



Public Service Commission

State of North Dakota

COMMISSIONERS

Julie Fedorchak
Randy Christmann
Sheri Haugen-Hoffart

sent via email only

March 16, 2022

600 East Boulevard, Dept. 408
Bismarck, North Dakota 58505-0480
Web: www.psc.nd.gov
E-mail: ndpsc@nd.gov
Phone: 701-328-2400
ND Toll Free: 1-877-245-6685
Fax: 701-328-2410
TDD: 800-366-6888 or 711

Greg Petrick
Reclamation Specialist
BNI Coal, Ltd.
2360 35th Avenue SW
Center, ND 58530-9499

Dear Mr. Petrick:

This letter is in response to the BNI Coal's St. Lucas Cemetery disinterment/reinterment plan submitted to the Reclamation Division February 18, 2022. The Reclamation Division has completed its review and thanks BNI for keeping us apprised of the plan.

The St. Lucas Cemetery, in the NE $\frac{1}{4}$ of Section 18, T141N, R83W is part of a 2-acre tract being added to Permit BNCR-1101 with pending Revision No. 9. The 2-acre tract was purchased by BNI on June 22, 2021; the disinterment/reinterment plan incorrectly states the purchase date of June 17, 2021, with an agreed-upon disinterment/reinterment plan. Ethnoscience, Bismarck Funeral Home, ND Department of Health, and the next of kin worked closely with BNI to develop the disinterment/reinterment plan that is scheduled to begin May 2022.

NDCC 38-14.1-07(5) prohibits coal mining operations within one hundred feet of a cemetery; however, NDAC 69-05.2-04-01.1(5) states the prohibition on surface coal mining activities within one hundred feet, measured horizontally, of a cemetery does not apply if the cemetery is relocated in accordance with all applicable laws and rules.

Suitable plant growth material cannot be removed from the 2-acre cemetery tract until Revision 9 is approved and BNI includes the 2-acre tract as an area where SPGM will be removed in the soil handling plan. BNI is reminded that the waiver of the SPGM removal approval process was only valid for the 2021 SPGM removal increment, and a Reclamation Division inspector will need to be on site during the disinterment if a waiver is not approved for BNI's 2022 soils handling plan or if the 2022 soils handling plan is not approved before the disinterment date. Please contact us with any questions.

Sincerely,

Zanna Brinkman
Director
Reclamation Division

cc: Karene Hall
BNIefiling

26 RC-21-298 Filed 03/15/2022 Pages: 1
Section 18 Reinterment Plan Letter - electronic only
Public Service Commission