



Public Service Commission

State of North Dakota

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July 19, 2021

Jay M. Volk, PhD, Manager
Health, Safety, and Environmental Services
BNI Coal, Ltd.
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Dear Mr. Volk:

The Reclamation Division has conducted a technical review of BNI Coal, Ltd.'s (BNI) application for Revision No. 8 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 Reclamation Division will recommend Commission action on the Revision No. 8 application.

Section 1.7.2 - Controlling Officers of BNI Coal, Ltd., BNI Energy, Inc., and ALLETE

1. Please revise Section 1.7.2 to recognize the recent change with BNI Coal, Ltd. and BNI Energy, Inc. officers and directors. (WTG)

Section 1.15 - List of Consultants

2. Please revise "Soils Study" to state "Soil Survey for the Permit Area" for the Prairie Soil Consulting, LLC listing in Section 1.15 (List of Consultants). Please also remove the "owner" description and add M. G. Ulmer as a Professional Soil Classifier. (WTG)

Section 3.1 - Topographic Information

3. The Revision No. 8 addition area is labeled on Plate 3.1-1 (Pre-Mining Topography) and Plate 3.1-2 (Pre-Mining Area Slope Map) as "*C1 Addition in 2020*". Since this revision will be approved in 2021, please change the labeling on the maps to "*C1 Addition in 2021*". (BEB)
4. Please revise the section numbers on Plate 3.1-1 (Pre-Mining Topography) so that they are visible above the topographic contour lines NDAC 69-05.2-05-02(1). (PJR)

5. Please consider removing the federal coal ownership parcels depicted on Plate 3.1-2 (Pre-Mining Area Slope Map). Viewers may be distracted by the federal coal ownership depictions because not all of the federal coal ownership parcels in the permit are depicted and the ownership parcels are not explained in the legend. Please depict all of the federal coal ownership parcels in the permit and explain the ownership parcels in the legend if BNI chooses to retain federal coal ownership on the plate. (PJR/WTG)

Section - 3.2. Geology

6. Please use one of the maps in the geology section of the permit to show the coal crop lines in the C1 Addition area as required by NDAC 69-05.2-08-05-2(g). The Drill Hole Location Map in Plate 3.2-1 would be a logical choice for this because the Hagel crop line from Mine Area C is already depicted on this map and adding in the crop line for the C1 Addition should be a relatively simple update to the existing map. (BEB/WTG)
7. Please consider revising Plate 3.2-2 (Geologic Cross Section Map) as the depth annotations of cross sections D-D' and E-E' are illegible. Perhaps this plate could be more easily shown on multiple sheets instead of fitting all the information on one sheet NDAC 69-05.2-05-02(1). (PJR)

Section 3.3 - Groundwater

8. The groundwater maps in Plates 3.3-1 through 3.3-4 label the C1 Addition Area as 2020, and this will need to be changed to 2021. (BEB)
9. Please consider adding another ground water monitoring well near the section line between Section 10 and Section 15 in the C1 Addition area to assist in more accurately describing all characteristics of the premine aquifers. NDAC 69-05.2-08-06, 69.05.2-09-12, and 69.05.2-16-14. (PJR)

Appendix 3.3-1 -Ground Water Monitoring Well Information

10. The title/header date for the well information spreadsheet in Appendix 3.3-1 lists (2020). However, this spreadsheet is current as of 2021, so please change the title date (and bookmarks) to 2021. (BEB)
11. Please check the Aquifer column designations of the new Mine Area C1 monitoring wells. It appears that all of the designated aquifer formations for the listed wells are incorrect, with the exception of Sheet Sand monitoring well C1-5-1. All of the paired/nested wells list the Hagel Seam screened intervals as being deeper than the Sheet Sand screened intervals and those formation designations should be reversed. Please review and update as necessary. (BEB)

Appendix 3.3-2 - Water Well Certifications

12. The Certified Well Location Map in Plate 3.3-4 shows two Hoovestol wells in the SW $\frac{1}{4}$ of Section 22 and one Hoovestol well in the NE $\frac{1}{4}$ of Section 21, T141N, R84W, all located within about one-quarter mile of the Mine Area C1 permit boundary. However, the Water Well Certification data in Appendix 3.3-2 contain no certification information on any of the Hoovestol wells. If the well certification information is available, please place that information in the permit. (BEB)

13. We have noted there is no water well certification information in the permit for Reinke property in Section 10, T141N, R84W, but certification information for K. Reinke wells #1 and #2, dating back to 1992 is provided in Permit BNCR-9702. We recommend that any stock or domestic water wells located in Section 10 be re-certified (or attempt to be re-certified) in particular because coal extraction is planned within about ½ mile to the south and southeast of the Ken Reinke residence in Mine Area C1 and the original certification information is nearly 30 years old. If you are unable to access the wells for re-certification, please depict those wells on the Certified Well Location Map in Plate 3.3-4 and place the existing well certification documents from Permit BNCR-9702 in Appendix 3.3-2, Water Well Certifications. (BEB)

Appendix 3.3-10 - Static Water Level Data

14. In the static water level table in Appendix 3.3-10, monitoring well C1-1-1 is listed as both a Hagel Seam well and Sheet Sand well. This same situation occurs for all of the new Mine Area C1 monitoring wells except for C1-5-1. Please review and update the spreadsheet. (BEB)
15. The measuring point (Well Head) elevation of monitoring well C1-2-1 for all measurement dates is 2129.69 with the exception of the June 15, 2020 level reading where the well head elevation is listed as 2127.41. If the riser of this well was broke or cut off because of required repair work, please disregard this item. However, if the change in well head elevation was unintentional, please update to the correct elevation and this would also need to be changed in the Ground Water Monitoring Well Information spreadsheet in Appendix 3.3-1 because that spreadsheet also depicts the well head elevation as now being 2127.4. (BEB)

Section 3.4 - Surface Water

16. Please hyperlink the reference to Section 3.5 (Pre-Mine Land Use) in the last sentence of the second paragraph on page 5. (JAR)
17. Please revise the runoff volume columns of the 10 year - 24 hour design event table for pre-mine and post-mine watershed comparisons on page 13 of Section 3.4 (Surface Water) that present runoff volume as cubic feet per second. It appears that these columns should present runoff volume as acre-feet. (WTG)
18. The 25 year - 24 hour design event table for pre-mine and post-mine watershed comparisons on page 15 of Section 3.4 (Surface Water) indicates that watershed HC-15 will have an 86.5 percent increase in runoff volume and a peak runoff increase of 33.7 percent post-mining compared to pre-mining. Please expand the narrative for this watershed on page 16 of Section 3.4 with information that properly characterizes the drainageway beyond the permit boundary to Hagel Creek, and provide an analysis about whether the undisturbed portion of this drainageway will be able to handle the expected flows. Most of the increased flows in this watershed will be routed through a secondary eastern branch of the drainageway in the southwest corner of Section 11. The postmining topography may need to be altered if the secondary drainageway is unable to handle the expected increased flows. (GAW)
19. The ephemeral stream tributaries to Hagel Creek located in Section 15 and the E½ of Section 16 of the Revision No. 8 addition area are truncated at the permit boundary, or within the permit area, on Plate 3.4-1 (General Drainage Map) and Plate 3.4-4 (Springs, Seeps, and Surface Water Monitoring Locations). Surface water monitoring site SWS 200 is depicted at the permit

boundary in the NE¼ of Section 16 on Plate 3.4-4. Please revise Plate 3.4-1 and Plate 3.4-4 to extend the stream courses to Hagel Creek as required by NDAC 69-05.2-08-07(1) and 69-05.2-05-02(1). (JAR/GAW/WTG)

