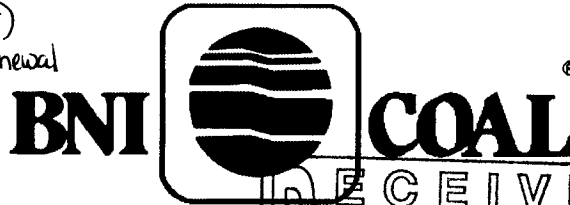
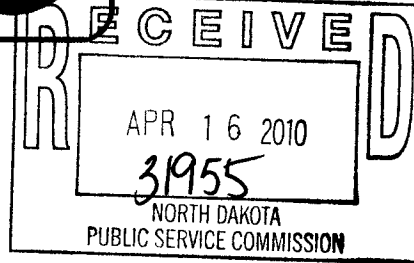


PHONE (701) 794-8734



FAX (701) 794-3125

April 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: \_\_\_\_\_

Info & File: \_\_\_\_\_

RE: Renewal No. 3 and Revision 9 to Permit BNCR-9401

Dear Mr. Deutsch,

This submittal contains a response to your letter to us dated February 18, 2010. In this letter you listed technical deficiencies that must be addressed before the renewal and revision can be deemed complete. The following is a listing of the deficiencies followed by our response:

**Section 1.7 – Business Entity Information**

- 1. Because all of the permitted acreage at the Larson Mine is now completely bond released, the last sentence on page 1-1 in Section 1-7 may now be removed. (SAS)

*Updated as requested.*

- 2. Please update the listing of the corporate officers and board members for BNI and Allete in Subsection 1.7.2 from that currently shown on pages 1-2 through 1-5. [NDCC 38-14.1-14(1) (e)]. (BEB, SAS & WTG)

*Updated as requested.*

- 3. Please update the organizational chart on page 1-5 to reflect BNI's current structure. (MSK, SAS & WTG)

*Updated as requested.*

**Section 1.8 – Description of the Permit Boundary**

- 4. Please update this section with the following changes:
  - (a) Reference where the permit area is shown, i.e., Plate 1-1, in the first sentence of Section 1.8 similar to wording in Permit BNCR-9702;

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

RC-10-113 Filed: 4/16/2010 Pages: 8  
Revision Application Filed to Update Mining and Reclamation Plans

BNI Coal, Ltd.  
Karene Hall

*Updated as requested.*

- (b) Update the Metes and Bounds description to reflect the current permitted area following the approval of Bond Release No.'s 2 and 3; and,

*Updated as requested.*

- (c) Update Plate 1-1 to depict the current permit boundary, and label the plate correctly. The version in the permit is described as Plate 1-1 in the Appendix 1 Table of Contents, but it is labeled as Plate 1 of 1 in the title box. [NDAC 69-05.2-08-01(3)]. (SAS & WTG)

*Updated as requested.*

5. Appendix 1-1 contains two Permit Boundary Maps labeled Plate 1 of 1 and Plate 2. The two maps depict different permit boundaries based on the inclusion or exclusion of the west butterfly pond and rock crushing area. Neither permit boundary is current, but only one map is necessary to depict the current permit boundary. Please remove Plate 2 from the permit, and document its removal in the renewal revision's list of instructions. (WTG)

*Updated as requested.*

6. Please use NAD 1927 coordinates to designate the Point of Beginning on Plate 1, the Legal Description of Permit Boundary. (MSK)

*Updated as requested.*

### **Section 1.9 – Surface and Coal Ownership**

7. If any changes have occurred, please update the narrative, and listing of coal and surface ownership on pages 1-7 through 1-9 and the Ownership Map of Plate 1.2. [NDCC 38-14.1-14(1) (b) and NDAC 69-05.2-06-01(1) (a)]. (BEB & SAS)

*No changes.*

### **Section 1.12 – Other Licenses and Permits**

8. Please update the list of other licenses and permits issued to BNI on pages 1-10 through 1-12 to provide current information. [NDAC 69-05.2-06-04]. (BEB, SAS & WTG)

