



Public Service Commission
State of North Dakota

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16 July 2013

Mr. Allen C. Hoberg
Office of Administrative Hearings
2911 North 14th Street – Suite 303
Bismarck, ND 58503

Re: BNI Coal, Ltd.
Notice of Violation No. 1301
RC-13-334
Violation

Dear Mr. Hoberg:

Enclosed is a request for an Administrative Law Judge in the captioned case. There will be an informal conference on 19 August 2013, in the Public Service Commission's Hearing Room, 12th Floor, State Capitol, in Bismarck, North Dakota. A Notice of Informal Conference is enclosed.

The Administrative Law Judge will serve as a substantive law judge and issue a recommended Order. The informal conference will be electronically recorded.

If you have any questions, please contact me. Thank you.

Best regards,

Illona A. Jeffcoat-Sacco
General Counsel

enclosure
c: w/encl. Jay Volk, BNI Coal



REQUEST FOR ADMINISTRATIVE LAW JUDGE--APPEAL, APPLICATION, OR PETITION
 NORTH DAKOTA OFFICE OF ADMINISTRATIVE HEARINGS
 SFN 17819 (Rev. 06-2007)

Name of Agency, Board, or Commission
 North Dakota Public Service Commission

The above named agency, board, or commission requests designation of an administrative law judge from the Office of Administrative Hearings for the BNI Coal, Ltd., Notice of Violation No. 1301, RC-13-334, Violation

(e.g., application of [name], appeal of [name], petition of [name]). Authority for the administrative action is found in N.D.C.C. Chapter 38-14.1 (see additional comments) (North Dakota Century Code and/or North Dakota Administrative Code).

Please attach related documents and correspondence.

The administrative action is more fully described as follows:
 On June 14, 2013, the Public Service Commission's Reclamation Division issued Notice of Violation 1301 to BNI Coal, Ltd.
 On June 24, 2013, the Commission received a request for an Informal Conference from BNI in the matter.

It requests designation of an administrative law judge (please check one):

- To conduct the hearing and issue recommended findings of fact, conclusions of law, and order.
- To serve as a procedural administrative law judge only (no recommended decision). The agency head will be present at the hearing as required by NDCC 28-32-31(5). See NDCC 54-57-04.
- To conduct the hearing, issue findings of fact, conclusions of law, and a final order.

PLEASE MAKE A REQUEST FOR AN ADMINISTRATIVE LAW JUDGE AT LEAST ONE MONTH BEFORE THE HEARING.

Please list parties, including the agency if it is a Party, and Representation [attorney (or other)] if known, or Agency Contact: (Attach separate list if necessary.)

AGENCY See attached	Address	Telephone Number
Representation	Address	Telephone Number
PARTY	Address	Telephone Number
Representation	Address	Telephone Number
PARTY	Address	Telephone Number
Representation	Address	Telephone Number

Additional Comments
 Authority for admin. action is found specifically in N.D.C.C. Sections 38-14.1-03(17), 38-14.1-19, and 38-14.1-28(1)(b)
 A copy of the Notice of Informal Conference is enclosed.

(For agencies required to use OAH, notice of hearing will be issued by the administrative law judge, unless a procedural administrative law judge is requested. Other requesting agencies and agencies requesting a procedural administrative law judge should first contact OAH about scheduling a hearing. If notice has already been issued, attach a copy of the notice.)

Typed or Printed Name and Title of Requesting Person Illona A. Jeffcoat-Sacco, General Counsel	Date 7/16/2013
Signature of Requesting Person x	Telephone Number (701) 328-2407

Attachment
 Request for ALJ
 16 July 2013

BNI Coal, Ltd.
 Notice of Violation No. 1301
 RC-13-334
 Violation

AGENCY	Address	Telephone Number
North Dakota Public Service Commission	600 E. Blvd. Ave. Dept. 408 Bismarck, ND 58505-0480	701-328-2400
Representation Illona A. Jeffcoat-Sacco General Counsel	Address Same as above	Telephone Number 701-328-2407
PARTY BNI Coal Contact Name: Jay Volk	Address 1637 Burnt Boat Drive PO Box 897 Bismarck, ND 58502	Telephone Number 701-222-8828
Representation Not yet determined	Address	Telephone Number
PARTY	Address	Telephone Number
Representation	Address	Telephone Number
PARTY	Address	Telephone Number
Representation	Address	Telephone Number

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**BNI Coal, Ltd.
Notice of Violation No. 1301
Violation**

Case No. RC-13-334

NOTICE OF INFORMAL CONFERENCE

July 10, 2013

Preliminary Statement

On June 14, 2013, the Public Service Commission's Reclamation Division issued Notice of Violation 1301 to BNI Coal, Ltd. for failure to properly maintain a sump and silt fence used as sediment control measures to minimize sediment deposition on undisturbed areas in NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 5, T141N, R83W, in Oliver County, North Dakota. As a result of this failure, sediment was deposited on an adjacent undisturbed area.

On June 24, 2013, the Commission received a request for an Informal Conference from BNI in the matter.

Notice of Informal Conference

Notice is hereby given that the captioned matter is set for an Informal Conference, commencing at 1:30 p.m. CDT, on August 19, 2013, in the Public Service Commission's Hearing Room, 12th Floor, State Capitol, Bismarck, North Dakota.

If you require any auxiliary aids, such as readers, signers, or Braille materials, please notify the Commission, at (701) 328-2400, or Relay North Dakota TTY: 1-800-366-6888 at least 24 hours prior to the hearing.

PUBLIC SERVICE COMMISSION


Randy Christmann
Commissioner


Brian P. Kalk
Chairman


Julie Fedorchak
Commissioner