20. SWS-103 is not visible on Plate 3.4-4 (Springs, Seeps, and Surface Water Monitoring Locations). Please revise the plate so that SWS-103 can be identified. (JAR)
21. Please rearrange the drawing layers on Plate 3.4-1 (General Drainage Map) to place the permit boundary layer above the section lines layer to clearly depict the permit boundary as required by NDAC 69-05.2-05-02(1). (WTG)
22. Please remove the federal coal ownership and the proposed prime farmland respread area layers depicted on Plate 3.4-3 (Post-Mining Watersheds) that diminish prominence of the watershed boundaries and labels relevant to Plate 3.4-3. The federal coal ownership and the proposed prime farmland respread area layers are appropriately depicted on other plates in the permit. As required by NDAC 69-05.2-05-02(1), please also remove the green area calculation linework layer that obscures the watershed boundaries. (WTG)

Plate 3.4-5 - Lentic Wetlands, Lotic Wetlands and DWR Locations

23. The legend of Plate 3.4-5 incorrectly identifies the C1 Addition Area as Revision 7 rather than Revision 8. Please correct this error. (GAW)
24. Springs SPG-SE14-1-141-84, SPG NW15-1-141-84 and SPG NE23-16-141-84 are not depicted on Plate 3.4-5. Please correct these omissions. (GAW)
25. Please provide an identification label for every wetland in the C1 Addition area on Plate 3.4-5 as was done in the original permit area. The wetland labels should be consistent with the labels provided in Appendix 3.5-4 (Acres per Wetland) and Appendix 3.6-5 (Wetland Drawings/Methodology). (GAW)

Section 3.5 - Pre-Mine Land Use

26. The second sentence of Section 3.5 states that baseline surveys were conducted in 2009, 2010 and 2011. Please update this narrative to include surveys conducted for the Revision No. 8 addition area. (GAW)
27. Please update the last sentence under the CRP/ND PLOTS portion on page 4 of Section 3.5. The sentence states that the contract on these tracts ends April 1, 2014. (JAR)
28. Narrative on page 9 of Section 3.5 states that wetlands are depicted on Plate 3.5-1 (Pre-Mine Land Use) and Plate 3.4-5 (Lentic Wetlands, Lotic Wetlands and DWR Locations). Please revise the narrative to clarify which plate depicts and provides an identification label for each wetland in the permit. (GAW)
29. Table 3.5-1A (Pre-mine Land Use Acres) indicates there are 62.45 acres of shelterbelts in the permit but Table 3.5-2 (Pre-mine Shelterbelt Conditions) only identifies 60.1 acres of shelterbelts. Appendix 3.6-7 (Shelterbelt Drawings/Descriptions) describes shelterbelts in the SE¼ and NE¼ of Section 11 and the NW¼ of Section 22 that are not listed in Table 3.5-2. Please review and revise as necessary so that the information provided is consistent. (GAW)

30. Please provide shelterbelt condition/health and age classification information in Table 3.5-2 (Pre-mine Shelterbelt Conditions) for shelterbelt plantings in the Revision No. 8 addition area. (GAW)
31. Please include a descriptive header at the top of page 2 of Appendix 3.5-1 (Pre-Mine Land Use Acres per Landowner) so that one can realize what is associated with each column on page 2. (GAW)
32. Please correct the title box of Plate 3.5-1 (Pre-Mine Land Use) to list permit Revision No. 8 instead of Revision No. 7. (WTG)

Section 3.6 - Pre-Mine Vegetation

33. The legend of Plate 3.6-1 (Ecological Sites and Ecosite Sample Locations) indicates that the C1 Addition area was submitted with Revision 7 rather than Revision 8. Please correct this error. (GAW)
34. Appendix 3.6-3 (Similarity Index Reports) includes sampling data from several sites in Sections 11, 14, 15, 16 and 23 but Plate 3.6-1 (Ecological Sites and Ecosite Sample Locations) depicts sampling only a loamy site in Section 23. Please correct this error. (GAW)
35. Although the legend of Plate 3.6-2 (Woodlands) includes a symbol for woodland sampling location, it is not clear where sampling was conducted to obtain the Woodland Cover and Density Data in Appendix 3.6-8 for the C1 Addition area. Please revise Plate 3.6-2 to clearly identify where woodland sampling was conducted in the C1 Addition area. (GAW)
36. Please revise Appendix 3.6-1 (Plant Species List) for the C1 Addition area so that the land use and plant species information is provided on the same page. Currently, the land use column is listed on pages 25 through 35 and pages 36 through 44 are blank. (GAW)
37. Please update Appendix 3.6-2 (Ecological Site Descriptions) to include the updated approved versions of NRCS's Ecological Site Descriptions for the C1 Addition area. The older versions of the Ecological Site Descriptions for the original permit area should be retained in the permit. (GAW)
38. Please review Appendix 3.6-4 (Plant Species of Concern List) and update it for the C1 Addition area if the ND Natural Heritage Inventory list has changed since 2011. (GAW)
39. The Introduction section of Appendix 3.6-5 (Wetland Drawings/Methodology) is being modified to reflect only the C1 Addition area. For example, BNCR-1101 is being replaced with C1 Addition, and edits at the bottom of page 2 state there is only one temporary pothole wetland. The number and classification of wetlands in narratives on pages 5 and 6 are being altered to remove information about the original permit area and language regarding semi-permanent wetlands is being removed. Please revise Appendix 3.6-5 to retain language representing the original permit area while adding language for the C1 Addition area. (GAW)
40. A new sentence in the last paragraph on page 2 of Appendix 3.6-5 (Wetland Drawings/Methodology) states that "*Although portions of some reaches may appear to be semi-permanent (Class IV) the water regime has been modified due to beaver activity and would be*

seasonal without this interference.” It is not clear which drainage this sentence is referring to, and beaver activity is being portrayed as an artificial unnatural activity. Please revise Appendix 3.6-5 to provide clarity. (GAW)

41. Shelterbelt survey information in Appendix 3.6-7 (Shelterbelt Drawings/Descriptions) for Jesse Lackman’s property states that new tree plantings were planned. Please review this property to ensure information is included for any shelterbelts planted after the survey was conducted in 2017. Please also review the detailed analysis description of Areas E and I compared to the map depicting these plantings. Areas E and I appear mislabeled on the map depicting the shelterbelt areas. (GAW)
42. Please update the narrative at the beginning of Appendix 3.6-8 (Woodland Cover and Density Data) to mention relevant information regarding the C1 Addition area. (GAW)

