

<b>Commenter</b>	<b>Comment</b>	<b>OSMRE Response to Comment</b>
L. David Glatt (North Dakota Department of Environmental Quality)	Care is to be taken during construction activity near any water of the state to minimize adverse effects on a water body. This includes minimal disturbance of stream beds and banks to prevent excess siltation, and the replacement and revegetation of any disturbed area as soon as possible after work has been completed. Caution must also be taken to prevent spills of oil and grease that may reach the receiving water from equipment maintenance, and/or the handling of fuels on the site. Guidelines for minimizing degradation to waterways during construction are attached.	<p>Section 3.7 and Appendix D of the BLM's 2020 EA (reference (1)) assesses the potential for impacts to water resources. Appendix B of the BLM's 2020 EA (reference (1)) provides the extended Mine Plan and describes environmental protection measures for the Center Mine. BNI would implement erosion control measures, as needed, along stream channels to establish vegetation and reduce soil erosion. Once a stream channel has been deemed ready for reclamation, a professionally engineered stream reclamation plan would be submitted to the NDPSC for approval. Stream channel reclamation or reconstruction plans would be submitted and reviewed by the NDPSC, as well as by the State Water Commission and NDDEQ as members of the PSC's advisory review committee. All runoff that would be in contact with disturbed soils would be controlled in sediment ponds. The water would be released from the ponds following testing and meeting compliance levels (reference (1)).</p> <p>As previously noted, OSMRE incorporates by reference the water resources analyses from BLM's 2020 EA, and they are not discussed further in this EA.</p>
L. David Glatt (North Dakota Department of Environmental Quality)	BNI Coal, Ltd. currently has North Dakota Pollutant Discharge Elimination System (NDPDES) permits to discharge stormwater and wastewater from its mining activities. Mining of the Federal coal tracts would be subject to the conditions of the permits in accordance with state rules and policies.	Comment noted. In addition, Section 3.7 and Appendix D of the BLM's 2020 EA (reference (1)) assesses the potential for impacts to water resources. As previously noted, OSMRE incorporates by reference the water resources analyses from BLM's 2020 EA, and they are not discussed further in this EA.
L. David Glatt (North Dakota Department of Environmental Quality)	All solid waste materials must be managed and transported in accordance with the state's solid and hazardous waste rules. Appropriate efforts to reduce, reuse and/or recycle waste materials are strongly encouraged. As appropriate, segregation of inert waste from non-inert waste can generally reduce the cost of waste management. Further information on waste management and recycling is available from the department's Division of Waste Management at (701) 328-5166.	Appendix B of the BLM's 2020 EA (reference (1)) provides the extended Mine Plan and describes waste management for the Center Mine. BNI disposes of all non-coal waste in compliance with NDAC 69-05.2-19-04 (disposal of non-coal waste). BNI is exempt from the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6901) because of their minimal use of products and/or recycling efforts in place for products covered by RCRA. As previously noted, OSMRE incorporates by reference the BLM's 2020 EA; therefore, waste management is not discussed further in this EA.

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Steven Best (North Dakota Department of Water Resources)	<p>There are no FEMA National Flood Insurance Program (NFIP) floodplains identified or mapped where the proposed project is to take place. No permit relative to the NFIP are likely required based on the current effective 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. 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.</p>	<p>Section 3.7 and Appendix D of the BLM's 2020 EA (reference (1)) assesses the potential for impacts to water resources. Appendix B of the BLM's 2020 EA (reference (1)) provides the extended Mine Plan and describes environmental protection measures for the Center Mine. BNI would implement erosion control measures, as needed, along stream channels to establish vegetation and reduce soil erosion. Once a stream channel has been deemed ready for reclamation, a professionally engineered stream reclamation plan would be submitted to the NDPSC for approval. Stream channel reclamation or reconstruction plans would be submitted and reviewed by the NDPSC, as well as by the State Water Commission and NDDEQ as members of the PSC's advisory review committee (reference (1)).</p> <p>As previously noted, OSMRE incorporates by reference these analyses from BLM's 2020 EA, and they are not discussed further in this EA.</p> <p>Furthermore, OSMRE sent the Oliver County Planning Administrator/Director (local floodplain administrator) an outreach letter on January 23, 2023, but did not receive a response.</p>
Steven Best (North Dakota Department of Water Resources)	<p>In accordance with North Dakota Century Code §61-16.1-38, any new construction or construction modifications on water storage impoundments, including dams or ponds, may require a construction permit from the Department of Water Resources (DWR) based on the storage volume and hazard classification. Similarly, if any dams or ponds are to be removed, we request that the DWR Regulatory Division be notified. Please contact the DWR Regulatory Division at 701-328-4956 if you have any questions.</p>	<p>Section 3.7 and Appendix D of the BLM's 2020 EA (reference (1)) assesses the potential for impacts to water resources. Several stock water impoundments and dugouts would be removed by mining, and BNI provides adequate plans for their replacement in the post-mining environment (reference (1)). BNI is responsible for consultation with the DWR regarding any required permits.</p> <p>As previously noted, OSMRE incorporates by reference these analyses from BLM's 2020 EA, and they are not discussed further in this EA.</p>

