

Presented by: Illona Jeffcoat-Sacco, General Counsel
Public Service Commission

Before: Administrative Rules Committee
Senator Jerry Klein, Chairman

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TESTIMONY

Mr. Chairman and committee members, my name is Illona Jeffcoat-Sacco, General Counsel for the Public Service Commission. I am here to respond to the question in John Walstad's November 12, 2009 letter to us regarding the imposition on regulated entities of standards other than state or federal law or rules.

The Public Service Commission imposes no standards on regulated entities that have not been formally adopted as law or rule. The Commission decides matters that are before it on a case by case basis, based on information provided by stakeholders and applicable laws and rules. Commission decisions become precedent providing guidance in deciding subsequent matters when appropriate.

The Commission's Reclamation Division has a policy document that provides methods and standards that mining companies can use for proving reclamation success at the time of final bond release. These standards are not used for any enforcement purpose. Instead, they lay out approved vegetative sampling methods and yield comparisons that mining companies can use (which most do) for demonstrating reclamation success. However, mining companies

can use alternative methods and standards if they are proposed by the company and approved by the Commission as part of the company's reclamation plan included in its mining permit. You may review this document on our web site at the following link:

<http://www.psc.state.nd.us/jurisdiction/reclamation/files/revegdocjuly2003final.pdf>

Mr. Chairman, this completes my testimony. I would be happy to respond to any questions the committee might have.