Section 3.7 - Prime Farmlands

43. Please clarify the reference to “*Revision 8 addition*” on page 1 of Section 3.7 by explaining how the section is being revised to recognize the Revision No. 8 acreage addition to the permit as required by NDAC 69-05.2-05-02(1). (WTG)
44. Please replace every reference in Section 3.7 to the expected Revision No. 7 with a reference to the actual Revision No. 8. (WTG/JAR)
45. Soil map unit GaB (Grail silt loam, 2 to 6 percent slopes) has been deleted from Table 1 with the Revision No. 8 changes to Section 3.7. The map unit was identified in the original permit area and must therefore be retained in Table 1. (WTG)
46. Separate Tables 2a (prime soils historically used for cropland) and 2b (prime soils not historically used for cropland) are referenced on page 2 of Section 3.7 in continuation of the Revision No. 0 table arrangement; however, only Table 2 is subsequently referenced in the narrative indicating that Tables 2a and 2b have been merged. The truncated title, headings, and the first two rows of Table 2b inadvertently removed on page 4, also indicate that Tables 2a and 2b have been merged. We believe that Tables 2a and 2b should be retained with the Revision No. 8 application for compliance with NDAC 69-05.2-05-02(1). Please retain the original title, form, and function for Table 2a, and all references to it, that has been changed to Table 2 with the Revision No. 8 changes to Section 3.7. Table 2a should continue listing ownership, soil map units, acreage, etc., for prime soils historically used for cropland, as opposed to Table 2b that should continue listing ownership, soil map units, acreage, etc., for prime soils not historically used for cropland. (WTG)
47. Please add table grid lines to clearly separate ownership, soil map units, acreage, etc. between the NE¼ of Section 20 and the NW¼ of Section 20 on Table 2a in Section 3.7. (WTG)
48. Please add table grid lines to clearly separate ownership, soil map units, acreage, etc. between the W½ of Section 24 and the N½ of Section 11 on Table 2a in Section 3.7. (WTG)
49. Please complete Table 2a in Section 3.7 by entering the acreages projected for mining or associated disturbance and calculating the respective total acreages. Please ensure that narrative total acreages correspond with the table total acreages. (WTG)

50. Footnotes for Table 2a in Section 3.7 have not been changed with the Revision No. 8 application. Please remove the red underline font formatting applied to the footnotes with the Revision No. 8 changes to Section 3.7. (WTG)
51. Please retain the original title, form, and function for Table 2b, and all references to it, that appears to have been merged with Table 2a, and retitled as Table 2, with the Revision No. 8 changes to Section 3.7. Table 2a should continue listing ownership, soil map units, acreage, etc., for prime soils historically used for cropland, as opposed to Table 2b that should continue listing ownership, soil map units, acreage, etc., for prime soils not historically used for cropland. (WTG)
52. Please complete Table 2b in Section 3.7 by entering the acreages projected for mining or associated disturbance and calculating the respective total acreages. Please ensure that narrative total acreages correspond with the table total acreages. (WTG)
53. Please remove the out of place statement of prime and non-prime farmland subsoil mixing in the Revision No. 8 acreage in the paragraph pertaining to avoidance of poor quality subsoil on page 5 in the Operation and Reclamation Plan for Prime Farmlands subsection of Section 3.7. A similar statement exists in its proper place required by NDAC 69-05.2-05-02(1) in the last paragraph on page 14 of the Prime Farmland Soil Physical and Chemical Properties Comparison subsection. (WTG)
54. The entire third sentence of the second paragraph on page 7 of the Prime Farmland Soil Physical and Chemical Properties Comparison subsection of Section 3.7 is presented with red underline font formatting indicating Revision No. 8 changes, but the only change is the addition of "*the original*" preceding "*BNCR-1101*". Please remove the red underline font formatting for the remaining portion of the sentence that has not been changed with Revision No. 8. Please also present the entire third sentence of the paragraph with red underline font formatting indicating Revision No. 8 changes as required by NDAC 69-05.2-05-02(6). Please also revise the entire paragraph to present all soil map unit names as proper nouns. No formatting is necessary to indicate the change in letter case. Please also replace all references to "*soil series*" in the paragraph with "*soil map units*". (WTG)
55. Please revise the first sentence of the fourth paragraph on page 7 of the Prime Farmland Soil Physical and Chemical Properties Comparison subsection of Section 3.7 to clarify that 1,802 acres are planned for disturbance in the Revision No. 8 addition acreage as required by NDAC 69-05.2-05-02(1). (WTG)
56. Please review, and revise as necessary, the prime farmland acreages listed in the second sentence of the fourth paragraph on page 7 of the Prime Farmland Soil Physical and Chemical Properties Comparison subsection of Section 3.7 for the original BNCR-1101 permit and the Revision No. 8 acreage that are subject to NDAC 69-05.2-26 performance standards. These acreages should consist of the projected mining disturbance acres column in Table 2a of Revision No. 0 (118.03), and the projected mining disturbance acres in the Revision No. 8 addition acres. Please note that a previous item indicates that the projected mining disturbance acres have not been updated in Table 2a for Revision No. 8. (WTG)
57. Please add narrative to the Prime Farmland Soil Physical and Chemical Properties Comparison subsection of Section 3.7 indicating if BNI is using the mining disturbance boundary in the entire Revision No. 8 permit acreage (11,021.76 acres), or only the Revision No. 8 acreage

addition (2,661.04 acres), to make the demonstration for mixing prime and non-prime subsoil in the Revision No. 8 acreage addition required by NDCC 38-14.1-24(6)(b) and NDAC 69-05.2-09-15(5). BNI appears to be using only the Revision No. 8 acreage addition (2,661.04 acres) to make the demonstration for mixing prime and non-prime subsoil in the Revision No. 8 acreage addition based on the addition of Tables 3c and 3d. The demonstration is incomplete, however, because pedon sampling data and analysis is not presented for the dominant Order 1 soil map units found within the applicable mining disturbance boundary, or for the dominant Order 1 soil map units found within the areas designated as NCRS prime farmland within the applicable mining disturbance boundary. Please add the necessary pedon sampling data and analysis for the dominant Order 1 soil map units found within the applicable mining disturbance boundary, and for the dominant Order 1 soil map units found within the areas designated as NCRS prime farmland within the applicable mining disturbance boundary similar to Tables 4 and 5 in the approved permit. Please also use red underline font formatting for the majority portion of the last paragraph on page 12 that has been revised with the Revision No. 8 changes. (WTG)

