



# Public Service Commission

Sheri Haugen-Hoffart

Randy Christmann

Jill Kringstad

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

*sent via email and regular mail*

April 16, 2025

Mr. Jeffrey Fleischman, Chief  
Denver Field Division  
Office of Surface Mining  
PO Box 11018  
150 East B Street  
Casper, WY 82601-7032  
jfleischman@osmre.gov

Dear Mr. Fleischman:

BNI Coal, Ltd. has filed an applications for Revision No. 19 and Renewal No. 6 to Surface Coal Mining Permit BNCR-9401 for the Center Mine. This revision updates various sections of the permit for the next 5-year permit term including the legal and financial section, extended mine plan, environmental resources, and operation plans. Specific updates include coal removal and waste disposal cells, pit layout and facilities map, equipment list, blasting plan, surface water management, water monitoring and drill hole reclamation, post mining land use, fish and wildlife resource protection and enhancement/monitoring plan, and the worst-case bond estimate. The next permit term is from August 16, 2025 through August 16, 2030. Permit BNCR-9401 contains a Federal Coal tract totaling 20 acres in the S½NE¼NE¼ of Section 8, T141N, R83W. The Office of Surface Mining must make a determination if this revision constitutes a mine plan modification.

Enclosed is a USB flash drive containing the permit application for Revision No. 19. All updates to the permit are listed in Appendix 1-1 (Revision Summary – List of Changes). We would appreciate any comments on the revision and renewal applications by June 2, 2025. If you have any questions, please contact this office.

Sincerely,

Jonathan Emmer  
Director  
Reclamation Division

Enclosure

cc via email only w/o enclosure: John Sieving (jsieving@osmre.gov)

Center Mine\Permits\BNCR - 9401\Revisions\Rev19\_Ren6\Rev19\_Advsry\_rvw\_rqst\_ltr\_4-16-25



# Public Service Commission

Sheri Haugen-Hoffart

Randy Christmann

Jill Kringstad

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

*sent via email and regular mail*

April 16, 2025

Ms. Erica Trent  
Natural Resources Specialist  
Office of Surface Mining  
PO Box 25065  
Lakewood, CO 80215  
etrent@osmre.gov

Dear Ms. Trent:

BNI Coal, Ltd. has filed an applications for Revision No. 19 and Renewal No. 6 to Surface Coal Mining Permit BNCR-9401 for the Center Mine. This revision updates various sections of the permit for the next 5-year permit term including the legal and financial section, extended mine plan, environmental resources, and operation plans. Specific updates include coal removal and waste disposal cells, pit layout and facilities map, equipment list, blasting plan, surface water management, water monitoring and drill hole reclamation, post mining land use, fish and wildlife resource protection and enhancement/monitoring plan, and the worst-case bond estimate. The next permit term is from August 16, 2025 through August 16, 2030. Permit BNCR-9401 contains a Federal Coal tract totaling 20 acres in the S½NE¼NE¼ of Section 8, T141N, R83W. The Office of Surface Mining must make a determination if this revision constitutes a mine plan modification.

Enclosed is a USB flash drive containing the permit application for Revision No. 19. All updates to the permit are listed in Appendix 1-1 (Revision Summary – List of Changes). We would appreciate any comments on the revision and renewal applications by June 2, 2025. If you have any questions, please contact this office.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jonathan Emmer".

Jonathan Emmer  
Director  
Reclamation Division

Enclosure

cc via email only w/o enclosure: Marcelo Calle (mcalle@osmre.gov)

Center Mine\Permits\BNCR - 9401\Revisions\Rev19\_Ren6\Rev19\_Advsry\_rvw\_rqst\_ltr\_4-16-25



# Public Service Commission

Sheri Haugen-Hoffart

Randy Christmann

Jill Kringstad

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

*sent via email and regular mail*

April 16, 2025

Josh Alexander  
Bureau of Land Management  
Billings Field Office  
Eastern Montana Dakotas District Office  
Department of Interior  
5001 Southgate Dr.  
Billings, MT 59101  
jalexand@blm.gov

Dear Mr. Alexander:

