



Public Service Commission

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sent via email only

July 13, 2026

Mr. Gregory Petrick
Manager Environmental and Technology Services
BNI Coal, Ltd.
2360 35th Ave. SW
Center, ND 58530-9499
gpetrick@bnicoal.com

Dear Mr. Petrick:

The Reclamation Division has completed an initial review of the application for Bond Release No. 6 to Surface Coal Mining Permit BNCR-9401, submitted on June 4, 2026. The following items must be addressed prior to publishing the public notice or notifying surface owners and government agencies.

General

1. Bond release application No. 6 to BNCR-9401 incorrectly states that the entire bond release area is disturbed. According to the 2025 Annual Mine Map, portions of this bond release application are undisturbed. Please revise all applicable sections in this application to reflect this change. (WWS/PJR)
2. According to the 2025 Annual Mine Map, portions of this bond release application were respread with SPGM and then seeded in 2023. NDAC 69-05.2-12-12(7)(b) states that "Documentation that the lands to which the release would be applicable are not contributing suspended solids to streamflow or runoff outside the permit area in excess of the requirements set by section 69-05.2-16-04." NDAC 69-05.2-22-07(4)(j) states that "For areas to be developed for water, residential, or industrial and commercial use within two years after the completion of grading or soil placement, the ground cover on these areas must not be less than required to control erosion." Please include cover data, seeding dates, and all other applicable information as outlined in the Reclamation Division's Revegetation Success Standards document. (WWS)
3. Please standardize the bond release application to reflect the acreage being bond released. Attachment II (Metes & Bounds) states the bond release area is 48.83 acres, but all other sections of the application list the area as 48.93 acres. Please ensure consistency throughout all applicable sections. (WWS/PJR/BSM)
4. Please include a seeding date map and the Solid Waste Permit for the ash cell in the application. (PJR)

Application Form SFN 19813(1-2004)

5. Please update the application form to include the actual date the application was submitted to the Reclamation Division instead of May 2026. (BSM)
6. Please include the signed application (page 2 of 3) in the electronic bond release application. (PJR/WWS/BSM)
7. The Addendum on page 3 of the final bond release application is incomplete. Please refer to the approved version of Bond Release No. 5 to Permit BNCR-9401 for clarification regarding the documentation required before the application can be deemed complete for publication. (BSM/PJR)

Attachment III – Advertisement

8. Please remove “Legal Notice” from the header of the publication notice and correct the typographical error from Applications to Application in Attachment III (Advertisement). (JAR)
9. Please revise the first paragraph in Attachment III (Advertisement) to include the range designation (R83W), consistent with previously approved bond release notices. (BSM/JAR)
10. The second-to-last sentence in the first paragraph in Attachment III (Advertisement) incorrectly states that the total bond amount is \$1,026,271 instead of \$1,404,271. Please correct this error. (BSM/PJR)
11. The last sentence of the first paragraph in Attachment III (Advertisement) references multiple tracts, which can be misleading since the bond release area is one continuous tract in Sections 8 and 5. Please revise accordingly to state one tract. (BSM)
12. Please include the individual acreages of the bond release area for both Section 8 and Section 5 in Attachment III (Advertisement) and in Attachment IV (Letters of Notification). (JAR/TLD/BSM)
13. Please revise the Publication Map to comply with NDCC 38-14.1-17, NDAC 69-05.2-12-12, and Policy Memorandum No. 9 to Mine Operators. For convenience, please refer to the approved Publication Map for Bond Release No. 5 and No. 4 to BNCR-9401. (WWS/PJR/TLD/BSM)
14. Please revise the bond release area on the Publication Map to accurately represent the entire bond release application area. (PJR/WWS/TLD)

Attachment IV – Letters of Notification

15. Clint Boyd has succeeded Ed Murphy as the state geologist for the ND Geological Survey. Please update the contact information for the ND Geological Survey in the list of state agencies in Attachment IV (Letter of Notification). (MLJ)
16. The Notification Letter to Minnkota Power Company is missing the SW¼ of Section 5 as part of the bond release area. Please place the SW¼ of Section 5 into the notification letters. Also,

please indicate in the notification letter that Minnkota Power Company is the surface owner.
(JAR/PJR)

17. Please include a copy of each notification letter that will be sent to all agencies/persons identified in Attachment IV – Letters of Notification. (JAR)
18. Please include a copy of the Publication Map with all letters of notification to the interested parties. (PJR)

Attachment VI – Tract History

19. As required by Policy Memorandum No. 15 to Mine Operators, BNI must submit data to show "...that sufficient topsoil and subsoil have been set aside to provide a total respread thickness of at least 24 inches of soil for sites where the cover material is non-sodic spoil and 36 inches where the cover is sodic spoil, with a minimum topsoil thickness of 8 inches." However, it is understood that the NDDEQ has specific SPGM requirements for landfill construction. Please refer to the approved Bond Release No. 5 application to BNCR-9401 for an example and make the necessary revisions to Attachment VI (Tract History). (WWS)
20. Please revise the narrative throughout Attachment VI (Tract History) to properly account for all necessary details such as the seeded and vegetated areas (NDAC 69-05.2-22-07(4)(j) and NDAC 69-05.2-16-04). Also, please reference approved FBR-5 to Permit BNCR-9401. (PJR)

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 Emmer
Date: 2026.07.13 13:49:29-0500'

Jonathan Emmer
Director
Reclamation Division

cc via email only: Jonathan Rudnick (jrudnick@bnicoal.com)
BNI Coal Efiling (BNIefiling@bnicoal.com)

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