58. Please revise the last paragraph of the Prime Farmland Soil Physical and Chemical Properties Comparison subsection of Section 3.7, or add an additional paragraph to the section if necessary, to analyze the pedon sampling data for revised Tables 4 and 5, or to analyze the pedon sampling data for new Tables 6 and 7, to make the demonstration for mixing prime and non-prime subsoil in the Revision No. 8 acreage addition required by NDCC 38-14.1-24(6)(b) and NDAC 69-05.2-09-15(5). (WTG)
59. Please depict the entire Revision No. 8 permit boundary with an appropriate margin on sheet 1 of Plate 3.7-1 (Prime Farmland Soils), and also depict the entire Revision No. 8 addition boundary with an appropriate margin on sheet 8 of Plate 3.7-1, as required by NDAC 69-05.2-05-02(1). Please also revise the inset map extents on sheets 1 and 8 to depict the corresponding layout view extents on each sheet. Please also remove the permit label where no permit boundary is depicted on sheet 1. (WTG)
60. Please label the prime farmland soil map units for the Revision No. 8 addition acreage on sheets 1 and 8 of Plate 3.7-1 (Prime Farmland Soils) as required by NDAC 69-05.2-05-02(1). Please also delete the Mosaic.sid heading and RGB color bands from the plate legends on sheets 1 and 8. (WTG)
61. Please label the prime farmland soil map units for the Revision No. 8 addition acreage on Plate 3.7-2 (Dominant Order 1 Soils and NRCS Designated Prime Farmland Map Units withing Mining Disturbance) as required by NDAC 69-05.2-05-02(1). Please also delete the Mosaic.sid heading and RGB color bands from the plate legend. (WTG)
62. Please review, and revise as necessary, the permit boundary for the Revision No. 8 acreage addition depicted on Plate 3.7-2 (Dominant Order 1 Soils and NRCS Designated Prime Farmland Map Units withing Mining Disturbance). The boundary appears to consist of double lines in places. Please also remove the permit label where no permit boundary is depicted. (WTG)
63. Please revise Plate 3.7-2 (Dominant Order 1 Soils and NRCS Designated Prime Farmland Map Units withing Mining Disturbance) to include the dominant Order 1 soil map units found within the Revision No. 8 acreage addition mining disturbance boundary (new Table 3c in Section 3.7), and the dominant Order 1 soil map units found within the areas designated as NCRS prime farmland within the Revision No. 8 acreage addition mining disturbance boundary (new Table

3d in Section 3.7). As noted in a related item, BNI must indicate if it is using the mining disturbance boundary in the entire Revision No. 8 permit acreage (11,021.76 acres), or only the Revision No. 8 acreage addition (2,661.04 acres), to make the demonstration for mixing prime and non-prime subsoil in the Revision No. 8 acreage addition required by NDCC 38-14.1-24(6)(b) and NDAC 69-05.2-09-15(5). As currently presented, Plate 3.7-2 erroneously indicates that the dominant Order 1 soil map units found within the original BNCR-1101 permit boundary mining disturbance boundary (Table 3a in Section 3.7) are identical to the dominant Order 1 soil map units found within the Revision No. 8 acreage addition mining disturbance boundary (new Table 3c in Section 3.7). Please also revise the plate's legend to recognize the extensive soil map unit changes necessary with Revision No. 8. (WTG)

Section 3.8 - Soil Resources

64. Please correct the reference to Revision No. 7 on page 3.8-2 in Section 3.8. (WTG)
65. Please label the prime farmland soil map units for the Revision No. 8 addition acreage on sheets 1 and 8 of Plate 3.8-1 (Soils Map) as required by NDAC 69-05.2-05-02(1). Please also correct the plate legend on sheets 1 and 8 where new text has overwritten existing text. Please also revise the inset map extents on sheets 1 and 8 to depict the corresponding layout view extents on each sheet. Please also remove the permit label where no permit boundary is depicted on sheet 1. (WTG)

Section 3.10 - Baseline Fish and Wildlife Resources

66. Narrative in Section 3.10 (Baseline Fish and Wildlife Resources) mistakenly references Revision No. 7 rather than Revision No. 8 as the revision that adds the C1 Addition area to the permit. This error has been corrected in some, but not all, instances. Please review and correct the errors. (GAW)
67. Please revise the title box of Plate 3.10-1 (Baseline Wildlife Study Area Map) to indicate that it was revised with Revision No. 8. (GAW)
68. C1 Addition area wildlife information is being added to the end of Appendix 3.10-3 (Baseline Fish and Wildlife Inventory Plan) created for the original permit area. Please consider creating a separate stand-alone appendix containing wildlife information for the Revision No. 8 C1 Addition area rather than incorporating new information into the document created for the original permit area. To improve clarity, the results of the surveys completed for the C1 Addition area should be organized and displayed like information provided for the original permit (although bookmarks do organize the document). For example, Breeding Songbird Survey results for the C1 Addition area should be provided in a separate appendix (see Appendix 3.20-6) rather than buried on page 83 of Appendix 3.10-3. Likewise, separate appendices should be provided for incidental sightings, the Dakota skipper habitat survey, and the macroinvertebrate survey report. [NDAC 69-05.2-05-02(2)] (GAW)

Section 3.12 - Cultural and Historical Resources and Protection

69. The last page of this section states "*Due to the protective nature of cultural sites the full Class II inventory reports are not included with this submittal.*" Please change the phrase from Class II inventory reports to Class III inventory reports (BEB)

70. The Site List and Recommendations Table in Appendix 3.12-1 lists a total of 41 historic and prehistoric NRHP eligible and ineligible cultural resource sites for Mine Area C1; however, only 30 of those sites are depicted on the Cultural Resources Location map in Plate 3.12-1. Of those 30 sites that are depicted on the map, only 21 have the associated site number depicted with the site locations. Please show all of the inventory sites on the location map with their respective site numbers. (BEB)
71. The legend on the Cultural Resources Location map in Plate 3.12-1 provides a listing of the different colored labels that represent archeological sites that are eligible, ineligible, and those that are to be avoided and this was appropriately done for original Permit BNCR-1101. However, none of those labeling protocols are provided for the Mine Area C1 sites from either the May 2018 or October 2018 Class III inventories. Please update the map with the provided symbology so that permit reviewers can readily distinguish those sites that are eligible, ineligible, and the avoidance areas. (BEB)
72. If necessary, please update the permit with any new cultural resources correspondence, testing or mitigation reports that may have occurred or may have been received since the revision application was first submitted to the Reclamation Division in October 2020. (BEB)

Section 4.1 - Operations Plan

73. Discussion for Pond P-13-8 was not included in the second paragraph on Page 4.1-2 in Section 4.1 (Operations Plan) which discussed ponds being built within the 100' buffer zone of streams. Please update the narrative to include P-13-8. (JWE)
74. In Plate 4.1-1 (Pit Layout and Facilities Map), the dragline boxcut spoils for 2027-757 pit in the C1 Addition area are shown to be placed over multiple constructed sediment ponds and within the pit boundary. Please revise the location and extent of the initial boxcut spoils. (JWE)
75. Please update the Abandoned Mines narrative on page 4.15 as it appears from the cultural resource sections of the permit that at least three historic abandoned mines are located within Mine Area C1 Addition. (BEB)

