



# Public Service Commission

## State of North Dakota

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September 17, 2013

Mr. Jay Volk  
Environmental Manager  
BNI Coal, Ltd.  
2360 35th Ave. SW  
Center, ND 58530-9499

Dear Mr. Volk:

The Reclamation Division has reviewed BNI Coal, Ltd's August 26, 2013, responses to our initial reviews of the applications for Bond Release 9 to Permit 37 and for Bond Release 4 to Permit BNCR-9401. The follow-up items listed below pertain to the public notice and agency notification letters. These items must be addressed before publishing the public notice and sending the agency notification letters.

Please mail (or email) a copy of the revised public notice for our review prior to publishing. We are planning to schedule the bond release inspection for the tracts for some time during the week of September 30th, provided the public notice can be published and the notification letters can be sent approximately a week prior to the inspection date.

### Public Notice

1. The Public Notice versions included in the bond release applications for Permit 37 and BNCR-9401 are different. The combined notice should be the same for each application. The version for BR4 to BNCR-9401 appears to be the most complete. Please include a copy of the final version of the public notice in each of the bond release applications. (RLK)
2. Follow-up to item No. 8: Please revise the organization of the first page of the Public Notice. As currently written, both bond releases are included as bulleted items under the paragraph discussing memorandum No. 15, but Policy Memorandum 15 only pertains to the bond release in BNCR-9401. We suggest removing the bullets, placing Permit BNCR-9401 information within the second paragraph, and placing Permit 37 information in a new paragraph. (ZAT)
3. In the paragraph describing the Permit 37 tract, please remove the third sentence which reads, "*Following mining, the area was respread with topsoil and subsoil.*" The respreading of SPGM is more appropriately discussed *after* the grading of spoil, which is done in sentence four. (ZAT)
4. In the paragraph describing the Permit 37 tract, please revise the discussion of the northern portion of the tract and Pond 25-5 to be clear and concise. Please consider something similar to: "*In 1982 Pond*

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*25-5 was constructed on re-graded spoil in the northern with portion of this tract. The pond was removed in 2002 and respread with SPGM. In 2003, the reclaimed pond area was seeded to hayland with the permission of the landowner. The post mine land use for the tract is cropland.” (ZAT/RLK)*

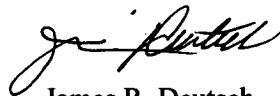
**Agency and Surface Owner Letters**

5. In the agency letter for BR4 to BNCR-9401, the acreage of the tract is listed as 50.66 acres while in the public notice and metes and bounds information the acreage is listed as 52.09 acres. Please correct the apparent error in the letter. (RLK)

Additional follow-up items pertaining to the other portions of bond release applications BR4 to BNCR-9401 and BR9 to Permit 37 submitted in response to our initial review will be provided with any additional technical review items at a later date. The technical review will follow the field inspection of the bond release tracts.

If you have any questions, please contact this office.

Sincerely,



James R. Deutsch  
Director  
Reclamation Division