



# Public Service Commission

## State of North Dakota

### 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*

December 29, 2023

Karene M. 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 conducted a completeness review of the applications for Revision No. 11 and Renewal No. 2 to Permit BNCR-1101 at the Center Mine. The following items must be adequately addressed before the application can be deemed complete and approval granted to begin publication of the newspaper notice for the permit renewal and revision. A prompt response is necessary to keep the revision and renewal applications on schedule prior to the expiration of the current permit term. Please note that follow-up items reference the item as numbered in the August 11, 2023 pre-renewal letter.

### **Appendix 1-1 Revision Summary and List of Changes**

1. Please add Plate 4.6-1 (Surface Water Management Plan) to the list of changes for Revision 11/Renewal 2 since changes were made to the map. (MLJ)

### **Section 1.5 – Public Notice**

2. Please include the legal descriptions of the area being added to the permit with pending Revision No. 8 in the first paragraph of the public notice in Appendix 1.5-1. This would include all or portions of Sections 11, 14, 15, 16, 22 and 23 of T141N, R84W, and include a sentence clarifying that this acreage is being added to Permit BNCR-1101 with pending Revision No. 8. (GAW)
3. Please revise the first paragraph of the public notice to state that Renewal No. 2 will extend the permit term another five years. (GAW, PJR)
4. The word “regrading” is mistakenly written as “regarding” in a sentence near the end of the first paragraph of the public notice. Please correct this error. (GAW, PJR)
5. In the public notice, please clarify that Revision No. 11 identifies new coal removal subareas that are to be mined during the next term of the permit. (GAW)

6. Please update the narrative in the 2<sup>nd</sup> paragraph of the Notice to add “renewal” to inform any person requesting a copy of the applications that a renewal application is also available. (JAR, PJR)
7. Please revise the public notice to specifically state that a variance from the contemporaneous reclamation requirements is being proposed for areas mined in portions of Section 13 and the W $\frac{1}{2}$  of Section 18. (GAW)
8. Please delete the last sentence of the second paragraph of the public notice which states a USB flash drive copy of the revision application may be requested by contacting the PSC. (GAW)
9. With Renewal No. 2 and Revision No. 11, BNI is planning mining operations through public roads along the north and east sides of Section 19, which are depicted as alternative routes of travel on the map included with the public notice. NDAC 69-05.2-10-01(d) requires a concise statement describing the road, the particular part to be relocated, where the relocation is to take place and its duration. Please review the revision application and clarify if BNI Coal, Ltd. has obtained Oliver County Board of Commissioners approval to conduct operations within 100 feet of the outside rights-of-way of section lines and to temporarily close other section lines necessary to conduct surface coal mining and reclamation operations during the next permit term. Please refer to the original public notice for BNCR-1101 and the public notice for Renewal No. 1 and Revision No. 6 as examples of public notice filings. (GAW)
10. A sentence in the third paragraph of the public notice states that any person adversely affected may file a petition to designate an area added to the permit with the revision application as unsuitable for surface coal mining operations. Revision No. 11 does not propose adding any land to the permit area. Please correct this error while complying with NDAC 38-14.1-18(1). (GAW)
11. Joanne Trinkle is listed on Plate 1.9-1 (Ownership Map) in the N $\frac{1}{2}$  of Section 15 but she is not identified in the Notice (Section 1.5-1 – Notice of Publication). Please review and update the Notice as necessary. Also, Anne F. Cerulli is listed in the Notice of Publication but not identified on Plate 1.9-1 (Ownership Map). Please review and update as necessary. (JAR)
12. The final listing in the Notice of Publication identifies the location for a ~1.5 acre tract owned by BNI Coal, Ltd. in Section 32, T142N, R83W as WS $\frac{1}{2}$ SW $\frac{1}{4}$ . Please correct this typographical error. (JAR)
13. The last paragraph in the public notice states, “The legal description and names of surface and coal owners follow for the existing permit area and the proposed permit addition:” Please revise to state that the proposed permit addition is pending with Revision No. 8 to BNCR-1101. (JAR, JWE)

#### **Section 4.1 – Operations Plan**

14. Please add the proposed prime farmland polygons to the Revision 8 addition area on Plate 4.10-2 (Post-Mining Slope Map). (MLJ)

**Section 4.6 – Surface Water Management Plan**

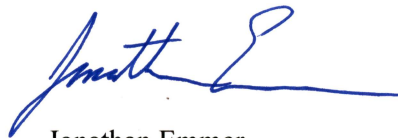
15. The pits, sequence of mining and planned year of mineral removal on the Surface Water Management Plan map, Plate 4.6-1 are different than what is depicted in the Pit Layout and Facilities Map, Plate 4.1-1. Please update so the information is consistent. (GAW)

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

16. Please update Plate 4.14-1 (Worst Case Bond Map) to depict the worst-case scenario during the permit term from May 2024 to May 2029 or provide justification if 2024 is determined to remain the worst-case scenario. For instance, if multiple ponds are scheduled for construction in 2024 but are omitted from the current worst-case scenario, a rationale for this exclusion should be presented. It is imperative to conduct a comprehensive review of Section 4.14, Plate 4.14-2, and Appendix 4.14-1 to include the most pertinent information, including assumptions, for the new permit term. (BSM)

If you have any questions, please contact this office.

Sincerely,



Jonathan Emmer  
Director  
Reclamation Division

cc via email only: Doug Scheetz (dscheetz@bnicoal.com)  
BNI Coal Efiling (BNIefiling@bnicoal.com)  
Gregory Petrick (gpetrick@bnicoal.com)