

July 17, 2014

Mr. Jim Deutsch, Director
Reclamation Division, NDPSC
Department 408
600 East Boulevard Avenue
Bismarck, ND 58505-0480

RE: Bond Release 9 to Permit 37

Dear Mr. Deutsch,

This submittal contains a response to your letter to us dated July 8, 2014. In this letter you listed technical deficiencies that must be addressed before the bond release application for Permit 37 can be approved. Any changes that have been made within the text portion of the application have been highlighted in **green**. Below is a listing of the deficiencies followed by our response:

List of Attachments

1. Please revise the List of Attachments for Bond Release No. 9 to Permit 37 so that the information listed is consistent with what is shown in the bookmark section of the application. Please also review the labels on the maps so that the naming convention is the same as that which is listed in the List of Attachments and bookmarks of the application. (GAW)

The List of Attachments sheet found on page 4 of the submittal has been revised so that they are consistent with the bookmarks within the document. Also revisions to the titles of the soils and seeding maps have been made so they are consistent with the bookmarks and List of Attachments.

Attachment V – Soil Map

2. The soil map in Attachment V contains information from the Oliver County soil survey for the bond release area along with the pre-mine cropland areas relevant to the bond release area. However, the cropland productivity standard is primarily based on the detailed soil survey completed by Robert Howey. Please include a copy of the detailed (Robert Howey) soil survey map in Attachment V for the area relevant to the bond release. (RLK)

We have included copies of the original soil survey conducted by Robert Howey for Section 25.

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Attachment VI – Tract History

3. The second paragraph on page 1 of Attachment VI discusses the “southern portion of the tract” while the third paragraph of this section also references the “southern part of the tract”. Please revise to clarify which portion of the tract is being discussed in each paragraph. In the second paragraph please also clarify what was seeded on the tract in 1981. NDAC 69.05.2-12-12(8)(b) (GAW)

The last paragraph on page 1 has been revised to clarify that the southern portion of the tract was spoil graded, respread, and was seeded with small grains in 1981. While the 1st paragraph on page 2 has been revised to clarify that a portion of pond 25-5 embankment was built in the northern portion of the tract; and that this portion was graded, respread, and seeded in 2003.

4. The second paragraph of Attachment VI indicates that 18 inches of subsoil and 12 inches of topsoil were respread on the southern portion of the tract. Please provide the SPGM respread depths for the northern portion of the tract. (GAW)

The first paragraph on page 2 of Attachment VI has been revised to clarify that there was 12 inches of topsoil and 29 inches of subsoil respreads in the northern portion of this tract. As per the pond removal requested for Pond 25-5 dated 1/2/2003.

5. The first paragraph on page 2 of Attachment VI states that pond 25-5 was reclaimed in 2002 but the removal request for pond 25-5 is dated 12/31/2002 and approval to remove the pond was granted in a January 3, 2003 letter from our office. The correspondence indicates the earthwork related to the pond removal would have been completed in 2003. The request proposed SPGM respread thicknesses of 12 inches topsoil and 29 inches of subsoil based on the available SPGM for the area. Please review your records regarding the reclamation of pond 25-5 and update the narrative as appropriate. (RLK)

The first paragraph on page 2 has been corrected to state that Pond 25-5 was reclaimed in 2003. Also this paragraph has been revised to clarify that the northern portion of this tract was respreads with 12 inches of topsoil and 29 inches of subsoil; as per correspondence dated 1/2/2003.

6. Please correct the references to Tables 2a, 2b and 2c used on page 2 of the Attachment VI narrative. The narrative states that the area was seeded to the hayland mix listed in Table 2c but Table 2c is cropland yield information. The narrative also refers to Table 2b as being the original approved mix that was not used but Table 2b appears to be the current hayland seed mix and Table 2a is the seed mix that is no longer used. (RLK/GAW)

References on page 2 of Attachment VI have been corrected to state that the seed mix found in what is now labeled Table 1b was the mix planted in this area, and that Table 1a is the mix that was original approved mix for the area.

