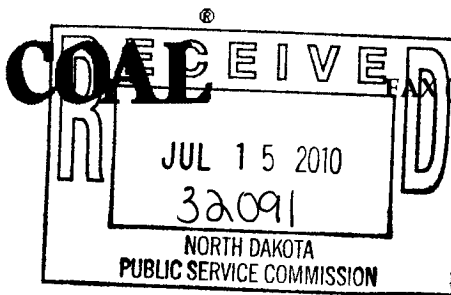


PHONE (701) 794-8734



(701) 794-3125

July 15, 2010

Mr. James R. Deutsch, Director  
Reclamation Division, NDPS  
Department 408  
600 East Boulevard Avenue  
Bismarck, ND 58505-0480

FROM DIRECTOR - RECLAMATION DIV.

Date: \_\_\_\_\_

Action: \_\_\_\_\_

Info. Only: \_\_\_\_\_

RE: Renewal No. 3 and Revision 9 to Permit BNCR-9401 Info & File: \_\_\_\_\_

Dear Mr. Deutsch,

This submittal contains a response to your letter to us dated July 2, 2010. In this letter you listed technical deficiencies that must be addressed before the renewal and revision can be approved. The following is a listing of the deficiencies followed by our response:

**Section 2.1 – Extended Mine Plan Map**

- 1. Please indicate on Plate 2-1 where the next block of coal removal will take place in Permit BNCR-9401 and in what year(s). (MSK)

*Plate 2-1 was updated as requested.*

**Section 4.1 – Coal Removal**

- 2. On page 4.2-1, please remove the phrase "...none during the current permit term" from the discussion in the Total Estimated Production paragraph. Since there will be coal removal during the next permit term when the next cell is constructed, this phrase is not correct. (SAS)

*Revised as requested.*

- 3. Please indicate on Plate 4.1-1 where the next block of coal removal will take place and in what year(s). (SAS)

*Plate 4.1-1 was updated as requested.*

**Section 4.2 – Existing Structures**

- 4. Please indicate the location of the recently-installed pipeline that goes by Pond 5-1 on Plate 4.1-1. Please note that this pipeline was constructed by Minnkota. (SAS)

**BNI COAL, LTD.  
2360 35<sup>th</sup> Ave SW, Center, ND 58530**

*The return flow line Minnkota installed was illustrated on Plate 4.1-1 as requested.*

#### **Section 4.6 – Surface Water Management Plan**

5. Please clarify the status of Pond 5-2. It appears that Pond 5-2 is no longer planned for construction because it has been removed from some parts of the narrative, and it is not shown on Plate 4.6-1, Surface Water Control Map, or Plate 4.1-1, Pit Layout and Facilities Map, but the following inconsistencies are present in the narrative:

- a. The first paragraph on Page 4.6-1 states that six sedimentation ponds will be constructed, but page 4.6-2 only lists four ponds;

*There will only be four ponds. The text was updated.*

- b. The first paragraph on page 4.6-2 mentions the Pond 5-2 construction schedule, but Pond 5-2 has been removed from the list of ponds described on the same page; and,

*Pond 5-2 is no longer planned to be constructed. The text was updated.*

- c. Pond 5-2 is mentioned in Section 4.6.4 on page 4.6-5 with Diversion 5-2, but Pond 5-2 has been removed from the list of described ponds on page 4.6-2. (WTG)

*Pond 5-2 was removed from the construction schedule.*

6. Page 4.6-2 indicates that Pond 5-3 will be retained as permanent as requested by the landowner. If this will be the case, please indicate where the approximately 10 acres of prime farmland that was disturbed during the construction of this pond will be replaced. (SAS)

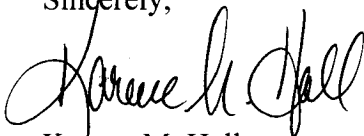
*As discussed with the PSC, approximately 1.38 acres of prime farmland was disturbed during the construction of Pond 5-3. Since 5-3 is a permanent pond the prime farmland will be reclaimed on the cropland in the NE4 of section 8-141-83, which is owned by Minnkota Power. This was added as requested on page 4.6-2.*

7. Page 4.6-3 indicates that Diversion D-5-3 will be built in 2012, but Plate 4.6-1 has it listed as 2011. Please correct as necessary. (SAS)

*Plate 4.6-1 was updated.*

If you have any questions regarding this submittal, please contact me at the Center office.

Sincerely,



Karene M. Hall  
Permit Coordinator