



United States Department of the Interior

OFFICE OF SURFACE MINING
Reclamation and Enforcement
P. O. Box 46667
Denver, Colorado 80201-6667
March 5, 2009

REC-20
31335

IN REPLY REFER TO:

ND 0010

FROM DIRECTOR - RECLAMATION DIV.

Mr. James R. Deutsch
North Dakota Public Service Commission
600 E Boulevard Ave. Dept 408
Bismarck, North Dakota 58505-0480

Date: _____

Action: _____

RE: Revision 25 to Surface Coal Mining Permit No. BNCR-9702

Info. Only: _____

Dear Mr. Deutsch:

Info & File: _____

This letter is in response to North Dakota Public Service Commission's letter dated January 30, 2009, for a decision under 30 CFR 934.30 whether the above subject constitutes a mining plan modification.

Mining plan approvals by the Secretary of the Interior are required by the Mineral Leasing Act of 1920 (30 U.S.C. 181, et seq) before coal mining can occur on Federal lands. This letter serves to document the Office of Surface Mining (OSM) determination whether or not a mining plan approval from the Secretary is required for the above noted permitting action.

OSM's review has determined that BNI Coal Ltd. proposes to mine approximately 14 acres of Federal coal (an area 300 feet by 2000 feet) located in the NW ¼ of Section 28, T142N, R84W, 5th PM in Federal lease NDM 95104.

Based on a review of the activities associated with the permit revision, OSM has determined that the proposal meets the exception under 30 CFR 746.18(d)(3)(ii). Therefore, the proposed permit revision does not constitute a mining plan action requiring Secretarial approval.

Please notify the applicant of our decision.

If you have any questions regarding this letter, please call Eugene Hay, North Dakota Federal Lands Coordinator, at 303-293-5036.

Sincerely,

Robert Postle
Chief, Field Operations Branch

CC: BLM Montana State Office
BLM North Dakota Field Office
CFO

