



Public Service Commission

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April 3, 2025

Mr. Greg Petrick
Environmental Supervisor
BNI Coal Ltd.
2360 35th Ave. SW
Center, ND 58530-9499
gpetrick@bnicoal.com

Dear Mr. Petrick:

The Reclamation Division has conducted a completeness review of the applications for Revision No. 45 and Renewal No. 5 to Permit BNCR-9702 at the Center Mine. The following items must be adequately addressed before the applications can be deemed complete and approval is granted for publication of the permit revision and renewal newspaper notice. **Please respond to these items in a timely manner to secure publication approval at the earliest opportunity.**

Section 1 – Legal and Financial

1. Appendix 1-1 (Revision Summary and List of Changes) states that the Table of Contents has been removed. Please clarify the removal of the Table of Contents. (JAR/PJR)
2. Please replace “Renewal No. 4” with “Renewal No. 5” in the fourth sentence of the first paragraph of Appendix 1.5-1 (Notice of Publication). (JAR/WWS/BSM/AAC/PJR)
3. Please add the “blasting plan” to the list of revision updates in the last sentence of the first paragraph of Appendix 1.5-1 (Notice of Publication). (WWS/PJR)
4. Appendix 1-2 (Certified Copies of Leases and Assignment Documents, Article of Amendment to Articles of Incorporation) lists Laverne Huck as a coal owner for the NE¼ of Section 6 and the N½NE¼ of Section 8, T141N, R84W. The Laverne Huck Life Estate with remaindermen: Rachelle Markel, Raynee Morrell, Rayette Fasching, Raydene Zimmerman, and Raylynn Huck are listed as coal owners in Appendix 1.5-1 (Notice of Publication) and Plate 1.9-1 (Ownership Map). Please review this discrepancy and update Appendix 1.5-1, Appendix 1-2, and/or Plate 1.9-1 as necessary. (AAC)
5. Appendix 1.5-1 (Notice of Publication) identifies Kenneth Barnhardt, Helen Pflieger, and Dennis Barnhardt as surface owners in the SE¼ of Section 31, T142N, R84W. However, Steven and Marlene Fricke are identified as surface owners in Appendix 1-2 (Certified Copies of Leases and Assignment Documents, Articles of Amendment to Articles of Incorporation) and on Plate 1.9-1

(Ownership Map). Please review this discrepancy and update Appendix 1.5-1, Appendix 1-2, and/or Plate 1.9-1 as necessary. (JAR/BSM/AAC)

6. Appendix 1.5-1 (Notice of Publication) identifies Marion Reinke Life Estate with a remainderman of Adele M. Barrett under surface and coal ownership in the NW $\frac{1}{4}$ of Section 9, T141N, R84W. However, Jeff Reinke is identified as the surface and coal owner in Appendix 1-2 (Certified Copies of Leases and Assignment Documents, Articles of Amendment to Articles of Incorporation) and on Plate 1.9-1 (Ownership Map). Please review this discrepancy and update Appendix 1.5-1, Appendix 1-2, and/or Plate 1.9-1 as necessary. (JAR/AAC)
7. Daryl Yantzer is listed as a surface and coal owner for the SW $\frac{1}{4}$ of Section 29, T142N, R84W and as a surface owner for the N $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, and NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 32, T142N, R84W in Appendix 1.5-1 (Notice of Publication). However, Appendix 1-2 (Certified Copies of Leases and Assignment Documents, Article of Amendment to Articles of Incorporation) and Plate 1.9-1 (Ownership Map) lists the Daryl Yantzer LE as a coal and/or surface owner of these tracts. Please review this discrepancy and update Appendix 1.5-1, Appendix 1-2, and/or Plate 1.9-1 as necessary. (AAC)
8. Betty Vandenburg is listed as a surface and coal owner for the N $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, and NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 32, T142N, R84W, and she is listed as a coal owner for the NE $\frac{1}{4}$ of Section 32, T142N, R84W in Appendix 1-2 (Certified Copies of Leases and Assignment Documents, Article of Amendment to Articles of Incorporation). However, she is not listed as a surface and/or coal owner for these Section 32 tracts in Appendix 1.5-1 (Notice of Publication) and Plate 1.9-1 (Ownership Map). Please review this discrepancy and update Appendix 1.5-1, Appendix 1-2, and/or Plate 1.9-1 as necessary. (AAC)
9. Kenneth Barnhardt, Helen Pfleger, Dennis Barnhardt, Joanne Trinkle, and Karen O. Van Amburg are listed as the coal owners for the SE $\frac{1}{4}$ of Section 31, T142N, R84W in Appendix 1.5-1 (Notice of Publication). Appendix 1-2 (Certified Copies of Leases and Assignment Documents, Article of Amendment to Articles of Incorporation) lists Kenneth Barnhardt, Helen Pfleger, Dennis Barnhardt, Virginia Spurgin Gaines et al, and the State of ND as the coal owners for the SE $\frac{1}{4}$ of Section 31. Plate 1.9-1 (Ownership Map) lists Kenneth Barnhardt, Helen Pfleger, Dennis Barnhardt, Joanne V. Trinkle, Karen O. Van Amburg Revocable Trust, and the State of ND? as the coal owners for the SE $\frac{1}{4}$ of Section 31. Please review these discrepancies and update Appendix 1.5-1, Appendix 1-2, and/or Plate 1.9-1 as necessary. (AAC)
10. The first sentence of the second paragraph in Appendix 1.5-1 (the Publication Notice) appears to contain a typographical error. Please change the word “is” to “are” in the following narrative of the Publication Notice: “The renewal application and the application for revision of the surface coal mining permit is (are) available for public inspection at the offices...” (GAW)

Section 4.6 – Surface Water Management Plan

11. Follow-up to Item No. 17 of the November 8, 2024 pre-renewal letter: Please review and update Plate 4.6-1 (Surface Water Management Plan) to reflect any changes with the status or presence of water management structures that may have occurred since the map was last updated with Revision No. 44 as required in part by NDAC 69-05.2-09-02 and NDAC 69-05.2-09-09. For example, but not limited to, several spoil drainages appear to be missing within Section 28 and

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Section 29 that are associated with recent grade approved areas that depicted stripped drainages that will not be respread with SPGM until contributing watersheds are reclaimed. (BSM)

Section 4.12-2 - Pre-Mine and Post-Mine Land Use Discussions

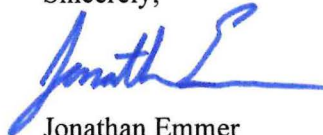
12. Acreage tables in Section 4.12-2 (Pre-Mine and Post-Mine Land Use Discussions) were updated, but no red lines are present. Please revise Section 4.12-2 by adding red lines to indicate what changes were made. (WWS)

Section 4.13 – Fish and Wildlife Resource Protection and Enhancement Plan, & Fish and Wildlife Monitoring Plan

13. Please revise the following sentence in the Piping Plover subsection in Section 4.13 (Fish and Wildlife Resource Protection and Enhancement Plan, & Fish and Wildlife Monitoring Plan) to address the apparent typo: “One piping plover was recorded on pond in the late 1970s 31-1 which is...”. (WWS)

Please contact this office if you have any questions.

Sincerely,



Jonathan Emmer
Director
Reclamation Division

cc via email only: Jonathan Rudnick (jrudnick@bnicoal.com)
BNI Regulatory and Compliance (BNIefiling@bnicoal.com)