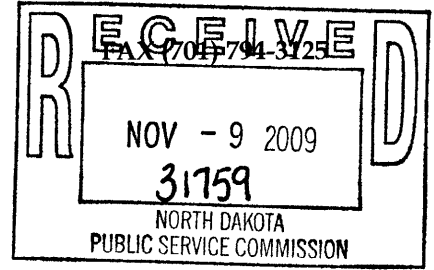
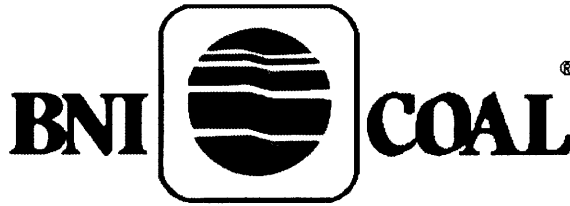


PHONE (701) 794-8734



November 6, 2009

Mr. Jim Deutsch, Director
Reclamation Division
Department 408
600 East Boulevard Ave
Bismarck, ND 58505-0480

FROM DIRECTOR - RECLAMATION DIV.

Date: _____

Action: _____

Info. Only: _____

Info & File: _____

Re: Bond Release No. 12 for Permit BNLS-8109

Dear Mr. Deutsch:

This submittal contains a response to your letter to us dated September 11, 2009. In this letter you listed technical deficiencies that must be addressed before the bond release can be approved. Enclosed, please find three copies of instructions and the updated items to address the deficiencies. A complete copy of all notification letters is also enclosed.

Attachment III - Proposed Newspaper Advertisement

- 1. Follow-up to original deficiency #1: Please submit a copy of the newspaper advertisement that was published. It was changed from the current version in the application to include the lands in Bond Release #11. (SAS)

A copy of the newspaper advertisement that was published that includes the lands in Bond Release #11 was included.

Attachment VI - Tract...Success

- 2. Follow-up to original deficiencies # 10 & 11: In the third paragraph on page 2 of Attachment VI, please include a discussion why a variance from the 10-year revegetation period is not needed for the repair work that was completed after year 5 of the responsibility period. Please refer to PSC Policy Memorandum No. 20 to Mine Operators. (GAW)

Added a sentence at the end of paragraph #3 on page 2 explaining why a variance was not needed on the repaired areas.



3. 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 Tables 2, 3, and 4 on pages 7, 9 and 11, respectively. (JRD)

A reference to page III-E-5 of the revegetation success standards was added at the bottom of tables 2, 3, and 4 to illustrate the formula that was used to calculate the t value.

Attachment IX - Pond #9 Data

4. Follow-up to original deficiency #31: The Pond 9 design plans in Permit BNLS-8109 indicate the emergency spillway will be 25 feet wide with 3:1 side slopes, and an elevation of 1989. However, the design information submitted with the bond release application shows different design criteria than that listed above. Please discuss these differences in the bond release narrative and any effects on anticipated flow rates through the spillway. (MDB)

Discussion of the differences between the original design and the design information submitted was updated in the bond release narrative (Attachment VI page 12). In short, the spillway crest elevation was lowered in order to help redefine the shape of the spillway as requested by the ND State Land Department. The elevations used in the design information were based on an as-built survey described in the Pond #9 Analysis narrative in Attachment IX. Further details are discussed in the bond release narrative in Attachment VI on page 12. We are also submitting updated elevation-area-capacity and elevation-discharge curves which reflect the routing analysis submitted in response to the initial review dated June 9, 2009.

Also as requested, a letter from the North Dakota State Land Department was added to Attachment IX verifying their recommendation to sign a pond maintenance agreement prior to any work being completed to pond 9 and their intent to move forward with the bond release. As they stated this situation was similar to the pond 5 project that was successfully completed prior. This addition was forwarded to BNI from the Land Department upon request from the PSC to insert into the final bond release package.

If you have any questions, please contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay M. Volk".

Jay M. Volk, Ph.D
Environmental Supervisor