

May 12, 2021

Steve Kahl
Executive Secretary
ND Public Service Commission
Inside Mail

Dear Mr. Kahl:

This is in response to your request for a review of the environmental impacts associated with the Revision No. 17 to Surface Coal Mining Permit BNCR-9401 project at the Center Mine.

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

- There may be floodplains identified and/or mapped where this proposed project is to take place. North Dakota has no formal 'permitting' authority as a state entity in NFIP identified floodplain areas. The permitting is always done by the local entity, which has jurisdiction in the area in question. Please work closely with the local Floodplain Administrator.

- The Office of the State Engineer (OSE) and Water Resource Districts are responsible for regulating drainage in North Dakota. The OSE is also responsible for regulating the construction and modification of any dike, levee, or other device capable of obstructing or diverting more than 50 acre-feet of water. Consequently, the OSE requests to be notified regarding a proposed project's impacts, if any, to water resources, such as watercourses (i.e. streams or rivers), agricultural drains, and wetlands (i.e. ponds, sloughs, lakes, or any series thereof), and dikes, levees, and other water control devices, as any alterations, modifications, improvements, or impacts to those may require a drainage permit(s) or a construction permit(s) from the OSE.

Specifically, it appears there are two permits for drains located in Section 5 and 8, Township 141 North, Range 83 West, Oliver County (Application to Drain a Wetland Nos. 2677 and 2699, see attached). The OSE requests to be notified of any modifications to these drains, as those modifications may require a permit(s).

- In accordance with North Dakota Century Code §61-16.1-38, any new construction or construction modifications on water storage impoundments, including stock ponds or sedimentation ponds, may require a construction permit from the Office of the State Engineer (OSE) based on the ponds' storage volume and hazard classification. Similarly, if any stock ponds or sedimentation 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

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Comments received from State Water Commission
North Dakota State Water Commission (SWC)
Steven Best