

APPROVED

DATE: 1-14-09



MOTION

January 14, 2009

**Knife River Corporation
Bond Release No. 5, Permit KRGC-8101
Approval**

Case No. RC-07-653

I move the Commission approve Bond Release No. 5 for Surface Coal Mining Permit No. KRGC-8101, held by Knife River Corporation for the Gascoyne Mine, to release all remaining reclamation liabilities on 418.2 acres located in portions of Sections 26, 27, 33, 34, and 35, T131N, R99W, Bowman County. The amount of the bond release is \$238,263.50 and it will become effective February 17, 2009, unless a formal hearing is requested.

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PUBLIC SERVICE COMMISSION
Reclamation Division

Memorandum

TO: Commissioners Cramer, Clark, and Kalk
Darrell Nitschke
Illona Jeffcoat-Sacco

FROM: Dr. Stephan Schroeder, Dean Moos and Jim Deutsch

DATE: January 7, 2009

SUBJECT: Bond Release No. 5 to Permit KRGC-8101 from Knife River Corporation,
Case No. RC-07-653

SUMMARY

On September 11, 2007, Knife River Corporation filed the application for Bond Release No. 5 to Permit KRGC-8101 for final bond release on 418.2 acres of reclaimed land at the former Gascoyne Mine in Bowman County. Following our detailed review of the application, Knife River provided additional information and addressed deficiencies that were noted in the application. We recommend that the bond release application be approved.

RESULTS AND DISCUSSION

The application for Bond Release No. 5 to Permit KRGC-8101 contains several tracts that total 418.2 acres located in portions of Sections 26, 27, 33, 34, and 35, T131N, R99W, in Bowman County. About 385.5 acres of the 418.2 acres were disturbed by Knife River's mining activities and the remaining 32.7 acres were not affected by mining. Disturbed areas in the bond release tract were affected by mining as early as 1950 (by a previous operator) and under various reclamation law periods, including post 1975 reclamation laws where production standards must be met. The 10-year revegetation liability period applies to the entire area since it was permitted or re-permitted under the current (1979) reclamation law.

The reclaimed areas have post-mine land uses of hayland (318.9 acres), developed water resources (67.5 acres), cropland (10.1 acres), tame pastureland (3.6 acres), and industrial and commercial (18.1 acres of roads/section line trails). The undisturbed areas in the bond release tracts had post-mining land uses mainly of cropland (all 10.1 acres), hayland and tame pastureland.

The hayland tracts were final graded in 1983 through 1994. Soil respread usually occurred shortly after grade approval and the respread thicknesses ranged from 0.85 to 1.01 feet of topsoil and 0.99 to 2.99 feet of subsoil. The soil respread thicknesses were previously verified by the Reclamation Division when second phase bond release was requested for most of the areas. Nitrogen and phosphorus fertilizer was normally applied to the areas prior to seeding. Seeding of the hayland areas occurred from 1984 to 1999 and the various seed mixes included species such as smooth brome grass, intermediate wheatgrass, tall

wheatgrass, alfalfa, sweetclover, slender wheatgrass, western wheatgrass, and creeping foxtail and oats and rye for cover crops. It should be noted that, pursuant to Policy Memo No. 20, a variance to 10-year revegetation liability period was previously approved for about 7 acres that were seeded after 1996. The variance ties the liability period for those 7 acres to the surrounding reclamation tract.

Unadjusted and adjusted hayland yield standards and measured reclaimed yields are shown in the following table by surface owner for the tracts where production standards needed to be met (post 1975 law areas). All areas had to meet or exceed the adjusted yield standards with 90% statistical confidence for two years after the sixth year of the 10-year revegetation liability period to qualify for final bond release. The yield standards were developed using the pre-mine soils in the various hayland areas. Yields were determined from vegetation clipped in ½ by ½ meter frames which was dried and weighed. Sample size adequacy requirements were met all years. Annual climatic correction factors were determined using long-term county averages and the yearly reported county year (ND Agricultural Statistic Services data).

Hayland standards and reclaimed yields.

Year of Data	Landowner	Standard Yield (t/ac)		Actual Yield (t/ac)
		Unadjusted	Adjusted	
2000	Andersen	1.26	1.44	1.93
2001	Andersen	1.26	1.42	1.69
2003	Andersen	1.26	1.18	1.58
2004	KRC	1.44	0.92	0.87*
2005	KRC	1.44	1.59	2.46
2005	Grasseth	1.28	1.40	2.54
2006	Grasseth	1.28	1.19	1.79

* Not significantly different than the adjusted standard yield value

The developed water resources are two permanent impoundments, Ponds 10 and 11. Pond 10 is an embankment style pond that is in a pre/early law area and it serves as a livestock watering source. Pond 11 is in a natural lowland/wetland area that was not mined, but it was used to hold and treat pit water during active mining. It now primarily serves as a wildlife enhancement feature. The cover standard for erosion control of 73% basal cover was exceeded in both pool areas. Because of the droughty conditions of the past several years, both ponds have remained dry and no water quality sampling has been done for several years. Pond maintenance agreements were signed by the respective landowners to maintain the ponds in good condition.

The prelaw tame pastureland area had basal cover exceeding the 73% standard for erosion control. In 2003, basal cover was measured at 86% which indicated erosional stability. PSC rules also require that industrial and commercial areas be stable. The cover on the industrial area was measured in 2006 at nearly 87% and exceeded the 73% cover standard. Roads and section line trails all were in stable condition when inspected in July during the bond release inspection.

The formal bond release inspection was held on July 1, 2008. Participating in the inspection were Reclamation Division staff members Dr. Steve Schroeder, Mr. Bruce Beechie, Mr. Bill Gunnerson, and Mr. Guy Welch; Mr. Mike Fagerland and Mr. John Madison from Knife River; and landowner Mr. Alan Anderson. Other landowners and the Bowman County

Commissioners were invited but did not attend. On August 6, 2008, Mr. John Sieving from OSM's Casper Office inspected the federal areas with Dr. Stephan Schroeder of the Reclamation Division. The federal government owns the coal interests on approximately 115 acres of the proposed bond release area and OSM needs to concur on bond release for any federal tract that was mined. We received a letter of concurrence from OSM on December 30, 2008.

Notice of the final bond release application for the area was published by Knife River for four consecutive weeks in the official county newspaper, the Bowman County Pioneer, in late May and early June 2008. No objections to the bond release were received.

Surety Bond No. 104718668 from Travelers Casualty & Surety Company of America and Surety Bond No. 190016409 from Liberty Mutual Insurance Company cover the bond release tract. The various disturbed tracts are currently bonded at \$589.28 per acre (383.5 acres) and while the undisturbed tracts (32.7 acres) are bonded at \$200 per acre. Partial bond releases (60%) for the disturbed tracts were previously granted in Bond Release No. 3 except for 2.0 prelaw acres for which a bond of \$200 per acre was set. The total bond reduction being requested is \$238,263.50. If Bond Release No. 5 to Permit KRGC-8101 is granted, Knife River Corporation will be released from all remaining reclamation liabilities on the 418.2 acres. The bond release will become effective in 30 days of approval unless an interested party requests a formal hearing on the decision to approve the bond release.

Attached is a proposed motion and award form for consideration at the January 14, 2009 Commission meeting.

Attachments

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