



Public Service Commission

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September 14, 2026

Mr. Greg Petrick
Environmental Supervisor
BNI Coal, Ltd.
2360 35th Ave. SW
Center, ND 58530-9499
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Dear Mr. Petrick:

The Reclamation Division has conducted a technical review of BNI Coal, Ltd.'s application of Revision 13 to Surface Coal Mining Permit BNCR-1101 for the Center Mine. The following items must be adequately addressed prior to Commission approval of the revision.

Section 1.7 – Business Entity Information

1. Please update Section 1.7 (Business Entity Information) with all current ownership and control information following the sale of ALLETE in December 2025. (AAC)

Section 4.1 - Operations Plan

2. Plate 4.1-1 (Pit Layout and Facilities Map) appears to show an approach off reconstructed County Road 37th Ave. SW extending into the buffer zone surrounding an occupied dwelling in the SW $\frac{1}{4}$ of Section 12, T141N, R84W. Please revise to ensure that no disturbance is depicted within the buffer zone surrounding the occupied dwelling in the SW $\frac{1}{4}$ of Section 12 unless written consent has been obtained from the owners of the occupied dwelling authorizing such operations within the protected zone. (GAW)
3. The Jesse and Darcy Lackman farmstead area in the E $\frac{1}{2}$ of Section 14, T141N, R84W is depicted with light-brown hatching on Plate 4.1-1 (Pit Layout and Facilities Map) to indicate the Lackman's have signed a waiver to allow coal mining operations within 500 feet of an occupied dwelling. However, the Lackman waiver in Appendix 4.2-1 (Supporting Documents) does not appear to authorize BNI to conduct mining operations in the hatched area. Please revise the hatching to depict the farmstead as an area unsuitable for mining. (GAW)

Section 4.4 - Blasting Plan

4. A sentence in the fifth paragraph on page 1 of Section 4.4 (Blasting Plan) states that BNI will make "efforts to give advance notice to landowners, so they may have the option to be present when monitoring takes place." Order No. 2 in Case No. RC 20-438 requires BNI to provide advance notice to occupied dwelling landowners within one mile from the nearest charged drill

hole. Please revise the sentence in the fifth paragraph on page 1 of Section 4.4 to accurately reflect this requirement rather than stating BNI will merely “make efforts” to provide advance notice to landowners. (GAW)

Section 4.5 - Transportation Plan

5. A sentence in the first paragraph on page 5 of Section 4.5 (Transportation Plan) states that Oliver County’s “approval grants BNI the ability to construct the overpass within the county right-of-way.” Please clarify the width of the county right-of-way and revise the narrative to state that Oliver County has approved BNI’s plans to construct the overpass within and 100 feet beyond the statutory right-of-way. The footprint of the reconstructed road extends well beyond the statutory right-of-way. (GAW)

Section 4.6 – Surface Water Management Plan

6. Plate 4.6-43A (Sediment Pond P-13-9) does not provide invert design information for Culvert 40. To verify that Culvert 40 does not bypass the water management system for P-13-9, please review and revise Plate 4.6-43A to include the applicable culvert invert design information. (BSM)
7. Plate 4.6-43A (Sediment Pond P-13-9) consists of two pages; however, the plate does not clearly identify that it contains two pages. Please update the title block to indicate “Page 1 of 2” and “Page 2 of 2,” as applicable. Additionally, please revise Page 2 to identify the three cross sections A-A’, B-B’, and C-C’ in order to correspond with Page 1 to Plate 4.6-43A. (BSM)

Section 4.9 – Reclamation Schedule

8. The reclamation time schedule table in Section 4.9 (Reclamation Schedule) indicates that Variance Areas 5 and 9 will be reclaimed by 2028, but the narratives discussing these variances indicate that reclamation will be completed in 2027. Please review and revise the table and/or applicable narratives to provide consistency and clarity. (GAW)

Section 4.12 - Post Mining Land Use

9. Please revise Plate 4.12-1 (Post Mine Land Use) to ensure all section numbers are visible. (TLD)

Section 4.15 - Signs and Markers, Air Monitoring, Socioeconomic Information, Scenic and Aesthetic Impacts

10. Please update Section 4.15 (Signs and Markers...) to include a discussion about BNI’s plans for marking buffer zones around intermittent and perennial streams in compliance with NDAC 69-05.2-13-04(5). Although not required, BNI should also consider placing signs along the north and west sides of the buffer zone associated with the Jesse and Darcy Lackman occupied dwelling in the E½ of Section 14 and along the Brian Dresser occupied dwelling buffer zone in the SE¼ of Section 11. (GAW)

Mr. Greg Petrick
September 14, 2026
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If you have any questions, please contact this office.

Sincerely,

Jonathan Emmer

Digitally signed by Jonathan
Emmer
DN: C=US, E=jemmer@nd.gov,
O=North Dakota Public Service
Commission, CN=Jonathan
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Jonathan Emmer
Director
Reclamation Division

cc via email only: Jonathan Rudnick (jrudnick@bnicoal.com)
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