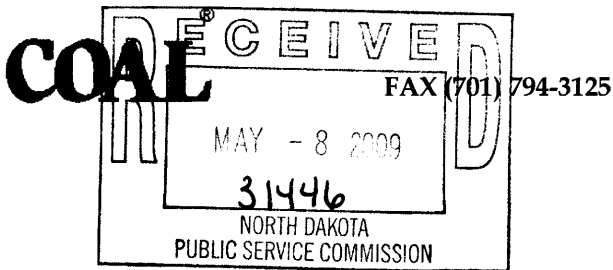


PHONE (701) 794-8734



May 7, 2009

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

RE: Revision 25 to BNCR-9702

Dear Mr. Deutsch,

This submittal contains a response to your letter to us dated April 22, 2009. In this letter you listed technical deficiencies that must be addressed before the revision can be approved. The following is a listing of the deficiencies followed by our response:

FROM DIRECTOR - RECLAMATION DIV.

Date: _____

Action: _____

Info. Only: _____

Info & File: _____

Section 3.4 – Surface Water

1. Follow up to Original #13: The watershed calculations for the pre-mining and post-mining watersheds were addressed properly; however, please provide narrative for each watershed which has a runoff volume change of greater than 5%, describing the downstream effects it may have on any landowners and steps which will be taken to mitigate any issues, examples are flooding of fields, lack of water in dugouts, sloughs, erosion of drainageways, etc. (MDB)

A narrative has been added to section 3.14 which should satisfy this request.

Section 4.12 – Postmine Land Use and Revegetation

2. Original Item No. 8: Please move the wetland that is to be created in Section 21 further up the drainage so that the developed water resource which is located immediately below the wetland will receive some runoff from lighter precipitation events. Although the watershed shows a surplus of runoff (1.3 ac. ft out of a total of 3.66 available), we believe water quality in the developed water resource will be diminished without recharge from less significant events. (GAW)

As you know, we respectfully disagree with your reasons for requesting the relocation of the wetland in Section 21. However, in the interest of addressing your concerns we have moved the developed water resource to the upstream side of the wetland. This should eliminate any potential water quality issues while still providing an adequate water supply for the wetland.

**BNI COAL, LTD.
2360 35th Ave SW, Center, ND 58530**

3. Follow-up to Original Item No. 10: Although the March 27, 2009 response stated that Plate 4.12-1 was updated, it does not appear that the new plate was submitted with the response. (WTG)

The plate has been submitted with this response.

Section 4.1.4 – Reclamation Cost Estimate

4. Please update the narrative to correctly identify the bonding instruments which are being used. A self-bond is no longer in place and the majority of the bond is covered by a Surety Bond. (MDB)

The text has been modified as requested.

5. Please update the Haul Road Reclamation portion of the narrative to state that one foot will be removed as shown in the cost estimate and discussed several times. (MDB)

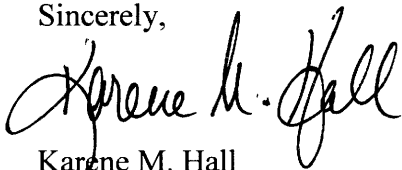
The text has been modified as requested.

6. Please update the Inactive Coal Stockpile narrative to state that it will be respread with subsoil and topsoil. (MDB)

The text has been modified as requested.

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

Sincerely,



Karene M. Hall
Permit Coordinator