



# Public Service Commission

## State of North Dakota

---

### COMMISSIONERS

Brian P. Kalk  
Kevin Cramer  
Bonny M. Fetch

Executive Secretary  
Darrell Nitschke

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

November 14, 2012

Mr. Jeff Frohlich  
Sr. Construction Materials Engineer  
Knife River Corporation  
1150 West Century Ave.  
Bismarck, ND 58503

Dear Mr. Frohlich:

The Reclamation Division has completed a technical review of the application for Final Bond Release No. 6 to Permit KRGC-8101. The following items must be adequately addressed before the Reclamation Division can recommend Commission action.

### **Application Form**

1. Please revise page 1 application form (SFN 19813) to clarify the stages of bond release being requested with this application. Partial bond release applications have been approved on a portion of the area included in this application and there have been no previous stages of bond release on other areas included in this application. Please revise to clarify the acreage of each phase bond release (backfilling and grading, soil respreading, vegetation establishment and final bond release) being requested with this application. (GAW)

### **General**

2. Please provide a 1-page general Index or Table of Contents to be inserted at the beginning of the bond release document that displays the various attachment numbers and maps and a corresponding description of the contents of the attachments and maps that are included in the application. (BEB)

### **Attachment 1 – Permit Area Map**

3. Please revise Attachment I, Permit Area/Topo Map and Bond Release Tracts, to show the post-mine topography of all of the area included in Bond Release Application No. 6. The post-mine topography is not provided for the bond release area in Section 3. (GAW)
4. Please label the township and range on Attachment I, Permit Area/Topo Map and Bond Release Tracts and Attachment 5, Aerial Photograph Bond Release #6. (GAW, RLK)

**Attachment 4 – Letters of Notification**

5. As was discussed in a previous conversation with Mr. Frohlich, please update the listing of Surface and Adjacent Owners of Record in Attachment 4 and provide notification of the bond release request to BNSF, an adjacent surface owner for the tract in Section 3, T130N, R99W. (BEB)
6. The adjacent surface ownership information provided with Revision 35 to KRGC-8101 lists the State of North Dakota as a surface owner for the S1/2NE1/4 of Section 4, T130N, R99W. Please update the listing of Surface and Adjacent Owners of Record in Attachment 4 and provide a notification of the bond release request to this adjoining property owner. (RLK)
7. Please include copies of the letters of notification for the proposed bond release which were sent to the surface owners, adjoining property owners, state agencies and local government bodies as required NDCC 38-14.1-17(1)(b). (RLK)

**Attachment 6 – Ownership Map**

8. Please revise Attachment 6, Ownership Map, to clearly identify who owns the property included in this bond release application. The map indicates that Anderson is the surface owner of all of the land in the SE1/4 of Section 34 and Perkins is listed as surface owner of the land located in the NE1/4 of Section 3. However these individuals are not listed as surface owners in the Table on Page 1 of Attachment 7. Please revise to clarify. Also, the scale of the map may need to be increased to properly depict ownership. (GAW, RLK)

**Attachment 7 – Supporting Narrative**

9. Attachment 7 contains a considerable amount of information about previously approved final bond released areas (Wilson Bros., Prairie Beef facility, GMHR and sediment ponds not within this bond release area) and very little information about the mining and reclamation activities associated with acreage included in this bond release application. Please revise this narrative to include only relevant information regarding these other previous bond release areas and businesses as it pertains to the acreage included in this bond release application. (GAW)
10. The public notice states that 24.4 acres within this tract was actually mined. Please clarify in Attachment 7 which area was mined and when mining occurred. Please identify on a map all remaining mining related features (buildings, roads, soil stockpiles, etc.) and discuss how these features are presently being used. In addition, please describe any reshaping that was done to accommodate present activities. The last paragraph on page 2 mentions the “revegetated island in Section 34” and that the coal slack area in Section 3 was reclaimed but there is no information regarding the reclamation of these areas. Please discuss how these sites were reclaimed. This should include SPGM respread depths and, if no SPGM was respread, that should be stated with appropriate justification as to why that is acceptable. Please provide the dates that reclamation activities occurred and species seeded and seeding rates. The seeding dates are needed for the Fish and Wildlife Habitat grassland to demonstrate compliance with the 10-year revegetation period requirement. (GAW, RLK)

