



Public Service Commission

State of North Dakota

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Sent via email only

September 28, 2021

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Dear Dr. Volk:

The Reclamation Division has conducted an initial review of the application for Bond Release No. 9 to Surface Coal Mining Permit BNCR-8106 for the Center Mine. The bond release application does not contain the required information or all of the attachments listed on SFN-19813, Application for Final Release of Bond for Surface Coal Mining and Reclamation Operations. In addition, information required by Policy Memorandum No. 9 to Mine Operators was not included in the newspaper notice or notification letters. The information provided in the bond release application is insufficient for the Reclamation Division to determine if the tract can be bond released.

The application states that no coal was removed from the tract and the area was disturbed for associated mining disturbance, but no supporting documentation was provided. BNI's Extended Mine Plan maps from 2005 through 2021 all depict this tract as mined through and some of the old annual maps appear to indicate that more than SPGM removal occurred on or adjacent to the tract. The application provides no justification to bond release the developed water resource (that does not hold water) as fish and wildlife habitat other than providing a 1991 preference statement indicating the landowner wants to retain pond 25-9. Also, the application states the tract is subject to 1973 and 1975 law reclamation, but no further explanation is provided and the law liability periods are not depicted on any maps. In addition, BNI is proposing to compare hand sampled productivity data to a standard calculated utilizing NDAS average county yield values. This methodology is normally not allowed as described on page III-D-2 in the Measurements subsection of our revegetation success document. The Reclamation Division might consider accepting the measurement methodology in this instance since the tract is subject to 1973 and 1975 reclamation law periods provided BNI can establish that the hand sampled reclaimed yield exceeds the NDAS average county yield plus the expected yield of the stubble not harvested with hay mowing equipment.

The newspaper notice cannot be published, the notice letters cannot be mailed, and the bond release inspection will not be scheduled until this application is revised to include adequate information. If you have any questions, please contact this office.

Sincerely,

Dean K. Moos
Director
Reclamation Division

cc via email only: Karene Hall (khall@bnicoal.com)
BNI Coal Efiling (BNIEfiling@bnicoal.com)

Center Mine\Permits\BNCR - 8106\Bond Release\Bond Release 9\Initial_Rvw_Ltr_9-28-21