



Public Service Commission

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May 21, 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 technical review of BNI Coal, Ltd.'s application of Revision No. 45 for Renewal No. 5 to Surface Coal Mining Permit BNCR-9702 for the Center Mine. The following items must be adequately addressed prior to Commission approval of the revision and the corresponding renewal. Please respond to these items in a timely manner since the current permit term will expire on August 2, 2025.

The U.S. Fish and Wildlife Service has reviewed the Reclamation Division's draft threatened, endangered, and proposed species finding for Revision No. 45 and Renewal No. 5 to Permit BNCR-9702, and their comments are enclosed.

Section 1 - Legal and Financial Information

1. The Reclamation Division received an updated mailing address for Thomas and Kathleen Lipp from the U.S. Postal Service when ownership notification letters were mailed. Please update the mailing address in Appendix 1.9-1 (Ownership Information) for Thomas and Kathleen Lipp to: 1746 Capistrano Walk, Redding, CA 96003-8274. (JAR)

Plate 2.1 - Extended Mine Plan

2. Please update Plate 2.1 (Extended Mine Plan Map) with the most recent version provided with pending Revision No. 12 to Permit BNCR-1101. (JAR/GAW)

Section 3.3 - Groundwater

3. Due to the high number of destroyed monitoring wells, please ensure that appropriate coverage of well density is being monitored in Permit BNCR-9702 in accordance with NDAC 69-05.2-08-06(1)(d). The Reclamation Division believes that an additional monitoring well nest may be appropriate near the corner where Sections 29, 28, and 33 meet. (PJR)

Section 4.4 - Blasting Plan

4. It appears that the Notice of Blasting Schedule on Page 4.4-3 in Section 4.4 (Blasting Plan) requires further updates to remove locations that are no longer applicable for blasting due to the completion of overburden and coal removal. Please update Page 4.4-3 in Section 4.4 to reflect the removal of these blasting areas, ensuring the information is current with the permit term. (BSM)

Section 4.5 – Transportation Plan

5. The Haulroad Reclamation Schedule subsection on Page 11 of Section 4.5-1 (Transportation Plan Narrative) is not ordered sequentially based on the progression of reclamation activities. While sequential ordering is not strictly required, reorganizing the rows to reflect the logical order of reclamation may improve clarity for operational planning in terms of reclamation. Additionally, the schedule does not appear to account for the reclamation schedule of surface water management features identified in Table 4.6-1 of Section 4.6 (Surface Water Management Plan). Please review and verify that the schedule on Page 11 of Section 4.5-1 is consistent with the schedule presented in Section 4.6. (BSM)
6. It appears the access road in the SW¼ of Section 20 on Plate 4.5-1 (Permit Boundary and Overall Transportation Plan) may be outdated. The inclusion of Culvert ID #49 in this location contradicts Plate 4.5-38 (SPGM Stockpile Access Road) and Section 4.5-2 (Culvert Information), which identify Culvert ID #49 as being located in Section 4 instead of Section 20. Please review and revise accordingly. (BSM)
7. Please update Plate 4.5-1 (Permit Boundary and Overall Transportation Plan) to delineate the future SPGM stockpile access road alignment as shown in Plate 4.5-38 (SPGM Stockpile Access Road), including the associated culverts required for surface water management. Furthermore, please verify that this haul road and its reclamation schedule are accurately reflected in the Haulroad Reclamation Schedule subsection on Page 11 of Section 4.5-1 (Transportation Plan Narrative). (BSM)

Section 4.6 - Surface Water Management Plan

8. The Supplementary Water Management Features subsection on page 4.6-14 in Section 4.6 (Surface Water Management Plan) identifies catch basins CB-20-5 and CB-20-4 that are also included in Table 4.6-1 (surface water control structures utilized in BNCR-9702). However, catch basins CB-5-1, CB-21-5, CB-28-5, and CB-33-1 are listed in the Supplementary Water Management Features subsection, but they are not listed in Table 4.6-1. For consistency, please list, with all applicable information, all of the supplementary water management features utilized in BNCR-9702 in Table 4.6-1. (JAR)
9. The Supplementary Water Management Features subsection on page 4.6-14 in Section 4.6 (Surface Water Management Plan) contains a typographical error in reference to Catch Basin CB-21-5. Please correct “Cath” to “Catch” for Catch Basin CB-21-5. (JAR)
10. Design details are not provided as appendices for catch basins CB-21-5 and CB-33-1 as specified in the Supplementary Water Management Features subsection on page 4.6-14 in Section 4.6 (Surface Water Management Plan). Please provide the design details for both catch basins as appendices to Section 4.6 and specify the appropriate appendix number in the Supplementary Water Management Features subsection. (JAR)

