



# Public Service Commission

## State of North Dakota

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### COMMISSIONERS

Randy Christmann  
Sheri Haugen-Hoffart  
Julie Fedorchak

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

*sent via email only*

February 27, 2023

Karene Hall  
Permit Coordinator  
BNI Coal, Ltd.  
2360 35<sup>th</sup> Avenue SW  
Center, ND 58530-9499  
[khall@bnicoal.com](mailto:khall@bnicoal.com)

Dear Ms. Hall:

The Reclamation Division has completed a technical review of the application for Revision No. 59 to Surface Coal Mining Permit BNCR-8106 for the Center Mine. This revision coincides with Renewal No. 8 for Permit BNCR-8106. The following items must be addressed before the Reclamation Division will recommend Commission action on the revision application and the permit renewal. The permit renewal must be approved no later than the July 12, 2023 Commission meeting.

### **Certificate of Liability Insurance**

1. Please replace the expired Certificate of Liability Insurance with the current version. (JAR)

### **Section 4.6 - Surface Water Management Plan**

2. Follow-up to item No. 10 of our pre-renewal review letter dated October 31, 2022: BNI's response to item No. 10 proposes to delete two paragraphs of information pertaining to sediment pond P31-1, and to delete sediment ponds 23-6, 25-1, 25-2 lower cell, 25-3, 31-1, and 35-1 from the narrative stating which ponds landowners have requested to be retained as permanent structures. Please revise the narrative so that historical information regarding these ponds is retained in the permit and clarify if sediment pond 35-10 has been converted to a developed water resource. (GAW)
3. The last sentence on page 4.6-3 in Section 4.6 (Surface Water Management Plan) incorrectly cites the ND Department of Water Quality. Please correct this typographical error to the ND Department of Water Resources. (JAR)

### **Section 4.9 – Reclamation Schedule**

4. Please add Ponds 25-1 and 31-1, reclamation dates, and bond release information to the table on page 4.9-2 in Section 4.9 (Reclamation Schedule). (JAR)

**Section 4.13 - Fish and Wildlife Resources Protection and Enhancement Plan and Fish and Wildlife Monitoring Plan**

5. Follow-up to item No. 17, 18, and 19 of our pre-renewal review letter dated October 31, 2022: BNI proposes to add a paragraph to the Fish and Wildlife Monitoring Plan to address Items 17, 18, and 19 of our pre-renewal review letter rather than the Fish and Wildlife Resource Protection and Enhancement Plan. As previously requested, please update the Fish and Wildlife Resource Protection and Enhancement Plan with language stating that BNI will periodically utilize the USFWS IPaC site to reassess the proposed and listed species in Oliver County. Also, please update the narrative to clearly state that no surface mining activities will be conducted that may jeopardize the continued existence of any proposed, threatened, or endangered species; and that no mining activities will be conducted in a manner that would result in the unlawful taking of bald or golden eagles, their nests, or their eggs as required by NDAC 69-05.2-10-03(6)(d). (GAW)

**Section 4.14 – Reclamation Cost Estimate for Bonding Purposes**

6. As stated in our February 21, 2023 email, the updated worst case bond estimate for the consolidated bond area (BNCR-9702, 8602, and 8106) can be addressed in response to the midterm review letter for BNCR-9702 so a separate revision is not required to update the worst case bond estimate.

Please contact this office if you have any questions.

Sincerely,



Zanna Brinkman  
Director  
Reclamation Division

cc via email only: Doug Scheetz (dscheetz@bnicoal.com)  
BNI Regulatory & Compliance (BNIfiling@bnicoal.com)  
Gregory Petrick (gpetrick@bnicoal.com)