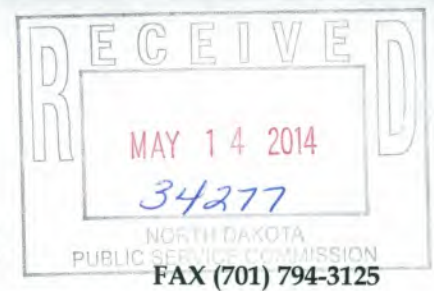


PHONE (701) 794-8734



AN ALLETE COMPANY

2360 35TH AVENUE SW CENTER, ND 58530-9499
MINING LIGNITE AT THE CENTER MINE SINCE 1970

May 14, 2014

Mr. Jim Deutsch, Director
Reclamation Division, NDPSC
Department 408
600 East Boulevard Avenue
Bismarck, ND 58505-0480

RE: Application for Permit BNCR-1101

Dear Mr. Deutsch,

This submittal contains a response to your letter to us dated May 12, 2014. In this letter you listed technical deficiencies that must be addressed before the permit application for BNCR-1101 can be approved. Changes made in text documents in response to the deficiencies have been highlighted in green. Below is a listing of the deficiencies followed by our response:

Changes were made to Plate 1.9-1 in response to a May 14, 2014 phone conversation with PSC Staff. The parcel boundary lines have been corrected, the BNCR 8106 permit boundary has been depicted and labeled appropriately, and the excess BNCR 8602 permit boundary label has been removed from this plate.

Section 1.7 Business Entity Information

1. Please update Subsection 1.7.2 (Controlling Officers and Board of Directors of BNI Coal, Ltd.) to reflect changes to BNI Coal, Ltd. Controlling Officers and Board of Directors as described on Attachment (3) to the May 1, 2014 Surface Coal Mining and Reclamation Operations Surety Bond application. (WTG)

In conversation with PSC Staff, no changes are necessary to Section 1.7 at this time.

Section 1.10 Areas Unsuitable for Mining

2. Please revise the April 28, 2014 changes to the Section 1.10 narrative (Areas Unsuitable for Mining) and related permit sections as follows. (WTG)
 - a. Revise the approval date to read April 3, 2014 rather than March 6, 2014 as presented for the December 9, 2013 petition to the Oliver County Commission for approval to temporarily close several section lines, permanently close a section line, and conduct mining operations within 100 feet of the outside right-of-way.

The approval date of the petition has been changed from March 6, 2014 to April 3, 2014

- b. Remove references to the "Agreement" because the referenced agreement is not the petition approval to close section lines or conduct mining operations within 100 feet of the outside right-of-way within Permit BNCR-1101, but rather was required by the county to grant the petition. As referenced in the agreement, BNI will need to build a county road on or near the section line common to Sections 25 and 36 (in or near Permit BNCR-8106) to connect 36th Avenue SW and 37th Avenue SW as the county deems necessary.

References to the "Agreement" have been removed from Section 1.10.

- c. Remove the reference to Appendix 1-7, and remove the agreement from Appendix 1-7, because it is not the petition approval to close section lines or conduct mining operations within 100 feet of the outside right-of-way within Permit BNCR-1101. Approval of the petition to close section lines or conduct mining operations within 100 feet of the outside right-of-way within Permit BNCR-1101, and the agreement required by the county to grant the petition (reduced-sized copy), is currently documented in the unofficial minutes of the April 3, 2014 Oliver County Commission meeting in Appendix 4.5-1, but please add the full page copy of the agreement to Appendix 4.5-1 for reference. Page 4.5-7 of Section 4.5 (Transportation Narrative) states as follows: "Appendix 4.5-1 contains a record of all of the formal County actions/approvals regarding road closings. This appendix will continue to be updated through the course of normal permit revisions as additional Commission actions are taken."

The reference to Appendix 1-7 has been removed from the text in Section 1.10, the Agreement has been removed from Appendix 1-7 and placed in Appendix 4.5-1. The unofficial minutes for the April 3, 2014 Oliver County Commission meeting have been removed and replaced with the pages from the Center Republican with the April 3, 2014 Oliver County Commission meeting minute's publication.

- d. Revise the narrative to reference that the petition approval is located in Appendix 4.5-1.

Reference to the petition approval being in Appendix 4.5-1 has been added to the text in Section 1.10.

