



# Public Service Commission

## State of North Dakota

---

### COMMISSIONERS

Kevin Cramer  
Tony Clark  
Brian P. Kalk

Executive Secretary  
Darrell Nitschke

600 E. Boulevard Ave. Dept 408  
Bismarck, North Dakota 58505-0480  
Web: [www.nd.gov/psc](http://www.nd.gov/psc)  
E-mail: [ndpsc@nd.gov](mailto:ndpsc@nd.gov)  
Phone 701-328-2400  
Toll Free 1-877-245-6685  
Fax 701-328-2410  
TDD 800-366-6888 or 711

March 22, 2010

Mr. David J. Nilson  
Reclamation and Permit Compliance Administrator  
Basin Cooperative Services  
Leland Olds Station  
3901 Hwy 200A  
Stanton, ND 58571

Dear Mr. Nilson:

The Reclamation Division has completed an initial review of Bond Release Application No. 3 to Permit CCGH-8003. Items 1 through 6 must be addressed prior to publishing the public notice advertisement. Publication of the public notice should be delayed until late April or May of 2010 because the Reclamation Division will delay conducting the bond release inspection until late spring as allowed by NDCC 38-14.1-17(4).

### General

1. The bond release application, public notice, notice letters, binder labels, maps and much of the narrative incorrectly refer to the permit as Permit BCGH-8003 or BCGH-8803. The correct permit number is Permit CCGH-8003. The bond release application, public notice, notice letters, and binder labels must be revised to provide the correct permit number (CCGH-8003). Other maps and narratives should be updated if other changes are being made to that section. (GAW, BEB, WTG)

### Attachment I – Metes and Bounds with Surface and Mineral Ownership

2. Please add the township and range numbers to Attachment I. (WTG)
3. Please clarify the line for the previous bond release boundary shown on Attachment I. It appears that there may be two parcels shown, or that there may be an extraneous line on the east boundary of the area. Soil probing for SPGM respread depths has been completed in the previous bond release area. A solid line type of the boundary would be helpful to the Reclamation Division in establishing the boundary for soil probing that remains to be completed. An AutoCAD drawing file, if available, showing the previous bond release boundaries for backfilling grading and soil respreading, or adding the boundary lines to Attachment VIII, are the Division's preferences to changing the boundary line type on Attachment 1. (WTG)

### **Attachment II – Metes and Bounds Description**

4. The cover letter and the application form indicate the bond release acreage is 1,018.54 acres, although the total acreage of the four tracts on the application form actually totals 1,018.55 acres. There is a discrepancy between the acreages of Tracts 1 and 4 on the application form and the metes and bounds description in Attachment II. In addition, Tract 3 is listed in the *Bond Release Tracts and Bond Calculations* table that follows the application form as having 66.33 acres, but the application form and metes and bounds description in Attachment II indicates that this tract has 66.34 acres. The total acreage of all the tracts on the last page of the metes and bounds description (Attachment II) is listed as 1,018.53 acres. Please review and update as necessary to insure that the acreage values are consistent and accurate throughout the bond release application. (BEB)

### **Attachment III – Public Notice Advertisement**

5. Please revise the public advertisement to indicate that a county road has been reconstructed along the south side of Tract 2 and through Tract 4. (GAW)
6. Please add a narrative to the tract descriptions stating that the native grassland land use includes developed water resources and woodlands. An example of this would be in Tract 1 the last sentence could read “The post-mining land use is native grasslands, which includes reclaimed woodlands and developed water resources.” (MDB)