Plate 4.1-1 - Pit Layout and Facilities Map

76. Please bold the section numbers on the Pit Layout and Facilities Map so the section numbers are more prominent on the map, particularly in the main body of the permit area in the gray-shaded disturbance boundary areas. (BEB/PJR)
77. Please consider using a heavier line weight or more visible color to depict the BNCR-1101 permit boundary addition on Plate 4.1-1 (Pit Layout and Facilities Map). (PJR)
78. Please add to the Pit Layout and Facilities Map all of the cultural resource sites located in Sections 14 and 16, T141N, R84W of the Mine Area C1 Addition that require additional testing, future mitigation, or avoidance. Additionally, please depict and label the abandoned mine locations in Mine Area C1 on the Pit Layout and Facilities Map in Plate 4.1-1. (BEB)
79. Please change the font or font size of the ten or so small topsoil stockpiles associated with proposed sediment ponds around the periphery of Mine Area C1 on Plate 4.1-1 because the

alphanumeric identifications and estimated material volumes of those stockpiles are difficult to read. (BEB)

80. Plate 4.1-1 (Pit Layout and Facilities Map) indicates that approximately 115 acres of disturbance is planned in the E½ of Section 16 but coal is only being removed from 23 acres. Please clarify the type of associated disturbance planned on areas outside of the sediment pond and coal removal boundaries. NDAC 69-05.2-13-05 requires minimal disturbance on areas where coal is not removed and NDCC 38-14.1-24(1) requires that mining companies maximize the utilization and conservation of coal recovered. Please review and revise to comply with the above listed citations. (GAW)
81. Range diagrams for BNCR-1101 are provided in Plate 4.1-2 (Typical Range Diagram) for the 8200 and 736 draglines. Since the 757 dragline is planned to be utilized in Mine Area C1, please add the range diagram for that machine or simply add the 757 to the listing, e.g., 736/757. (BEB)

Section 4.2 - Existing Structures

82. The Darrin and Bruce Hoyer abandoned farmstead is listed incorrectly as within the permit boundary in the SW¼ of Section 23 (item number 20 on page 4 of Section 4.2) but is depicted correctly outside of the permit boundary in the SW¼ of Section 23 on Plate 4.2-1 (Existing Structures). Please revise Section 4.2 to list the farmstead as outside of the permit boundary. (WTG)
83. Please update Plate 4.2-1 (Existing Structures) by depicting the Historic Mine that is identified in the Cultural Resources Site List and Recommendations Table in Appendix 3.12-1 as being located in Section 14, T141N, R84W. (BEB)
84. Please depict BNI's communication tower located in the SE¼ of Section 8 (item number 9 on page 2 of Section 4.2) on Plate 4.2-1 (Existing Structures). (WTG)
85. Please update ownership for the former Margaret Erhardt farmstead located in the SW¼ of Section 13 on Plate 4.2-1 (Existing Structures). (WTG)
86. The linetype depicting the proposed BNCR-1101 permit boundary in the Plate 4.2-1 (Existing Structures) legend does not match the linetype used to depict this boundary in the drawing. Please revise either the linetype in the legend or in the drawing. NDAC 69-05.2-05-02(6) (SMN)
87. Please revise Plate 4.2-2 (Existing County Road Infrastructure Photos) for Revision No. 8 as required by NDAC 69-05.2-05-02(1). (WTG)

Section 4.4 - Blasting Plan

88. Please add the proposed BNCR-1101 Revision No. 8 boundary to the map and legend for Plate 4.4-1 (Blasting Map), or revise the existing drawing layers and legend to clearly depict the boundary, as required by NDAC 69-05.2-05-02(1). (JWE/SMN)
89. Plate 4.4-1 (Blasting Map) shows the ANFO Storage Hopper Location at the abandoned farmstead in the NE¼ of Section 18; however, Plate 4.1-1 (Pit Layout and Facilities Map) and

other information in the permit now indicates the ANFO storage location is in the SW¼ of Section 13. As necessary, please depict the current/correct ANFO storage Hopper Location on the Blasting Map. (BEB)

Section 4.5 - Transportation Plan

90. Please depict the proposed permit addition for BNCR-1101 on Plate 4.5-1 (General Transportation Plan). NDAC 69-05.2-05-02(1) and 69-05.2-05-02(6) (JWE/SMN)
91. Please revise Plate 4.5-1 (General Transportation Plan) to remove the pit boundaries extending beyond the southern permit boundary as required by NDAC 69-05.2-05-02(1) and to reflect the mining plan depicted on Plate 4.1-1 (Pit Layout and Facilities Map). (JWE/SMN)
92. Post mine contour lines are not visible in the map legend for Plate 4.5-1 (General Transportation Plan). Please depict these lines in the map legend and ensure map legends for all other plates include the corresponding symbols. NDAC 69-05.2-05-02(6) (SMN)

Section 4.6 - Surface Water Management Plan

93. The last sentence of the third paragraph on page 4.6-3 of Section 4.6 states “*will may be spread with a thin veneer of subsoil.*” Please remove “will” from the sentence and leave “may”. (JAR)
94. Please change the reference to North Dakota Department of Health to the North Dakota Department of Environmental Quality in the second paragraph on page 4.6-4 of Section 4.6. (JAR)
95. Table 4.6-1 on page 5 of Section 4.6 indicates that sediment pond P-12-3 will be constructed in 2026. It appears this pond may need to be in place prior to the construction of other ponds in the Revision No. 8 addition area since this pond may be needed to control runoff from subsoil that will be salvaged from the pool area of other ponds. Please review and revise as necessary. (GAW)
96. Please include the necessary calculations and design in Appendix 4.6-41 (Design Details - Sedimentation Pond P-11-1) to demonstrate that the existing culvert underneath 37th Ave SW can handle the discharge from the emergency spillway. NDAC 69-05.2-09-09(2). (JWE)
97. Please demonstrate in Appendix 4.6-45 (Design Details - Sedimentation Pond P-14-1) where the discharge from P-14-1 will flow to, and if a culvert underneath 37th Ave SW is needed. NDAC 69-05.2-09-09(2) (JWE)
98. Appendix 4.6-32 incorrectly states that Diversion D-21-4 will be constructed in the NE¼ of Section 21, T141N, R83W. Please change the location of the diversion in Appendix 4.6-32 to the SE¼ of Section 21 since that is the location depicted on Plate 4.6-1 (Surface Water Management Plan). (JWE)
99. Plate 4.6-1 (Surface Water Management Plan) shows that Diversion D-21-4 will be built in 2021, but Table 4.6-1 states that the diversion will be built in 2029 as well as Appendix 4.6-32 (Design Details - Diversion D-21-4). Please update Plate 4.6-1 to show the correct construction date for Diversion D-21-4 NDAC 69-05.2-05-02(1). (JWE/WTG)

