



Public Service Commission

State of North Dakota

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October 9, 2013

Mr. Edward Pettit
Environmental Manager
Knife River Corporation
1150 West Century Ave.
Bismarck, ND 58503

Dear Mr. Pettit

The Reclamation Division has completed a technical review of the application for Final Bond Release No. 7 to Permit KRGC-8101. The following items must be adequately addressed before the Reclamation Division can recommend Commission action on the application:

Attachment 1 – Permit Area Map

1. Since Tract 3 is located within Section 26, please label Section 26 on the permit area map. (BEB/ZAB)
2. The permit area map labels Tract 1 that is located in Section 29 as containing 326.4 acres and other information in the application lists Tract 1 as containing 559.2 acres. Also, the map labels Tract 2 that is located in Section 33 as containing 59.6 acres (53.7 + 5.9) on the map and other information in the application lists Tract 2 as containing 81.7 acres. Please resolve the acreage discrepancies between the map and the other application information. It appears that the acreages listed on the map are the disturbed acres and not the total tract acreage. If that is the case, then please indicate so in the legend or on the map labels or alternatively just list the acreage of the entire tract on the map (probably more appropriate.) (BEB/ZAB)
3. Please label the acreage contained within Tract 3 on the permit area map, Attachment 1. (BEB)

Attachment II – Metes and Bounds Description

4. Please include a map (or depict on Attachment 1) showing the location of the points listed in the metes and bounds description, Attachment II, similar to what was provided on Attachment 5 in Bond Release No. 6. Also, please identify the beginning point using the established Public Land Survey System (PLSS) or in some other manner to correlate the Knife River Corporation (KRC) coordinates to a common public land survey system. (GAW/RLK)

Attachment 4 – Letters of Notification

5. Please include copies of the notification letters 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 7 – Supporting Narrative

6. Please clarify paragraph two of the introduction narrative in Attachment 7. Please state the number of acres in Bond Release No.7 that previously received Phase I and II partial Bond Release No.3, the percent bond that was released with Bond Release No. 3, and the year that Bond Release No. 3 was approved. Also please state the exclusion area of 16.9 acres remains under 100% bond. (ZAB)
7. The bond release tracts are clearly and consistently identified as Tracts I, II and III in the bond release application and in Attachments 1-6, and in Attachment 7 up to the Reclamation History, where the tracts are identified by owner or section. For clarity and consistency, please include Tract I, II and III in the headings or narrative of the Reclamation History, in the Evaluation of Success narrative, and on the data tables on pages 7-21 of Attachment 7. (ZAB)
8. Please revise Attachment 7 to discuss the public road located along the east side of Section 29, Tract 1, and clearly show which portions of this road were affected by mining activities. (GAW)

Historical and Future use

9. The first sentence of the “Historical and Future Use” heading states that “The acreage of this bond release application was primarily utilized in support of mining activities during active mining”. This statement only appears to apply to Tract 3, the road corridor in Section 26, as coal was removed from Tracts 1 and 2. Please revise this sentence to provide clarity. (GAW)
10. Sentences in the second paragraph of the “Historical and Future Use” and the first paragraph of the “Reclamation History” sections state that the annual map seeding dates do not represent initiation of the revegetation responsibility periods and that differences will be noted between the annual map and Exhibits 7.1 and 7.2. However, NDAC 69-05.2-13-02(2)(f), and as further clarified by Policy Memorandum No. 14 to Mine Operators, specifically requires the annual mine maps to document initiation of the 10-year revegetation responsibility period. Please revise these statements accordingly. Future reviews of the Gascoyne Annual Map will pay particular attention to this matter. (GAW)
11. Narrative on both page 2 of the application and page 6, Developed Water Resources, describes Pond 23 within the bond release acreage and both narratives state that the pond functions as it was originally designed. For the past couple of years, several PSC inspection reports have noted the equalizing culvert connecting Pond 23W and Pond 23E was plugged with sediment and scoria and needed to be cleaned out. Please note in the narrative(s) whether or not the culvert had been recently cleaned out and when it occurred. If the culvert has not been cleaned out, Knife River will need to do this work prior to release of bond. (BEB)

Reclamation History

12. Please include a map that shows the topsoil and subsoil respread depths of the disturbed areas included in the bond release application as has been indicated in the Addendum to the bond release application, SFN 19813 (1-2004). We understand that all but 16.9 acres of disturbed land was included in Partial Bond Release Application No. 3 to KRSB-8101 and that Exhibit 5.1 in Bond Release Application No. 3 provides the SPGM respread depths. Please reference this Exhibit in the first paragraph of the Reclamation History and include a respread depths map of the areas not included in Partial Bond Release No. 3. (GAW)
13. Please review and revise the first sentence of the cropland narrative on page 2 of Attachment 7, which discusses tract Rd 23, but is labeled Bl 23 on Exhibits 7.1 and 7.2. Also, the Exhibit numbers should be included for clarity so the end of the sentence reads: "... identified as tract Bl 23 on Exhibits 7.1 and 7.2". (ZAB)
14. Please revise the last two sentences of the cropland narrative on page 3 of Attachment 7. Please describe this area as the hayland in the SE1/4 of Section 26 and provide the specific reclamation history and dates instead of just referring to Bond Release No. 3. (ZAB)
15. Paragraph 4 of the hayland narrative on page 3 of Attachment 7 discusses the history of the NE1/4 of Section 33 and states fertilizer application was identical to the early Reimer tracts. However, there is no narrative regarding fertilizer use on the Reimer tract. Please add narrative to paragraph 2 discussing fertilizer application on the Reimer tract. (ZAB)
16. Exhibit 7.2 identifies a portion of the northwest corner of Tract 2 as an area disturbed prior to North Dakota's first reclamation law and as an area that was seeded in 2002. However, this area is included in Bond Release No. 3 as an area having been backfilled and graded and SPGM respread. Please clarify if any SPGM was respread on this area and why it would not be seeded until two years after approval of Bond Release Application No. 3. The area listed as not having been respread with SPGM is not readily distinguishable in the field. If SPGM was not respread on the area, it seems it should be considered permanent hayland rather than cropland/hayland. Please revise the application to clarify what reclamation activities occurred on this pre-law tract. (GAW)

