

## **Appendix E**

### **Reclamation Performance Bond**

## **Performance Reclamation Bond**

A reclamation performance bond will be established for a period of eight years. The bond will be applied to supplemental vegetation reclamation if restoration for American burying beetle (ABB) habitat failed, as discussed during consultation among the U.S. Department of State (DOS), U.S. Fish and Wildlife Service (USFWS), and Keystone. This performance bond will be accessible and executed by DOS, or a third party at the discretion of the DOS, if and when disturbed land in the ABB habitat area, as defined by the Biological Assessment (BA) (DOS 2012), should fail to revegetate in a manner outlined below, and Keystone fails to take corrective action. Release of the bond will be solely at the discretion of DOS after soliciting recommendations from the USFWS and the Nebraska Game and Parks Commission.

### **Bond Stipulations**

Bond covers cost of supplemental reclamation for failure of land to appropriately revegetate, starting four years after commencement of construction.

Bond coverage is limited to ABB habitat areas as defined in the BA (except for smaller areas within ABB habitat that are unsuitable for beetle occupation, such as crests of windblown hills).

Successful reclamation criteria:

- Reclamation will be measured four years after the commencement of construction.
- For reclamation to be deemed successful, native grasslands restored on the right-of-way (ROW) must be comparable to those on adjacent undisturbed lands.
- 70 percent of the dominant species on the ROW must be the same as those that occur on adjacent off-ROW lands.

Reclamation success will be determined by inspection of the defined areas jointly by Keystone and DOS or its designated agent.

Reclamation will not be deemed successful on private lands where the landowner makes alterations to the seed mix proposed in the project's CMRP and Con/Rec unit.

The value of the bond will be based on an assumed reclamation 10 percent failure rate, using the market cost of seed and an appropriate labor cost totaling \$300/acre, and the habitat acreages and multipliers reflected on the attached spreadsheet. On this basis, the initial amount of the bond will be \$113,899.62.

At year four, the bond amount will be adjusted to reflect the actual acreage where reclamation has not met the reclamation criteria. Each year after year four, for the duration of the bond period, the bond amount will be readjusted to reflect the remaining acreage that has not met the reclamation criteria.

If Keystone should fail to meet the conditions of these bond stipulations, funds from the bond up to the full amount available, will be released to DOS or its designated agent(s) to complete the reclamation work.

**Performance Bond Calculations for ABB habitat reseeding failure**

<b>Habitat Quality Rating</b>	<b>SD Acres</b>	<b>NE Acres</b>	<b>Total</b>	<b>Quality Multiplier</b>	<b>Acreage Value</b>
<b>TEMP Prime</b>	325.94	365.57	691.51	3	2,074.53
<b>TEMP Good</b>	95.80	226.59	322.39	2	644.78
<b>TEMP Fair</b>	80.01	13.44	93.45	1	93.45
<b>Total potential ABB acres affected</b>					<b>3451.54</b>
<b>10% Failure rate after 4 years (acres)</b>					345.15
<b>10% Failure rate after 8 years (acres)</b>					34.52
<b>Total acres for performance bond</b>					379.67
<b>Total Bond (acres x \$300)</b>					113,899.62