



Public Service Commission

State of North Dakota

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July 13, 2022

Karene M. Hall
Permit Coordinator
BNI Coal, Ltd.
2360 35th Avenue SW
Center, ND 58530-9499
khall@bnicoal.com

Dear Ms. Hall:

The Reclamation Division has reviewed BNI Coal, Ltd.'s (BNI) April 28, 2022 responses to our February 18, 2022 technical 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 portions 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. Please note that follow-up items reference the item as numbered in the February 18, 2022 technical review letter.

General

1. Please incorporate the changes from Revision No. 9 into Revision No. 8. (JWE/JAR)

Section 3.7 - Prime Farmlands

2. Follow-up to item No. 19: BNI appears to have revised Plate 3.7-2 (Dominant Order 1 Soils and NRCS Designated Prime Farmland Map Units within Mining Disturbance) by adding the four Vebar fine sandy loam map units to the dominant order 1 soils within the mining disturbance boundary. However, the soil map units are no longer labeled on the map, and the map legend label for the blue map units (dominant order 1 soils in mining disturbance) was changed to Map Unit. Please revise Plate 3.7-2 so the soil map units are labeled on the map and revise the map legend so the blue map units are labeled as "Dominant Order 1 Soils in Mining Disturbance", as they were shown on previous versions of the map. (MLJ)

Section 3.10 - Baseline Fish and Wildlife Resources

3. Figure 2 of the narrative on page 3 in Section 3.10 – Baseline Fish and Wildlife Resources, contains a cemetery land use for 2 acres. Please update the 2 acres of cemetery land use that was changed to the surrounding native rangeland with the approval of Revision No. 9 to BNCR-1101. (JAR)

Section 4.1 – Operations Plan

4. Follow-up to Item No. 22: Please include the updated version of Section 4.1 that addresses disturbances to the abandoned mine in the N½ of Section 24. The updated version of Section 4.1 was not added to the April 28, 2022 version of the permit. A copy of the revised language in Section 4.1 was provided by BNI to Reclamation Division staff via email on June 7, 2022. (GAW/JAR)

Section 4.1-1 – Pit Layout and Facilities Map

5. Follow-up to Item No. 26: Please update the pit layout and facilities map to not show any mining within 500 feet of occupied farmsteads that BNI has not secured written consent from the surface owner. Occupied farmsteads that BNI has not secured consent agreements must be depicted as areas unsuitable for mining on the Pit Layout and Facilities Map. This would include farmsteads where mining activities are not planned beyond the current term of the permit. NDAC 69-05.2-04-01.1(4). (GAW)

Section 4.2 - Existing Structures

6. Follow-up to Items No. 29 through 34: Please include the updated version of Section 4.2 that addresses Items No. 29 through 34 of our technical review letter dated February 18, 2022. The updated version of Section 4.2 was not added to the April 28, 2022 version of the permit. A copy of the revised language in Section 4.2 was provided by BNI to Reclamation Division staff via email on June 7, 2022. (JAR/GAW)
7. The county road numbers (i.e. 37th Avenue SW) are not correctly aligned with the corresponding county roads on Plate 4.2-2 (Existing County Road Infrastructure Photos). Please correct this alignment error. (JAR)

Section 4.5 - Transportation Plan

8. Follow-up to Item No. 34: Please revise the Transportation Narrative to describe how BNI plans to cross 37th Avenue SW with mining equipment prior to constructing the overpass over the haul road in the NW¼ of Section 13. It appears an equipment access road or a dragline corridor will be needed to transport equipment across 37th Avenue SW for mining activities planned prior to the construction of the overpass. Please clarify if BNI's excavators will be able to pass under the 37th Avenue SW overpass and how a dragline will be transported across 37th Avenue SW. Please provide design plans for an equipment access road across 37th Avenue SW, if necessary, and update the Pit Layout and Facilities Map, Plate 4.1-1, and Transportation Plan map, Plate 4.5-1, accordingly. (GAW/JAR)
9. Please include a statement in the third paragraph on page 4.5-1 in Section 4.5 (Transportation Plan) stating that the necessary approval documents will be submitted to the PSC before installing or replacing any culverts under a county road if the road is not closed. (JWE)

Section 4.6 - Surface Water Management Plan

10. Please review and revise all sediment pond designs and/or culvert designs submitted with Revision No. 8 to ensure the average watershed slope is used in the HydroCAD calculations instead of the average slope of the flow line. Please refer to Jodey Houn's email sent on May 27, 2022 to Reclamation Division staff for further clarification. Lastly, please submit a list that outlines which sediment ponds and culverts were redesigned. (JWE)

11. Follow-up to item 38: Please revise the HydroCAD calculations for sediment pond P-14-1 (Appendix 4.6-45) using the average watershed slope of 7.8% instead of the average slope of 2.68%. Please refer to Jodey Houn's email sent on May 27, 2022 to Reclamation Division staff for further clarification. Additionally, please revise the culvert information sheet for culvert 31 as appropriate. (JWE)
12. Follow-up to Item No. 39: Please update the reference to the NDDOH to the NDDEQ in the narrative of Appendix 4.6-42 – Design of Sedimentation Pond P-13-8. (JAR)

Section 4.14 – Reclamation Cost Estimate for Bonding Purposes

13. The subsoil respread area is not hatched as depicted in the legend for Plate 4.14-1 (Worst Case Bond Plan View). Please revise the map so the subsoil respread area is hatched. (JWE)

Please contact us with any questions.

Sincerely,



Zanna A. Brinkman
Director
Reclamation Division

cc via email only: BNI Coal Efiling (BNIefiling@bnicoal.com)
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