



# Public Service Commission

## State of North Dakota

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June 5, 2008

Mr. Ernie Capitolo  
Royal Oak Sales  
6425 State Road ZZ  
West Plains, MO 65775

Dear Mr. Capitolo:

The Reclamation Division has conducted a review of the materials received on May 6, 2008, for Bond Release No. 3 to Permit ROJK-8701 at the J.K. Ranch Mine. A review of the application materials noted the following items (most of which were previously listed in our letter of September 11, 2007) that still must be corrected before the bond release approval process can move forward. Please address the following items:

### Introduction

1. The Area Location discussion indicates that Permit ROJK-8701 was issued in October 1982 when the actual issuance date was October 1987. Please correct the date.
2. The Mine History discussion indicates that the area was mined under the 1969 reclamation law when this should state the 1979 reclamation law. Please change the date.
3. The Mine History section indicates activity from 1978 to 1980. This is incorrect since the permit for J.K. Ranch Mine wasn't issued until October, 1987. The pits in this mine were excavated in 1988 and 1989. Please correct the dates as needed.
4. The Reclamation Procedures discussion states that the area was seeded in 1993. Actually, the areas involved in this bond release had various seeding dates from 1991 through 1997. Please adjust the statement accordingly.
5. The Surface and Subsurface Hydrology discussion should refer to the postmine hydrologic assessment that was previously added to the permit. It should also briefly summarize the information in this discussion contained within the assessment.
6. The Surface and Subsurface Hydrology discussion should indicate if, and when, the monitoring wells were removed and groundwater monitoring ceased.

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Public Service Commission  
Steve Schroeder

**Attachment II**

7. The map showing the metes and bounds of the proposed final bond release area includes about 5 acres of industrial land previously released in the southeast corner of the permit. The metes and bounds legal description as included is correct. Please delete the previously bond released area from the map and adjust the acreage listed on the map accordingly.

**Attachment VII**

8. This section **does not** currently contain the required information on the various tracts for proving reclamation success on the hayland and prime farmland areas. The following information **must be included** for each land use/tract within this attachment:
  - a) Previous bond releases (of the remaining 116+ acres, 75.95 acres were granted 3<sup>rd</sup> stage release and 2.75 acres were granted 2<sup>nd</sup> stage release in Bond Release No. 1 in December 1994);
  - b) Acres for each land use within each tract which should include a discussion on the cropping pattern used for the prime farmland acres and when the area was seeded back into the hayland mixture;
  - c) History of each tract including when first disturbed, when coal was removed, when the overburden was graded, when and how much (depths) topsoil and subsoil was respread, and the date of the initial seeding that started the 10-year revegetation period; and,
  - d) Evaluation of reclamation success including the unadjusted standard yield by crop and the calculations for determining the adjusted standard yield by year and crop (see table below) **plus elevator receipts (prime cropland) or signed slips by the operator for the hayland yields and how he determined them.**

Year of Data	Hayland Yields (t/ac) (<25% alfalfa)			Wheat Primeland Cropland Yields (bu/ac)		
	Unadjusted Standard	Adjusted <sup>1</sup> Standard	Reported <sup>2</sup> Reclaimed Yield	Unadjusted Standard	Adjusted <sup>3</sup> Standard	Reported Reclaimed Yield
1999				23.9	20.3	33.7
2000				23.9	33.0	34.0
2001				23.9	40.9	55.1
2002	0.97	0.54	2.7			
2003	0.97	1.15	3.49			
2004	0.97	0.75	1.30			

<sup>1</sup> Adjusted = (Stark yearly yield/15-year average) X Unadjusted standard

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<sup>2</sup> Weighted average of the bales harvested from the prime and nonprime areas in 2003, no prime included for 2002 or 2004

<sup>3</sup> Adjusted = (Stark yearly yield/Long-term average from revegetation guidelines) X Unadjusted standard

### Attachment IX Bonding

9. A bond calculation attachment should be added and include the following information:

- a) The original bonding amount (\$1,204,386.68);
- b) Bond amounts released in prior bond release applications (\$980,941.68); and,
- c) The breakdown of the remaining bond amounts by tracts/land use since some tracts have had prior partial bond release and there are also acres of undisturbed lands currently bonded at \$200/acre. According to Reclamation Division figures, the remaining bond breaks down as follows:

Undisturbed acres: 20.88 acres @ \$200/acre	= \$ 4,176.00
Tract A Hayland (after 3 <sup>rd</sup> stage release): 75.95 acres @ \$200/acre	= 15,190.00
Tract G Prime Farmland (after 2 <sup>nd</sup> stage release): 2.75 acres @ \$4614.52/acre	= 12,689.92
Remainder of disturbed acres: 16.56 acres @ \$11557.31/acre	= <u>191,389.08</u>
Total	= \$223,445.00

Your May 6, 2008 letter indicated that the materials necessary to complete the application package for Bond Release No. 3 to Permit HKHK-8105 were also included. These materials were not included with the submittal. Please send copies of the revised materials addressing items in our letter dated November 3, 2006, on that application. No action will be taken on the Permit HKHK-8105 bond release application until those items are satisfactorily addressed.

There seems to be some problems in addressing our concerns with both of the bond release applications. If you need additional help, the Reclamation Division can suggest the name of some local consultants to assist you in your efforts. This may accelerate the release process for both bond release applications.

If you have any questions, please contact this office.

Sincerely,



James R. Deutsch  
Director  
Reclamation Division