BNI Coal, Ltd. has filed an applications for Revision No. 19 and Renewal No. 6 to Surface Coal Mining Permit BNCR-9401 for the Center Mine. This revision updates various sections of the permit for the next 5-year permit term including the legal and financial section, extended mine plan, environmental resources, and operation plans. Specific updates include coal removal and waste disposal cells, pit layout and facilities map, equipment list, blasting plan, surface water management, water monitoring and drill hole reclamation, post mining land use, fish and wildlife resource protection and enhancement/monitoring plan, and the worst-case bond estimate. The next permit term is from August 16, 2025 through August 16, 2030. Permit BNCR-9401 contains a Federal Coal tract totaling 20 acres in the S $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 8, T141N, R83W. The Office of Surface Mining must make a determination if this revision constitutes a mine plan modification.

Enclosed is a USB flash drive containing the permit application for Revision No. 19. All updates to the permit are listed in Appendix 1-1 (Revision Summary – List of Changes). We would appreciate any comments on the revision and renewal applications by June 2, 2025. If you have any questions, please contact this office.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jonathan Emmer".

Jonathan Emmer  
Director  
Reclamation Division

Enclosure

Center Mine\Permits\BNCR - 9401\Revisions\Rev19\_Ren6\Rev19\_Advsry\_rvw\_rqst\_ltr\_4-16-25



# Public Service Commission

Sheri Haugen-Hoffart

Randy Christmann

Jill Kringstad

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

*sent via email and regular mail*

April 16, 2025

Mr. Edward Kraft  
Field Office Manager  
Bureau of Land Management  
ND Field Office  
99 23rd Avenue West, Suite A  
Dickinson, ND 58601  
ekraft@blm.gov

Dear Mr. Kraft:

BNI Coal, Ltd. has filed an applications for Revision No. 19 and Renewal No. 6 to Surface Coal Mining Permit BNCR-9401 for the Center Mine. This revision updates various sections of the permit for the next 5-year permit term including the legal and financial section, extended mine plan, environmental resources, and operation plans. Specific updates include coal removal and waste disposal cells, pit layout and facilities map, equipment list, blasting plan, surface water management, water monitoring and drill hole reclamation, post mining land use, fish and wildlife resource protection and enhancement/monitoring plan, and the worst-case bond estimate. The next permit term is from August 16, 2025 through August 16, 2030. Permit BNCR-9401 contains a Federal Coal tract totaling 20 acres in the S $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 8, T141N, R83W. The Office of Surface Mining must make a determination if this revision constitutes a mine plan modification.

Enclosed is a USB flash drive containing the permit application for Revision No. 19. All updates to the permit are listed in Appendix 1-1 (Revision Summary – List of Changes). We would appreciate any comments on the revision and renewal applications by June 2, 2025. If you have any questions, please contact this office.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jonathan Emmer".

Jonathan Emmer  
Director  
Reclamation Division

Enclosure

Center Mine\Permits\BNCR - 9401\Revisions\Rev19\_Ren6\Rev19\_Advsry\_rvw\_rqst\_ltr\_4-16-25



# Public Service Commission

Sheri Haugen-Hoffart

Randy Christmann

Jill Kringstad

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

*sent via email and regular mail*

April 16, 2025

Mr. Luke Toso  
U.S. Fish and Wildlife Service  
3425 Miriam Avenue  
Bismarck, ND 58501-7926  
luke\_toso@fws.gov

Dear Mr. Toso:

Enclosed is a USB flash drive containing Revision No. 19 and Renewal No. 6 to Surface Coal Mining Permit BNCR-9401, held by BNI Coal, Ltd. for the Center Mine. Revision No. 19 updates various sections of the permit for the next five-year term, from August 16, 2025, through August 16, 2030. All updates to the permit are listed in Appendix 1-1 (Revision Summary – List of Changes).

The USFWS Information for Planning and Consultation (IPaC) website indicates that seven listed or proposed species have the potential to exist in Permit BNCR-9401. No designated or proposed critical habitat is within or immediately adjacent to the permit. The listed species include the Whooping Crane, Piping Plover, Rufa Red Knot, and Dakota Skipper. The proposed species are the Monarch Butterfly, Western Regal Fritillary, and Suckley's Cuckoo Bumble Bee.