7. Tables 2a, 2b and 2c are placed in Appendix VI prior to Table 1 which is confusing. Please rename these tables or reorganize the information so that Table 1 precedes Table 2. NDAC 69-05.2-05-02 (GAW)

The labels and references for the Tables found within Attachment VI have been revised to list the tables in chronological order.

8. Narrative on page 4 of Attachment VI states that the tract is being managed and bond released as hayland, but Attachment VII shows the southern portion as cropland and the northern portion as hayland. Please clarify how each portion of this tract is being managed during the responsibility period as required by NDAC 69.05.2-12-12(8)(b). (GAW/RLK)

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The narrative on page 4 of Attachment VI, under the Management During Liability discusses the management on this tract during the liability period. Under this section, both the portion managed as hayland (1st paragraph) and the portion managed as cropland (2nd paragraph) are discussed. This narrative has been revised to clarify this.

9. Narrative on page 4 states that it was previously agreed that the reclaimed hayland on this tract could be used to demonstrate revegetation success for the entire tract. Please include narrative in the application demonstrating that the reclaimed hayland portion of the field properly represents the entire area. This must include an evaluation of SPGM respread depths between the northern and southern portion of the tract and since the hayland portion was reclaimed in 2003 while the cropland portion was reclaimed in 1981 (or 1984).

The first paragraph of the Evaluation of Reclamation Success narrative on Page 4 of Attachment VI has been revised to include a discussion about the decision to use the hayland portion of the tract to demonstrate reclamation success.

10. Narrative on page 4 of Attachment VI states that the pre-mine soils were derived from the NRCS Soil Survey and this is also listed on the Soils Map, Attachment V, but information in Bond Release No. 6 states that the soils were from a combination of Robert Howey's soil mapping and Oliver County Soil Survey. The soils with mapping units written out were from Robert Howey's survey and those with abbreviated names are from the Oliver County Survey. Please clarify that a combination of the Howey and NRCS Soil Surveys were used to develop the reclamation success standard. Please review and revise to provide clarity. (GAW/RLK)

The narrative on the top of Page 5 has been revised to state that both the Robert Howey Survey and the NRCS Survey were used.

11. Table 1 incorrectly shows that Flaxton fine sandy loam is hayland suitability group F3. Please revise to show this mapping unit as suitability group A6 as stated in an email dated June 22, 2014 and correct the unadjusted standard accordingly. (GAW)

