



Public Service Commission

State of North Dakota

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January 2, 2018

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

Dear Mr. Volk:

The Reclamation Division has conducted a completeness review of the application for Revision No. 15 to Permit BNCR-9401 at the Center Mine. The following items must be adequately addressed before the application can be deemed complete and approval granted to begin publication of the permit revision newspaper notice. Some of the items may be more technical in nature; however, they will provide additional clarity before the revision application is sent to the Advisory Committee and other interested parties.

Appendix 1.5-1 – Publication Notice and Map

1. Please revise the first sentence of the public notice to clarify that the revision application revises surface coal mining and reclamation plans in Section 8 rather than authorizes BNI “to engage in surface coal mining and reclamation operations”. In addition, the first portion of the second sentence in the first paragraph could be removed from the notice since the permit already contains the acreage listed. (GAW)
2. Please specify that the permit revision will change the postmine land use from cropland and native grassland to industrial and commercial in the NE¼ of Section 8 for the coal combustion waste cells in the first paragraph on page 1 of the newspaper notice as required by NDAC 69-05.2-05-02(1). (WTG/RLK)
3. Please delete the two references to filing petitions to designate the area as unsuitable for mining in the second paragraph on page 1 of the newspaper notice since that requirement only applies to new permits or permit revisions that add land to a permit. (WTG)
4. Please list only the surface and coal owners of the N½ of Section 8 in the newspaper notice as those that may or will be affected by the permit revision. The surface and coal owners of Sections 5 and 32 in the permit will not be affected by the permit revision. (WTG/RLK)

5. Please remove the duplicative permit label in the NE¼ of Section 8 to depict the approximate Ash Cell 6 extent on the newspaper notice map to be consistent with the listing of Ash Cells 4, 5, and 6 in the first paragraph on page 1 of the newspaper notice as required by NDAC 69-05.2-05-02(1). Please also revise the simple hatch pattern to accurately depict the postmine land use change boundary that may or may not coincide with the ash cell boundaries, and label the area as such. (WTG/RLK/GAW)

Section 2 – Extended Mine Plan

6. Please revise the Extended Mine Plan map, Plate 2.1, to show mining under Ash Cell 6 if coal is to be removed from this area in the future. (GAW)

Section 3 – Environmental Resources

7. BNI updated numerous plates in Section 3.0, Environmental Resources, to show Revision 14 permit boundary changes. The Reclamation Division does not normally require or advise permit boundary changes on plates and maps associated with baseline environmental data in instances where undisturbed acreage is being deleted from a permit. If you choose to depict the current permit boundary on these maps, please label the deleted acreage so the baseline narrative and table information is consistent with the plates. (GAW)

Section 4.1 - Coal Removal

8. Please revise the Pit Layout and Facilities Map, Plate 4.1-1, to show mining under Ash Cell 6 if coal is to be removed from this area. (GAW)
9. Please add a hyperlink to Appendix 4-1.2 (Minnkota Cell 4 Layout and Grading Concept) on the Section 4 home page. The Revision No. 15 Table of Contents and Appendix 1-1 (Revision Summary and List of Changes) indicate that Appendix 4-1.2 was added to the permit with the revision application but the appendix is only accessible through Windows Explorer. (WTG)

Section 4.6 - Surface Water Management Plan

10. Please include a current qualified registered professional engineer certification for the surface water management plan as required by NDAC 69-05.2-09-09(1)(h) for the addition of Appendix 4.6-11 (Design of Diversion D-8-1) to the revision application. (WTG)
11. Please add a hyperlink to Appendix 4.6-11 (Design of Diversion D-8-1) on the Section 4 home page. The Revision No. 15 Table of Contents and Appendix 1-1 (Revision Summary and List of Changes) indicate that Appendix 4.6-11 was added to the permit with the revision application but the appendix is only accessible through Windows Explorer. (WTG/GAW)

Section 4.12 Re-vegetation and Post-mining Land Use

12. Plate 4.12-1 indicates that BNI Coal is only proposing to change the land use on the actual footprint of Ash Cells 4, 5, and 6 and leaving a thin sliver of agricultural land (cropland and native grassland) around the perimeter. This land use boundary appears to be impractical and unmanageable. The Reclamation Division recommends changing the post-mine land use of the

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entire tract located within the NE¼ of Section 8 (with the possible exception of the ROW) to industrial land use. (DKM/RLK)

13. Based on your response to the previous item, please adjust the narrative and tables in Section 4.12 and Appendix 4.12-3 to identify the entire tract located within the NE¼ of Section 8 as being changed to industrial post mine land use or provide additional explanation on how the area will be managed as cropland and or native grassland to demonstrate reclamation success for any associated disturbance around the perimeter of the proposed waste disposal footprint. Minnkota may choose to use the area for crop production or other purpose compatible with their waste disposal site operation and post closure obligations as a method of managing ground cover for erosion control on the industrial area associated with the solid waste facility. (RLK)

If you have any questions, please contact this office.

Sincerely,



Dean K. Moos
Director
Reclamation Division

cc: Karene Hall