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NORTH DAKOTA
PUBLIC SERVICE COMMISSION

June 16, 2025

Mr. Jonathan Emmer

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

Dear Mr. Emmer,

This is in response to your request for a review of the environmental impacts associated with the BNI Coal, Ltd, filed applications for Revision No 45 and Renewal No. 5 to Surface Coal Mining Permit BNCR-9702 for the Center Mine.

The proposed project has been reviewed by Department of Water Resources (DWR), and the following comments are provided:

- There are no FEMA National Flood Insurance Program (NFIP) floodplains identified or mapped where the proposed project is to take place. No permits relative to the NFIP are likely required based on the current Flood Insurance Rate Map and State minimum standards. However, flood risk has been identified through the North Dakota Risk Assessment Mapservice and Base Level Engineering (BLE) (ndram.dwr.nd.gov). In the absence of FEMA NFIP data, BLE is often considered best available data and is recommended to be considered in the design process. The State of North Dakota has no formal NFIP permitting authority as all NFIP permitting decisions are considered by impacted NFIP participating communities, the community with zoning authority for the area in question. Please work directly with the local floodplain administrators of the zoning authorities impacted.

- If surface water or groundwater will be diverted for construction or operation of the project, or water will be put to a beneficial use other than solely for the purpose of sedimentation control during mining activities, a water permit is required per North Dakota Century Code § 61-04-02. Please consult with the Water Appropriations Division of the DWR at (701) 328-2754 or appropinfo@nd.gov if you have any questions.

- The DWR Regulatory Division's Engineering and Permitting Section reviewed the project revisions and determined no drainage permits, or construction permits for dikes, diversions, or restorations are required.

Thank you for the opportunity to provide review comments. Should you have further questions, please contact me at 701-328-4970 or kyrkoski@nd.gov.

Sincerely,

Kyle Yrkoski
Planner III

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Revision 45 Renewal 5 Advisory Response Letter
Department of Water Resources

North Dakota Department of Water Resources (DWR)
Kyle Yrkoski

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