11. The first sentence of the Land Use and Ownership narrative states that the post-mining land uses are depicted on Exhibit 7.1 but this information is not provided on this map. Please provide the information as indicated. (GAW, ZAT, RLK)
12. In narrative or table format, please identify the acreage of each land use disturbed by mining related activities and the acreage of undisturbed land by surface ownership and identify these areas on a map. This should include the land use changes that were approved with Revision No. 36. (GAW)
13. The table on page 1 of Attachment 7 does not include the acreage located in the SE1/4 of Section 34. Please include this area in the table as it is not clear who owns this property. (GAW, ZAT)
14. The Historical and Future Use narrative states that the Hydrologic Assessment supplement to mining permits KRGC-8101 and KRGC-8404 concluded that mining operations had little impact on surface and ground water quantity and quality. It should also be noted in the text that the postmining Hydrologic Assessment was approved by the PSC on July 19, 2005. Please make this simple addition to the narrative. (BEB)
15. A sentence in the last paragraph on page 1 of Attachment 7 states that the facilities area of Section 34 was disturbed by mining related activities prior to July 1, 1975 as shown on Exhibit VII-1, Part IV of the permit. Please clarify in the application exactly which specific reclamation law period each area is subject to and the applicable reclamation and revegetation performance standards. It is not adequate to simply state that the area was disturbed prior to July 1, 1975 since the 1973 reclamation law required that up to two feet of soil be salvaged and respread while no SPGM was required to be salvaged under earlier reclamation laws. Please include relevant portions of Exhibit VII-1, Part IV in the bond release application rather than simply referencing where this information can be found in the permit. Exhibit VII-1, Part IV, shows that most of the acreage included in this bond release application was "pre-law facility disturbance" which means that it is not subject to any early reclamation law period but the area north of the facilities is simply labeled "Mine Disturbance". It is not clear when this "Mine Disturbance" occurred. Please clarify. (GAW)
16. Please discuss the reclamation activities that were conducted to convert the mining related disturbance areas from an active mining operation to an Industrial and Commercial post-mine operation. Mention if any areas were graded and if any SPGM was respread and if the areas were seeded and the dates these activities occurred. (GAW)
17. In the Developed Water Resources and Ponds narrative on page 2 of Attachment 7, please discuss what work was done to convert these sediment ponds to permanent features and compliance with NDAC 69-05.2-16-12, NDAC 69-05.2-16-09 (9-21) and NDCC 38-14.1-24 (7). (GAW)
18. The Historical and Future Use narrative and Developed Water Resources narrative on pages 1 and 2 of Attachment 7 indicates that sediment ponds 15 and 16 are included in this bond release request area but Exhibit I-IA, included with Revision 35, indicates otherwise. Please review and update the narrative discussions on pages 1 and 2 of Attachment 7 accordingly. Permanent ponds must be identified on Exhibit 7.1 or other map delineating land uses for the bond release area. (GAW, RLK, BEB)

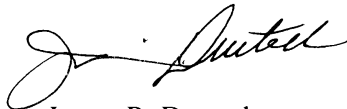
19. Provided in this attachment is some information regarding Ponds 22 and 27; however, neither of these ponds are specifically depicted or labeled on any of the maps included in the application. Please depict and label the pond locations on Exhibit 7.1 or other map delineating land uses for the bond release area. (BEB, RLK)
20. Please include pond maintenance agreements for the permanent ponds included in this bond release application, Ponds 22 and 27, or reference where these maintenance agreements can be found in the permit application (included with Revision 35). (GAW, RLK)
21. The land use change made in Revision No. 36 to Permit KRGC-8101 appears to include a portion of Pond 27 and land adjacent to the pond for the construction of a rail line. On page 2 of Attachment 7, please revise the narrative for Pond 27 to discuss the industrial and commercial land use component in the contributing drainage for the pond and the benefit the pond may provide for runoff collected from the industrial area. (RLK, BEB)
22. The first sentence of the last paragraph on page 1 of Attachment 7 states that operations at GMHR have been continuous since 1998, thereby fulfilling the requirements set out in NDAC 69-05.2-22-07(4)(j). However, for areas in the bond release application that are not actively being used for industrial/commercial purposes Knife River must demonstrate that ground cover is not less than required to control erosion. (GAW)
23. A sentence in the second paragraph on page 2 of Attachment 7 states that since Pond 22 remains in place it is "assumed" that no contributions of suspended solids from this tract leave the permit area. Please revise this sentence to make a more definitive statement documenting compliance with NDAC 69-05.2-12-12(7)(b). This can be accomplished by referencing compliance discharge history when this was an active discharge point. (GAW)
24. The last sentence of the fifth paragraph on page 2 of Attachment 7 states that copies of the zoning approval are located in Permit KRGC-8101, Part IVb, V-54 through 57. There is documentation of county zoning for the GMHR and Dakota Prairie Beef sites and associated access to these sites. However, we did not find Bowman County zoning information in the permit for the area included in this bond release application that is located in between these two businesses. This essentially includes the buildings and areas located east and west of the Wilson Brothers property. Please include Bowman County industrial/commercial zoning approval documents for these areas in the bond release application or clearly reference where they are in the permit. Exhibit V-56, Part IVB, was included in Revision 36 to show the zoning in Section 3. (GAW)
25. In the fifth paragraph on page 2 of Attachment 7, please clarify who owns the access roads in Sections 3 and 34 and discuss if an easement is in place with the appropriate parties that grants ingress and egress along these access roads. Please include a copy of the easements in the bond release application if available. (GAW)
26. Please revise Attachment 7 to discuss how the post-mine industrial/commercial land use is being implemented on the buildings and facilities remaining in place located near the Wilson Bros. property. Discuss who is using this property and how it is being used. Discuss the likelihood of continued use of the property as industrial commercial lands. (GAW)

Mr. Jeff Frohlich  
November 14, 2012  
Page 5 of 5

27. Please revise Attachment 7 to provide information for any water supply wells located within the bond release area that may serve as a water supply for the shop buildings and other industrial purposes. Please include the well locations, ownership and discuss the current or anticipated uses for the water supply wells located within the bond release tract. (RLK, BEB)
28. Exhibits 7.1 and 7.2 are both titled Bond Release 6 Cover Sampling Sites and appear to depict the same information. If the post-mining land use information is added to Exhibit 7.1 to coincide with the narrative as noted in deficiencies 10 and 16, please change the title for Exhibit 7.1 as appropriate. (RLK)
29. Please revise Exhibits 7.1 and 7.2 to identify what the blue lettering symbols with what appears to be dates. (GAW)
30. The Gascoyne Mine annual map indicates that a portion of the area in Section 34 adjacent to the haulroad northwest of Wilson Bros. shop was seeded in 1977 but this is not represented on Exhibits 7.1 and 7.2. Please clarify if this area was redisturbed or why cover data is not being provided for this area if it was seeded. (GAW)

If you have any questions, please contact this office.

Sincerely,



James R. Deutsch  
Director  
Reclamation Division