11. Provided that mining in Section 20 is scheduled to end within the upcoming permit term, it may be beneficial to restructure Table 4.6-1 in Section 4.6 (Surface Water Management Plan) based on the "Reclamation Date" column. For example, reordering the entries – starting with "Not Built," followed by "Permanent," "Removed by Mining" (by completion date), and then year-specific entries – could improve the clarity and aid in aligning reclamation efforts with other schedules, such as the Haulroad Reclamation Schedule subsection on Page 11 of Section 4.5-1 (Transportation Plan Narrative). (BSM)

Section 4.12 - Revegetation and Post Mining Land Use

12. Plate 4.12-1 (Post Mining Land Use) has a "33" label in the SE¼ of Section 31, T142N, R84W. This label appears to be an incorrect tract section number. In addition, the section number labels for Sections 28 and 29 are obscured. Please correct the "33" labeling error, revise the Section 28 and 29 label legibility, and include township and range public land survey information in Plate 4.12-1. (GAW)
13. Please consider labeling the reclaimed wetland in the SW¼ of Section 5 and the developed water resources in Plate 4.12 (Post Mining Land Use Map). The map legend's land use symbols might also be revised to clarify the difference between DWR and SP, and the various types of wetlands, including reclaimed wetlands. The symbol for reclaimed wetlands does not appear to be used on the map, even though several reclaimed wetlands are depicted. (GAW)
14. Follow-up to Item No. 26 of the November 8, 2024 pre-renewal review letter: The rangeland similarity index information presented on page 13 of Section 4.12-4 (Determining Reclamation Success) indicates a thin loamy ecological site was sampled in 2019, but pages 10 and 11 identify mapping unit 36E as a shallow loam ecological site rather than a thin loamy ecological site. Please review and revise to provide clarity. (GAW)
15. Please provide clarity regarding the total acres changed for Sections 27, 32, and 33 in Section 4.12-2 (Pre-Mine and Post-Mine Land Use Discussions). The Total Acres column on each section breakdown should not change based on shifting post-mine land use changes. (WWS)
16. Please ensure that any changes made in Section 4.12-2 (Pre-Mine and Post-Mine Land Use Discussions) are accurately reflected in Section 4.12-1 (Post-Mine Land Use Acreages). (WWS)

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

17. Follow-up to Item No. 27 of the November 8, 2024 pre-renewal review letter: With Revision No. 45, BNI reorganized and updated Section 4.13 (Fish and Wildlife Resource Protection and Enhancement Plan, & Fish and Wildlife Monitoring Plan). However, outdated surface ownership information is being retained in the narrative beginning at the bottom of page 4.13-2, which makes interpretation difficult. Please revise the narrative to include current surface ownership information or tract legal description information for the J. Gullickson and Margret Hagerott tracts so the information provided is current. The narrative at the top of page 4.13-3 should also be revised to clarify that the previous landowner requested 275 acres of native grassland be reclaimed to cropland, if that is the case. Furthermore, the narrative suggesting that 17.2 acres of fish and wildlife habitat buffer surrounds a series of linear wetlands is not supported by Plate 4.12-1 (Post Mining Land Use Map). Please review and revise as necessary. (GAW)

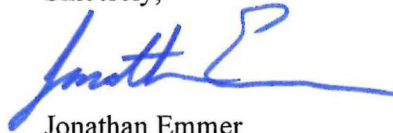
Mr. Greg Petrick
May 21, 2025
Page 4 of 4

Section 4.14 – Reclamation Cost Estimate for Bonding Purposes

18. On Page 2 of Appendix 4.14-1 (Worst Case Bond Estimate), the column labeled “777D Fleet” and “992 Loader” appear at the bottom of the page but seem intended for the following page. Please revise to place these labels correctly on the corresponding table on Page 3 of Appendix 4.14-1. Additionally, the second-to-last page of Appendix 4.14-1 contains an unexplained “330” located to the right of the subtotal for Native Grassland Revegetation Cost. Please clarify the significance of this number or remove it if it is not relevant. (BSM)

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)

Enclosure

Center Mine\Permits\BNCR - 9702\Revisions\Rev45_Ren5\Rev45_Tech1_rvw_ltr_5-21-25