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12-19-2008

Mr. James R. Deutsch, Director
Reclamation Division, NDPSC
Department 408
600 East Boulevard Avenue
Bismarck, ND 58505-0480

FROM DIRECTOR - RECLAMATION DIV.

Date: _____

Action: _____

Info. Only: _____

Info & File: _____

RE: Bond Release No. 6 to Permit BNCR-8106

Dear Mr. Deutsch:

This submittal contains responses (in italics) to the technical deficiencies given in your letter dated 26-November, 2008. It also contains a revised edition of Attachment V and VI. Attachment V (map) can be replaced in its entirety, while in Attachment VI please replace pages 14, 21, 22, 25, and 27 within your current copy. Three copies of the revised materials are enclosed.

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)

Tables 10, 11, 14, and 15 were corrected as needed along with the associated text in page 22. In the 2005 data (Table 15) the total points 498 was also corrected to 500 (Bourcur was summed to have 5 hits instead of 7 as depicted within the table itself).

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)

Revised sentence as requested.

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Response to Latest Technical Deficiency Letter Filed
BNI Coal, Ltd.
Jay Volk

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)

Revised the law liability periods and acres on page 14 by combining 1975-1977 law periods as requested.

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

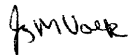
Per a 12-19-2008 conversation with the PSC (GAW), 1977 was added to the existing 1975 law line (1975-1977) as requested by GAW.

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.

A revision to BNCR-8106 to change the status of the ponds from temporary to permanent, is being submitted at this same time (12-19-08).

If you have any questions, please contact the Center Office.

Sincerely,



Jay M. Volk, Ph.D
Environmental Supervisor
BNI Coal