The Reclamation Division has prepared the draft threatened, endangered, and proposed species finding attached for your review. We would appreciate any comments on the revision and renewal applications and on the attached threatened and endangered species finding by June 2, 2025.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jonathan Emmer".

Jonathan Emmer  
Director  
Reclamation Division

Enclosures

cc via email only w/o enclosure: Jerry Reinisch (jerry\_reinisch@fws.gov)

Center Mine\Permits\BNCR - 9401\Revisions\Rev19\_Ren6\Rev19\_Advsry\_rvw\_rqst\_ltr\_4-16-25

## Revision No. 19 and Renewal No. 6 to BNCR-9401 – Species Specific Effects Finding

**Finding No. 9. The operations will not affect the continued existence of threatened, endangered or proposed species or result in the destruction or adverse modification of proposed or designated critical habitats [NDAC 69-05.2-10-03(6)(d)].**

Permit BNCR-9401 for the BNI Center Mine consists of 338.28 acres, all of which have previously been disturbed for mining activities and activities related to Minnkota Power's Milton R. Young Power Plant Station. Due to the previous disturbance, most threatened and endangered species "**may be affected but are not likely to be adversely affected**" by the mining and reclamation activities proposed within Revision No. 19 and Renewal No. 6. More detailed species-specific information can be found below. **Figure 1** is also provided below to help you visualize the location of Permit BNCR-9401.

### Whooping Crane – Endangered

Oliver County and the permit area are within the principal migration route of the Whooping Crane. The likelihood of Whooping Cranes occurring in the area is very low because desirable stop-over roosting habitat does not exist in the area and Whooping Crane feeding sites are often found adjacent to roosting sites. It has been well documented that Whooping Cranes avoid human disturbances. Wetlands in and adjacent to the permit area are primarily associated with springs and seeps in linear drainages where the horizontal line-of-sight distance is limited due to topography. The permit area does not contain any large seasonal or more permanent wetlands that have an open water zone suitable as Whooping Crane stopover habitat. The Milton R. Young Power Plant is located adjacent to the permit area. The Reclamation Division concludes mining and reclamation activities proposed with Revision No. 19 and Renewal No. 6 "**may affect but is not likely to adversely affect**" the continued existence of Whooping Cranes.

### Piping Plover – Threatened

The Piping Plover is a migratory bird that can occur in North Dakota from mid-April through August. Suitable habitat for the Northern Great Plains Population is generally characterized as sparsely vegetated shorelines usually associated with alkaline wetlands and sandbars and shorelines associated with major river systems. In Oliver County, North Dakota, this species can be found along the Missouri River. The possibility for substantial Piping Plover populations to occur within the permit area is limited due to restricted habitat preferences, nesting requirements, and the lack of suitable habitats within the permit area. A Piping Plover was recorded at the mine in the late 1970's on Pond 31-1, which is approximately two miles from Permit BNCR-9401. Sedimentation ponds within BNI permitted areas can provide the desired habitat for Piping Plovers for a limited period of time. These areas are observed by the mine throughout the Piping Plover migratory and breeding periods. The Reclamation Division and USFWS are to be notified when Piping Plovers are sighted at the mine. The Reclamation Division concludes the permit area does not contain designated, suitable, or potential habitat for this species and the mining and reclamation activities proposed with Revision No. 19 and Renewal No. 6 "**may affect but is not likely to adversely affect**" the continued existence of the Piping Plover.

### Rufa Red Knot – Threatened

The Rufa Red Knot is a medium sized shorebird that migrates annually between its breeding grounds in the central Canadian Arctic and several wintering regions, including the Southeast United States and Northeast Gulf of Mexico. This species could potentially migrate over North Dakota. Available information indicates this species may use inland saline lakes as stopover habitat during its migration. There are no saline lakes in the permit area or adjacent to the permit area. Therefore, the mining and reclamation activities proposed

with Revision No. 19 and Renewal No. 6 will have “**no effect**” on the continued existence of the Rufa Red Knot.