Section 1.11 Current Surface Mining Permits

3. Please correct the approval date for Revision No. 12 to Permit BNCR-9401 to read April 9, 2014 rather than April 8, 2014. (WTG)

The approval date for Revision 12 to Permit BNCR-9401 has been revised as suggested.

Appendix 1-2 Certified Copies of Leases and Assignment Documents

4. Follow-up to item No. 4: BNI's April 28, 2014 response to item No. 4 requiring inclusion of a certified copy of a surface lease executed by Kasper and Donna Kraft for the SW $\frac{1}{4}$ of Section 16, T141N, R83W indicates that BNI will provide the Commission with a copy of the lease prior to Commission application approval, and include a certified copy of the lease in the approved permit. Please be reminded that NDAC 69-05.2-06-03(1) requires a "certified copy" of the lease and that must be provided to the Commission prior to application approval; however, we prefer that be included in the permit application with BNI's response to this letter. (WTG/DKM/JRD)

The Kraft lease is scheduled to be signed on this Friday, hence following the signing BNI will have an executive authorize the lease and it will then be recorded at the county. A certified lease should then be delivered to the PSC early next week and will be incorporated into the final copy of the permit.

Section 3.5 Pre-mining Land Use

5. Related follow-up to item No. 15: In Section 3.5 the relevant narratives should be updated to discuss the prior land use for the current industrial tract that was a temporary concrete batch plant in the NW $\frac{1}{4}$ of Section 5, T141N, R83W. The lease for the property in the NW $\frac{1}{4}$ of Section 5 appears to have been obtained in 1992 thus the land use prior to the disturbance for the batch plant in 2007 should be relevant. The aerial imagery available for the area appears to indicate that the tract was used for hay production in the years prior to disturbance. The proposed post mining land use of industrial presented in Section 4.12 would be acceptable for the area but there should be a contingency for restoring the vegetation on the area if the land is not used for an industrial purpose at the time of bond release. The land cannot be bond released as industrial if the tract is not serving an industrial use. [NDAC 69-05.2-01-02(43), NDAC 69-05.2-23-01&3, NDAC 69-05.2-22-07(j)] (RLK)

Statements have been added to the narratives found in Section 3.5 (page 14-15) and Appendix 4.12-2 (page 3) to describe that prior to the batch plant construction in 2007, this area was used for hayland; and that if this area is no longer needed for an industrial use postmine, it would be reclaimed as hayland. Additionally the second sentence of the industrial paragraph on page 14-15 of Section 3.5 has been revised to clarify that disturbance by Minnkota Power was not prior to BNI leasing the property.

Section 3.7 Prime Farmlands

6. Please revise Section 3.7 Prime Farmlands narrative and tables as indicated in a May 8, 2014 BNI electronic mail message. (WTG)

The changes to Section 3.7 as indicated in the electronic correspondence on May 8th, has been completed.

7. Please revise Plate 3.7-1 (Prime Farmland Soils) to depict the Straw loam (SwA) prime farmland soil map unit in the N $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 12, T141N, R84W as indicated in a May 8, 2014 BNI electronic mail message. (WTG)

Plate 3.7-1 (Prime Farmland Soils) has been corrected, and now depicts the SwA prime farmland soil map unit in the N1/2NE1/4 of Section 12 as discussed in electronic correspondence on May 8th, 2014.

Section 3.8 Soil Resources

8. Please revise Plate 3.8-1 (Soils Map) to depict the Straw loam (SwA) prime farmland soil map unit in the N $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 12, T141N, R84W as indicated in a May 8, 2014 BNI electronic mail message. (WTG)

Plate 3.8-1 has been revised to depict the SwA prime farmland soil mapping unit in the N1/2NE1/4 of Section 12 as discussed in electronic correspondence on May 8th, 2014.

Section 4.1 Operations Plan

9. Follow-up to item No. 3: BNI's April 28, 2014 response to item No. 3 requiring inclusion of a certified copy of the coal lease with Great Northern Properties for Section 7, T141N, R83W indicates that mining will not occur in Section 7 until an alternative instrument conveying the right to mine is approved. Although the Section 7 pit sequences may be retained on Plate 4.1-1 (Pit Layout and Facilities Map), the permit narrative must be revised to clearly indicate that mining will not occur in Section 7 until an instrument showing the right to mine is included in the approved permit. Please insert a subsection titled Great Northern Properties Coal Ownership (Section 7, T141N, R83W), or something similarly descriptive, in the Operations Plan narrative following the Federal Coal subsection on page 4.1-6 to clearly indicate that mining will not occur in Section 7 until an instrument demonstrating the right to mine is included in the approved permit. (WTG/DKM)

The recommended text has been added to Section 4.1. It can be found on Page 4.1-6.

