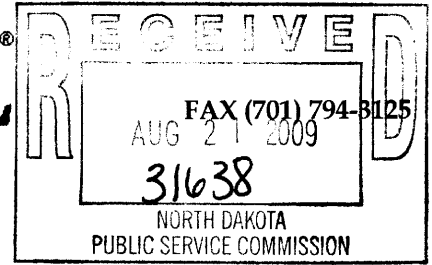


PHONE (701) 794-8734



August 19, 2009

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

RE: Revision 27 to BNCR-9702

Dear Mr. Deutsch,

This submittal contains a response to your letter to us dated August 7, 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:

**Section 1 – Legal & Financial**

1. A certified copy of the federal coal lease for the NW¼SW¼ of Section 32 must be provided before this revision can be approved. If a lease has not yet been issued, please indicate (in the response letter) the status of the lease and the expected date of issuance. (DKM)

*Although the federal lease was submitted by BNI in 2007 a lease has not yet been issued. Through conversations with the BLM, it is BNI's understanding that we could have the federal lease in approximately 1-2 months.*

**Plate 2-1 – Extended Mining Plan**

2. The extended mine plan must be modified to show the sequence and timing of individual permits over the estimated life of the extended plan area and include the estimated coal crop and removal lines as required by NDAC 69-05.2-07-02(2)&(3). (JRD)

*Plate 2-1 (Extended Mining Plan) was updated as requested.*

9 RC-09-204 Filed 08/21/2009 Pages: 3  
Response to August 7 Deficiency Letter Filed  
BNI Coal, Ltd.  
Jay Volk

**BNI COAL, LTD.**  
2360 35<sup>th</sup> Ave SW, Center, ND 58530

### **Section 4.1 – Coal Removal**

3. Please update the discussion of federal coal tracts on page 4.1-2 to include the mining of the additional federal coal in the NW¼SW¼ of Section 32. This discussion should indicate that a final pit is not planned in this area since mining is planned to continue further north of this tract. (DKM)

*Page 4.1-2 was updated illustrating our intent to mine the federal coal in the NW4SW4 of Section 32 and that we plan on continuing mining north through this tract, hence no final pit is planned in this area.*

### **Section 4.6 – Water Management Plan**

4. It appears that Clean Water Pond 32-2 will be mined through with the additional mining proposed by this revision. If this pond will be replaced by another pond further upstream, please include the necessary design plans for it. (DKM)

*At this point we are still evaluating our options for the replacement of Pond 32-2. If we determine that there should be a replacement for Clean Water Pond 32-2 we will submit design plans for your approval prior to construction.*

### **Plate 4.10-1 – Post-Mining Topographic Contours**

5. It is apparent that the current Post-Mining Topographic Plan, Plate 4.10-1, was developed assuming mining would progress westward into the E½ of Section 6 and SE¼ of Section 31. However, the current extended mine plan no longer shows any mining in these areas. Therefore, the post-mining topography map needs to be modified in the western portions of Section 5 and the SW¼ of Section 32 to tie into the undisturbed areas along the north-south section lines between Sections 5 and 6 and Sections 31 and 32. Also, we noted there are significant differences in the contour lines between the Pre-Mine Topographic Map (Plate 3.1-1) and the Post-Mining Topographic Map in undisturbed areas along the southern edge of the permit. The contour lines in undisturbed areas need to be the same on both maps. Please review and correct. The Pre- and Post-Mining Area Slope Maps will need to be updated as well. (JRD)

*The discrepancies between the Pre- and Post-mining topographic contours have been rectified. The Pre- and Post-mining slope maps have been updated accordingly. Please refer to the attached Plates 3.1-1, 3.1-2, 4.10-1, and 4.10-2.*

6. The Post-Mining Topographic Map has gaps in the contour lines in the W½ of Section 5 and Section 21. Please connect the lines to complete the map. Please depict the 25, 50, 75 and 100 foot lines with a different color or line type to make the map easier to interpret. In addition, the contour lines should extend about 1,000 feet beyond the permit area to clearly show how the reclaimed areas will tie into the adjoining undisturbed lands. We also recommend showing the contour lines in the undisturbed area in a different color from that used for the disturbed areas. (MSK &JRD)

*We have made several changes to the Pre- and Post-mining topographic contour maps to more clearly present the intended information. These changes include closing contour gaps and re-coloring of index contours. We have also added the extended mine plan disturbance area as an underlayment to show areas where the post-mining contours of BNCR-9702 will tie into future post-mining contours. In the areas where post-mining contours tie into undisturbed areas we have carried the topography beyond the permit boundary. Please refer to the attached Plates 3.1-1 and 4.10-1.*

**Plate 4.10-2 – Post-Mining Slope Analysis**

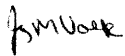
7. In the northeast corner of both Sections 21 & 27, there is an area of the map that is not completed or is left white. Please fill out map entirely. (MSK)

*The error has been corrected.*

Please be reminded that a federal mine plan modification will have to be approved by the Department of the Interior before any coal removal, or the removal of overburden for mining the federal coal, begins in the NW¼ SW¼ of Section 32.

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

Sincerely,



Jay M. Volk, Ph.D  
Environmental Supervisor