

**PUBLIC SERVICE COMMISSION**

Reclamation Division

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Memorandum

TO: Commissioners Kalk, Christmann and Fedorchak  
Darrell Nitschke, Executive Secretary  
Illona Jeffcoat-Sacco, General Counsel

FROM: *JDE* *DKM* *RK*  
Jim Deutsch, Dean Moos and Randy Kowalski

DATE: July 23, 2014

SUBJECT: Variance request to the performance bond responsibility period for areas in Permit KRGC-8404 held by Knife River Corporation for the Gascoyne Mine, Case No. RC-14-314

On June 5, 2014, Knife River Corporation filed a request for a variance from the 10-year revegetation liability period for 4.0 acres of reclaimed land in Permit KRGC-8404 at the Gascoyne Mine. This acreage is located in a portion of the NW1/4 of Section 33, T131N, R99W, Bowman County. A variance from the 10-year liability period will allow the reclaimed acreage that was repaired in 2010 to be bond released with the adjacent reclaimed lands that were reclaimed in 1992, 1994 and 2000. The Reclamation Division has completed its review of the request and respectfully recommends approval of a variance for the 4.0 acres as allowed by Policy Memorandum No. 20.

Policy Memorandum No. 20 allows the Commission to grant variances to the 10-year responsibility period so that the responsibility period of the variance areas is the same as that of the surrounding reclamation tract. Variance areas must be small in size when compared to the entire reclamation tract and the affected land must meet the reclamation success standards when final bond release is requested. The permittee must affirmatively demonstrate that reclamation of the area will provide equal or greater protection to the environment and to public health and safety. Reclamation procedures used on the variance areas need to provide the same protections as those used on the surrounding reclaimed tracts.

The 4.0 acres of repaired cropland is part of a 56.1 acre reclaimed cropland tract within the NW1/4 of Section 33. The rest of the land in that quarter section was not disturbed. The variance is for 3.8 acres of reclaimed cropland that was redisturbed in 2010 to correct drainage near the north edge of the tract. Two separate depression areas were backfilled with topsoil and regraded in 2013, each involving approximately 0.1 acre. The repair areas are in cropland that was reclaimed in 1992 and 1994.

The variance areas cover about 7.1 percent of the reclaimed cropland in the tract. The variance areas have been in small grain production since the repairs were made and the cropping and conservation methods practiced on the tract have been typical for the region.

The repaired area is part of a larger tract that is currently eligible for final bond release consideration. The 10-year responsibility period for the remaining permitted tract consisting of the NW1/4 of Section 33 contained in Permit KRGC-8404 was complete in 2010. Restarting the responsibility period for the repair area and extending the period to 2020 would be impractical for this small area within the larger logical bond release tract. The Reclamation Division believes that the tract will meet the revegetation performance standards.

A map showing the variance areas and the adjacent reclaimed lands is attached. The proposed variance areas have been reviewed during several inspections made after completion of the repair. No issues were identified during the inspections that suggest the variance not be granted. Based on the field inspection and the information contained in the request, the Reclamation Division recommends approval of this request for a variance from the 10-year performance bond responsibility period for 4.0 acres of reclaimed land in Section 33 within Permit KRGC-8404.

A motion and an approval form are attached for your consideration.

Figure 1: Variance request areas indicated by blue arrows