Section 4.4 Blasting Plan

10. Please review Plate 4.4-1 (Blasting Map). The table that shows the maximum permissible weight of explosives to be detonated at intervals not to exceed 400 feet should show a maximum distance of 8400 feet to comply with NDAC 69-05.2-09-04(8) and the occupied farmstead located in the NW $\frac{1}{4}$ of Section 1, T141N, R84W. Also, the range rings that originate where blasting is prohibited begin with the origin or zero-value in the center of the occupied farmstead/buildings, etc. The zero-value should start at the farthest structure from the center of the farmstead or group of buildings. Please revise the Blasting Map to comply with NDAC 69-05.2-09-04. (BAJ)

The table now goes up to 10,000 ft. The rings have been drawn and show the first ring of 400 ft at a minimum of 400 ft from any farmstead building.

Section 4.5 Transportation Plan

11. Please revise the April 28, 2014 changes to the Section 4.5 Road Closures narrative as follows. (WTG)
 - a. Revise the last paragraph of page 4.5-7 to reference the December 9, 2013 petition to the Oliver County Commission for approval to temporarily close several section lines, permanently close a section line, and conduct mining operations within 100 feet of the outside right-of-way because the entire petition was approved that included closure of 35th Avenue SW. Please also revise the petition approval date to read April 3, 2014 rather than March 6, 2014 as presented.

The last paragraph on Page 4.5-7 has been modified to be consistent with this request. Much of the text has been taken verbatim from what was written in the deficiency.

- b. Revise the first paragraph of page 4.5-8 to reference an April 3, 2014 appearance before the county commission rather than April 13, 2014 as presented, and begin the paragraph with a reference to the petition approval as follows: “*Prior to the April 3, 2014 approval of the December 9, 2013 petition, BNI appeared before the Oliver County Board of Commissioners to enter into an agreement ...*”.

The reference date has been corrected to read April 3, 2014. The italic text was inserted verbatim into Section 4.5. These changes can be found in green in the first full paragraph of page 4.5-8.

Plate 4.5-3 Section Line Closures, Rights of Ways, and Detour Corridors

12. Please revise the April 28, 2014 changes to Plate 4.5-3 (and two other minor items) as follows. (WTG)
 - a. Revise the text added to the bottom of Plate 4.5-3 to remove the reference to an agreement found in Appendix 1-7 as noted in related deficiency in Section 1.10.
 - b. Shorten the temporary section line closure depicted along one mile common to Section 31 (T142N, R83W) and Section 6 (T141N, R83W) to depict temporary section line closure along one-half mile common to the SE $\frac{1}{4}$ of Section 31 and the NE $\frac{1}{4}$ of Section 6 (refer to the petition in Appendix 4.5-1).

Plate 4.5-3 has been revised. The temporary line closure between Section 31 and Section 6 has been corrected to show one half mile between the SE $\frac{1}{4}$ of Section 31 and the NE $\frac{1}{4}$ of Section 6.

- c. With the exception of text added to the bottom of Plate 4.5-3 with the April 28, 2014 changes, there are no descriptions or representations of Phase I road closures on the plate or in the plate's legend, but there two representations of Phase2 or Phase II road closures. It appears that the line representations under the heading of "BNCR1101 Section Line Closures, ROW Variances, and Detour Corridors" constitute Phase I closures and should be labeled as such in the "BNCR1101 Section Line Closures, ROW Variances, and Detour Corridors" heading. It also appears that the duplicative and incorrectly named representation of "... Phase2 ..." closures should be removed from the legend..

The legend has been revised so that the title of the "BNCR1101 Section Line Closures, ROW Variances, and Detour Corridors" now reads "Phase 1 BNCR1101 Section Line Closures, ROW Variances, and Detour Corridors"

- d. Reposition the label for 36th Avenue SW so that it is completely visible on the top portion of the plate.

The label for 36th Avenue SW has been moved south and is now shown along the section line of Section 13, T141 R84 and Section 18, T141 R83 so that it easily identified.

