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December 12, 2013

Mr. James R. Deutsch  
Director, Reclamation Division  
Public Service Commission  
600 E Boulevard Ave, Dept 408  
Bismarck, ND 58505-0480

Re: Bond Release Application No. 2 (BR-2) - KRGC-8404  
Response to Deficiencies identified by PSC in letter dated October 4, 2013

Dear Mr. Deutsch:

Pursuant to your Agency's letter dated October 4, 2013 concerning Knife River Corporation's Bond Release Application No. 2 (BR-2) regarding permit KRGC-8404, Knife River offers the following responses, highlighted in yellow, pertaining to each identified deficiency.

#### **Application Form**

1. Please revise the first page of the bond release application, SFN 19813, to specifically identify all stages of release being requested with this application and the acreage associated with each stage of release. Our records indicate that all affected acreage in Permit KRGC-8404 was included in Bond Release Application No. 1 which was approved for backfilling, grading and SPGM respread (Phase I and II). (GAW/RLK)

The first page of the bond release application has been revised as suggested.

2. Bond release application, SFN 19813, is dated July 29, 2013 but the application was not signed or submitted until September 23, 2013. Given that other changes are necessary on this form and that NDCC 38.14.1-17 requires an inspection within 30 days and a ruling within sixty days of filing, please consider revising the date on the first page of this application so that it is consistent with that listed on page 2 when it was signed. (GAW)

The first page of the bond release application has been revised as suggested.

#### **Attachment – Table of Contents**

3. Attachment 5 is listed in the Table of Contents as being the *Letters of Notification State/Local Surface and Adjacent Landowners*, which is the information provided in Attachment 4, not Attachment 5. Attachment 5 contains an aerial photograph of the bond release tract. Please revise the Table of Contents as appropriate. (BEB)

The Table of Contents has been revised as suggested.

**Attachment 3 - Public Notice**

4. Please revise the last sentence of the first paragraph to clarify the amount of the bond being sought for release as required by NDCC 38-14.1-17(1)(3). (GAW/RLK)

The sentence has been revised as suggested.

5. Please revise the first sentence of the second paragraph to clarify that this bond release application is requesting third stage (vegetation establishment) in addition to fourth stage or final bond release, (demonstration of revegetation success). (GAW/RLK)

The sentence has been revised as suggested.

6. The public notice should identify that Bond Release #1 to KRGC-8404 for backfilling and soil replacement (1<sup>st</sup> and 2<sup>nd</sup> stage) was approved on October 25, 2000. (BEB/RLK)

The suggested information has been added to the public notice.

7. The third paragraph of the advertisement states that the entire tract has a cropland/hayland designation. The Postmining Land Use Map, Exhibit V-3, in the permit identifies a scoria pit area in the S1/2 of Section 33 as Fish and Wildlife Habitat, Grassland, and public road right-of-way is identified on the west side of the permit. The tract history attachment provides a detailed synopsis of the land use designations but please revise the public notice to correctly state all of the postmine land uses within the bond release tract. Please review and revise to clarify the approved postmine land uses of the permit area and make a distinction between reclaimed cropland and hayland since the whole area is not being managed the same. (GAW/BEB)

The suggested clarification has been made to the discussion.

8. Please revise the map that is to be included with the public advertisement to show the rebuilt public road located between Sections 32 and 33 and Sections 28 and 29, and label this township road to help the public determine where this property is located. (GAW)

The map has been revised as suggested.

9. Please revise the map that is to be included with the public advertisement to clearly show US Highway No. 12. (GAW)

The map has been revised as suggested.

**Attachment 4 – Letters of Notification**

10. Since the example notification letter provides the same language as the public notice, the above-listed public notice deficiency pertains to the state/local surface and adjacent landowner notification letters as well. Please discuss Bond Release #1 in the notification letters. (BEB)

All Bond Release Letter recipients received the same clarifications and were made to the Public Notice Narrative and Bond Release Tract Map. The suggested information was communicated accordingly.