*Updated as requested.*

### **Appendix 1-6**

9. Since Appendix 1-6 includes a copy of the NDPDES permit, please insert a copy of the updated or renewed permit in this section. (MSK)

*A copy of the current NDPDES permit is included with this submittal.*

## **Section 2.1 – Extended Mine Plan**

10. Please provide a revised Extended Mine Plan Map, Plate 2-1 to reflect current plans. [NDCC 38-14.1-15]. (BEB, MSK, SAS & WTG)

*Plate 2-1 was updated to the most current plan.*

## **Section 4.1 – Coal Removal**

11. Please update, if necessary, the Construction Schedule in Section 4.1. (MSK)

*Updated as requested.*

12. Because the next permit term will include the construction of the Phase III cell, please update Table 4.1-1, Coal Production by Year, and the total estimated production value discussion. In addition, please clearly identify the next 5-year removal area on Plate 4.1-1. (SAS)

*Updated as requested.*

13. Please update the “Rock Storage” section on page 4.1-3 to reflect that the west cell of the existing butterfly pond and the area between the butterfly pond and the haul road were bond released in December 2008; however, please retain the historical information. (SAS & WTG)

*The rock storage section on page 4.1-3 was updated as requested.*

## **Appendix 4.1-1**

14. Please update, if necessary, the equipment list within this appendix. (SAS)

*The equipment list was updated.*

15. Please update Plate 4.1-1, Limited Mine Plan, to show the bond release areas for Permit BNCR-9401, and make any other necessary updates to the map, such as changes to water management features or stockpile locations and please update and incorporate a legend into Plate 4.1-1. We recommend shading or cross-hatching the bond release area and noting that in the map legend. (BEB, MSK & WTG)

*Plate 4.1-1 was updated. The title of Plate 4.1-1 was changed from Limited Mine Plan to Pit Layout and Facilities Map.*

## **Section 4.2 – Existing Structures**

16. Please update the General Mine Plan Map that is provided as Plate 4.2-1 to revise the BNCR-9401 permit boundary and make any other necessary changes to the map. (BEB)

*See response 17.*

17. Please make the following changes to Plate 4.2-1, General Mine Plan Map, to improve its legibility: (a) Strengthen the permit boundary lines to make them the dominant line feature of the map, and show all of the existing permit boundaries with a consistent line type. For example, the boundary for Permit BNCR-9401 is difficult to identify as it is currently shown on Plate 4.2-1, and some permits are shown with different line types although the legend indicates that all existing permit boundaries are shown with one line type; (b) Show all of the section line boundaries clearly and consistently. For example, the widely spaced dotted line used for section boundaries makes it difficult to identify the boundaries, and section lines are absent between Sections 25 and 26, and Sections 35 and 36; and, (c) Explain, and remove if necessary, the single horizontal and three vertical lines that cross the map and are shown as a solid line with alternating hollow circle and semicircle symbols. These lines do not appear to serve any purpose for mining or reclamation related activities. (WTG)

*Plate 4.2-1, General Mine Plan Map contains the same information as Plate 4.1-1, Pit Layout and Facilities Map, therefore, Plate 4.2-1 was deleted from Section 4.2 Existing Structures. The narrative in Section 4.2 was updated to reference Plate 4.1-1.*

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

18. Please update the discussion on Pond 5-2 on page 4.6-2 to reflect the current plans since this pond was not constructed in 2009 as currently indicated. (SAS)

*The discussion on page 4.6-2 regarding Pond 5-2 has been updated with the current plans. Pond 5-2 will not be built as planned, instead a diversion will be incorporated into the design of Minnkota's next ash cell. Plate 4.6-1 has been updated to reflect the change.*

19. Please update the rock storage area discussion on page 4.6-5 to reflect that the west cell of the existing butterfly pond and the area between the butterfly pond and the haulroad were bond released in December 2008. (SAS & WTG)

*The rock storage portion of 4.6-5 was updated as requested.*

#### **Section 4.7 – Water Monitoring and Drillhole Reclamation Plans**

20. Please update the first paragraph on page 4.7-1 to reflect the change in surface water monitoring frequency from monthly to quarterly as approved with Revision 29 to Permit BNCR-9702. (WTG)

