



Public Service Commission

State of North Dakota

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July 8, 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 June 12, 2014, response to deficiencies identified in our March 31, 2014, 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.

List of Attachments

1. Please revise the List of Attachments for Bond Release No. 9 to Permit 37 so that the information listed is consistent with what is shown in the bookmark section of the application. Please also review the labels on the maps so that the naming convention is the same as that which is listed in the List of Attachments and bookmarks of the application. (GAW)

Attachment V – Soil Map

2. The soil map in Attachment V contains information from the Oliver County soil survey for the bond release area along with the pre-mine cropland areas relevant to the bond release area. However, the cropland productivity standard is primarily based on the detailed soil survey completed by Robert Howey. Please include a copy of the detailed (Robert Howey) soil survey map in Attachment V for the area relevant to the bond release. (RLK)

Attachment VI – Tract History

3. The second paragraph on page 1 of Attachment VI discusses the "southern portion of the tract" while the third paragraph of this section also references the "southern part of the tract". Please revise to clarify which portion of the tract is being discussed in each paragraph. In the second paragraph please also clarify what was seeded on the tract in 1981. NDAC 69.05.2-12-12(8)(b) (GAW)

Mr. Jay Volk

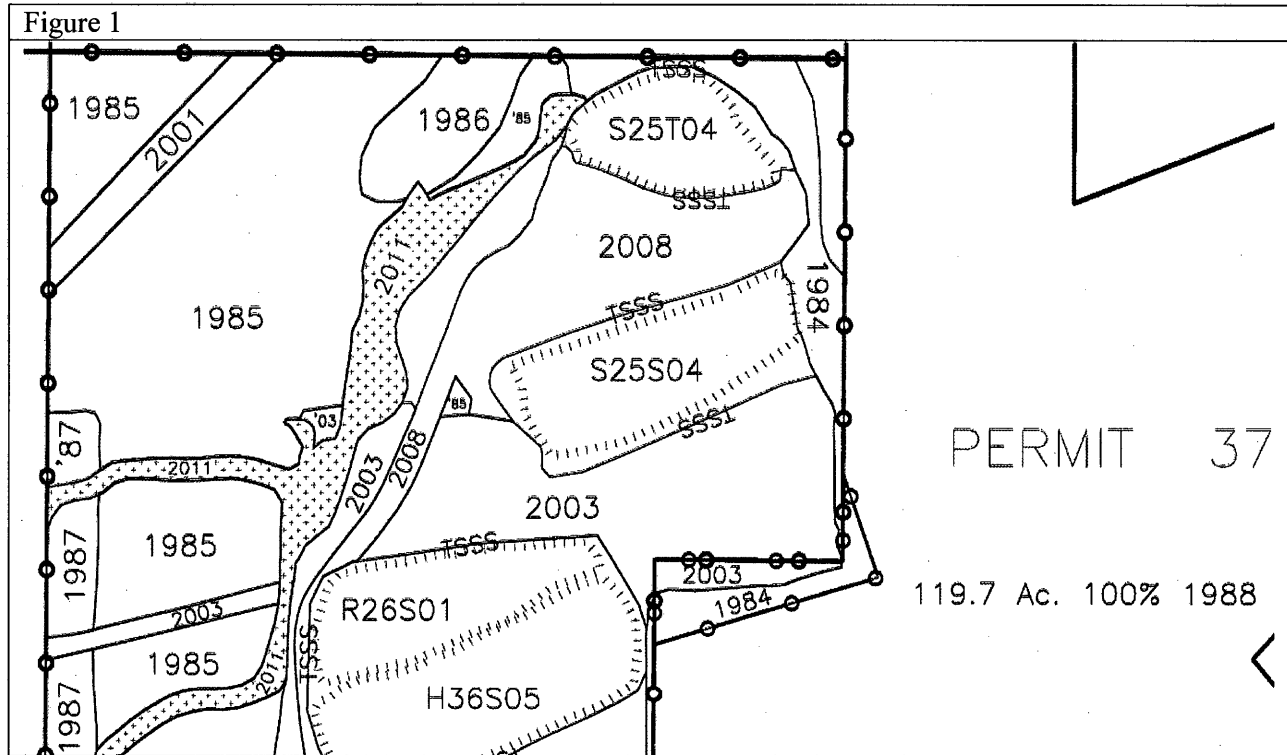
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4. The second paragraph of Attachment VI indicates that 18 inches of subsoil and 12 inches of topsoil were respread on the southern portion of the tract. Please provide the SPGM resspread depths for the northern portion of the tract. (GAW)
5. The first paragraph on page 2 of Attachment VI states that pond 25-5 was reclaimed in 2002 but the removal request for pond 25-5 is dated 12/31/2002 and approval to remove the pond was granted in a January 3, 2003 letter from our office. The correspondence indicates the earthwork related to the pond removal would have been completed in 2003. The request proposed SPGM resspread thicknesses of 12 inches topsoil and 29 inches of subsoil based on the available SPGM for the area. Please review your records regarding the reclamation of pond 25-5 and update the narrative as appropriate. (RLK)
6. Please correct the references to Tables 2a, 2b and 2c used on page 2 of the Attachment VI narrative. The narrative states that the area was seeded to the hayland mix listed in Table 2c but Table 2c is cropland yield information. The narrative also refers to Table 2b as being the original approved mix that was not used but Table 2b appears to be the current hayland seed mix and Table 2a is the seed mix that is no longer used. (RLK/GAW)
