



Public Service Commission

State of North Dakota

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November 7, 2017

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

Dear Mr. Volk:

The Reclamation Division has reviewed BNI Coal, Ltd.'s October 13, 2017 responses to our August 4, 2017 completeness review letter for the Revision No. 40 application to Permit BNCR-9702 at the Center Mine. Revision No. 40 proposes to add 636.58 acres to the permit in Section 20 to continue westward mining progression through about 2024. The revision also proposes to revise the postmine topography within the current permit area in portions of Sections 21, 28, 29, 32, and 33 to reclaim final pits in Sections 28 and 29. A secondary postmine topography design for Sections 20 and 21 is also proposed to reclaim a final pit along the west section line of Section 21 if a federal coal lease for the N $\frac{1}{2}$ and the SW $\frac{1}{4}$ of Section 20 is not acquired. The following items must be adequately addressed before the application can be deemed complete and approval is granted to begin publication of the Revision No. 40 newspaper notice of application. Follow-up items reference the item number in our August 4, 2017 completeness review letter.

Revision No. 40 Application (SFN 10562)

1. Follow-up to item No. 1: Please revise the revision description for Revision No. 40 on the revision application attachment to delete the following sentence that is not relevant to the revision description: *"The areas where postmine topography modifications are proposed are depicted on the accompanying map."* (WTG)

Appendix 1.5-1 - Notice of Publication

2. Follow-up to item No. 7: As required by NDAC 69-05.2-05-02(1) and 69-05.2-10-01(1), please revise the first paragraph of the public notice as follows: (ZAB/WTG/BEB)
 - a. Remove Section 20 from the permit area description because it is not within the current permit area and is referenced in the following sentence as being added to the permit area.
 - b. Add the following sentence to the paragraph directing the reader to the accompanying map: *"The area for which a permit is being sought and the current permit are shown on the accompanying map."*
3. Follow-up to item No. 12: As required by NDAC 69-05.2-10-01(1) and NDCC 38-14.1-18(1), please add a phrase to the last paragraph on page 1 of the newspaper notice specifying the surface and coal owners of land being added to the permit, as well as those that may be affected by the revised plans within the current permit boundary. The paragraph as revised with the October 13, 2017 response requires rearranging to clearly indicate that the ownership listing includes surface

and coal owners of land being added to the permit, as well as those that may be affected by the revised plans within the current permit area. (WTG)

4. Please remove the cross fill pattern from Section 20 on the publication map because an approved postmine topography is not being revised in Section 20. With the cross fill pattern removed, please orient the "Addition Acres" label parallel to the simple hatch fill pattern in two or more places to clearly identify the acreage being added to the permit. (WTG)

Section 3.2 - Geology

5. Follow-up to item No. 20: BNI Coal's October 13, 2017 completeness response addressed the second part of the original deficiency, but not the first part. All lithologic/drillers logs should be placed in Appendix 3.2-1A and only geophysical logs should be placed in Appendix 3.2-1. As currently provided, lithologic logs identified as the 09, 10, 13, 14, and 15 series are located in Appendix 3.2.1, which is where your geophysical logs are placed in the permit. As originally requested, please separate the lithologic logs from the geophysical logs for the described borings so that the information can be reasonably searched and reviewed in the permit. (BEB)

Plate 4.1-1 Pit Layout and Facilities Map

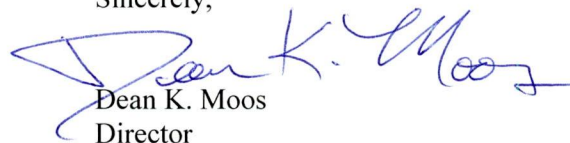
6. Follow-up to item No. 40: Please revise the yellow simple hatch fill pattern used to indicate federal coal ownership in Section 20 as necessary to improve its visibility on a white background, and add the symbol and description to the plate's legend rather than labeling federal ownership. We also suggest that narrative regarding the Section 20 Federal Coal tract on Page 4.1-2 be broken into a separate paragraph specific to only Section 20 and provide any updated information regarding the federal application for the coal lease and mine plan approval. (GAW/WTG)

Section 4.10 - Backfilling and Regrading

7. As required by NDAC 69-05.2-05-02(1), please add a reference to Appendix 4.10-2 (Section 21 Final Pit Design) in item number 4 of subsection 4.10.1(Design Methods) on page 4.10-2 informing the reader that Appendix 4.10-2 contains a secondary postmine topography design for Sections 20 and 21 to reclaim a final pit along the west section line of Section 21 if a federal coal lease for the N $\frac{1}{2}$ and the SW $\frac{1}{4}$ of Section 20 is not acquired. It appears the permit application contains no references to Appendix 4.10-2 other than those in Appendix 1.5-1 (Notice of Publication) and Appendix 1-1 (Revision Summary and List of Changes). (WTG)

Please contact us with any questions.

Sincerely,


Dean K. Moos
Director
Reclamation Division

cc: Karene Hall
Jon Rudnick
Jodey Houn
Oliver County Auditor