*Updated.*

#### **Section 4.12 – Revegetation and Post-Mining Land Use**

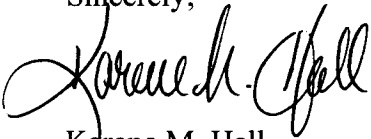
21. We recommend BNI consider reclaiming the prime farmland cropland area in Section 5 to another section where cropland is owned by them or BNI in Permit BNCR-9702 and replace the area in Section 5 with native grassland. The size of the area (about 10 acres) in Section 5 is not conducive to farming operations, but would be better utilized as a

native grassland along with the adjacent areas to the southwest and northeast in that part of the section. (GAW & SAS)

*As BNI evaluated the request of the PSC to have BNI reclaim approximately 10 acres of prime soils of one landowner (Minnkota) which are located in BNCR-9401 to another location either owned by Minnkota or BNI in BNCR-9702, multiple problems arise. There are issues ranging from different permits to different landowners, to the area to reclaim these 10 acres is approximately seven miles away. For all of these reasons BNI will keep the prime farmland in the existing locations.*

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

Sincerely,

A handwritten signature in black ink, appearing to read "Karene M. Hall". The signature is fluid and cursive, with the first name being the most prominent.

Karene M. Hall  
Permit Coordinator



**APPLICATION FOR REVISION OF PERMIT TO ENGAGE IN  
SURFACE COAL MINING AND RECLAMATION OPERATIONS**  
PUBLIC SERVICE COMMISSION  
RECLAMATION DIVISION  
SFN 10562 (1-2004)

RECEIVED  
Date 4-19-10  
File Rev9-application (31955)

Date	April 15, 2010
Revision Number	9
State	ND
Zip Code	58530-9499

Name of Company, Corporation, Partnership, or Individual BNI Coal, Ltd.	Permit Number BNCR-9401
Address 2360 35th Avenue SW	City Center

The above named hereby makes application for the above Revision Number to: (include a brief description of the surface coal mining and reclamation operation being revised.)

Update the business entity information, licenses and permits, extended mine plan, operational and reclamation sections for the next 5-year term.

Attached to this Permit Revision Application are a narrative describing the proposed permit revision, reasons for requesting the revision, and appropriate maps, cross-sections, graphs, construction details, revised reclamation plans and other data which demonstrate compliance with Chapter 38-14.1 of the North Dakota Century Code, Article 69-05.2 of the North Dakota Administrative Code, and the permit conditions of the approved permit. If an incidental boundary revision involving an acreage adjustment is being requested as part of the permit revision application, the following information shall be included (attach a copy of a metes and bounds description):

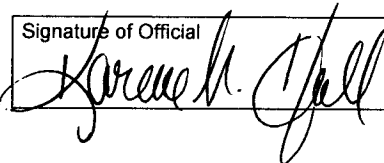
NAME OF MINE	ACRES	LOCATION			
		SEC.	TWP.	RANGE	COUNTY
ADDRESS					
<b>TOTAL ACRES</b>					

Based upon the proposed changes and any incidental boundary revisions to the permit as stated herein, a new or adjusted bond, or its equivalent, duly executed in accordance with Section 38-14.1-16 of the North Dakota Century Code and Chapter 69-05.2-12 of the North Dakota Administrative Code will be delivered to the Public Service Commission prior to issuance of the surface coal mining and reclamation operations permit herein requested. A check for filing fees, pursuant to Section 38-14.1-13 of the North Dakota Century Code, in the amount of \$ 0, is included with the revision application.

