commission. The surface owner waiver was added in 1996 and not much changed in 2009. The intent in 1996 was to ensure that operators were not simply paying off surface owners to deal with reclamation. The agriculture, wildlife/sportsmen and environmental stakeholders did not want large areas to remain un-reclaimed.

→ Review SWA

1. The Form 4 says the variance is for pit closures however if you read the agreement with the surface owner it covers significantly more:
 - a. 2 coal bed methane wells to be converted to water wells
 - b. Storage van
 - c. All roads
 - d. fences
 - e. all well sites
 - f. Storage building
 - g. The overall cumulative ongoing impact would probably be 15 acres +? (10 acres of ponds, add in the roads and well sites, building site)
2. Past precedent on leaving pits open has required approval by Environmental Group - generally through a form 27 (see Petroglyph and Presco as examples).
3. None of the oil and gas operations would be reclaimed by the operator. The agreement has been/will be a cash payment to the landowner. This is typically not the process that is accepted. Just paying off the land owner is not considered meeting the surface owner waiver. They might take liability but that doesn't mean that reclamation is going to occur or that impacts to the environment are being mitigated. The surface owner waiver provision requires that the variance request include:
 - a. An agreement with surface owner about topsoil protection and surface reclamation. As mentioned this is a cash settlement and there are no performance standards to ensure that the reclamation will occur or occur to any standard that is acceptable.
 - b. Operator must demonstrate that compliance with the rule is not necessary to protect public health safety welfare including prevention of significant adverse environmental impacts. They discuss the pits but not what would be a continuing cumulative impact to environment (15 acres? Of area that might not be re-vegetated or re-contoured).
 - c. Operator must demonstrates that site is in compliance with stormwater rules. This would be stabilization of the pads roads etc to make sure they aren't eroding away.
 - d. Demonstrates that site is in compliance with surface disturbance rules 1002.e.(1)(4)
 - i. 1002.e.(1) – mostly looks to be issue with dust and erosion
 - ii. 1002.e.(4) – access roads – again mostly stabilization, erosion etc.
 - e. You also have to follow 1004.c.(4)(5)

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