### **Dakota Skipper – Threatened**

The USFWS listed the Dakota Skipper threatened on October 26, 2014, and the final rule became effective on November 24, 2014. The Dakota Skipper is a small butterfly that requires high quality mixed or tallgrass prairie. According to the 2024 Dakota Skipper North Dakota Survey Protocol there are two habitat types, Type A Habitat and Type B Habitat. Type A Habitat consists of moist lowland mesic prairie habitat type with prairie lily, bluebell bellflower, and mountain deathcamas or smooth camas species. Type B Habitat consists of a relatively dry upland prairie habitat type found on ridges and hillsides dominated with bluestem grasses, needlegrasses, and desirable native forbs such as purple coneflower. In the Missouri Couteau region of North Dakota, on the western edge on the known ranges of the species, Dakota Skippers inhabit a variant of Type B habitats. These habitats typically contain an association of little bluestem, big bluestem, and needlegrasses that are often invaded by Kentucky bluegrass. These prairies also typically contain prairie lily, bluebell bellflower, coneflowers, and aster species. There is no designated critical habitat for Dakota Skippers in Oliver County according to the USFWS IPaC site. Only one Dakota Skipper has been recorded in Oliver County. The butterfly was recorded at the Cross Ranch State Park, approximately 20 miles away from the permitted area. There is no suitable habitat for the Dakota Skipper within the permit or buffer area as defined by the 2024 Dakota Skipper North Dakota Survey Protocol, and areas that contain ecological sites associated with the lifecycle needs for the Dakota Skipper found within the permit area are low to fair quality, as there is no undisturbed native grassland present in the permit area. BNI is committed to having properly certified consultants conduct Dakota Skipper habitat assessments and occupancy surveys in the permit area prior to mining related disturbance. Kelly Krabbenhoft conducted Dakota Skipper habitat surveys along with the annual wildlife surveys for the mine. Meadowlark Environmental, LLC, Carson, ND performed the Dakota Skipper survey starting in 2024. The 2024 survey yielded no identified Dakota Skippers. Meadowlark Environmental will continue the survey in 2025. The Reclamation Division finds the planned mining and reclamation activities proposed within Revision No. 19 and Renewal No. 6 “**may affect but is not likely to adversely affect**” the continued existence of the Dakota Skipper.

### **Monarch Butterfly – Proposed Threatened**

The Monarch Butterfly is a proposed threatened species. The Monarch requires habitat with Milkweed as a larval host plant and floral nectar sources for adults. Monarchs found in North Dakota are comprised of the eastern range Monarchs, found east of the Rocky Mountains. These Monarchs overwinter in central Mexico and then migrate and disperse throughout North America. No designated critical habitat is currently proposed for the eastern range Monarchs.

In July of 2024, Meadowlark Environmental, LLC, Carson, ND performed a butterfly survey focused on observing Dakota Skippers in the BNI Mine’s permitted areas. During this survey, no Monarch Butterflies were observed. Meadowlark Environmental will continue the Dakota Skipper survey in 2025, and any Monarch Butterfly observed will be documented. BNI will continue to work with the USFWS as new guidance and protocols become available.

The Reclamation Division finds the planned mining and reclamation activities proposed within Revision No. 19 and Renewal No. 6 “**may affect but is not likely to jeopardize**” the continued existence of the Monarch Butterfly provided that BNI follows future guidance from the USFWS as indicated in Section 4.13 (Fish and Wildlife Resource Protection, Enhancement, and Monitoring Plan) of Permit BNCR-9401.

### **Western Regal Fritillary – Proposed Threatened**

The Western Regal Fritillary is a proposed threatened species. The Western Regal Fritillary prefers tallgrass prairie and other sunny, open locations such as damp meadows, marshes, wet fields, and mountain pastures. Regal Fritillary butterflies depend on three main habitat components: violet hostplants for larvae, nectar plants for adults, and native warm-season bunch grasses that provide protective sites for all life stages. No designated critical habitat is currently proposed for the Western Regal Fritillary.

In July of 2024, Meadowlark Environmental, LLC, Carson, ND performed a butterfly survey focused on observing Dakota Skippers in the BNI Mine's permitted areas. During this survey, 12 Western Regal Fritillaries were observed throughout the mine. Meadowlark Environmental will continue the Dakota Skipper survey in 2025, and any Western Regal Fritillary will be documented. BNI will continue to work with the USFWS as new guidance and protocols become available.