100. Please remove the red outline representing the unleased federal coal tract depicted in the SE¼, the E½NE¼, and the S½SW¼ of Section 14 on Plate 4.6-1 (Surface Water Management Plan) because BNI has obtained the federal coal lease since the plate was last updated. NDAC 69-05.2-05-02(6). (JWE)
101. The narrative in Appendix 4.6-50 (Design Details - Sedimentation Pond 12-3) states that the watershed for Pond 12-3 is 31.7 acres, but the area depicted on Plate 4.6-1 (Surface Water Management Plan) and used in the calculations is 105.95 acres. Please update the area in the narrative to 105.95 acres. NDAC 69-05.2-05-02(1) (JWE)
102. The total watershed area for Pond 13-8 is not consistent in Appendix 4.6-42 (Design Details - Sedimentation Pond P-13-8) with what is depicted in Plate 4.6-1 (Surface Water Management Plan). The narrative in Appendix 4.6-42 states the watershed is 31.7 acres while the *Pond Design Information Sheet* states an area of 30.7 acres and the HydroCAD calculations use an area of 31.95 acres. Lastly, Plate 4.6-1 depicts an area of 30.5 acres. Please update Appendix 4.6-42 and Plate 4.6-1 so the watershed area is accurate and consistent throughout. NDAC 69-05.2-05-02(1) (JWE)
103. Sedimentation pond design details located in Appendices 4.6-41 through 4.6-47 and Appendix 4.6-50 state that NDPDES points will be requested from the North Dakota Department of Health. Please change the agency to the North Dakota Department of Environmental Quality. (JAR)
104. Several of the future sedimentation ponds and diversions depicted in the BNCR-1101 addition area on Plate 4.6-1 (Surface Water Management Plan) do not have projected construction dates. Please add projected construction dates to water features in the addition area to remain consistent with the labelling used for water features within the current permit area for BNCR-1101. (JAR)

Section 4.9 - Reclamation Schedule

105. Please consider removing the federal coal ownership parcels depicted on Plate 4.9-1 (Reclamation Variance Areas). Viewers may be distracted by the federal coal ownership depictions because not all of the federal coal ownership parcels in the permit are depicted and the ownership parcels are not explained in the legend. Please depict all of the federal coal ownership parcels in the permit and explain the ownership parcels in the legend if BNI chooses to retain federal coal ownership on the plate. (WTG)
106. The permit boundary linetypes for BNCR-1101 and BNCR-9401 in Plate 4.9-1 (Reclamation Variance Areas) do not match the line types in the legend. Please update the linetypes so they are consistent. (JWE)

Section 4.10 - Regrading Plan

107. Please revise the proposed prime farmland reclamation location depicted on a convex (nose slope) landscape position in the NE¼ in Section 13 on Plate 4.10-1 (Post-Mining Topography). NDAC 69-05.2-26-04(1) requires that suitable plant growth materials be respread over areas that have a landscape configuration similar to that which existed in the prime farmland areas prior to mining, i.e., a concave (head slope) landscape position. (WTG)

108. Please retain all Revision No. 8 modification dates in the Plate 4.10-1 (Post-Mining Topography) title box during the revision review period but use BNI's discretion to retain only the last modification date to the plate during the 2011 to 2014 permit application review and subsequent revision reviews prior to Revision No. 8. (WTG)
109. The linetype and/or linetype scale for the "5 FOOT EXISTING CONTOUR" in the legend does not match what is depicted in Plate 4.10-1 (Post Mining Topography). Please revise the layer so it is consistent as required by NDAC 69-05.2-05-02(6). (JWE)
110. The hatching depicting "Proposed Prime Farmland" on Plate 4.10-1 (Post Mining Topography) is not consistent with the symbol in the legend). Please revise the plate so this hatching is consistent. NDAC 69-05.2-05-02(6) (JWE)
111. Please revise the legend of Plate 4.10-2 (Post-Mining Slope Analysis) to include information about the colors used to distinguish slope steepness as required by NDAC 69-05.2-08-02(3)(b). (GAW/SMN)
112. The labels and arrows for Wetlands 8-1A, 8-1B, and 8-1C are misaligned on Plate 4.10-2 (Post-Mining Slope Analysis). Please adjust so the labels and arrows identify the correct wetland. (JAR)

Section 4.11 - Suitable Plant Growth Material Removal and Replacement

113. Please revise Table 4.11-1 (SPGM Respread Depths by Ownership within the Mining Disturbance Boundary) in Section 4.11 to ensure that all landowner legal descriptions are legible as required by NDAC 69-05.2-05-02(1). (WTG)
114. Please revise Plate 4.11-1 (Proposed SPGM Respread Depths Method "A") to recognize the current federal coal leasing status in Section 18, add a label for Section 11, and clarify the label for Section 16, as required by NDAC 69-05.2-05-02(1). (WTG)
115. The permit boundary linetype for BNCR-1101 in Plate 4.11-1 (Proposed SPGM Respread Depths - Method A) does not match what is represented in the legend as required by NDAC 69-05.2-05-02(6). Please update the linetype so it is consistent. (JWE)
116. Please review the 36 inch projected suitable plant growth material (SPGM) respread depth for drill hole 16-C1-017 located in the SW¹/₄SE¹/₄ of Section 11 on Plate 4.11-1 (Proposed SPGM Respread Depths Method "A"). It appears that drill hole 16-C1-017 should be projected as 48 inch SPGM respread depth based on sodium adsorption ratio values that exceed 20 for the 5 foot overburden determinant intervals listed on page 179 of Appendix 3.2-2 (Overburden Analysis). Please revise Plate 4.11-1 and Table 4.11-1 (SPGM Respread Depths by Ownership within the Mining Disturbance Boundary) as necessary. (WTG)
117. Please review the 36 inch projected suitable plant growth material (SPGM) respread depth for drill hole 18-C1-005 located in the SE¹/₄SE¹/₄ of Section 11 on Plate 4.11-1 (Proposed SPGM Respread Depths Method "A"). It appears that drill hole 18-C1-005 should be projected as 48 inch SPGM respread depth based on sodium adsorption ratio values that exceed 20 for the 5 foot overburden determinant intervals listed on page 212 of Appendix 3.2-2 (Overburden Analysis). Please revise Plate 4.11-1 and Table 4.11-1 (SPGM Respread Depths by Ownership within the Mining Disturbance Boundary) as necessary. (WTG)

118. Please review the 36 inch projected suitable plant growth material (SPGM) respread depth for drill hole 18-C1-007 located in the SW¹/₄SW¹/₄ of Section 11 on Plate 4.11-1 (Proposed SPGM Respread Depths Method "A"). It appears that drill hole 18-C1-007 should be projected as 48 inch SPGM respread depth based on sodium adsorption ratio values that exceed 20 for the 5 foot overburden determinant intervals listed on page 214 of Appendix 3.2-2 (Overburden Analysis). Please revise Plate 4.11-1 and Table 4.11-1 (SPGM Respread Depths by Ownership within the Mining Disturbance Boundary) as necessary. (WTG)

Section 4.12 - Revegetation Plans, Post Mining Land Use, and Determining Reclamation Success

