



Public Service Commission

State of North Dakota

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May 19, 2010

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

Dear Dr. Volk:

The Reclamation Division has conducted a review of the completeness deficiency responses for Revision No. 30 to Surface Coal Mining Permit BNCR-9702 for the Center Mine received on April 22, 2010. The following items must be satisfactorily addressed before the Reclamation Division can deem the application complete.

General

1. Follow-up to original item No. 2: It appears that BNI is making separate, distinct electronic submittals with each subsequent submittal of this revision application rather than inserting the revised information into the original submittal or original permit. Thus each submittal will be a stand-alone document that only addresses the latest round of deficiencies. This will be extremely cumbersome to review and to combine into a single document once the revision is approved. Under this scenario, it will be extremely difficult to explain to advisory committee members where to find the revised information that they are to review. We suggest incorporating the changes being proposed with the revision into the approved electronic version of the permit. As subsequent submittals are made to the revision, they are then submitted into the original electronic document, thus keeping all of the proposed changes in one document and allowing the reviewer to see all of the revised changes in a single document. All changes will need to be tracked through the use of strikethroughs, highlighting, etc. If BNI cannot format the electronic permit in this or a similar manner, then we suggest going back to the original paper version of the permit. We will not deem the electronic version of the revision application complete in its current format. (all staff)

2. Follow-up to original item No. 6: BNI has not provided proper justification as to why the entire S $\frac{1}{2}$ of Section 29 needs to be permitted. Unless BNI can provide adequate justification, we recommend that only the S $\frac{1}{2}$ of the S $\frac{1}{2}$ of Section 29 be permitted. In addition, acceptable justification has not been provided to warrant placing stockpiles on the land that is not going to be mined in Section 29 given the requirements of NDAC 69-05.2-13-05. It appears enough acreage is already permitted in the W $\frac{1}{2}$ of Section 28 that could be used for stockpile locations rather than placing them in the S $\frac{1}{2}$ of Section 29. Also, the Surface Water Management Plan, Plate 4.6-1, does not show any planned water management features in the S $\frac{1}{2}$ of Section 29. (GAW)

Newspaper Notice

3. The proposed newspaper notice lists the N $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$ and NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 32 twice with the second listing as being continued (cont.). Apparently this was a page break that is no longer needed. It appears that these 2 listings should be combined into a single listing. Please revise prior to publishing. (GAW)
4. Follow-up to original item No. 7: If any operations will be within 100 feet of the outside right-of-ways of any section lines or public roads of the areas being added to the permit, then those specific areas must be identified or specified in the notice. (GAW)
5. Follow-up to original item No. 9: Please revise the map that is to be included with the public notice to accurately show the location of the permit boundary around the ash pit in Section 3. The publication map incorrectly shows the buffer zone around the ash pit as the permit boundary. Although we realize that the area shown as bond released for the ash pit is for display purposes on this map, the area shown is more than twice as large as the area that was bond released. (GAW & WTG)

Section 3.1 - Topographic Information

6. Follow-up to original deficiency No. 16: The hyperlink for revised Plate 3.1-2, Pre-Mine Area Slope Map, in the second submittal of Revision 30 incorrectly links to Plate 3.2-1, Drill Hole Location Map. Please correct. (MSK)

Section 3.2 - Geology

7. Follow-up to original item No. 20: NDAC 69-05.2-08-05(2)(f) requires the submission of a thickness isopach map that depicts overburden thickness to the top of the deepest seam to be mined which in the case of the Center Mine, the deepest seam to be mined is the Hagel B seam. BNI's completeness response to item No. 20 was that Plate 3.2-5 was inserted into the permit and this map depicts the structure contour of the base of the Hagel B seam. The structure contour map illustrates the coal crop lines, and the strike and dip of the Hagel B seam can be determined from information provided on the map and this information is also a permit requirement as outlined in NDAC 69-05.2-08-05(2)(g), although an overburden thickness isopach map from the top of the Hagel B seam to surface is also required, as was originally requested with deficiency No. 20.

Please retain the structure contour map, but provide an overburden thickness isopach map of the Hagel B seam. (BEB)

Section 4.2 - Existing Structures

8. Follow-up to original item No. 49: The original item requested updating the Existing Structures narrative and associated map to address the lands being added to the permit with Revision 30. BNI has responded by updating the Existing Structures narrative to state that the new Pit Layout and Facilities Map shows all existing and proposed structures and they propose to remove Plate 4.2-1, General Mine Plan Map. It is not clear which map then now shows the location of all surface and manmade features within, passing through or over the permit area, including major electric transmission lines, pipelines, wells, roads, highways and railroads for compliance with NDAC 69-05.2-08-02 (1) (f). It appears that the Existing Structures narrative should be updated to simply state that there are no existing structures that will be used to support mining operations, and Plate 4.2-1 should be retained, renamed and updated to show the pre-mine features required by NDAC 69-05.2-08-02(1)(f). Please review and update as necessary for compliance with NDAC 69-05.2-08-02(1)(f) and NDAC 69-05.2-09-03. It appears there is confusion between existing structures and existing features. (GAW)

Follow-up to original item No. 25 of our Pre-renewal letter to Permit BNCR-9702 which BNI indicated would be addressed with Revision 30 rather than Revision 32:

9. The buckbrush patches that have been directly respread on reclaimed native grassland are not shown on the Post-Mining Land Use Map, as indicated has been done. Please address this item. (GAW)
10. BNI's response to item 27 of our pre-renewal letter has been updated on the original submittal of Revision 30 rather than the second submittal. Submitting these subsequent revision changes as separate documents rather than simply updating the original approved permit is very confusing. (GAW)

If you have any questions, please contact this office.

Sincerely,



James R. Deutsch
Director
Reclamation Division