- e. Remove the extraneous labels for Center Mine permits that are not relevant to the plate and whose boundaries are not represented in the plate's legend (BNCR-8106, BNCR-8202, BNCR-8602, Permit 37).

The additional Permit boundary labels have been removed from Plate 4.5-3.

Appendix 4.5-1 Section Line Closures, Rights of Ways, and Detour Corridors

13. Please complete the following updates to Appendix 4.5-1 as follows: (WTG)
 - a. As noted in a related deficiency in Section 1.10, add the full page copy of the April 3, 2014 agreement in consideration for granting the December 9, 2013 petition to Appendix 4.5-1.

The "Agreement" with the Oliver County Commission has been added to Appendix 4.5-1.

- b. Add a copy of the April 3, 2014 Oliver County Commission proceedings published in the Center Republican to Appendix 4.5-1.

A copy of the publication of the April 3, 2014 Oliver County Commission meeting minutes from the Center Republican have been added to Appendix 4.5-1.

Section 4.6 Surface Water Management Plan

14. Follow-up to item No. 23: Please provide specific plans and/or specify the best management practices that will be used to control runoff for the W $\frac{1}{2}$ W $\frac{1}{2}$ of Section 5 (Access Road Section C - dragline walkway), the E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 31, and the

S½SW¼ of Section 32 because proposed ponds P-5-8, P-5-9, and diversion D-32-1 have been deleted from the Surface Water Management Plan. [NDAC 69-05.2-16-08] (FSE).

The requested discussion has been added to Section 4.6. The additional text can be found in green highlight at the bottom of page 4.6-5.

Section 4.9 Reclamation Schedule

15. Please add the 2019 Annual Mine Block to the Reclamation Schedule Table on page 4.9-1 to complete the 5 year time period of the first permit term. The 2019 Annual Mine Block must also coincide with the areas depicted on Plate 4.14-1 (Worst Case Bond Map) for areas of spoil grading, SPGM respread, and revegetation. (BAJ)

A 2019 row has been added to the bottom of the table on page 4.9-1. The additional row is highlighted in green.

Section 4.12 Revegetation, Post Mining Land Use and Reclamation Success Narrative

16. Follow up to item No. 30: A sentence in the second paragraph on page 2 of Section 4.12 states that the conversion of 185 acres of native grassland to cropland comprises less than 53.5% of the total reduction in native grassland pre-mine compared to post-mine. The narrative continues to state that cropland acres have increased by approximately 217 176 acres for a similar percentage increase. The native grassland to cropland conversion percentage is actually 4.5% of the total pre-mine native grassland (185.3/4108.3) and the cropland acreage increases by approximately 5.5 %. Please correct these errors or edit the sentences to provide clarity. (GAW)

The second paragraph on page two of Section 4.12 has been revised. These errors have all been corrected. They were all portions of previous revisions, and when the PDF was written, the text was not showing that these have been deleted. The numbers in this paragraph have been updated with changes to land use in Section 19 & Section 20 (see #19).

17. Follow-up to item No. 30: The second to last sentence of the second paragraph on page 2 of Section 4.12 incorrectly states that land use changes will occur on 20 tracts of land and these tracts are then discussed individually and listed in Table 1 of Section 4.12; however, the NW¼ of Section 8 and the NW¼ of Section 16 are included in Table 1 but the proposed changes for these tracts are not discussed in Section 4.12. The NE¼ of Section 21 and NW¼ of Section 12 are included in Table 1 but no land use changes are being proposed on these tracts. Please review and revise to correct as necessary. (GAW)

The NW1/4 of Section 8 is discussed on the very top of page 4 and the NW1/4 of Section 16 is discussed on the top of page 5, however we have now added a bookmark to the PDF.

The NE1/4 of Section 21, NW1/4 of Section 12, and the NE1/4 of Section 12 are all tracts where the landowner has requested a change, however due to limitations with topography or lack of disturbance, no changes to land use are planned at this time. We feel it is appropriate to address and include these tracts within this section because a

change was requested by the landowner. We have retained the discussions for each of these tracts and have not removed them from the table.

