



Public Service Commission

State of North Dakota

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April 9, 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) February 25, 2021 responses to our February 12, 2021 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 February 12, 2021 completeness review letter unless otherwise noted.

Appendix 1.5-1 - Notice of Publication

1. Follow-up to item No. 9 of the November 30, 2020 completeness review letter: The fluctuating COVID-19 pandemic situation may allow the public an opportunity to inspect the revision application at the state capitol and the Oliver County courthouse. Please replace the outdated second paragraph on the first page of the Notice of Publication with the two following paragraphs: (ZAB/WTG)

The application for revision of the surface coal mining permit is available for public inspection at the offices of the North Dakota Public Service Commission, 600 East Boulevard Avenue, Bismarck, ND, 58505-0480, and the County Auditor, Oliver County Courthouse, Center, ND, 58530. A USB flash drive copy of the revision application may be requested by contacting the Public Service Commission at (701) 328-2400 or ndpsc@nd.gov, or by sending a written request.

Written comments, objections, or requests for informal conferences on the revision application may be submitted by any person with an interest which is, or may be,

adversely affected by the revision to the North Dakota Public Service Commission, 600 East Boulevard Avenue, Bismarck, ND, 58505-0480, within 30 days after the last publication of this notice. The written request should state the concerns or objections regarding the revision.

2. Follow-up to item No. 6: Coal ownership remains listed for Matt Pfliger in the NW $\frac{1}{4}$ of Section 28 less West 528 feet in the Notice of Publication but Marla Brown LE and Myra Buntin LE are listed to recognize the coal ownership change. Please strike-through Matt Pfliger coal ownership in the NW $\frac{1}{4}$ of Section 28 less West 528 feet in the Notice of Publication. (WTG/JAR)

Section 1.9 - Surface and Coal Ownership

3. Plate 1.9-1 (Surface and Coal Ownership) was revised with BNI's February 25, 2021 second completeness review response but the plate's title box revised/print dates for Revision No. 8 remains unchanged as 7/24/20. As required by NDAC 69-05.2-05-02(1), please update the plate's title box to add the revised/print date of 2/25/2021 that has occurred during the revision review to date. A revised/print date should be added each time plate changes are made during the revision review. Please also update the plate's legend to explain the boundary type of the Revision No. 8, not Revision No. 7, addition acreage. (WTG)

Appendix 1-2 - Certified Copies of Leases and Assignment Documents

4. Please add the fully executed Federal Coal Lease NDM 105513 issued to BNI for the SE $\frac{1}{4}$, the E $\frac{1}{2}$ NE $\frac{1}{4}$, and the S $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 14 to Appendix 1-2. (WTG)

Plate 4.1-1 Pit Layout and Facilities Map

5. Please remove the pit boundaries extending beyond the southern permit boundary depicted on Plate 4.1-1 (Pit Layout and Facilities Map) as required by NDAC 69-05.2-05-02(1). (WTG)
6. Follow-up to item No. 19: Please remove the dark green simple hatch fill pattern representing an unleased federal coal tract depicted in the SE $\frac{1}{4}$, the E $\frac{1}{2}$ NE $\frac{1}{4}$, and the S $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 14 on Plate 4.1-1 (Pit Layout and Facilities Map) now that BNI has acquired the federal coal lease. (WTG)
7. Follow-up to item No. 30 of the November 30, 2020 completeness review letter: Please review the green simple hatch fill pattern depicted in the E $\frac{1}{2}$ of Section 16 (T141N, R84W) on Plate 4.1-1 (Pit Layout and Facilities Map) that apparently represents Department of Trust Lands surface ownership. The hatching was removed with BNI's January 19, 2021 first completeness review response but was restored with BNI's February 25, 2021 second completeness review response. As required by NDAC 69-05.2-05-02(1), please use the hatching consistently for Department of Trust Lands surface ownership contained in the permit area and update the plate's legend to explain what the fill pattern represents if BNI intends to retain the hatching on Plate 4.1-1. (WTG)

Jay M. Volk, PhD
April 9, 2021
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Please contact us with any questions.

Sincerely,

Zanna A Brinkman
for
Dean K. Moos
Director
Reclamation Division

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

Center Mine\Permits\BNCR - 1101\Revisions & Renewals\No. 8\Rev8_Complete3_rvw_ltr_4-9-21