



Public Service Commission

State of North Dakota

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February 12, 2021

Jay M. Volk, PhD, Manager
Health, Safety, and Environmental Services
BNI Coal, Ltd.
2360 35th Avenue SW
Center, ND 58530-9499
jvolk@bnicoal.com

Dear Mr. Volk:

The Reclamation Division has reviewed BNI Coal, Ltd.'s (BNI) responses dated January 19, 2021 to our November 30, 2020 completeness review letter for the Revision No. 8 application to Permit BNCR-1101 at the Center Mine. Revision No. 8 proposes to add 2,661.04 acres to the permit in Sections 11, 14, 15, 16, 22, and 23 of Township 141N, Range 84W. The revision also proposes to revise the postmining topography for 1,211 acres of the existing permit area. The following items must be adequately addressed before the application can be deemed complete and approval is granted to begin publication of the permit revision newspaper notice. Some items may appear to be more technical than completeness in nature; however, they will provide additional clarity before the revision application is sent to the Advisory Committee and other interested parties. Please note that follow-up items reference the item number in our November 30, 2020 completeness review letter.

Revision No. 8 Application (SFN 10562)

1. Follow-up to item No. 1: Please revise the Revision No. 8 Application Attachment to delete the reference to re-disturbing reclaimed land for a revised haul road route. Please also revise the attachment to recognize that BNI obtained the lease for federal coal in Section 14 on January 15, 2021. (WTG)

Appendix 1.5-1 - Notice of Publication

2. Follow-up to item No. 8: Please revise the revision description in the first paragraph of the Notice of Publication to delete the reference to re-disturbing reclaimed land for a revised haul road route. (WTG)
3. Coal ownership in the NW $\frac{1}{4}$ of Section 8, the NW $\frac{1}{4}$ of Section 17, and the N $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 18 originally listed as Mary McGarity in Appendix 1.9-1 (Ownership Information (within Permit Boundary)) has recently changed to Noyce McGarity. Please revise the Notice of Publication for these three parcels to recognize the coal ownership change. (JAR/WTG)

4. Surface and coal ownership in the S½SE¼ of Section 18, the SE¼ of Section 20, and the SW¼ of Section 21 originally listed as Anton and Helen Pflieger in Appendix 1.9-1 (Ownership Information (within Permit Boundary)) has recently changed to Helen Pflieger. Please revise the Notice of Publication for these three parcels to recognize the coal ownership change. Please also revise Plate 1.9-1 (Surface and Coal Ownership) to recognize the coal ownership change in the S½SE¼ of Section 18. (WTG)
5. Lila Wilson is listed for coal ownership in the SW¼ and the W½SE¼ of Section 19 in the Notice of Publication and on Plate 1.9-1 (Surface and Coal Ownership) but Lida Wilson is listed for coal ownership in the SW¼ and the W½SE¼ of Section 19 in Appendix 1.9-1 (Ownership Information (within Permit Boundary)). Please review the name discrepancy and correct it as necessary. (WTG)
6. Coal ownership is listed for Matt Pflieger in the SW¼ of Section 21 and in both ownership parcels in the NW¼ of Section 28 in the Notice of Publication but Appendix 1.9-1 (Ownership Information (within Permit Boundary)) indicates that coal ownership has changed to Marla Brown LE and Myra Buntin LE. Please revise the Notice of Publication for these three parcels to recognize the coal ownership change. Please also revise Plate 1.9-1 (Surface and Coal Ownership) to recognize the coal ownership change in both ownership parcels in the NW¼ of Section 28. (WTG/JAR)
7. H. Huffman & Co. and Black Stone Minerals Company, L.P. are listed for coal ownership in the N½ of Section 15 in Appendix 1.9-1 (Ownership Information (within Permit Boundary)) but are not listed for coal ownership in the Notice of Publication. Please review this coal ownership discrepancy and correct the Notice of Publication as necessary. (WTG)
8. It appears that surface ownership listed for Robert Reinke in the S½ Section 31 less Haul Road Corridor is more accurately defined as the E½SE¼ of Section 31 less Haul Road Corridor. Please review the surface ownership description and revise the Notice of Publication as necessary. (WTG)
9. It appears that surface ownership listed for BNI Coal, Ltd. in the S½SW¼ of Section 32 ~ 1.5 acres is more accurately defined as the W½SW¼ of Section 32 ~ 1.5 acres. Please review the surface ownership description and revise the Notice of Publication as necessary. (WTG)
10. Follow-up to item No. 15(a): Thank you for differentiating the existing permit area from the proposed Revision No. 8 permit addition area with a different fill pattern on the Notice of Publication map. We also request, however, that BNI please label the proposed permit addition area on the publication map as "*Permit Addition Area*" inside the hatched area representing the Revision No. 8 addition so that all readers can plainly differentiate the area being added to the permit from the existing permit area. We apologize for not requesting the label in the first completeness review. (BEB/WTG)

Section 1.9 - Surface and Coal Ownership

11. Follow-up to item No. 17: BNI's January 19, 2021 cover letter for the Revision No. 8 application completeness review response indicates that Plate 1.9-1 (Surface and Coal Ownership) was updated to recognize Great Northern Properties as the coal owner for the N½ of Section 11. It

appears, however, that Plate 1.9-1 remains unchanged in the Revision No. 8 application dated January 19, 2021. Please update Plate 1.9-1 with the next completeness review response. (WTG/PJR/JAR)