119. Please adjust the font and overall formatting of the second page of Table 1 (page 11) of the Section 4.12 narrative to be similar with the first page of Table 1 (page 10) as the second page is difficult to read. There is also a column of numbers that has no reference on the bottom of the table. Please remove or identify their purpose accordingly as required by NDAC 69-05.2-05-02(1). (PJR)
120. Please revise the postmining land use discussions in Appendix 4.12-2 (Pre-mine and Post-mine Land Use Discussions) for the Lee Dresser property (S¹/₂ of Section 11 and a portion of the N¹/₂ of Section 14) to explain why the surface owner's request for additional woodlands, wetlands, and shelterbelts cannot be provided in accordance with the requirements of NDAC 69-05.2-23-03, or update the postmining land uses of this property to comply with the landowner's postmining preference statements in Appendix 4.12-1. (GAW)
121. BNI is proposing to double the wetland acreage in the S¹/₂ of Section 15 (Burton and Etheleen Ent, LLC) even though the surface owner requested all affected land be returned to cropland. Please provide proper justification in Appendix 4.12-2 (Pre-mine and Post-mine Land Use Discussions) for the proposed increase wetland acreage or revise the post mining land use to not show an increased amount of wetland acreage. (GAW)
122. BNI is proposing native grassland around the reclaimed wetlands in the S¹/₂ of Section 15 (Burton and Etheleen Ent, LLC). Given the landowner's preference statement, please consider reclassifying the wetland buffers as hayland, a subcategory of cropland, and then include plans to plant species and provide management of these areas for wildlife, if that is why native grassland was planned. (GAW)
123. BNI is proposing native grassland around a reclaimed wetland in the S¹/₂NE¹/₄ of Section 15. Please consider moving this wetland to the NW¹/₄ of Section 15 in an area surrounded by reclaimed native grassland to comply with landowner's preference statement, or consider reclassifying the wetland buffer as hayland, a subcategory of cropland, with plans to manage the area for wildlife. (GAW)
124. Five reclaimed wetlands are depicted in Section 15 but design plans have been provided for only four pothole type wetlands. Please revise the narrative for the NW¹/₄ of Section 15 to discuss the wetland reconstruction plan for which no design is provided in Section 4.10 (Regrading Plan), or include a design for the wetland affected by associated disturbance. (GAW)
125. Please depict wetland 11-1 on Plate 4.12-1 (Post Mine Land Use). (GAW)

126. Please provide an identification label for each reclaimed wetland, woodland, and shelterbelt on Plate 4.12-1 (Post Mine Land Use). (GAW)
127. Please review Appendix 4.12-1 (Landowner Preference Statements) to ensure all preference statements received for the Revision No. 8 addition area are included in Appendix 4.12-1. (GAW)
128. All pages in Appendix 4.12-2 (Pre-mine and Post-mine Land Use Discussions) are numbered as page 37. Please number each page and add the date / Rev 8 to the pages updated with this revision. (JAR)
129. Section 11 of T141N, R84W, is not listed in the section column of Appendix 4.12-6 (Post Mine Land Use Acreage Table). Please correct this error. (GAW)
130. Please label the final column in Appendix 4.12-6 (Post Mine Land Use Acreage Table) to clarify that these are total acres. (PJR)

Section 4.13 - Fish and Wildlife Resource Protection, Enhancement, and Monitoring Plan

131. Please review Section 4.13 (Fish and Wildlife Resource Protection, Enhancement, and Monitoring Plan) and update it as necessary to include the C1 Addition area. Please also include a commitment to periodically consult the USFWS IPaC for Oliver County to ensure that BNI is using the most current Threatened, Endangered, Proposed and Candidate species list for Oliver County and that appropriate species specific protection measures are being utilized. (GAW)
132. Please revise the inset map extents on pages 2 through 17 of Plate 4.13-1 (Wildlife Monitoring Map) to depict the proposed Revision No. 8 permit boundary (GAW)
133. Please review Appendix 4.13-1 (PSC Letter of Approval of Wildlife Plan). It appears this document should be included in Section 3.10 (Baseline Wildlife Resources) rather than Section 4.13 (Fish and Wildlife Resource Protection, Enhancement, and Monitoring Plan). (GAW)

Section 4.14 - Reclamation Cost Estimate for Bonding Purposes

134. Page 1 of Section 4.14 (Reclamation and Cost Estimate for Bonding Purposes) states that the 736 dragline will be in the northeast area of the permit for the worst case scenario. However, according to Plate 4.1-1 (Pit Layout and Facilities Map), the 736 dragline will also be operating in Sections 13 and 18 at the end of 2024. Please update the narrative in Section 4.14, Plate 4.14-1 (Worst Case Bond Plan View), Plate 4.14-2 (Worst Case Bond Cross Sections), and Appendix 4.14-1 (Worst Case Bond Calculations) to account for reclamation of the coal removal areas in Sections 12, 13, and 18 of the permit. NDAC 69-05.2-09-11(2) (JWE)
135. Reclamation of Pond 12-1 is not included in Plate 4.14-1 (Worst Case Bond Plan View) or Appendix 4.14-1 (Worst Case Bond Calculations). Please update to include Pond 12-1. NDAC 69-05.2-09-11(2) (JWE)
136. Plate 4.14-1 (Worst Case Bond Plan View) does not depict subsoil respread for Ponds 9-2, Pond 9-3, 9-4, 21-5, 21-4, and 21-3. Please update the map to show subsoil respread for these ponds. NDAC 69-05.2-09-11(2) (JWE)

137. Appendix 4.14-1 (Worst Case Bond Calculations) does not include Ponds 21-3 and 21-4 in the calculations. Please update to account for these ponds. NDAC 69-05.2-09-11(2) (JWE)
138. The label for Pond 13-1 is missing on Plate 4.14-1 (Worst Case Bond Plan View). Please add the label to the map. NDAC 69-05.2-05-02(6) (JWE)
139. Pond 13-7 is not shown on Plate 4.14-1 (Worst Case Bond Plan View) and Appendix 4.14-1 (Worst Case Bond Calculations) does not account for topsoil respread over the pond. Please update the map and calculations to include the pond. NDAC 69-05.2-09-11(2) (JWE)
140. Appendix 4.14-1 (Worst Case Bond Calculations) does not include topsoil respread for Pond 21-6. Please update to account for the topsoil. NDAC 69-05.2-09-11(2) (JWE)
141. Several SPGM stockpiles are included in Plate 4.14-1 (Worst Case Bond Plan View) but are not included in Appendix 4.14-1 (Worst Case Bond Calculations). Please update Appendix 4.14-1 to include stockpiles NE7S01, NE09T01, NE09S01, SE08T05, SW08S01, and SW08S02. NDAC 69-05.2-09-11(2) (JWE)
142. SPGM stockpile SE12T05 is missing from Plate 4.14-1 (Worst Case Bond Plan View). Please include the stockpile in the map. NDAC 69-05.2-09-11(2) (JWE)
143. SPGM stockpile SE12T01 is missing from Plate 4.14-1 (Worst Case Bond Plan View). Please include the stockpile in the map. NDAC 69-05.2-09-11(2) (JWE)
144. The following stockpiles are not shown on Plate 4.14-1 (Worst Case Bond Plan View) or in Appendix 4.14-1 (Worst Case Bond Calculations). Please update the Plate and Appendix to include these stockpiles or explain why they are not included: SE16S01, SE16T01, NW16T01, SW7T01, SW7T02, SW7T03, SW7S01, NW7T02, NW7T01, NW7T03, and SE12S01. NDAC 69-05.2-09-11(2) (JWE)

Section 4.15 -Signs and Markers, Socioeconomic Impacts, etc.