7. Tables 2a, 2b and 2c are placed in Appendix VI prior to Table 1 which is confusing. Please rename these tables or reorganize the information so that Table 1 precedes Table 2. NDAC 69-05.2-05-02 (GAW)
8. Narrative on page 4 of Attachment VI states that the tract is being managed and bond released as hayland, but Attachment VII shows the southern portion as cropland and the northern portion as hayland. Please clarify how each portion of this tract is being managed during the responsibility period as required by NDAC 69.05.2-12-12(8)(b). (GAW/RLK)
9. Narrative on page 4 states that it was previously agreed that the reclaimed hayland on this tract could be used to demonstrate revegetation success for the entire tract. Please include narrative in the application demonstrating that the reclaimed hayland portion of the field properly represents the entire area. This must include an evaluation of SPGM resspread depths between the northern and southern portion of the tract and since the hayland portion was reclaimed in 2003 while the cropland portion was reclaimed in 1981 (or 1984).
10. Narrative on page 4 of Attachment VI states that the pre-mine soils were derived from the NRCS Soil Survey and this is also listed on the Soils Map, Attachment V, but information in Bond Release No. 6 states that the soils were from a combination of Robert Howey's soil mapping and Oliver County Soil Survey. The soils with mapping units written out were from Robert Howey's survey and those with abbreviated names are from the Oliver County Survey. Please clarify that a combination of the Howey and NRCS Soil Surveys were used to develop the reclamation success standard. Please review and revise to provide clarity. (GAW/RLK)
11. Table 1 incorrectly shows that Flaxton fine sandy loam is hayland suitability group F3. Please revise to show this mapping unit as suitability group A6 as stated in an email dated June 22, 2014 and correct the unadjusted standard accordingly. (GAW)
12. The production data in Appendix A, Supporting Data for Hayland in Section 25, lists "mean cover"; however, this should be "mean yield". Please correct this error which is listed below the table for each year. The 2009 yield data also incorrectly shows that 3 samples were required for sample adequacy but this value should be 4 since 3.4 were required. (GAW)

Attachment VII – Seeding Map

13. Attachment VII, Seeding Map shows areas south and east of the seeding line as being seeded in 2003. Please accurately depict the actual seeding dates on this map. Please also explain why the 2011 and earlier Annual Mine Maps show the southern and eastern portion of this tract as having the 10 revegetation period initiated in 1984 rather than 1981 as shown in Figure 1 below. Explain why this initiation date was changed on this area with the 2012 Annual Mine Map. (GAW)



If you have any questions, please contact this office.

Sincerely,

James R. Deutsch
Director
Reclamation Division