### **Attachment IV – Surface and Adjacent Land Ownership**

7. Six different people are listed as surface owners of the adjacent area in the SW $\frac{1}{4}$  of Section 3, T143N, R84W in the permit (last updated with Rev. 17), but only one of these individuals (Louise Vernon) is included on the adjacent land ownership notification list provided with the bond release application and was notified of the bond release application. Please review and correct if necessary. (SAS)
8. Please review the adjacent land ownership listed in Attachment IV for consistency with what is shown on Attachment I (map) and what is listed in the permit for the S $\frac{1}{2}$  of Section 10 and Section 15, and make any necessary corrections to the bond release application. The permit and Attachment I show consistent land ownership in Sections 10 and 15, but ownership listed in Attachment IV of the bond release application differs in the following parcels (permit and Attachment I versus Attachment IV): the SW $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Section 10 (Anthony Berger versus B.C.S.); the N $\frac{1}{2}$  of the SE $\frac{1}{4}$  of Section 10 (Anthony Berger versus B.C.S.); the NE $\frac{1}{4}$  of Section 15 (Anthony Berger versus B.C.S.); the N $\frac{1}{2}$  of the SE $\frac{1}{4}$  of Section 15 (Anthony Berger versus B.C.S.); and, the SW $\frac{1}{4}$  of Section 15 (Anthony Berger versus B.C.S.). (WTG/SAS/GAW)
9. The ND Forest Service person to be notified should be Larry Kotchman rather than Tom Berg. Please change accordingly. (SAS)
10. Because of the proximity of the City of Stanton, the Mayor of Stanton should also be notified of the pending bond release. (SAS)

**Attachment VI - Tract History, Bonding and Vegetation Data**

11. The Mining and Reclamation History narrative for Tract 2 on the bottom of page 13 states that revegetation operations were completed in June of 2000, but it appears that revegetation was completed in 1996 with woodland plantings. Please correct as necessary. (GAW)
12. Under "Previous Bond Releases" on pages 9 and 13, it states that 238.28 acres had partial release for backfilling, grading, and soil respreading. Our records indicate that 238.28 acres were approved in Bond Release No. 1 for backfilling and grading only. Bond release No. 2 was granted for completion of soil respreading on 270.58 acres in Section 9. Please revise the statement to reflect the additional acreage in Bond Release No. 2. (SAS)
13. Please include a discussion about the county road that was reclaimed between Sections 9 and 16 and Sections 10 and 15. Also include correspondence from the county indicating that the road has been built to their satisfaction or reference where this information is found in the permit. (WTG/MDB)
14. Please include a narrative that discusses who collected the data that is being used to demonstrate revegetation success and discuss the vegetation sampling methods being used. It should also be stated that the unadjusted standard for each landowner is based on the pre-mine land use and corresponding soils with the following exceptions: a) 12.8 acres in the N½ of Section 9 located in Permit BCGH-8204; b) Cahoon's 2.09 acres of native grassland included with Tract 1; and c) the pre-mine cropland soils used to develop the hayland standard for Tract 3. In the woodland narrative, please include a discussion about combining the woodland sampling data between surface owners and the sampling methodology. (GAW)
15. In the "Summary Analysis of Reclamation Success" narrative on page 19 of Attachment VI, please discuss the revegetation success requirements for the reclaimed native grassland in Tract 3. This narrative should reference the letter from Wayne Cahoon in which he agrees to allow his property to be combined with Basin Property for the purposes of demonstrating revegetation success. Tables 1 and 2 should be footnoted or otherwise marked to clarify why native grassland is not listed in Tract 3. (GAW)
16. The reclaimed and adjusted yield standards for the cropland in Tract 4 in Table 1 of Attachment VI are different than the values listed in Tables 31, 32 and 33. We understand via telephone communications that the values in Table 1 are incorrect due to a row spacing distance error. Please make the necessary corrections. (GAW/SAS)
17. It appears that noxious weeds and annual brome species have been included in the total cover values listed in Table 2 of Attachment VI. NDAC 69-05.2-22-07 requires that all species used in determining ground cover must be perennial species not detrimental to the approved post-mining land use. Please recalculate the reclaimed ground cover values excluding these species to demonstrate revegetation success. (GAW)
18. Table 1 has a combined (average) hayland adjusted standard yield for Tract 4 (Sections 10 and 15) but separate unadjusted yield standards were developed for Sections 10 and 15 (Tables 37 - 40). In addition, the hayland tracts in Sections 10 and 15 were sampled separately as shown in

