



Public Service Commission

State of North Dakota

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April 14, 2011

Jay M. Volk, Ph. D
Environmental Supervisor
BNI Coal, Ltd.
2360 35th Avenue SW
Center, ND 58530-9499

Dear Dr. Volk:

The Reclamation Division has reviewed BNI's March 29, 2011 responses to our March 9, 2011 third technical deficiency letter on the application for Revision 30 to Surface Coal Mining Permit BNCR-9702 for the Center Mine. The following items must be satisfactorily addressed before we recommend Commission approval of this revision.

Section 1.9 - Surface and Coal Ownership

1. Please include the land owner notification letters in the permit. The Volume I Home Page Legal and Financial section has a link to Landowner Notification Letters below Section 1.15 but it links to the Legal and Financial section rather than the landowner notification letters. Similarly, a sentence on page 1-15 of Section 1.9 states that landowner notification letters are at the end of the Legal and Financial section but they are not present. A hyperlink to the landowner notification map, however, is present on page 1-15. Please add the landowner notification letters to the permit by either creating a new subsection in Legal and Financial, or creating a new appendix. Regardless of where the letters are added to the permit, please also include a hyperlink to the Landowner Notification Map in the appropriate section and update page 1-15 as appropriate. **Please note that during our review of this deficiency we noticed that the pagination of the Legal and Financial section requires updating because page numbers 1-14 and 1-15 are repeated.** We also noticed that the Landowner Notification Map is not listed in the Table of Contents. Please add the Landowner Notification Map to the Table of Contents and also update the Table of Contents to reflect any changes or additions to the permit. (GAW & WTG)

Section 1.10 - Areas Unsuitable for Mining

2. The last sentence of Section 1.10 - Areas Unsuitable for Mining, states that the Revision 30 addition area contains no areas designated as unsuitable or prohibited from mining. The Revision 30 public notice, however, specifically states and identifies that mining will be

conducted on or within 100 feet of several section line roads. Please edit the last sentence of Section 1.10 to mention the areas where mining is prohibited and describe the process that BNI will follow prior to affecting areas where mining is otherwise prohibited. (GAW)

Section 3.6 - Pre-Mine Vegetation

3. Follow-up to Item No. 3: Plate 3.6-1 - Ecological Site Type Map, identifies the Cabba-Zahl soil mapping unit as a Shallow Loamy/Thin Claypan ecological site. However, the NRCS Oliver County Soils Interpretive Table indicates that the Zahl mapping unit is classified as a Thin Loamy ecological site rather than a Thin Claypan ecological site. Table 3.5-3a - Native Grassland Map Unit Acres by Ecological Site Type for Revision 30 Permit Addition, also shows this Shallow Loamy/Thin Claypan complex. Please review and update as necessary. (GAW)

Section 3.10 - Fish and Wildlife Resources

4. Follow-up to Item No. 6: Plate 4.13-2 was moved from Volume XI to Volume VII but this plate is still listed in the Volume XI Home Page Table of Contents. Please correct this discrepancy. (GAW & MSK)

Section 4.13 - Fish and Wildlife Resource Protection and Enhancement Plan & Fish and Wildlife Monitoring Plan

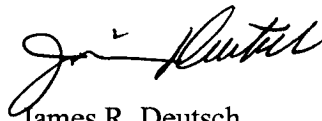
5. Follow-up to Item No. 12: The last sentence in the first paragraph of Section 4.13 states that a current list of T & E species for North Dakota is found at the end of this section and is dated February 11, 2003. This list was updated with Revision 30 and is current as of October 2010. Please correct this discrepancy. (GAW)

Section 4.14 - Reclamation Cost Estimate for Bonding Purposes

6. Although the labeling for Ponds 32-1 and 32-2 in Section 32 of Permit BNCR-8106 was corrected on Plate 4.1-1 - Pit Layout and Facilities Map, (Item No. 18 of the December 8, 2010 letter) the labeling must also be corrected on all other plates on which they are depicted, specifically Plate 4.14-1 - Worst Case Bond Calculation. (MSK)

If you have any questions, please contact this office.

Sincerely,



James R. Deutsch
Director
Reclamation Division

cc: Oliver County Auditor