12. Follow-up to item No. 19: BNI's January 19, 2021 cover letter for the Revision No. 8 application completeness review response indicates that Plate 1.9-1 (Surface and Coal Ownership) was updated to list the unleased coal ownership for the N½ of Section 15. It appears, however, that Plate 1.9-1 remains unchanged in the Revision No. 8 application dated January 19, 2021. Please update Plate 1.9-1 with the next completeness review response. (PJR)
13. Follow-up to item No. 20: BNI's January 19, 2021 cover letter for the Revision No. 8 application completeness review response indicates that Plate 1.9-1 (Surface and Coal Ownership) was updated to list Beatrice Mosbrucker LE and State of ND as coal owners for adjacent ownership in the SW¼ of Section 16 (T141N, R84W). It appears, however, that Plate 1.9-1 remains unchanged in the Revision No. 8 application dated January 19, 2021. Please update Plate 1.9-1 with the next completeness review response. (WTG)
14. Follow-up to item No. 21: BNI's January 19, 2021 cover letter for the Revision No. 8 application completeness review response indicates that Plate 1.9-1 (Surface and Coal Ownership) was updated to list Marla Brown LE (10.94%) and Myra Buntin LE (10.94%) for coal ownership in both ownership parcels in the NW¼ of Section 28. It appears, however, that Plate 1.9-1 remains unchanged in the Revision No. 8 application dated January 19, 2021. Please update Plate 1.9-1 with the next completeness review response. (WTG/PJR)

Appendix 1-1 - Revision Summary and List of Changes

15. Follow-up to item No. 24: Please revise the Revision 08 Summary to BNCR-1101 in Appendix 1-1 (Revision Summary and List of Changes) to delete the reference to re-disturbing reclaimed land for a revised haul road route. (WTG)

Section 3.10 - Baseline Fish and Wildlife Resources

16. Please update Section 3.10 (Baseline Fish and Wildlife Resources) with the results of the approved plan for acquiring Fish and Wildlife Inventory information for the Revision No. 8 addition and adjacent area. This update should include a copy of the approved version of the plan dated October 2, 2017, relevant correspondence from agency interactions regarding the plan, including PSC approval, and, of course, an analysis of the results of surveys conducted. We apologize for not making this request in the first completeness review. (NDAC 69-05.2-08-15) (GAW)

Section 4.1 - Operations Plan

17. Please revise the Federal Coal subsection of Section 4.1 (Operations Plan) to recognize that BNI obtained the lease for federal coal in Section 14 on January 15, 2021. (WTG)
18. Follow-up to item No. 29: Please revise the Waste Disposal subsection of Section 4.1 (Operations Plan) and Plate 4.1-1 (Pit Layout and Facilities Map) as follows to provide additional information pertaining to BNI's proposed disposal of abandoned farmsteads. (WTG)

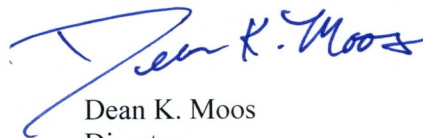
- a. Provide the current citation for Solid Waste Management and Land Protection (NDAC 33.1-20-02.1-01) and add a reference to Policy Memorandum No. 21 to Mine Operators under the Waste Disposal heading.
- b. Indicate that farmstead information is provided in Plate 3.12-1 (Cultural Resource Location Map), Appendix 3.12-1 (Site List and Recommendations Table), and Section 4.2 (Existing Structures) of the permit.
- c. Indicate that abandoned farmstead disposal will be restricted to inert waste.
- d. Indicate categories of waste potentially present at abandoned farmsteads that will not be disposed within the mining permit, e.g., pesticides, herbicides, solvents, grease, lubricants, used oil, paints, flammable liquids, lead-acid batteries.
- e. Indicate that the Department of Environmental Quality will be notified of the opportunity to inspect the abandoned farmstead prior to disposal.
- f. Expand the narrative for various other sites of discarded debris by describing types of sites noted by archaeologists (building depressions, foundations, cultural material scatters, dumps) and referencing Plate 3.12-1 (Cultural Resource Location Map) and Appendix 3.12-1 (Site List and Recommendations Table).
- g. Expand the narrative for various other sites of discarded debris by describing how BNI will assess the need for Department of Environmental Quality site inspection prior to disposal as inert waste.
- h. Revise the label for the Schmidt farmstead disposal site in Section 17 on Plate 4.1-1 (Pit Layout and Facilities Map) to indicate inert **waste**.

Plate 4.1-1 Pit Layout and Facilities Map

19. Please remove the green simple hatch fill pattern representing an unleased federal coal tract depicted in the NE $\frac{1}{4}$ of Section 18 on Plate 4.1-1 (Pit Layout and Facilities Map). We apologize for not recognizing this error in the first completeness review. While making this correction, please also review the power line depicted in Sections 13 and 18. The Montana-Dakota Utilities Co. (MDU) power line in Permit BNCR-1101 was being dismantled during the May 6, 2020 Center Mine inspection. The power line is depicted as running nearly parallel with, and between 400 to 1,000 feet southwest of, the 2020 736 dragline pit sequence in Sections 13 and 18. Please revise Plate 4.1-1 as necessary. Please also revise the MDU power line narrative on page 4.2-4 in Section 4.2 (Existing Structures) as necessary. (WTG)

Please contact us with any questions.

Sincerely,



Dean K. Moos
Director
Reclamation Division

cc: Karene Hall (khall@bnicoal.com)
Jodey Houn (jhoun@bnicoal.com)
Oliver County Auditor Judith Hintz (jhintz@nd.gov)