



Public Service Commission

State of North Dakota

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July 2, 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 its technical review of the applications for Revision No. 9 and Renewal No. 3 to Permit BNCR-9401. The following items must be corrected prior to approval:

Section 2.1 – Extended Mine Plan Map

1. Please indicate on Plate 2-1 where the next block of coal removal will take place in Permit BNCR-9401 and in what year(s). (MSK)

Section 4.1 – Coal Removal

2. On page 4.2-1, please remove the phrase "...none during the current permit term" from the discussion in the Total Estimated Production paragraph. Since there will be coal removal during the next permit term when the next cell is constructed, this phrase is not correct. (SAS)
3. Please indicate on Plate 4.1-1 where the next block of coal removal will take place and in what year(s). (SAS)

Section 4.2 – Existing Structures

4. Please indicate the location of the recently-installed pipeline that goes by Pond 5-1 on Plate 4.1-1. Please note that this pipeline was constructed by Minnkota. (SAS)

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Section 4.6 – Surface Water Management Plan

5. Please clarify the status of Pond 5-2. It appears that Pond 5-2 is no longer planned for construction because it has been removed from some parts of the narrative, and it is not shown on Plate 4.6-1, Surface Water Control Map, or Plate 4.1-1, Pit Layout and Facilities Map, but the following inconsistencies are present in the narrative:
 - a. The first paragraph on Page 4.6-1 states that six sedimentation ponds will be constructed, but page 4.6-2 only lists four ponds;
 - b. The first paragraph on page 4.6-2 mentions the Pond 5-2 construction schedule, but Pond 5-2 has been removed from the list of ponds described on the same page; and,
 - c. Pond 5-2 is mentioned in Section 4.6.4 on page 4.6-5 with Diversion 5-2, but Pond 5-2 has been removed from the list of described ponds on page 4.6-2. (WTG)
6. Page 4.6-2 indicates that Pond 5-3 will be retained as permanent as requested by the landowner. If this will be the case, please indicate where the approximately 10 acres of prime farmland that was disturbed during the construction of this pond will be replaced. (SAS)
7. Page 4.6-3 indicates that Diversion D-5-3 will be built in 2012, but Plate 4.6-1 has it listed as 2011. Please correct as necessary. (SAS)

If you have any questions, please contact this office.

Sincerely,



James R. Deutsch
Director
Reclamation Division