



Public Service Commission

State of North Dakota

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January 6, 2014

Mr. Allen D. Klein, Director
Office of Surface Mining and Enforcement
Western Region
Office of Surface Mining
1999 Broadway, Suite 3320
Denver, CO 80202-3050

Dear Mr. Klein:

BNI Coal, Ltd. has filed the application for Surface Coal Mining Permit BNCR-1101 to permit 8,359.72 acres for the Center Mine in Oliver County. The Reclamation Division is currently reviewing the latest changes to that application, mostly in response to our technical review. The lands included in this application include several tracts of unleased federal coal but BNI has a pending federal coal lease application before the BLM for some of the tracts. The federal coal tracts are located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ and S $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 8 and the NE $\frac{1}{4}$ of Section 18, T141N, R83W, and the S $\frac{1}{2}$ N $\frac{1}{2}$ of Section 12 and SW $\frac{1}{4}$ of Section 24, T141N, R84W. The surface of all of these tracts is privately owned. While BNI hopes to have this federal coal lease within a year or so, no mining of federal coal is proposed at this time. The Pit Layout and Facilities Map (Plate 4-1.1) included in Permit Application BNCR-1101 does not show any mining on the federal coal tracts; however, some surface disturbances over federal coal are proposed to support mining on the adjacent non-federal coal tracts. Enclosed is a DVD that contains the entire permit document. You will note that some language is highlighted and/or struck-through due to changes that have been made throughout in response to our review of this application.

Our Cooperative Agreement (Article V, Section B.7) gives the Commission the authority to issue permits that allow surface disturbances on land containing unleased federal coal after consultation with BLM through OSM. This consultation is to ensure that actions taken by the Commission do not result in substantial or adverse effects to the federal mineral estate. Therefore, I'm requesting a determination from BLM that the permitting of the federal coal tracts as proposed in Permit Application BNCR-1101 will not adversely affect the federal mineral estate. A response within 60 days will be greatly appreciated.

If you or BLM have any questions, please contact me.

Sincerely,

James R. Deutsch
Director – Reclamation Division

cc: Phillip Perlewitz, BLM w/enclosure
Jeff Fleischman, OSM w/enclosure
Gene Hay, OSM
Jay Volk, BNI Coal, Ltd.