Name of Official Authorized to Represent the Applicant Karene M. Hall
--------------------------------------------------------------------------

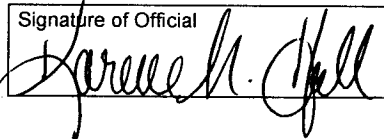
- I, the above named, certify that:
1. All information and documents required by Sections 38-14.1-13, 38-14.1-14, and 38-14.1-15 of the North Dakota Century Code and Article 69-05.2 of the North Dakota Administrative Code, are submitted as part of this permit application;
  2. Information and documentation contained in the permit application affirmatively demonstrate that:
    - a. The permit revision application is accurate and complete and all the requirements of Chapter 38-14.1 of the North Dakota Century Code and Article 69-05.2 of the North Dakota Administrative Code have been complied with;
    - b. Reclamation as required by Chapter 38-14.1 of the North Dakota Century Code and Article 69-05.2 of the North Dakota Administrative Code can be accomplished under the reclamation plan contained in this permit revision application;

- c. An assessment of the probable cumulative impact of all anticipated mining in the general area on the hydrologic balance as specified in subdivision o of subsection 1 of Section 38-14.1-14 has been made and the proposed operation has been designed to prevent material damage to the hydrologic balance both on and off the mine site;
  - d. The area proposed to be affected is not included within an area designated unsuitable for all or certain types of surface coal mining and is not within an area under study for such designation in an administrative proceeding;
  - e. The proposed surface coal mining operation will not interrupt, discontinue or preclude farming on alluvial valley floors that are irrigated or naturally subirrigated and will not materially damage the quantity or quality of water in surface or underground water systems that supply these alluvial valley floors; and
  - f. The permit revision applicant has the legal right to surface mine the land for which this permit revision application is made and all of the requirements of Chapter 38-18 of the North Dakota Century Code have been complied with.
3. The area proposed to be affected is not included within an area where mining is prohibited pursuant to Section 38-14.1-07 of the North Dakota Century Code; unless specifically allowed in accordance with the provisions of Section 69-05.2-04-01 of the North Dakota Administrative Code; and
4. The surface coal mining and reclamation operations contained in this permit revision application will be carried out at all times in a manner which ensures that all of the requirements of Chapter 38-14.1 of the North Dakota Century Code, Article 69-05.2 of the North Dakota Administrative Code, and any permit conditions attached thereto are complied with.

Signature of Official 	Title Permit Coordinator
------------------------------------------------------------------------------------------------------------	-----------------------------

**VERIFICATION**

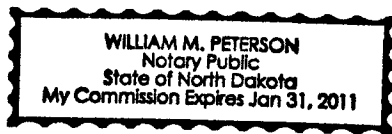
I, Karene M. Hall, being first and duly sworn, verify that the information contained in this Permit Revision Application is true and correct to the best of my knowledge and belief.

Signature of Official 	Title Permit Coordinator
--------------------------------------------------------------------------------------------------------------	-----------------------------

STATE OF North Dakota )  
 )ss.  
 COUNTY OF Oliver )

Subscribed and Sworn before me, this 15th day of April, 2010.

(SEAL)



William M. Peterson  
 Notary Public

My Commission Expires: \_\_\_\_\_

**INSTRUCTION SHEET**  
**BNCR-9401**  
**Renewal No. 3 Revision 9**

**VOLUME I**

Replace **ENTIRE** Legal and Financial Section.

Add Notice of Publication to the front of Appendix 1-1.

Replace Plate 1 of 1 Revision 3 Legal Description of Permit Boundary with updated Plate 1-1 Legal Description Revision 9 in Appendix 1-1.

Remove Plate 2 Revision 4 Map of Entire Permit Boundary in Appendix 1-1.

Add NDPDES permit to the end of Appendix 1-6 NDPDES Section.

Replace Plate 2-1 Extended Mine Plan map.

**VOLUME V**

Replace **ENTIRE** Section 4.1 Coal Removal.

Replace Appendix 4.1-1 Equipment List.

Replace Plate 4.1-1 Limited Mine Plan with updated Plate 4.1-1 Pit Layout and Facilities Map.

Replace **ENTIRE** Section 4.2 Existing Structures.

Remove Plate 4.2-1. This plate and all the data from it are included on Plate 4.1-1 Pit Layout and Facilities Map.

Replace **ENTIRE** Section 4.6 Surface Water Management Plan.

Replace Plate 4.6-1 Surface Water Control Map.

Replace **ENTIRE** Section 4.7 Water Monitoring and Drillhole Reclamation Plans.