The Reclamation Division finds the planned mining and reclamation activities proposed within Revision No. 19 and Renewal No. 6 **“may affect but is not likely to jeopardize”** the continued existence of the Western Regal Fritillary provided that BNI follow future guidance from the USFWS as indicated in Section 4.13 (Fish and Wildlife Resource Protection, Enhancement, and Monitoring Plan) of Permit BNCR-9401.

### **Suckley's Cuckoo Bumble Bee – Proposed Endangered**

The Suckley's Cuckoo Bumble Bee is a proposed endangered species. The Suckley's Cuckoo Bumble Bee is an obligate social parasite and is entirely dependent on social bumble bee hosts to collect pollen and rear their young. Since they are entirely dependent on host bumble bee colonies, host colony availability is critical for the species' survival and overall viability. The species has a broad historical range and has been found in various habitat types including prairies, grasslands, meadows, urban and agricultural areas, and woodlands. The last confirmed sighting in the United States of the Suckley's Cuckoo Bumble Bee was in 2016 in Oregon.

The Reclamation Division finds the planned mining and reclamation activities proposed within Revision No. 19 and Renewal No. 6 will have **“may affect but is not likely to jeopardize”** the continued existence of the Suckley's Cuckoo Bumble Bee.

**Figure 1:** Center Mine Permit BNCR-9401





# Public Service Commission

Sheri Haugen-Hoffart

Randy Christmann

Jill Kringstad

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

*sent via email and inside mail*

April 16, 2025

Mr. Jeb Williams  
North Dakota Game and Fish Department  
100 North Bismarck Expressway  
Bismarck, ND 58501-5095  
jwilliams@nd.gov

Dear Mr. Williams:

Enclosed is a USB flash drive containing Revision No. 19 and Renewal No. 6 to Surface Coal Mining Permit BNCR-9401, held by BNI Coal, Ltd. for the Center Mine. Revision No. 19 updates various sections of the permit for the next five-year term, from August 16, 2025, through August 16, 2030. All updates to the permit are listed in Appendix 1-1 (Revision Summary – List of Changes).

The USFWS Information for Planning and Consultation (IPaC) website indicates that seven listed or proposed species have the potential to exist in Permit BNCR-9401. No designated or proposed critical habitat is within or immediately adjacent to the permit. The listed species include the Whooping Crane, Piping Plover, Rufa Red Knot, and Dakota Skipper. The proposed species are the Monarch Butterfly, Western Regal Fritillary, and Suckley's Cuckoo Bumble Bee.

The Reclamation Division has prepared the draft threatened, endangered, and proposed species finding attached for your review. Please provide any revision application review comments and/or comments on the attached threatened and endangered species finding by June 2, 2025 in accordance with NDAC 69-05.2-10-01(2).

Sincerely,

A handwritten signature in blue ink, appearing to read "Jonathan Emmer".

Jonathan Emmer  
Director  
Reclamation Division

Enclosures

Center Mine\Permits\BNCR - 9401\Revisions\Rev19\_Ren6\Rev19\_Advsry\_rvw\_rqst\_ltr\_4-16-25

## Revision No. 19 and Renewal No. 6 to BNCR-9401 – Species Specific Effects Finding

**Finding No. 9. The operations will not affect the continued existence of threatened, endangered or proposed species or result in the destruction or adverse modification of proposed or designated critical habitats [NDAC 69-05.2-10-03(6)(d)].**

Permit BNCR-9401 for the BNI Center Mine consists of 338.28 acres, all of which have previously been disturbed for mining activities and activities related to Minnkota Power's Milton R. Young Power Plant Station. Due to the previous disturbance, most threatened and endangered species "**may be affected but are not likely to be adversely affected**" by the mining and reclamation activities proposed within Revision No. 19 and Renewal No. 6. More detailed species-specific information can be found below. **Figure 1** is also provided below to help you visualize the location of Permit BNCR-9401.

