



# Public Service Commission

## State of North Dakota

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October 10, 2016

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

Dear Mr. Volk:

The Reclamation Division has reviewed BNI Coal, Ltd.'s September 21, 2016 response to our September 13, 2016 technical review letter for BNI's application of Revision No. 39 to Permit BNCR-9702 at the Center Mine. The following items must be satisfactorily addressed before the Reclamation Division will recommend Commission action on the Revision No. 39 application at the next regular Commission meeting (October 19<sup>th</sup>). Please respond to this letter in a timely manner to allow the processing and action on this revision at the November 2, 2016 Commission meeting.

### **Section 3.4 Surface Water**

1. Follow-up to item No. 9 (June 28, 2016 completeness review) and item No. 3 (September 13, 2016 technical review): Acreage labels for three pre-mine and post-mine watersheds (HC-6, SBC-1, and SBC-6) on Plates 3.4-2 (Pre-Mine Watersheds) and Plate 3.4-3 (Post-Mine Watersheds), respectively, differ considerably from those listed in revised Table 3.4.3-1 (Pre-Mine/Post-Mine Watershed Comparison). The minor post-mine acreage changes to watersheds HC-3 and HC-4 associated with Minnkota's bond released bottom ash inert waste landfill closure were clearly marked in Table 3.4.3-1 and labeled consistently on Plate 3.4-3; however, pre-mine and post-mine acreage changes to watersheds HC-6, SBC-1, and SBC-6 that apparently resulted from the proposed postmine topography changes in Sections 29, 32, and 33 were neither clearly marked in Table 3.4.3-1 as requested, nor labeled consistently on Plates 3.4-2 and 3.4-3. Please identify remaining pre-mine and post-mine watershed acreage changes in Sections 29, 32, and 33 following retraction of most proposed postmine topography changes in these sections with BNI's September 21<sup>st</sup> technical review responses. Please also clearly mark any watershed acreage changes in Table 3.4.3-1 and label the acreage changes consistently on Plates 3.4-2 and 3.4-3. (RLK/WTG)

### **Section 4.10 Backfilling and Regrading**

2. Follow-up to item No. 15 (September 13, 2016 technical review): BNI withdrew the proposed postmining topographic changes in Sections 29, 32, and 33 originally included in Revision No. 39

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to allow for further analysis of the final pit closure plan of the area. However, Revision 39 proposes an additional 200 feet of disturbance along the high wall in Section 29 where coal is not going to be mined. Please do not make any changes to the currently approved mine plan in this area at this time if additional changes to the mine plan and post-mining topography will be made in a future revision. It is still not clear if the changes proposed accurately depict the disturbance necessary for the current mine plan. (GAW)

Please contact this office if you have any questions.

Sincerely,



James R. Deutsch  
Director  
Reclamation Division

cc: Karene Hall  
Jon Rudnick  
Jodey Houn  
Oliver County Auditor

Minedata/Center/Permits/BNCR-9702/Revisions/No.39/Rev39\_tech2\_rvw\_ltr\_10-10-16