11. Please revise the third paragraph of the letter that is to be sent to surface owners, adjacent surface owners and government agencies to mention all of the approved postmine land uses associated with this bond release. The permit indicates that a township road was reclaimed along the west side of the permit and that the scoria pit is considered Fish and Wildlife Habitat. The first paragraph on page 2 of Attachment VII identifies the acreage of each land use. (GAW)

See response to number 10 above. The suggested information was communicated accordingly.

12. Please consider mailing a letter directly to Gerald Flatz at the address used in recent correspondence; 1347 Tetonia Drive, Boise, Idaho 83705. (RLK)

Mr. Flatz's letter was sent to the recommended address in Boise.

13. Please update the contact person for the state agency review letters as follows: State Historical Society, Mr. Merlan Paaverud; State Water Commission, Mr. Todd Sando; and North Dakota Department of Health, Mr. David Glatt, Environmental Health Section, 918 E. Divide Ave, Bismarck ND 58501. (RLK)

The agency contacts were updated accordingly.

**Attachment 7 – Supporting Narrative**

14. The last sentence of the second paragraph of page 1 of Attachment VII references Exhibit 5.1 but Exhibit 5.1 is not included in the bond release application. Please include this exhibit in the application or reference the appropriate map that is included in the application. (GAW)

Exhibit 5.1, which was originally submitted as part of BR1, has been included at the end of the narrative and the narrative has been revised to clarify where "respread" tracts are displayed (Exhibit 5.1) and where "revegetation" tracts are displayed (Exhibit 7.1).

15. Tracts Rd 25 and Rd 29 are mentioned in verbiage below the table on page 1 but these tracts are not shown on Exhibit 7.1. Tract Rd 32 is shown on Exhibit 7.1 but it is not discussed on page 1 of Attachment VII. Please review and revise as appropriate. (GAW)

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See response to item number 14 above. Further, as pertains to Tract Rd 32 not being included in the narrative, this is consistent with other recent bond release applications. In this case, the narrative addresses the initiation of cropping operations, with Rd 28, and establishes that the bond liability period has been satisfied since the seeding of the last tract, with Rd 35.

16. The last sentence on page 4 of Attachment VII references a letter from Allan Anderson that is supposed to be included at the end of this section but a copy of this letter is not included. Please include a copy of this letter and include another year of data demonstrating revegetation success of the access trail in the SW1/4 of Section 33. It is unlikely that the Reclamation Division will allow data from the NW1/4 of Section 33 to be used to demonstrate success of reclaimed land in the SW1/4 of Section 33. (GAW)

Mr. Anderson's signed statement in full support of PSC using existing revegetation success data to demonstrate the success of the reclaimed 1.5 acre former access road is included at the end of this narrative.

17. Knife River is using 2007 and 2010 cropland yield data to demonstrate revegetation success of reclaimed cropland in the NW1/4 of Section 33. However, a low area where water ponded on the cropland in the northwest corner of this tract was repaired in the fall of 2010. Please revise the application to show the location and size of the area disturbed to repair the low area and describe how the site was repaired. This discussion should include compliance with Policy Memorandum 20 to Mine Operators. Depending on the size of the area that was re-affected by the repairs, at least one year of yield data may be needed after year 2010 to demonstrate revegetation success to demonstrate reclamation success of the repair area. (GAW)

The low area referenced was reshaped with a small amount of topsoil that was respread at the site in the fall of 2010. Individually, the features in need of repair were less than 0.5 acre in size. Further, the surface work undertaken to repair these features constituted roughly 5-percent of the disturbed acreage within the larger tract, although a portion of this area served as setbacks and topsoil pushback areas and thus remained generally undisturbed. The narrative has been expanded to describe this work. Under the provisions of Policy Memorandum 20 to Mine Operators, therefore, Knife River is requesting that PSC require no variance for this drainage improvement effort.

Knife River Corporation appreciates your assistance in this matter. Please don't hesitate to contact me by telephone at (701) 530-1421 or by email at [ned.pettit@kniferiver.com](mailto:ned.pettit@kniferiver.com) if you have any questions or require additional information.

Sincerely,



Edward M. "Ned" Pettit  
Environmental Manager

Enclosures