



Public Service Commission

State of North Dakota

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September 3, 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 Sections 23 and 26 bond release applications for lands in Permits 37, BNCR-8006, BNCR-8106, and BNCR-8202. The following items must be corrected prior to permission being granted to begin the newspaper publication and to send out all the notification letters:

III. Section 26 and IV. Section 33

Attachment III – Proposed Newspaper Advertisement

1. The location of the acreage should be stated in the second line after the part saying "...649.51 acres..." even though it is stated in the tract descriptions for clarity purposes. Please make the statement read "...649.51 acres in portions of Sections 23 and 26, T142N, R84W in Oliver County...". (SAS)
2. In the fifth line a parenthesis is missing after the year 1976. Please add. (SAS)
3. The total consolidated bond amount for the permits (minus Permits 37 and BNCR-9401) that the Reclamation Division has is \$25,008,439.00, not the \$25,679,734.00 currently listed in line 8. This includes \$17,347,000.00 in Self Bond SB9702-1 and \$7,661,439.00 in Surety Bond #400JR4173. Please check your information concerning the bond amount. (SAS)
4. Please label the tract descriptions as Tract 1 and Tract 2 since that is how they are designated on the map. (GAW)

5. The description says there is 475.71 acres in Tract 1 yet the three land uses listed only add up to 468.41 acres. What land use is the remaining 7.3 acres? (SAS)
6. Right-of-way is not generally used as a post-mining land use. It would be more suitable to state public roads since that would refer to any section line, county or state road including the associated right-of-way. Please change the terminology in this and the Tract 2 description. (SAS)
7. Within the description of Tract 1 it would be advisable to adjust the language from "...21.15 acres of right-of-way which is..." to say "...21.15 acres of public roads (including a rebuilt county road) which are located...". (GAW)
8. The next to last line in the Tract 1 description is somewhat wordy. It would be advisable to replace "...pre-mine landowner..." with "...cropland..." and delete the phrase "...request of cropland...". (GAW)
9. In the description of Tract 2, please replace the word "...pasture..." in the first line with "...tame pastureland..." in order to be consistent with our land use regulations. (GAW)
10. The description says there is 173.8 acres in Tract 2 yet the land uses listed only add up to 150.99 acres. What land use is the remaining 22.81 acres? (SAS)
11. On the map, the public road should be designated with a heavier line and labeled as such. (GAW)

Attachment IV – Notification of Bond...Addresses

12. Please note that all the changes required in the newspaper advertisement also need to be made in the letters to be sent since the same deficiencies apply. (SAS & GAW)
13. We recommend including a map of the proposed bond release areas with the letters. This can be the same map that is part of the newspaper notice. (SAS)

If you have any questions, please contact this office.

Sincerely,



James R. Deutsch
Director
Reclamation Division