Tables 37 - 40. The sampling data for both tracts is combined in 2007 in file REC\_AREAS\_ALL\_YIELD\_07\_BondPackage.xls, sheet and a mean value for the two tracts is listed in Table 1. The excel sheet with the 2008 data is labeled as being only for Section 15. This is very confusing since it appears the data in HAYLAND\_DATA excel files are being used to demonstrate revegetation success. Please clarify the methodology being used to demonstrate revegetation success for the hayland in the Summary of Reclamation Success section of Tract 4 and clarify which sampling data is being used to demonstrate revegetation success. Also it appears that a simple average of the standard and actual yield from the two hayland tracts was used to develop a single standard and yield. A weighted standard and yield based on sub-tract acreage may be more appropriate due to acreage differences. (GAW/SAS)

19. The adjusted standard values listed in Table 1, Yield Summary for the Hayland in Tracts 3 and 4, do not match the values listed in Tables 35, 36, 38, and 39. Please review and correct as necessary. (GAW)
20. Please explain why county yields are being used to calculate the yearly climatic correction factor when:
  - a) A hayland control area has been approved for these haylands,
  - b) Yield data was collected from the hayland control area for both years,
  - c) This control area is shown on several of the attachments, and
  - d) Section 5.12.4 of the permit clearly indicates that the control area will be used to develop the yield standard.

Please adjust the data calculations using the approved hayland control area data (preliminary calculations suggest two years of data would not meet the standard although statistics were not run to determine if the values are statistically different). If this is not done, then **a revision to the permit needs to be submitted and approved to change the approved methodology prior to the approval of this bond release application** for proving hayland reclamation success and remove any and all references to the hayland control area in the bond release application. (SAS)

21. According to the data presented on the cd, the t value used for the combined BCS hayland areas for 2007 is incorrect. It is based on 14 degrees of freedom rather than 29 when the two fields are combined. Please correct the t value as needed. Sample adequacy is still met when corrected. (SAS)
22. Several of the values on Table 1 for Tract 4 (Cropland) are footnoted (<sup>1-4</sup>) but the footnotes are not defined or explained. Please provide a definition or explanation of footnotes 1-4 for Table 1 or remove the footnotes. (SAS)
23. Please include a statement within the Tract 4 discussion on "Reclaimed Cropland and Hayland" on page 22 regarding the cropland control area that is being used (Temvik silt loam, unadjusted standard of 31.45 bu/ac wheat). (SAS)
24. The woodland diversity standard values listed in Table 3, Woodland Summary Data, are different than the values listed in the Reclaimed Native Woodland Data sampling tables at the end of Attachment VI. The sampling data tables indicates that 4 species must each comprise 10% of the

density standard but Table 3 indicates that the standard is 5 species for the tall shrub plantings and 6 species for the mixed deciduous woodlands. Please review these tables and correct as necessary. It appears that the standards were derived using an incorrect value as to the number of species planted. (GAW)

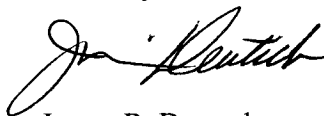
25. Please include the landowner pond maintenance agreements for each permanent pond (developed water resources) or reference where they are located in the permit. (MDB)
26. Please include a copy of the State Water Commission's water use permit for Pond 9-3H as it hold more than 12.5 acre-feet of water or reference where this approval is located in the permit. (MDB)
27. Please include or reference in the permit the calculations demonstrating the permanent ponds (developed water resources) are adequate for their intended purpose per NDCC 38-14.1-24(7)(a). (MDB)

**Attachment IX – Seeding Dates, Vegetation Sample Locations and Variance Areas**

28. The legend of Attachment IX mistakenly indicates that there is a variance area associated with the 2000 seeding. Please correct this error. (GAW)
29. Please show the hayland yield sample locations on Attachment IX. (GAW/SAS)

If you have any questions, please contact this office.

Sincerely,



James R. Deutsch  
Director  
Reclamation Division