



# Public Service Commission

## State of North Dakota

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600 East Boulevard, Dept. 408  
Bismarck, North Dakota 58505-0480  
Web: [www.psc.nd.gov](http://www.psc.nd.gov)  
E-mail: [ndpsc@nd.gov](mailto:ndpsc@nd.gov)  
Phone: 701-328-2400  
ND Toll Free: 1-877-245-6685  
Fax: 701-328-2410  
TDD: 800-366-6888 or 711

November 15, 2013

Jay M. Volk, Ph. D  
Environmental Manager  
BNI Coal, Ltd.  
2360 35<sup>th</sup> Avenue SW  
Center, ND 58530-9499

Dear Dr. Volk:

The Reclamation Division has reviewed BNI Coal, Ltd.'s October 14, 2013 changes to the application of Revision No. 12 to Permit BNCR-9401 for the Center Mine in response to our September 10, 2013 technical review letter. The following items must be satisfactorily addressed before the Reclamation Division will recommend Commission action on the revision application. Please note that most items are in follow-up to numbered items in our September 10, 2013 letter although there are several new items as a result of changes made to the revision application with the latest submittal. These will require only minor updates to the revision application.

### **Section 3.3 Groundwater**

1. Follow-up to item No. 1: The hyperlink to Plate 3.4-1 that was added to the ground water narrative on page 3.3-2 continues to take the reader to the Surface Water Analysis (water quality tables) of Appendix 3.4-1. Please re-direct the hyperlink (Plate 3.4-1) so that it opens the General Drainage Map that is located in Plate 3.4-1. (BEB)

### **Plate 3.6-2 Woodlands**

2. Follow-up to item No. 11: Woodland No. 19 is outlined in blue on Plate 3.6-2. Please revise the line color around this woodland so that the woodland type is accurately depicted according to the woodland type and appropriate legend colors. It appears that this polygon was selected in the attribute table when the map was printed. (GAW)

### **Appendix 3.6-3 Woodland Density and Cover Data**

3. Follow-up to item No. 18: The Low Shrub Vegetation Type, Table 1 of Appendix 3.6-3, shows that a 2 meter by 2 meter quadrant was used but the bottom row of the table lists "Stems/16m squared". Although it appears that the density values have been revised to

address this item, the conversion value to convert stems per quadrant to stems per acre is not provided. Please correct the table and include this conversion value in the first paragraph on page 4 of Appendix 3.6-3. (GAW)

#### **Section 4.5 Transportation Plan**

4. Follow-up to item No. 26: Please add a statement to the last paragraph in the Subsoil as a Road Building Material subsection on page 4.5-3 that BNI will update the permit with a future revision to clearly identify road segments where subsoil has been used in its construction. (FSE)

#### **Plate 4.5-1 General Transportation Plan**

5. Please remove the duplicate Existing Haul Road designation from the legend of Plate 4.5-1. (FSE)

#### **Section 4.6 Surface Water Management Plan**

6. Please update completion and reclamation dates as necessary for Table 4.6-1 in Section 4.6, e.g., MSHA Pond 5-6 and Diversion 5-2. Please also update any associated appendices (Appendix 4.6-8) as necessary. (FSE)

#### **Plate 4.6-1 Surface Water Management Plan**

7. It appears the legend for Plate 4.6-1 contains extraneous designations, e.g., permit boundaries for other permits that are not depicted on the plate. Please review the legend and delete any unnecessary designations. (FSE)

#### **Plate 4.10-1 Post Mining Topography**

8. Follow-up to item No. 30: Thank you for the updates to Plate 4.10-1 and associated updates to other plates and narratives for the proposed prime farmland respread area in Section 5. However, it appears about 0.35 acres of the 1.4 acre tract of proposed prime farmland respread depicted on Plate 4.10-1 falls within an area of postmine industrial land use. At your discretion, please shift the 1.4 acre proposed prime farmland respread area to the west so that it entirely occupies postmine cropland land use (this area has the proper slope configuration for reclaimed prime farmland), or update the narratives and plates to describe respreading all of the Tract 1 prime farmland acreage in Section 9 of Permit BNCR-1101. While updating Plate 4.10-1, please remove the three extraneous black-outline polygons that appear to have been inadvertently added to the plate. (GAW/WTG)

#### **Section 4.12 Revegetation and Post Mining Land Use**

9. Follow-up to item No. 36: The Pre-Mine Land Use map, Plate 3.5-1, identifies the land located south Woodland No. 9 as tame pastureland, but the Post Mining Land Use map, Plate 4.12-1, identifies this area as native grassland. The Pit Layout and Facilities Map,

Plate 4.1-1, does not identify any disturbance in this area other than the haul road corridor. Please revise Section 4.12 to provide additional details regarding the conversion of tame pastureland that is not going to be disturbed by mining activities to native grassland. (GAW)

10. Follow-up to item No. 37: Please change the legal description from Section 34-84-142 to 34-142-84 for the wetland footnote on Table 4.12-1, Post Mine Land Use, on page 4.12-3. (ZAB)

#### **Section 4.12-1 Revegetation Methods**

11. Follow-up to item No. 38: AS previously requested, please revise the native grassland seed mixture to include forbs as required by NDCC 38014.1-24(17) and NDAC 69-05.2-22-02(3), and that meets the NRCS Range Planting standards and specifications for Major Land Resource Area 54. NDAC 69-05.2-13-05 requires use of the best technology currently available and the Reclamation Division believes NRCS Range Planting recommendations are the best technology currently available. (GAW)

#### **Plate 4.12-1 Post Mining Land Use**

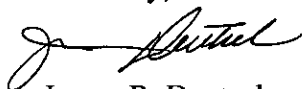
12. Follow-up to item No. 42: Please consider removing the CL(HL)-Hayland postmine land use designation from the Plate 4.12-1 legend because no hayland is depicted on the plate. Also, please note that neither the Section 4.12 narratives, nor Table 4.12-1 Post Mine Land Use, indicate any postmine hayland land use. (ZAB)

#### **Section 4.14 Reclamation Cost Estimate for Bonding Purposes**

13. Please update Section 4.14, Plate 4.14-1, and Appendix 4.14-1 to delete all references to Pond 5-7 that has been removed from the Surface Water Management Plan with the October 14, 2013 changes to the Revision No. 12 application. (FSE)

Please contact this office if you have any questions.

Sincerely,



James R. Deutsch  
Director  
Reclamation Division

cc: Oliver County Auditor