



Public Service Commission

State of North Dakota

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March 31, 2014

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 February 21, 2014 response to deficiencies identified in our technical review of the application for Bond Release 9 to Permit 37. The following items must be adequately addressed before the Reclamation Division can recommend Commission action on the bond release application.

Attachment VI – Tract History


1. Follow-up to item No. 1: Please add relevant Bond Release No. 6 information such as the Parcel (37-25a) and field identification (Middle 1/3) to the footnotes of Table 2c. (ZAB)
2. Follow-up to item No. 2: As previously requested, please revise paragraph two in the Tract History for clarity and to include specific information on the adjacent cropland in Bond Release No. 6 to make it relevant to Bond Release No. 9. Revise similar to the following example or in a cohesive manner that includes the following information. *In 1981, the southern portion of the tract was spoil graded, respread with 18 inches of subsoil and 12 inches of topsoil, and seeded. The location and initial seeding date are depicted on Attachment VII. The area has been cropped by the land owner as part of his adjacent field in a small grain and fallow rotation; consistent with the approved postmine landuse of cropland. The adjacent field met reclamation success standards and was bond released in 1988 with BR #6 to Permit 37. This cropland field is identified in BR #6 documents as the Middle 1/3 of Parcel 37-25a, which included 110 acres of cropland and 5 acres of hayland. The crop yields used to demonstrate reclamation success on the Middle 1/3 field are shown in Table 2c. (ZAB)*
3. Follow-up to item No. 5: Attachment V, Soils Map, identifies the Oliver County soil survey on the area encompassed in this bond release application. However, according to Bond

Release No. 6, Robert Howey's soil survey was used for all of the area included in this bond release application. Therefore the soils depicted on Attachment V are incorrect and given that an area wide standard was developed with Bond Release No. 6, all of the soils used to develop that standard should be included, not just the area encompassed by the bond release tract. Please review and revise to correct by including the same soils information presented in Bond Release No. 6 in the application for Bond Release No. 9. (GAW/RLK)

4. Follow-up to item No. 6: Please revise the language in Attachment VI that incorrectly states that the Bond Release No. 9 area was included in the unadjusted hayland standard developed for Section 25 and that the pre-mine soils were derived from only the NRCS Soils survey (page 4). The soils used to develop the unadjusted cropland standard in Bond Release 6 must be used for this bond release application and soils from both NRCS and Robert Howey's soil survey were used as stated and shown in Bond Release No. 6. Please correct these inconsistencies. (GAW)
5. Follow-up to item No. 6: Please revise Table 1, Unadjusted Technical Standard for Hayland Yields, to show the unadjusted standard technical standard for cropland rather than hayland. The postmine land use of this 1.78 acre tract is cropland not hayland therefore the soils from the unadjusted cropland standard of Final Bond Release No. 6 must be used. (GAW)

If you have any questions, please contact this office.

Sincerely,



James R. Deutsch
Director
Reclamation Division