### Whooping Crane – Endangered

Oliver County and the permit area are within the principal migration route of the Whooping Crane. The likelihood of Whooping Cranes occurring in the area is very low because desirable stop-over roosting habitat does not exist in the area and Whooping Crane feeding sites are often found adjacent to roosting sites. It has been well documented that Whooping Cranes avoid human disturbances. Wetlands in and adjacent to the permit area are primarily associated with springs and seeps in linear drainages where the horizontal line-of-sight distance is limited due to topography. The permit area does not contain any large seasonal or more permanent wetlands that have an open water zone suitable as Whooping Crane stopover habitat. The Milton R. Young Power Plant is located adjacent to the permit area. The Reclamation Division concludes mining and reclamation activities proposed with Revision No. 19 and Renewal No. 6 "**may affect but is not likely to adversely affect**" the continued existence of Whooping Cranes.

### Piping Plover – Threatened

The Piping Plover is a migratory bird that can occur in North Dakota from mid-April through August. Suitable habitat for the Northern Great Plains Population is generally characterized as sparsely vegetated shorelines usually associated with alkaline wetlands and sandbars and shorelines associated with major river systems. In Oliver County, North Dakota, this species can be found along the Missouri River. The possibility for substantial Piping Plover populations to occur within the permit area is limited due to restricted habitat preferences, nesting requirements, and the lack of suitable habitats within the permit area. A Piping Plover was recorded at the mine in the late 1970's on Pond 31-1, which is approximately two miles from Permit BNCR-9401. Sedimentation ponds within BNI permitted areas can provide the desired habitat for Piping Plovers for a limited period of time. These areas are observed by the mine throughout the Piping Plover migratory and breeding periods. The Reclamation Division and USFWS are to be notified when Piping Plovers are sighted at the mine. The Reclamation Division concludes the permit area does not contain designated, suitable, or potential habitat for this species and the mining and reclamation activities proposed with Revision No. 19 and Renewal No. 6 "**may affect but is not likely to adversely affect**" the continued existence of the Piping Plover.

### Rufa Red Knot – Threatened

The Rufa Red Knot is a medium sized shorebird that migrates annually between its breeding grounds in the central Canadian Arctic and several wintering regions, including the Southeast United States and Northeast Gulf of Mexico. This species could potentially migrate over North Dakota. Available information indicates this species may use inland saline lakes as stopover habitat during its migration. There are no saline lakes in the permit area or adjacent to the permit area. Therefore, the mining and reclamation activities proposed

with Revision No. 19 and Renewal No. 6 will have “**no effect**” on the continued existence of the Rufa Red Knot.

### **Dakota Skipper – Threatened**

The USFWS listed the Dakota Skipper threatened on October 26, 2014, and the final rule became effective on November 24, 2014. The Dakota Skipper is a small butterfly that requires high quality mixed or tallgrass prairie. According to the 2024 Dakota Skipper North Dakota Survey Protocol there are two habitat types, Type A Habitat and Type B Habitat. Type A Habitat consists of moist lowland mesic prairie habitat type with prairie lily, bluebell bellflower, and mountain deathcamas or smooth camas species. Type B Habitat consists of a relatively dry upland prairie habitat type found on ridges and hillsides dominated with bluestem grasses, needlegrasses, and desirable native forbs such as purple coneflower. In the Missouri Couteau region of North Dakota, on the western edge on the known ranges of the species, Dakota Skippers inhabit a variant of Type B habitats. These habitats typically contain an association of little bluestem, big bluestem, and needlegrasses that are often invaded by Kentucky bluegrass. These prairies also typically contain prairie lily, bluebell bellflower, coneflowers, and aster species. There is no designated critical habitat for Dakota Skippers in Oliver County according to the USFWS IPaC site. Only one Dakota Skipper has been recorded in Oliver County. The butterfly was recorded at the Cross Ranch State Park, approximately 20 miles away from the permitted area. There is no suitable habitat for the Dakota Skipper within the permit or buffer area as defined by the 2024 Dakota Skipper North Dakota Survey Protocol, and areas that contain ecological sites associated with the lifecycle needs for the Dakota Skipper found within the permit area are low to fair quality, as there is no undisturbed native grassland present in the permit area. BNI is committed to having properly certified consultants conduct Dakota Skipper habitat assessments and occupancy surveys in the permit area prior to mining related disturbance. Kelly Krabbenhoft conducted Dakota Skipper habitat surveys along with the annual wildlife surveys for the mine. Meadowlark Environmental, LLC, Carson, ND performed the Dakota Skipper survey starting in 2024. The 2024 survey yielded no identified Dakota Skippers. Meadowlark Environmental will continue the survey in 2025. The Reclamation Division finds the planned mining and reclamation activities proposed within Revision No. 19 and Renewal No. 6 “**may affect but is not likely to adversely affect**” the continued existence of the Dakota Skipper.

