



Public Service Commission

State of North Dakota

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December 27, 2013

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

Dear Dr. Volk:

The Reclamation Division has reviewed BNI Coal, Ltd.'s November 25, 2013 changes to the application of Revision No. 12 to Permit BNCR-9401 for the Center Mine in response to our November 15, 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 November 15, 2013 letter although there are several new items that appear to require relatively minor updates to the revision application.

General

Plate 4.1-1 Pit Layout and Facilities Map

1. Please update the construction date for MSHA Pond 5-6 (currently listed as 203) and label Diversion 5-2 as reclaimed in 2013 on Plate 4.1-1. (FSE)

Section 4.5 Transportation Plan

2. Please provide more details regarding the relocation and purpose of the Minnkota Access Road. The access road ends at Station 14+00 as currently shown on Plate 4.5-1, General Transportation Plan, rather than tying into the haulroad. (FSE)

Section 4.5 Appendices

3. Please label or otherwise indicate what the lines represent in the profiles (existing CL, proposed CL, etc.) on Plate 4-5.3A, Haul Road Section A-1, and Plate 4-5.4A, Minnkota Access Road. Please also label or explain the figure in the lower center of Plate 4.5-4A (appears to be a cross section). (FSE)

Plate 4.6-1 Surface Water Management Plan

4. It appears that the “proposed haul road” is depicted as an “existing haul road” and the Minnkota Access Road is not depicted on Plate 4.6-1. Please review and revise as necessary. (FSE)

Section 4.12-1 Revegetation Methods

5. Follow-up to item No. 11: Please include language in Section 4.12-1 stating that BNI will consider including a small percentage of desirable native forbs in the native grassland seed mixture in accordance with NRCS recommendations and will revise the mix as necessary in the future to ensure that the best technology currently available is being used. (GAW)
6. Follow-up to item No 11: Please review the pure live seed (PLS) pound per acre values and the species percentage of the mix listings in Table 4.12-1, Perennial Grassland and Pastureland Seed Mixtures, to ensure they are correct and include a reference of the methodology used to calculate the seeding rates. The third paragraph on page 1 of Section 4.12-1 states that 40 pure live seeds per square foot will be seeded, but the seeding rates and percentages of the mix do not support this seed density. In other words, the values listed for the species seeding rates and percentages of the mix are not consistent with the values provided in Table 1 of NRCS’s Herbaceous Vegetation Establishment Guide. For example, Table 1 of the Herbaceous Vegetation Establishment Guide shows that intermediate wheatgrass has a full seeding rate of 8.5 lbs per acre in MLRA 54 that amounts to 17 seeds per square foot; therefore, 10 lbs of PLS would be need to be seeded if this species were planted at 50 percent of the mix with a designed seeding rate of 40 PLS per square foot. Likewise, 4.4 lbs of alfalfa would be needed if it was 50 percent of the mix at the designed seeding rate of 40 seeds per square foot. Table 4.12-1, Perennial Grassland and Pasture Seed Mixtures incorrectly indicates that 5 lbs of PLS of intermediate wheatgrass and 2.2 lbs of PLS of alfalfa each comprise 50 percent of the mix at the designed seeding rate. The values listed for the native grassland mix are also incorrect. Please revise the Perennial Grassland and Pastureland Seed Mixtures so the information listed is correct and include a reference to the methodology (species seeds per pound values) used to calculate the seeding rates. (GAW)

7. Follow-up to item No. 11: Please clarify how the woodland species seeding rates listed in Figure 1 were calculated. Narrative above this figure states that 2700 trees/shrubs will be planted per acre but the numbers in Figure 1 total 1769 rather than 2700. A sentence on page 2 of Section 4.12-1 states that the woodland mix is made up of 30 percent tall shrubs and 70 percent deciduous trees but Figure 1 indicates that the mix is 80 percent tall shrubs, 10 percent low shrubs and 10 percent trees. Please revise to provide clarity. (GAW)
8. Follow-up to item No. 11: Please revise Figure 1 to clarify if the tree planting values listed are species numbers per acre and include a total value for the column that can be used to determine the density standard. (GAW)
9. Follow-up to item No. 11: Figure 1 states that tall shrubs will comprise 80 percent of the mix and that low shrubs and trees will each comprise 10 percent of the mix but values listed show tall shrubs actually comprising 40 percent of the mix, low shrubs 36 percent of the mix and trees 24 percent of the mix. In addition, the percentages listed for each species are not consistent with the density planting rates. For example, 154 silverberry are listed as being 50 percent of the low shrub mix but 227 snowberry are listed as comprising 25 percent of the mix. Please revise to provide clarity and clarify if the density values listed in Figure 1 are densities per acre. (GAW)

Plate 4.12-1 Post Mining Land Use

10. Follow-up to item No. 12: Please label the conservation woodland planting on Plate 4.12-1 and revise the symbol so that the planting is properly depicted. The legend represents this planting as a white area outlined in purple but the planting is depicted as being hollow on the map with the aerial photo background. (GAW)

Section 4.13 Fish and Wildlife Resource Protection, Enhancement, and Monitoring Plan

11. Please revise Plate 4.13-2, Wildlife Monitoring Map (Minewide), to depict Permit BNCR-1101 as a pending permit area and clarify that the monitoring listed for this area has not been approved. Please revise to only depict the pheasant crow count route and sharp-tailed grouse leks in this pending permit area and remove the breeding bird surveys from this map because these sites have not been approved. Please also remove the language from the map that reads "Proposed BNCR-9401 Addition". (GAW)

It was noted that a number of maps (e.g., Plates 4.4-1 and 4.5-1) show the mining sequence in a portion of the adjacent proposed permit area (BNCR-1101); however, these maps were not updated to reflect the revised mine plan for this proposed permit area (as revised in the latest submittal). Please consider updating the affected maps accordingly.

Jay M. Volk, Ph. D
December 27, 2013
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Please contact this office if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "James R. Deutsch". The signature is fluid and cursive, with a long horizontal stroke extending to the left.

James R. Deutsch
Director
Reclamation Division

cc: Oliver County Auditor

Minedata/Center/Permits/BNCR-9401/Revisions/No.12/Rev12_tech5_rvw_ltr_12-27-13