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November 21, 2008

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PUBLIC SERVICE COMMISSION

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

FROM DIRECTOR - RECLAMATION DIV.

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

RE: Bond Release No. 3 to Permit BNCR-9401

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

Dear Mr. Deutsch:

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

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

This submittal contains responses (in italics) to the technical deficiencies given in your letter dated November 4, 2008. It also contains a revised edition of Attachment VI which can be replaced in its entirety. Three copies of the revised materials are enclosed.

**Attachment VI**

1. Please include within the "**History of Tract**" a discussion about use of the site for rock crushing in the past in support of BNI's mining activities and whether or not it will be used for such activities in the future. Please be aware that once this site is bond released, it can no longer be used to support mining operations at the Center Mine. This includes hauling crushed rock onto permitted areas from rock that was crushed at this site. (SAS/DKM)

*History of Tract section was updated as requested. BNI does not intend to use any rock that may be crushed by Minnkota at this site in the future.*

2. Please include a statement within the "**Bond Release Requirements**" discussion that the lands are not contributing suspended solids offsite as required by NDAC 69-05.2-12-12(7)(b) and the control measures that will remain in place for controlling runoff from the industrial land subject to this bond release. (SAS)

*Bond release requirement section was updated as requested.*

3. Please include a brief discussion in the first paragraph on page 2 to indicate whether or not Minnkota plans to continue to use the bond release tract for the temporary storage of bottom ash or other uses. (JRD)

*Updated as requested.*

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

7 RC-08-712 Filed 11/21/2008 Pages: 2  
Response to Deficiency Letter Filed by BNI  
BNI Coal, Ltd.  
Jay Volk

4. Please designate which topsoil and subsoil stockpiles are being wholly or partially reserved for future respread of this area. (SAS)

*Updated as requested in second to last paragraph.*

5. The statement on page 2 indicates that BNI has sufficient quantities of soil for respreading 27 inches of topsoil and 49 inches of subsoil for the disturbed areas in this section seems somewhat high. Please verify these figures and correct if necessary. (SAS)

*As reported on our 2008 Annual Summary of SPGM Quantities, the numbers are correct as stated. No changes were made.*

6. The third sentence in the last paragraph on page 2 should be deleted since no reduction in the bond amount has been requested. (SAS)

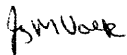
*Deleted sentence.*

7. Please include a copy of the first page of the most recent renewal of NDSHD Special Permit SP-030 to show that the site is still covered by that permit and is still regulated by the Health Department as an industrial waste disposal site. (SAS)

*Signed portion of permit added to attachment VI.*

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

Sincerely,



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