



Public Service Commission

State of North Dakota

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November 26, 2008

Dr. Jay Volk
Environmental Services Supervisor
BNI Coal, Ltd.
2360 35th Ave. SW
Center, ND 58530-9499

Dear Dr. Volk:

The Reclamation Division has reviewed the latest technical deficiency responses submitted by BNI for Bond Release No. 6 to Permit BNCR-8106. The following items were found during that review and will need to be corrected before the bond release can be approved:

Attachment VI – Section 36

1. The reclaimed native grassland cover values (94.2% in 2004 and 95.6% in 2005) in Tables 10, 11, 14, and 15 appear to be incorrect and these incorrect values are listed in the first, fourth, and fifth paragraphs on page 22. It appears that the correct values should be 94.8% (474/500) for 2004 and 96.0% (480/498) for 2005. It should also be noted that the total hits as summed by various cover types on page 27 totals to 498 rather than 500 as currently listed. Please review and correct as necessary. (GAW)
2. The second sentence in the second paragraph on page 22 incorrectly states that all lands within this bond release tract were disturbed under 1975 or earlier reclamation laws. A small portion of this tract was mined under the 1978 interim reclamation rules. Furthermore, since mining occurred from 1975 through the 1978 interim rule period then a portion of the area is also subject to the 1977 reclamation law as shown on the July 1, 1978 annual map on file with the Reclamation Division. Please review and edit the sentence in the second paragraph on page 22 accordingly. (GAW)
3. The Law Liability periods and acres on page 14 need to be updated (see the July 1, 1978 annual map that shows the 1977 law area) to show that a portion of this tract was mined under the 1977 reclamation law. Alternatively, you can show the combined acreage for the 1975-77 law periods which would also be sufficient if that acreage cannot be separated or easily discerned. (GAW & SAS)

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4. The 1977 law line needs to be added to Attachment V. Please review and correct as necessary. (GAW)

Also, before this bond release can be approved, a permit revision must be submitted and approved to change the status of the ponds that will be retained within the bond release tracts from temporary to permanent. If you have any questions, please contact this office.

Sincerely,



James R. Deutsch
Director
Reclamation Division