



Public Service Commission

State of North Dakota

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June 14, 2013

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

Dear Dr. Volk:

Enclosed is NOV 1301 issued to BNI Coal, LTD for failure to properly maintain a sump and silt fence near the southwest corner of subsoil stockpile MI5-S07 in the NE¹/₄SW¹/₄ of Section 5, T141N, R83W, in Permit BNCR-9401 at the Center Mine. As indicated in previous inspection reports, inspectors were concerned that additional measures needed to be taken at this sump to adequately protect the downstream undisturbed area from sediment deposition. The April 24, 2013 inspection report noted that some straw bales were placed at this location as temporary maintenance and that additional maintenance would be done as conditions allow. To our knowledge, no additional maintenance was done at this location prior to the rains that began in mid-May. We acknowledge that the Center Mine had received significant rainfall during the two week period prior to the May 29, 2013 inspection; however, we believe that additional measures should have been taken at this vulnerable location in early May considering the size and nature of the watershed of this sump. Improvements made the west embankment sump and silt fence in 2012, that included stronger reinforcement of the silt fence, appear to be satisfactory in minimizing sediment deposition downstream of that sump. Considering the slopes and size of the area that drains to the sump and silt fence near stockpile MI5-S07, we believe similar improvements should have been made at this site.

Also enclosed is the May 29th inspection report. If you have any questions, please contact this office.

Sincerely,

James R. Deutsch
Director
Reclamation Division

Attachments

Minedata/BNI/Violations/2013/NOV 1301/NOV-1301_cvr_ltr_6-14-13