

SEP -8 2008  
31037

PUBLIC SERVICE COMMISSION

FAX (701) 794-3125

FROM DIRECTOR - RECLAMATION DIV.

Date: \_\_\_\_\_

Action: \_\_\_\_\_

Info. Only: \_\_\_\_\_

Info & File: \_\_\_\_\_

PHONE (701) 794-8734



September 8, 2008

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

RE: Revisions of newspaper publication and notification letters for Sections 23 and 26

Dear Mr. Deutsch,

This submittal contains a response to your letter to us dated September 3, 2008. In this letter you listed technical deficiencies that must be addressed before the newspaper publication and notification letters can be published. The following is a listing of the deficiencies followed by our response:

**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)

*Revised.*

2. In the fifth line a parenthesis is missing after the year 1976. Please add. (SAS)

*Revised.*

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)

*Revised.*

4. Please label the tract descriptions as Tract 1 and Tract 2 since that is how they are designated on the map. (GAW)

*Revised.*

4 RC-08-697 Filed 09/08/2008 Pages: 3  
Response Filed with Corrections to Notices  
BNI Coal, Ltd.  
Jay Volk

**BNI COAL, LTD.**  
2360 35<sup>th</sup> Ave SW, Center, ND 58530

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)

*Revised: Added 7.3 acres of conservational field windbreaks.*

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)

*Revised.*

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)

*Revised.*

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)

*Revised.*

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)

*Revised.*

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)

*Revised, added 22.81 acres of undisturbed native grassland to description.*

11. On the map, the public road should be designated with a heavier line and labeled as such. (GAW)

*Revised.*

#### **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)

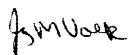
*Revised.*

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)

*Inserted maps.*

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

Sincerely,



Jay M. Volk  
Environmental Supervisor