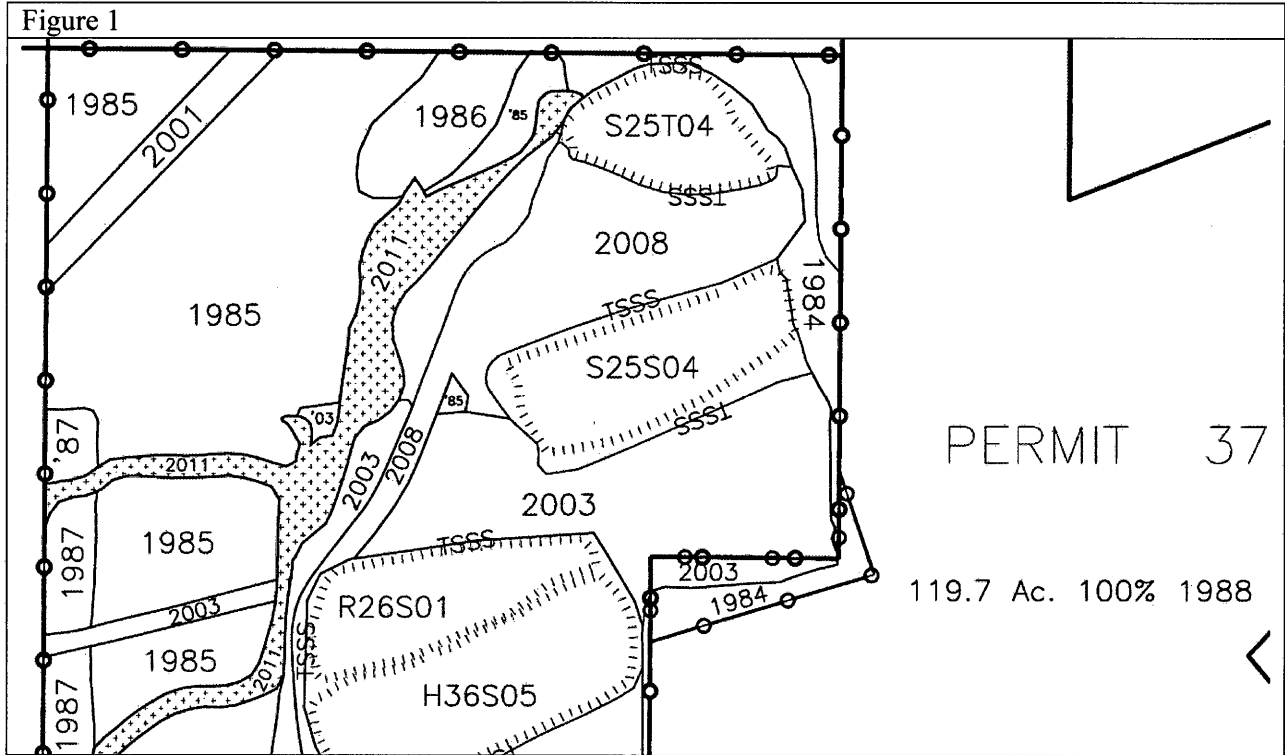
Table 2 (Previously Table 1) has been adjusted to show Flaxton fine sandy loam as suitability group A6. The unadjusted standard has been revised accordingly. Table 3 and the corresponding narrative on Page 7 have been updated.

12. The production data in Appendix A, Supporting Data for Hayland in Section 25, lists "mean cover"; however, this should be "mean yield". Please correct this error which is listed below the table for each year. The 2009 yield data also incorrectly shows that 3 samples were required for sample adequacy but this value should be 4 since 3.4 were required. (GAW)

The term "mean cover" has been revised to say "mean yield" for each year of production data listed in Appendix A of Attachment VI. The yield data sheet for 2009 within Appendix A has also been revised to state that "4<10 Thus adequate number of samples were taken" rather than 3.

Attachment VII – Seeding Map

13. Attachment VII, Seeding Map shows areas south and east of the seeding line as being seeded in 2003. Please accurately depict the actual seeding dates on this map. Please also explain why the 2011 and earlier Annual Mine Maps show the southern and eastern portion of this tract as having the 10 revegetation period initiated in 1984 rather than 1981 as shown in Figure 1 below. Explain why this initiation date was changed on this area with the 2012 Annual Mine Map. (GAW)



The first submittal of the 2012 Annual Map, dated March 15, 2013, shows the area in question to be seeded in 1984. On the second submittal of the 2012 Annual Map, dated January 9, 2014, the area in question is shown as being seeded in 1981. The change came about in response to deficiency No. 6 of the PSC Bond Release 9 to Permit 37 Technical 2 Review Letter dated November 20, 2013. This deficiency requested a review of the reclamation activities on this tract to clarify and accurately reflect the 10-year revegetation period for this area. As a result of our review of old aerial photos, annual maps and grade approvals, it was determined that the southern portion of this tract was seeded in 1981 not 1984. In BNI's Response letter, dated January 14, 2014, to the Technical 2 Review Letter, we stated that the 2012 Annual Map was updated to reflect the 1981 seeding date. The 2012 Annual Map was approved on March 6, 2014, which includes the 1981 seeding date for this portion of the bond release tract.

Thank you for your consideration of this matter. If you have any questions regarding this submittal, please contact me at the Center office.

Sincerely,

Karene M. Hall
Permit Coordinator