

SUCCESSFUL BOND RELEASE PRACTICES IN NORTH DAKOTA

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The North Dakota Public Service Commission (PSC) has approved 16 partial bond releases for backfilling and grading and suitable plant growth material (SPGM) replacement on about 2,400 acres mined after the effective date of the permanent regulations pursuant to SMCRA. Only one partial bond release for vegetation establishment has been approved. The North Dakota state program includes a four-stage bond release process. Up to 40 percent of the bond can be released for backfilling and grading, another 20 percent for respreading of topsoil and subsoil, and the remainder, except revegetation costs, for vegetation establishment. The final amount is not released until productivity standards have been achieved and the ten-year liability period has expired. Partial bond releases for the first three stages have been approved by PSC on 234.9 acres at The North American Coal Corporation's Indian Head Mine near Zap, North Dakota. One final bond release has been approved for a recreational land use at the Falkirk Mine, near Underwood.

Coal mining in North Dakota is done mostly at large surface mines where draglines, bulldozers, and tractor scrapers are used for mining, backfilling, grading, and topsoil and subsoil handling. Land use is primarily agricultural. Cropland is used for small grain and hay production. Substantial acreages are also reclaimed to native grassland and wildlife habitat.

A regrade approval application must be approved prior to any respreading of soil. Approval of respread subsoil is required before topsoil can be respread. First stage bond release is a straightforward numerical evaluation based on reclaimed topography data submitted in the application and a field inspection. Second stage bond release consists of a field inspection during which respread soil is sampled to ensure average respread thicknesses correspond to those approved in the regrade application. There are, of course, prodigious public and government agency notice requirements and opportunities for participation by the public and various officials in these bond release activities. Monitoring of reclamation operations by the PSC and reclamation quality control by the operator generally result in a time-consuming, but routine bond release application and approval process for the first two stages.

Approval of bond release for vegetation establishment on cropland is based on a PSC field inspection. Adequate establishment of the precropland mix or "crop to be grown" is evaluated and the area is inspected for erosion potential. Third stage bond release on native grassland will require quantitative measurements of cover, as well. Proof of equal or greater productivity must be provided for third stage bond release on prime farmland. No applications for third stage bond release have yet been submitted for native grassland or prime farmland.

One final bond release, for 165 acres of recreational land which is being developed as a golf course, has been approved at the Falkirk Mine. Falkirk was required to prove adequate cover through sampling, and field inspections were conducted. No final bond release applications have yet been submitted on cropland because of the ten-year liability period. However, preliminary yields from hay cut on the areas are encouraging. Requirements for seasonality, permanence, and diversity on native grassland may make final bond release on that land use more difficult.

Participation in bond release inspections by landowners, the PSC's technical review committee, and others has gone well. Participants, especially landowners, often question the ten-year liability period requirement. Landowners are anxious to recover full control of their land, once they are convinced that is fully reclaimed.

A bond release application is a significant administrative effort. Legal descriptions must be developed, updated lists of area and adjacent landowners must be compiled for notifications, notices must be published, and data must be compiled and analyzed regarding the reclaimed site itself. Questions and concerns raised by surface and coal owners and numerous regulatory agencies must be addressed. Several inspections are often required because it may be difficult to schedule all interested parties on the same day. Nevertheless, bond release is worth the effort because of its significance as an official measure of reclamation success.