### **Monarch Butterfly – Proposed Threatened**

The Monarch Butterfly is a proposed threatened species. The Monarch requires habitat with Milkweed as a larval host plant and floral nectar sources for adults. Monarchs found in North Dakota are comprised of the eastern range Monarchs, found east of the Rocky Mountains. These Monarchs overwinter in central Mexico and then migrate and disperse throughout North America. No designated critical habitat is currently proposed for the eastern range Monarchs.

In July of 2024, Meadowlark Environmental, LLC, Carson, ND performed a butterfly survey focused on observing Dakota Skippers in the BNI Mine’s permitted areas. During this survey, no Monarch Butterflies were observed. Meadowlark Environmental will continue the Dakota Skipper survey in 2025, and any Monarch Butterfly observed will be documented. BNI will continue to work with the USFWS as new guidance and protocols become available.

The Reclamation Division finds the planned mining and reclamation activities proposed within Revision No. 19 and Renewal No. 6 “**may affect but is not likely to jeopardize**” the continued existence of the Monarch Butterfly provided that BNI follows future guidance from the USFWS as indicated in Section 4.13 (Fish and Wildlife Resource Protection, Enhancement, and Monitoring Plan) of Permit BNCR-9401.

### **Western Regal Fritillary – Proposed Threatened**

The Western Regal Fritillary is a proposed threatened species. The Western Regal Fritillary prefers tallgrass prairie and other sunny, open locations such as damp meadows, marshes, wet fields, and mountain pastures. Regal Fritillary butterflies depend on three main habitat components: violet hostplants for larvae, nectar plants for adults, and native warm-season bunch grasses that provide protective sites for all life stages. No designated critical habitat is currently proposed for the Western Regal Fritillary.

In July of 2024, Meadowlark Environmental, LLC, Carson, ND performed a butterfly survey focused on observing Dakota Skippers in the BNI Mine's permitted areas. During this survey, 12 Western Regal Fritillaries were observed throughout the mine. Meadowlark Environmental will continue the Dakota Skipper survey in 2025, and any Western Regal Fritillary will be documented. BNI will continue to work with the USFWS as new guidance and protocols become available.

The Reclamation Division finds the planned mining and reclamation activities proposed within Revision No. 19 and Renewal No. 6 **“may affect but is not likely to jeopardize”** the continued existence of the Western Regal Fritillary provided that BNI follow future guidance from the USFWS as indicated in Section 4.13 (Fish and Wildlife Resource Protection, Enhancement, and Monitoring Plan) of Permit BNCR-9401.

### **Suckley's Cuckoo Bumble Bee – Proposed Endangered**

The Suckley's Cuckoo Bumble Bee is a proposed endangered species. The Suckley's Cuckoo Bumble Bee is an obligate social parasite and is entirely dependent on social bumble bee hosts to collect pollen and rear their young. Since they are entirely dependent on host bumble bee colonies, host colony availability is critical for the species' survival and overall viability. The species has a broad historical range and has been found in various habitat types including prairies, grasslands, meadows, urban and agricultural areas, and woodlands. The last confirmed sighting in the United States of the Suckley's Cuckoo Bumble Bee was in 2016 in Oregon.

The Reclamation Division finds the planned mining and reclamation activities proposed within Revision No. 19 and Renewal No. 6 will have **“may affect but is not likely to jeopardize”** the continued existence of the Suckley's Cuckoo Bumble Bee.

**Figure 1:** Center Mine Permit BNCR-9401

