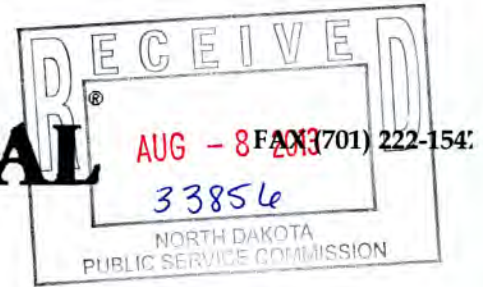


PHONE (701) 222-8828



August 6, 2013

Mr. James Deutsch  
Director, Reclamation Division  
North Dakota Public Service Commission  
600 East Boulevard Avenue  
Bismarck, ND 58505-0480

RE: Informal Hearing – NOV 1301

Dear Mr. Deutsch,

On June 17<sup>th</sup>, 2013, the Reclamation Division of the Public Service Commission issued Notice of Violation No. 1301 to BNI in which an informal conference was scheduled for August 19<sup>th</sup>, 2013. Prior to the issuance of the NOV BNI had already performed the required remedial action as outlined in the NOV itself and has since then removed the remaining sediment that was located directly behind the sediment fence and re-seeded the area. Likewise, BNI issued a check for \$1,000 to the ND Public Service Commission.

BNI Coal prides itself on its commitment to environmental protections and sees itself going above and beyond the regulatory laws to protect our resources. Although a small amount of subsoil deposition was documented directly behind this sediment fence, BNI was able to remove it and the end result was no environmental damage or lost resources.

Although BNI still disagrees with the determination made in the issuance of NOV 1301 we feel we have illustrated through our timely repairs and abatement plan, as well as through the continued investment in mine wide maintenance, re-design and additions, and improvements made to all of our sediment control structures, that even within extreme rain events BNI's efforts to protect all of our resources from any environmental damage is a success. Again, although a small amount of subsoil was deposited behind a sediment fence in this instance, BNI is proud to say there were no environmental impacts or lost resources as evident in the field today. With that being said, BNI would like to dismiss the informal conference scheduled on August 19<sup>th</sup> with the understanding the NOV itself would be terminated.

Sincerely,

A handwritten signature in black ink that appears to read "Jay M. Volk".

Jay M. Volk, PhD  
Environmental Manager

12 RC-13-334 Filed 08/08/2013 Pages: 1  
Letter received withdrawing the request for an information conference  
BNI Coal, Ltd.  
Jay Volk

**BNI COAL, LTD.**  
**1637 BURNT BOAT DRIVE • P.O. BOX 897 • BISMARCK, ND 58502**