Evaluation of Reclamation Success

17. A sentence in the last paragraph on page 4 of Attachment 7 states that "In a sense, the outside strips (of the corridor) may be seen as representative sampling strips...". This implies that the sample points were not selected randomly which is a fundamental requirement for statistical inferences. Please revise this sentence and include a discussion about how samples points were determined for all three tracts. (GAW)
18. Please revise the Perkins discussion in the Evaluation of Reclamation Success narrative on page 5 of Attachment 7 to discuss management of the pre-1975 law areas during the revegetation liability period and include information that will allow the Reclamation Division to determine that land is functioning as intended. (GAW)
19. Table 2 on page 8 of Attachment 7, S26 Anderson Hayland Yield Comparisons, show that the 2007 and 2010 Long-Term Average yield values to be 1.33 and 1.34 T/ac but with rounding these values

should be 1.34 and 1.35, T/ac respectively. Likewise, these same values in Table 2 of Page 10 of Attachment 7 should be revised. Please review and update accordingly. (GAW)

20. In Table 1, Andersen Unadjusted Technical Standard for Reclaimed Hayland, on page 8, the suitability group for the Vebar map unit is listed as group H3 with a yield of 0.53 t/ac; however, it appears that the correct suitability group would be F3 with a yield of 1.05 t/ac for Vebar soils with less than 25% slope as listed in the Reclamation Division's Revegetation Guidelines. Please review and revise as appropriate. (RLK)
21. For tract 3 consisting of the Andersen tract in the S1/2 of Section 26, please consider using a weighted production ratio for production data where such data is available similar to what is presented for Section 29. This is a small tract that may be used for either annual crop or hay production. The entire tract is currently in hay production and it appears that the entire tract had been used for annual crop production in the past. (RLK)
22. Table 2 on page 9 of Attachment 7 contains a number of values that appear should be rounded to a higher value. For example, the 2006 and 2007 long-term average yield values are listed as 1.28 and 1.33 but it appears these values should be rounded to 1.29 and 1.34. Likewise, the 2007 adjusted standard is listed as 1.53 but in fact should be rounded to 1.54. Please review and correct as necessary. (GAW)
23. Tables 2 and 3 on page 10 and the table at the bottom of page 5 of Attachment 7 include year 2006 data for Reimer's land in Section 29 (Tract 1). However, a portion of this tract was reclaimed in 2000 and seeded in the fall of 2000 (October 13, 2000) as mentioned in the narrative in the third paragraph on page 2. Therefore, 2006 is the sixth year of the revegetation responsibility period and cannot be used to demonstrate revegetation success for the area seeded in 2006 as NDAC 69-05.2-22-07(4)(c) requires data after year six of the responsibility period. Please revise to clarify that the 2006 data is not being presented to demonstrate revegetation success for the entire area. (GAW/RLK)
24. Please revise the fourth paragraph on page 5 of Attachment 7 to clearly state that the 2008 hayland sampling data only represents the E1/2 of the tract (Reimer's - Tract 1). It is only through careful review of the Exhibit 7.2 that one realizes that the 2008 data does not properly represent all reclamation initiation dates. (GAW)
25. Table 3 on page 10 of Attachment 7 shows that Reimer's property achieved revegetation reclamation success only in 2006, 2008 and 2010 and that revegetation success was not achieved in 2007. However, the 2006 data cannot be used without a variance to the 10-year initiation period for the ponds that were reclaimed in 2000 (reclamation success must be proven any 2 years after year six) and the 2008 data only represents the hayland portion of the tract. Therefore, only one year of data is included that demonstrates revegetation success for the entire tract. Please review and either include an additional year of data or add information for the 2007 data to show that the yield is not statistically different than the standard. Another alternative may be to clarify in the narrative and note in the tables that the 2006 and 2010 data demonstrates success on the portion of the tract seeded prior to 2000 and the 2008 data along with the 2010 data demonstrates revegetation success for the pond site area that was reclaimed in 2000. (GAW/RLK)

Mr. Edward Pettit

October 9, 2013

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If you have any questions, please contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read "James R. Deutsch". The signature is fluid and cursive, with a large initial "J" and "D".

James R. Deutsch

Director

Reclamation Division

Minedata/Gascoyne/Permits/KRGC-8101/BondRelease/No.7/BR7_tech1_rvw_ltr_10-9-13.docx