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Steven Best (North Dakota Department of Water Resources)	The Department of Water Resources' (DWR) Engineering and Permitting Section reviewed the project location and determined that the project likely does not require a surface drain permit or construction permit unless the project impacts sloughs, ponds, lakes (i.e., wetlands) or so long as Hagel Creek is not modified (i.e., deepened, widened, rerouted, etc.) Also, a permit may be required if the project will modify or impact the 4 dams (BNI Coal P-20-1, P-20-2, P-20-3, Albers Dam) located within the T142 N R84 W Section 20, or the drain (Drain Permit #2699 – BNI COAL DRAIN) located within T141 N R83 W Section 8. For more information on these requirements, please visit the Regulation & Appropriation tab on the DWR's website ( <a href="http://dwr.nd.gov">dwr.nd.gov</a> ) or contact the DWR's Regulatory Division at 701-328-4956 or <a href="mailto:dwrregpermits@nd.gov">dwrregpermits@nd.gov</a> .	<p>Section 3.7 and Appendix D of the BLM's 2020 EA (reference (1)) assesses the potential for impacts to water resources. The Proposed Action does not include direct modifications to Hagel Creek. Several stock water impoundments and dugouts would be removed by mining, and BNI provides adequate plans for their replacement in the post-mining environment (reference (1)). BNI is responsible for consultation with the DWR regarding any required permits.</p> <p>As previously noted, OSMRE incorporates by reference these analyses from BLM's 2020 EA, and they are not discussed further in this EA.</p>
Steven Best (North Dakota Department of Water Resources)	Initial review indicates the project does not require a conditional or temporary permit for water appropriation. However, if surface water or groundwater will be diverted for construction of the project, a water permit will be required per North Dakota Century Code § 61-04-02. Please consult with the Department of Water Resources Water Appropriation Division if you have any questions at 701-328-2754 or <a href="mailto:appropinfo@nd.gov">appropinfo@nd.gov</a> .	<p>Section 3.7 and Appendix D of the BLM's 2020 EA (reference (1)) assesses the potential for impacts to water resources. BNI has a North Dakota State Water Commission Conditional Water Permit (No. 3973) for 160 acre-feet of water that is identified for industrial water use (reference (1)).</p> <p>As previously noted, OSMRE incorporates by reference these analyses from BLM's 2020 EA, and they are not discussed further in this EA.</p>
Steven Best (North Dakota Department of Water Resources)	The Department of Water Resources maintains a network of observation wells across the state for monitoring the water levels and quality in glacial and bedrock aquifers. These wells are often installed in road and highway rights-of-way to limit inconvenience to the adjacent landowners. Department of Water Resources observation wells have a yellow protective casing extending between 1 and 3 feet above ground surface, and their locations are marked with a stake. If an observation well is encountered during project activities and must be removed, please contact the Water Appropriation Division. The Department of Water Resources hopes to keep all observation wells, but otherwise will ensure the well is properly abandoned.	Comment noted, BNI is responsible for consultation with the Department of Water Resources regarding potential impacts to observation wells. Section 3.7 and Appendix D of the BLM's 2020 EA (reference (1)) assesses the potential for impacts to water resources. As previously noted, OSMRE incorporates by reference these analyses from BLM's 2020 EA, and they are not discussed further in this EA.

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Steven Best (North Dakota Department of Water Resources)	In section 1.5.2 (Outreach), the incorrect year is listed. It should be 2023 rather than 2026.	This typographical error has been corrected.
Chad Orn (North Dakota Department of Transportation)	<p>This project should have no adverse effect on the North Dakota Department of Transportation highways.</p> <p>However, if because of this project any work needs to be done on highway right of way, appropriate permits and risk management will need to be obtained from the Department of Transportation District Engineer, Larry Gangle at 701-328-6955</p>	<p>Comment noted. BNI is responsible for consultation with the Department of transportation regarding potential work within highway rights of way.</p> <p>As previously noted, the BLM's 2020 EA (reference (1)) eliminated transportation from further analysis. OSMRE incorporates the BLM's 2020 EA by reference.</p>
Dennis Barnhart	Dennis Barnhart contacted OSMRE via telephone on January 31, 2023. He said he had questions but was able to resolve them on his own. He lives by the Center Mine and has no project concerns. He also said he also spoke to BNI representatives. Lastly, he asked that OSMRE contact his sister-in-law Marylynn Barnhart because she also had questions.	Comment noted. OSMRE attempted to contact Marylynn Barnhart but did not receive a return phone call.
Sharon and George Bullinger	Sharon Bullinger contacted OSMRE via telephone on January 31, 2023.	OSMRE returned the telephone call and spoke with George Bullinger. He has rights to coal near the Center Mine and he wanted to know if this action meant that the mine was interested in leasing his coal. OSRME explained that this action only covered already leased federal coal. He appreciated the clarification and had no further comment.