



Public Service Commission

State of North Dakota

COMMISSIONERS

Kevin Cramer
Tony Clark
Brian P. Kalk

Executive Secretary
Darrell Nitschke

600 E. Boulevard Ave. Dept 408
Bismarck, North Dakota 58505-0480
Web: www.nd.gov/psc
E-mail: ndpsc@nd.gov
TDD 800-366-6888 or 711
Fax 701-328-2410
Phone 701-328-2400

January 30, 2009

Mr. Rick Holbrook
Western Regional Coordinating Center
Office of Surface Mining
PO Box 46667
Denver, CO 80202-6667

Dear Mr. Holbrook:

BNI Coal, Ltd. has filed an application for Revision No. 25 to Surface Coal Mining Permit No. BNCR-9702 for the Center Mine. As part of this revision application, BNI plans to mine about 14 acres (an area 300 feet by 2000 feet) of additional federally owned coal located in the NW¼ of Section 28, T142N, R84W, under Federal lease NDM 95104 (the mining plan was approved August 28, 2008). The surface of this federal coal tract is owned by BNI. Enclosed is the revised limited mine plan map that shows the additional areas proposed to be mined. This map can be compared to that in Revision No. 22 to determine the extent and effect of the additional mining plan on this tract. By letter dated January 23rd, the BLM approved the related revision to the Resource Recovery and Protection Plan that covers the W½ of Section 28.

Prior to approving the revision, our Cooperative Agreement (Article V, Section B.9) requires the Commission to receive a determination that, with respect to the leased federal coal tract, the permit revision does not constitute a mining plan modification. We are requesting such a determination for Revision No. 25 to Surface Coal Mining Permit No. BNCR-9702.

If you or BLM have any questions or need additional information, please contact our office.

Sincerely,

James R. Deutsch
Director
Reclamation Division

Enclosure

cc: Philip Perlewitz, BLM
Gene Hay, OSM
Jay Volk

10 RC-08-889 Filed 01/30/2009 Pages: 1
Request Sent to OSM for a Mine Plan Modification Determination
Public Service Commission
Jim Deutsch