

May 15, 2009

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: Section 26/23 Bond Release Revisions

Dear Mr. Deutsch,

This submittal contains a response to your letter to us dated May 14, 2009. In this letter you listed technical deficiencies that must be addressed prior to final bond release. The following is a listing of the deficiencies followed by our response:

Section 26

1. Table 3 in Attachment VI indicates that 58.69 acres of corn were planted and harvested in 2005, but Attachment VIII indicates that 56.64 acres of corn were planted that year. Please review and correct this inconsistency as necessary. (GAW)

Updated the corn acres illustrated in the text portion of Attachment XIII to match the acres depicted on the map itself and in Table 3 of Attachment VI. Deficiency states the correction should be in Attachment VIII (seeding date map) which I took to be a misprint and went ahead and corrected Attachment XIII (Crops planted map), where the inconsistency occurred.

Section 23

2. Item No. 18 requested that sedimentation ponds being retained as developed water resources be shown on a map and to reference the map that shows the locations of the ponds in the narrative in Attachment VI. The April 17th response states that the ponds were added to Attachment V but a new version of this Attachment was not submitted. Please review and address as necessary. (GAW)

The correct copy of Attachment V illustrating the pond locations was attached.

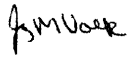
3. Attachment VI indicates the Rodney and Vicki Meckle are the surface owners of the SE¼ of Section 23, but the pond maintenance agreement for Pond 23-6 that is included in Attachment XI is signed by Arnold Meyhoff. Please note that Meckle's purchased this tract after Mr. Meyhoff signed the pond maintenance agreement. (GAW)

As requested, a note was added to Attachment VI (3rd paragraph) noting that Meckle's purchased this tract after Mr. Meyhoff signed the pond maintenance agreement.

BNI COAL, LTD.
2360 35th Ave SW, Center, ND 58530

If you have any questions regarding this submittal, please contact me at the Center office.

Sincerely,

Handwritten signature of Jay M. Volk in black ink.

Jay M. Volk, Ph.D
Environmental Supervisor