

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

BNI Coal, Ltd.  
Permit No. BNCR-1101  
Application

Case No. RC-11-700

**SURFACE COAL MINING AND RECLAMATION PERMIT CONDITIONS**

May 28, 2014

Surface Coal Mining Permit Number BNCR-111 has been issued to BNI Coal, Ltd. subject to Chapter 38-14.1 of the North Dakota Century Code, all the rules promulgated thereunder, and the following standard conditions:

**STANDARD CONDITIONS**

1. BNI Coal, Ltd. shall conduct surface coal mining and reclamation operations only on those lands specifically designated in the permit and only for the approved term of the permit and only in the manner or with the processes and techniques specified in the permit application and approved by the Commission.
2. Each of the reclamation or monitoring procedures, techniques, methods or descriptions specified in the permit application and approved by the Commission, or revision or renewal thereof, or by order of the Commission following such approval shall be deemed a "permit condition" for the purposes of enforcement under North Dakota Century Code Chapter 38-14.1.
3. BNI Coal, Ltd. shall take all possible steps to minimize any adverse effects to the environment or public health and safety resulting from non-compliance with any term or condition of the permit, including, but not limited to: accelerated or additional monitoring necessary to determine the nature and extent of non-compliance, immediate implementation of measures necessary for compliance, and warning, as soon as possible after learning of such non-compliance, any person whose health and safety is in imminent danger due to the non-compliance.
4. Compliance with any design criteria or technical specifications, even where design criteria or the specifications have been approved by the Commission as a part of this permit shall not relieve BNI Coal, Ltd. of the duty to redesign any criteria or technical specifications in order to comply with any applicable effluent limitation, applicable performance standard, water quality standard, ambient air quality standard, or any order issued by the Commission under North Dakota Century Code Chapter 38-14.1, if such design criteria or technical specifications are later found to be inadequate.
5. BNI Coal, Ltd. shall dispose of solids, sludge filter backwash, or pollutants removed in the course of treatment or control of waters or emissions to the air in the manner required by North Dakota Century Code Chapter 38-14.1 and North Dakota

Pages: 3  
RC-20-438 Filed: 8/22/2023  
Exhibit PSC12 - Permit BNCR-1101 Permit  
Conditions Dated 05/28/14

Public Service Commission

95

Administrative Code Article 69-05.2, and which prevents violation of any other applicable law.

6. BNI Coal, Ltd. shall conduct its operations in accordance with any measures specified in the permit as necessary to prevent significant, imminent environmental harm to the health or safety of the public.

7. All applications for revisions to this permit must include a revision summary that describes the modifications that are proposed and indicates the pages, maps, or other parts of the permit that are revised or added. All revised and added pages, maps, designs, etc. shall be formatted for incorporation into the text of the permit and the revision number and date revised must appear on each revised and/or added document.

8. If a cessation order is issued under North Dakota Century Code Section 38-14.1-28, BNI Coal, Ltd. must either submit the following information, current to the date the cessation order was issued, or notify the Commission in writing that there has been no change since the last submittal:

a. Any new information needed to correct or update the information previously submitted under subdivision e of subsection 1 of North Dakota Administrative Code Section 69-05.2-06-01.

b. If not previously submitted, the information required from a permit applicant by subdivision e of subsection 1 of North Dakota Administrative Code Section 69-05.2-06-01.

### **SPECIAL CONDITIONS**

1. No overburden or coal removal may occur on federal coal tracts located within the permit area until BNI Coal, Ltd. submits certified copies of the federal coal leases to the Commission and until the mine plan for the federal coal is approved by the United States Department of the Interior. Until a coal lease is issued and the mine plan is approved by the Department of the Interior, surface disturbances on the federal coal tracts are limited to those activities that the Commission determines are necessary for carrying out mining on the adjoining tracts where BNI Coal, Ltd. has all of the rights necessary to mine the coal.

2. No overburden or coal removal may occur in Section 7, T141N, R83W, until BNI Coal, Ltd. submits a certified copy of the coal lease it has with Great Northern Properties Limited Partnership or other documents showing it has the necessary rights to mine the coal on this tract. Until certified copies of documents are submitted demonstrating the right to mine the coal in this tract, surface disturbances on this tract are limited to those activities that the Commission determines are necessary for carrying out mining on the adjoining tracts where BNI Coal, Ltd. has all of the rights necessary to mine the coal.

3. No overburden or coal removal may occur in the NE $\frac{1}{4}$  of Section 20, T141N, R83W, until BNI Coal, Ltd. submits certified copies of leases with additional coal owners or other documents demonstrating it has the necessary rights to mine the coal on this tract. Until certified copies of these documents are submitted, surface disturbances on this tract are limited to those activities that the Commission determines are necessary

for carrying out mining on the adjoining tracts where BNI Coal, Ltd. has all of the rights necessary to mine the coal.

4. BNI Coal, Ltd. must provide copies to the Commission of the road authority's approval documents to close or relocate any public road and other approval documents to conduct surface coal mining activities within one hundred feet of the outside right-of-way of any public road as required by NDAC 69-05.2-04-01.3(4). These documents must be provided to the Commission within thirty days from the road authority's approval date and include the written findings made by the road authority.

**PUBLIC SERVICE COMMISSION**

  
\_\_\_\_\_  
**Randy Christmann**  
Commissioner

  
\_\_\_\_\_  
**Brian P. Kalk**  
Chairman

  
\_\_\_\_\_  
**Julie Fedorchak**  
Commissioner