18. Follow-up to item No. 30: The pre- and post-mine land use discussions in Appendix 4.12-2 state that the pre-mine developed water resources will be reclaimed in the S $\frac{1}{2}$ of Section 8 and the pre- and post-mine acreages in Table 1 of Section 4.12 and in Appendix 4.12-6 (Postmine Landuse Acreage Table) are the same; however, two pre-mine stockponds in the SW $\frac{1}{4}$ of Section 8 are not being replaced according to Plate 4.12-1 (Post Mine Land Use). Please review and explain the replacement plans for these two pre-mine developed water resources and/or revise Section 4.12 of the permit accordingly. (GAW)

Section 4.12, Appendix 4.12-2, and Appendix 4.12-6 all have been updated to clarify that There will be 1.51 acres of wetlands from the E $\frac{1}{2}$ of Section 17 that will be reclaimed within the S $\frac{1}{2}$ of Section 8; and 1.47 acres of DWRs from the S $\frac{1}{2}$ of Section 8 that will be reclaimed within the E $\frac{1}{2}$ of Section 17.

19. Follow-up to item No. 30: BNI is proposing to convert 5.26 acres of farmsteads to long narrow strips of native grassland along the south end of the SW $\frac{1}{4}$ of Section 19 and along the north end of the NE $\frac{1}{4}$ of Section 20. No native grassland existed in either of these tracts prior to mining and the landowners did not request any land use changes on either of these tracts. Although we commend BNI for attempting to create permanent vegetation habitat, these two land use changes are neither manageable nor practical. Consideration should be given to converting these farmstead sites to the adjacent pre-mine land uses (cropland) in these instances. (GAW)

The native grassland tracts postmine that had been proposed in the SW $\frac{1}{4}$ of Section 19 and the NE $\frac{1}{4}$ of Section 20 have been removed. These areas have been incorporated into the adjacent land uses (cropland). Revisions to postmine land use acreages have been made in Section 4.12, Appendix 4.12-2, Appendix 4.12-6, and Plate 4.12-1 has been revised.

20. Follow-up to item No. 30: Please depict the developed water resource that is to be reclaimed in the southeast corner of the NE $\frac{1}{4}$ of Section 18 on Plate 4.12-1 (Post Mine Land Use). A label is shown but the pond is not depicted. (GAW)

The location of the DWR was moved, and the label mistakenly was not. This DWR label was moved to the north and placed within the DWR in this tract.

Appendix 4.12-2 Pre-mine and Post Mine Land Use Discussions

21. Follow-up to item No. 35: We asked BNI to describe the species composition of the previously disturbed land located in the SE $\frac{1}{4}$ of Section 31, T142N, R83W. BNI has updated Appendix 4.12-2 to state that the site is comprised of 95% smooth brome grass and then goes on to state that this is similar to the adjacent undisturbed native grassland. The similarity index report in Section 3.6.3 documents that the undisturbed native grassland in this area is dominated by native grasses and forb species and that smooth brome only comprises about 8% of the relative composition by weight. Obviously the composition of these two tracts is not similar and the narrative needs to be revised to

reflect the actual conditions. Please also review the language discussing all other tracts with previously tilled areas to ensure the permit accurately characterizes the sites as required by NDAC 69-05.2-08-08(1)(d). (GAW)

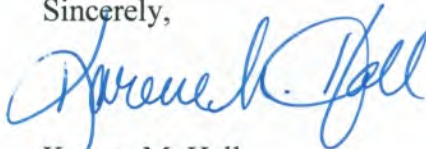
The language found on page 36 describing the previously tilled tracts in Section 31 has been revised. Language stating that tilled and undisturbed areas were similar on this tract has been removed. We have also reviewed language for the other previously tilled tracts throughout the permit to insure the language is accurately describing these areas.

Other Notes:

MSHA pond reviews are being finalized at MSHA-Coal District 9. After speaking with Ronald Gerhrke, mining engineer with District 9, on Wednesday May 14, we expect to have formal approval to construct the three ponds in BNCR 1101 by May 23rd. He has completed the review of P-5-6 and P-12-1 and is currently reviewing P-16-1 and expects to have it completed by May 19th. After his final review is complete, a letter will need to be signed by the District Manager. He expects to have a letter of approval to BNI by Friday May 23rd. BNI is aware that no MSHA pond construction can be started until the letter of approval is received from MSHA and submitted to the PSC. Dean Moos had stated that a condition could be placed on the permit until the proper documents have been received.

Thank you for your consideration of this matter. If you have any questions regarding this submittal, please contact me at the Center office.

Sincerely,



Karene M. Hall
Permit Coordinator