



Aug. 25, 2026

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Mr. Jonathan Emmer

AUG 28 2026

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

**NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

Dear Mr. Emmer,

This is in response to your request for a review of the environmental impacts associated with the BNI Coal, Ltd. Application for Revision 13, Surface Coal Mining Permit BNCR-1101, Center Mine, located in North Dakota.

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

- If surface water or groundwater will be diverted for construction or operation of the project, or water will be used for purposes other than sedimentation control, a water permit is required per North Dakota Century Code § 61-04-02. Please consult with the DWR Water Appropriation Division if you have any questions at (701) 328-2754 or appropinfo@nd.gov.
- 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. The contact at DWR is Tyler Spomer, NFIP Coordinator, (701) 328-2452, tlspomer@nd.gov.

- Projects that take place within the ordinary high water mark of a North Dakota navigable waterbody (as outlined in North Dakota Century Code ch. 61-33) require prior authorization to construct from DWR. The Project(s), as described, does not appear to take place within a currently identified navigable waterbody, and does not require a North Dakota state sovereign land permit. For further information, contact Amy Winkelman, State Sovereign Land Manager, at awinkelman@nd.gov, (701) 328-4935, or Travis Thyberg, State Sovereign Land Specialist, at tbthyberg@nd.gov or (701) 328-4988.
- The DWR Regulatory Division's Engineering and Permitting Section reviewed the project and determined no drainage permits, or construction permits for dikes, diversions, or restorations are likely required so long as no watercourses, as defined under N.D.C.C. § 61-01-06, are modified (i.e., deepened, widened, rerouted, etc.). For more information, please visit the Regulation & Appropriation tab on the DWR website (dwr.nd.gov) or contact the Regulatory Division at (701) 328-2750 or dwrregpermits@nd.gov.

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,

A handwritten signature in cursive script, appearing to read "Kyle Yrkoski".

Kyle Yrkoski
Planner III

KY:mg/1570