

Public Service Commission

Sheri Haugen-Hoffart

Randy Christmann

Julie Fedorchak

600 East Boulevard Ave
Dept. 408
Bismarck, ND 58505-0480
701-328-2400
ndpsc@nd.gov

sent via email only

October 18, 2024

Karene M. Hall
Sr. Regulatory Compliance Specialist
BNI Coal, Ltd.
2360 35th Avenue SW
Center, ND 58530-9499
khall@bnicoal.com

Dear Ms. Hall:

The Reclamation Division has conducted a completeness review of the application for Revision No. 44 to Surface Coal Mining Permit BNCR-9702, received on October 4, 2024. The items below must be adequately addressed before the application can be deemed complete and approval is granted to begin publication of the newspaper notice for the permit revision. Please respond to these items in a timely manner to secure publication approval at the earliest opportunity.

Appendix 1.5-1 - Publication Notice

1. Please add narrative in Appendix 1.5-1 (Notice of Publication) to discuss the addition of Variance Area 16 including its location. (JAR/MLJ)
2. Please revise the label for Variance Area 16 in the public notice map so it is easier to read. For example, a background mask could be added to the text. (JWE/JAR)
3. Text for Variance Area #8 is depicted on the N-S section line between Sections 4 and 3 on the Public Notice Map in Appendix 1.5-1 (Notice of Publication). Please remove the "Variance Area #8" text from the Public Notice Map. (JAR)

Section 1.12 – Other Licenses & Permits

4. Item 1a – Air Pollution Permit to Operate #79004 in Section 1.12 (Other Licenses & Permits) expires October 19, 2024. Please update Section 1.12 with the date of the reissued Air Pollution Permit to Operate from the ND Department of Environmental Quality. (JAR)

Section 3.1 – Topographic Information

5. Plate 3.1-2 (Premine Slope Analysis) has been updated to reflect the current mining disturbance boundary, but it appears some premine slopes within the mining disturbance boundary have also been updated. For example, a clear change was made in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 27. Please review and update Plate 3.1-2, if necessary, or provide justification within Section 3.1 (Topographic Information) regarding updates to the premine slope analysis. (BSM)

Section 4.5 – Transportation Plan Narrative

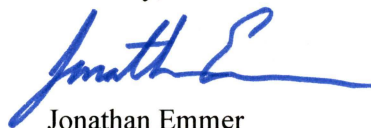
6. Subsection “Revision 16, 37, and 40 Haul Road Section 33 West and Haul Road – Slope 6” on page 5 of Section 4.5-1 (Transportation Plan Narrative) has been updated with Revision 44. Please reflect the updates made regarding Revision 44 by updating the name of the subsection from “Revision 16, 37, and 40” to “Revision 16, 37, 40, and 44” on page 5 in Section 4.5-1. (BSM)

Section 4.9 – Reclamation Schedule

7. Please review the 2018 through 2031 Reclamation Schedule narratives in Section 4.9 (Reclamation Schedule) to ensure the information provided is accurate and consistent with current plans. Each of the annual reclamation timeline narratives states reclamation timing variances will be requested in areas where adherence to the contemporaneous reclamation deadlines are impractical or impossible and specific variances from reclamation timing requirements are discussed later in this section, which includes only Variance Areas 12 and 16. Please review the mining and reclamation timelines for Sections 20 and 21 to ensure an additional variance(s) from the contemporaneous reclamation requirements are not warranted at this time. It seems likely additional variances from the contemporaneous reclamation requirements will be needed for most of Section 20, since spoil from Variance Area 12 is needed to achieve the approved post mining topography. Since Revision 44 addresses final closure plans for the pit in Section 29, it should also update reclamation timing plans for Sections 20 and 21 where mining will be completed in three years. Informing surface owners about plans for delayed reclamation on their property early in the permitting process is preferred to establishing deadlines that are impractical or impossible to achieve. (GAW)
8. Please revise the narrative in Section 4.9 (Reclamation Schedule) to specify when Variance Area 16 area will be reclaimed through initial seeding. This will provide affected landowners with a clear understanding of when their property will be reclaimed. (JWE/GAW/JAR)
9. Please review and revise Plate 4.9-1 (Reclamation Variance Areas) to reflect the current permit boundaries and the correct pit sequences. The map incorrectly indicates mining began in Section 20 in 2021 and will be completed in 2026, while the current Pit Layout and Facilities Map (Section 4.1-1) indicates mining began in 2023 and will end in 2027. Also, please use a different label to depict historical variance areas separate from the current variance areas. (BSM/GAW)

Please contact our office with any questions.

Sincerely,



Jonathan Emmer
Director
Reclamation Division

cc via email only: Rylan Sundsbak (rsundsbak@bnicoal.com)
BNI Coal Efiling (BNIefiling@bnicoal.com)