



# Public Service Commission

## State of North Dakota

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September 11, 2009

Dr. Jay Volk  
Environmental Services Supervisor  
BNI Coal, Ltd.  
2360 35th Ave. SW  
Center, ND 58530-9499

Dear Dr. Volk:

The Reclamation Division has reviewed BNI's July 13, 2009 response to our June 9, 2009 deficiency letter for Bond Release No. 11 to Permit BNLS-8109 and otherwise completed our review of this application following the August 11<sup>th</sup> bond release inspection. The following items need to be satisfactorily addressed prior to approval of the bond release application:

#### **Attachment IV - Notification...Addresses**

1. Please verify the accuracy of the surface ownership for Tract 16-JTH. In a telephone conversation with Bonnie Jorgenson she seemed to believe one of the surface owners should be a McEvers. (SAS)

#### **Attachment VI - Tract...Success**

2. On page 3 of Attachment VI, please update the narrative for the Section 9 control area to discuss the soil types identified by the more recent soil mapping of the area. This discussion needs to be consistent with the soil types listed in Tables 2 and 3 that show the expected wheat yield for this control area. (JRD)
3. Follow-up to original deficiency #19: Please verify that the sampling date of November 10, 2005 is correct as stated on page 3 and as shown in Table 2 on page. This seems to be quite late in the year for taking samples for yield measurements. (SAS)

4. Please show the formula, or add a reference to the formula in the PSC's revegetation success standards, that was used to calculate the 't' value in Table 3 on page 8 and Table 6 on page 15. (JRD)
5. The history discussion on page 9 for Tract 16-JTH should indicate that most of the area south of the former haul road location was used for the placement of boxcut spoil. (We have an aerial photo on file that clearly indicates this use.) (JRD)

If you have any questions, please contact this office.

Sincerely,



James R. Deutsch  
Director  
Reclamation Division