145. Narrative on the second page of Section 4.15 describes continuation of mining in existing Permit BNCR-9702 and this should be changed to reference Permit BNCR-1101. (BEB)
146. Please repair the hyperlink to Section 4.13 at the bottom of page 2 in Section 4.15 so that it connects to its intended source. (BEB)

The Advisory Committee comment period, and the public comment period, for Revision No. 8 to Permit BNCR-101 ended July 6, 2021. We received the enclosed comments on the Revision No. 8 application from the State Historical Society, the Department of Environmental Quality, the State Water Commission, and the Natural Resources Conservation Service.

Jay M. Volk, PhD
July 19, 2021
Page 18 of 18

Please contact us with any questions.

Sincerely,



Dean K. Moos
Director
Reclamation Division

Enclosures

cc w/enclosures via email only: Karene Hall (khal@bnicoal.com)
BNI Coal Efiling (BNIfiling@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_technical1_rvw_itr_7-19-21



June 28, 2021

Dean K. Moos
Reclamation Division
600 E Boulevard Ave, Dept 408
Bismarck, ND 58505-0480



ND SHPO Ref: 21-0381 BNI Coal, Ltd Revision 8 to BNCR-1101 in portions of [T141N R84W Sections 11, 14-16, 22-23] Oliver County, North Dakota

Dear Mr. Moos,

We reviewed ND SHPO Ref: 21-0381 BNI Coal, Ltd Revision 8 to BNCR-1101 in portions of [T141N R84W Sections 11, 14-16, 22-23] Oliver County, North Dakota. We concur the sites 32OL828, 32OL831, 32OL835, 32OL836, 32OL842, 32OL843, and 32OL844 in T141N R84W Section 16 are eligible for the National Register of Historic Places and need future mitigation prior to being impacted. The other 35 sites identified in portions of T141N R84W Sections 11, 14-16, 22-23 are not eligible for the National Register of Historic Places and require no further work.

If you have any questions, please contact either Andrew Clark, Chief Archeologist at (701) 328-3574 or andrewclark@nd.gov or Lorna Meidinger, Historic Preservation Specialist at (701) 328-2089 or lbmeidinger@nd.gov.

Sincerely,

for William D. Peterson PhD
State Historic Preservation Officer
(North Dakota)

21-0381

June 9, 2021

RECEIVED
JUN 11 2021

Mr. Dean Moos
Reclamation Division
Public Service Commission
600 East Boulevard Avenue
Bismarck, ND 58505

NORTH DAKOTA
PUBLIC SERVICE COMMISSION

RE: Revision 8 to Permit BNCR-1101

Dear Mr. Moos:

The North Dakota Department of Environmental Quality, Division of Water Quality has reviewed BNI Coal, Ltd.'s application for revision number 8 to Surface Coal Mining Permit BNCR-1101. We have no objection to the revision which adds 2,661.04 acres to the permit in Sections 11, 14, 15, 16, 22, and 23 of Township 141N, Range 84W, in Oliver County and revises associated information. In addition, we have no objection to the postmining topography revision for 1,211 acres of the existing permit area.

At this time, the Division of Water Quality has no further comments regarding this revision.

Sincerely,



Dallas Grossman
Environmental Engineer
Division of Water Quality

July 6, 2021

Dean Moos
Director
ND Public Service Commission
Inside Mail

Dear Mr. Moos:

This is in response to your request for a review of the environmental impacts associated with the Revision No. 8 to Surface Coal Mining Permit No. BNCR-1108 at Center Mine.

The proposed project has been reviewed by State Water Commission staff, and the following comments are provided:

- There are no FEMA regulatory floodplains identified and/or mapped where this proposed project is to take place. No permits relative to the NFIP are required based on the current effective FIRM and State minimum standards.
- In accordance with North Dakota Century Code §61-16.1-38, any new construction or construction modifications on water storage impoundments, including dams or ponds, may require a construction permit from the Office of the State Engineer (OSE) based on the storage volume and hazard classification. Similarly, if any dams or ponds are to be removed, we request that the OSE Regulatory Division be notified. Please contact the OSE Regulatory Division at 701-328-2752 if you have any questions.

Thank you for the opportunity to provide review comments. Should you have further questions, please contact me at 701-328-4970 or stevebest@nd.gov.

Sincerely,



Steven Best
Planner III

SB:dm/1570



United States Department of Agriculture

June 7, 2021



Natural Resources
Conservation Service

Dean K. Moos, Director, Reclamation Division
600 East Boulevard
Department 408
Bismarck, ND 58505-0480

Bismarck State Office
PO Box 1458
Bismarck, ND
58502-1458

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NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Dear Mr. Moos:

This letter is in reference to the application for Revision No. 8 to Permit BNCR-1101 at the Center Mine in Oliver County, North Dakota. We have reviewed the prime farmland section 3.7 and submit the following comments.

The revision states that prime and nonprime subsoils will be mixed. In the past, subsoil mixing has been an acceptable practice and has proved adequate for reclamation success. The concern we have is on-site samples are not used to determine similarities between prime and nonprime subsoil. The USDA-Natural Resources Conservation Service (NRCS) would prefer onsite sampling from the specific area of non-prime subsoils to be mixed with prime farmland subsoils for these comparisons. This method provides more accuracy and reliable results than comparisons with subsoils from adjacent permit areas.

Additionally, the revision states that nonprime topsoil may be supplemented or substituted if prime farmland topsoil material is of lesser quality. NRCS would prefer onsite sampling of nonprime topsoil used in supplementing or substituting. Currently, we have not found guidance in the revision on this issue. Although, it is noted in the revision that this activity may be considered by the PSC.

To manage consistency with units of measurements, electrical conductivity is now expressed as dS/m. mmhos/cm is no longer used.

Throughout the Prime Farmland section, inches have been used as a unit of measurement except on page 6 where a reference to centimeters is used. Either inches or centimeters is acceptable but should be consistent throughout to avoid confusion.

Thank you for the opportunity to review this permit and we look forward to working with you in the future.

Sincerely,

MARY
PODOLL
MARY E. PODOLL
State Conservationist

Digitally signed by
MARY PODOLL
Date: 2021.06.07
15:05:11 -05'00'

cc: Wade Bott, State Soil Scientist, NRCS, Bismarck ND

Helping People Help the Land

An Equal Opportunity Provider, Employer, and Lender