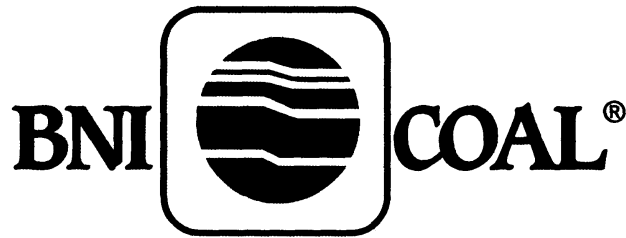
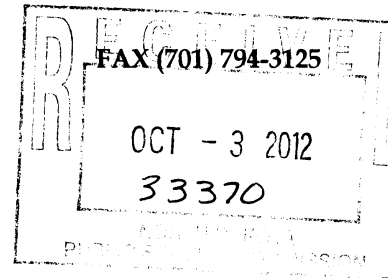


PHONE (701) 794-8734



AN ALLETE COMPANY

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



October 02, 2012

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

RE: Revision 12 to Permit BNCR-9401

Dear Mr. Deutsch,

This submittal contains a response to your letter to us dated August 14, 2012. In this letter you listed technical deficiencies that must be addressed before the permit revision application for BNCR-9401 can be deemed complete. Below is a listing of the deficiencies followed by our response:

LEGAL AND FINANCIAL INFORMATION

1. BNI is proposing to add 180.13 acres to the existing permit area with Revision No. 12, but for some reason is permitting only the south half of the haul road leading from BNI's shop office complex to the Minnkota Power Plant. It is not clear why the permit boundary would be placed down the center of this haulroad. For future compliance with NDAC 69-05.2-13-04 it would make sense to either include the entire haulroad at this location or none of it. Please review and revise as necessary so that the permit boundary is not down the center of the haulroad. (GAW)

The permit boundary has been revised to include the entire haulroad. All the maps in this submittal have been updated to reflect the increase in 1.45 acres in Section 32-142-83.

2. Follow-up to item No. 2: We have made the changes to Adobe Reader that you have suggested and all but the following links appear to be functional: On Page 1-1, the links to Appendix 1.1-1, Appendix 1.5-1, and Plate 4.14-1 do not work. On Page 1-9, the link to Plate 1.8-1 does not work either. Please attempt to repair these links. (BEB/ZAT)

The above referenced links have been repaired.

Appendix 1.5-1 Notice of Publication (Newspaper Advertisement)

3. Follow-up to item No. 8: As required by NDAC 69-05.2-10-01(1)(b)(1), please revise the map that is to be included with the public advertisement to show all public roads in the area and the name or street number of the road. (GAW)

The publication map has been revised to include the public roads with their respective street numbers.

Section 1.9 Surface and Coal Ownership

4. Follow-up to item No. 12: Please remove the reference to “less 74.4 acres” for Minnkota Power Cooperative surface and coal ownership in the S½ of Section 32, T142N, R83W for surface and coal ownership within the permit boundary on page 1-13, and also remove the listing for 74.4 acres of BNI Coal, Ltd. surface ownership and Minnkota Power Cooperative coal ownership that immediately follows for the S½ of Section 32, T142N, R83W because Minnkota Power Cooperative is the sole surface and coal owner of the S½ of Section 32 parcel proposed for addition to BNCR-9401. (WTG/ZAT)

The surface and coal ownership for BNI has been removed.

Appendix 1-2 Certified Copies of Leases and Assignment Documents

5. Follow-up to item No. 18: As required by NDAC 69-05.2-06-03(1), and as indicated in the July 20, 2012 response letter, please provide a certified copy of the surface ownership lease with Minnkota Power Cooperative for the SE¼ of Section 32, T142N, R83W. (WTG/ZAT)

The lease from Minnkota Power Cooperative has been included with this submittal.

3. ENVIRONMENTAL RESOURCES

Section 3.5 Pre-Mine Land Use

6. Follow-up to item No. 27: The second paragraph on Page 3.5-1 states that some of the previously disturbed land was classified as reclaimed grassland and goes on to state that these areas were seeded with a mix of native species. This acreage is obviously included in Table 3.5-1a, Premine Landuse Additional Acres Rev 12, but reclaimed grassland is not listed as a premine land use. It appears that most of this area is being classified as tame pastureland. Please revise this paragraph to clarify how this previously disturbed and seeded acreage is being classified. This is considered a completeness item because the land use dictates what is required for baseline vegetation information. (GAW)

These areas have been changed to depict Tame Pastureland. This has been updated accordingly and can be found in Table 3.5-1 of Section 3.5.

7. Follow-up items No. 29 and No. 30: The Revision 12 addition area is being added to Section 3.5 as if it was a stand-alone area and all of the original narrative information in Section 3.5 is being removed. The original narrative information must be retained while adding new narrative information for the addition area. Please also consolidate the information in the tables rather than adding new tables for the addition area. For example, do not include a separate Pre-mining Land Use Table, Table 3.5-1A, Cropland Mapping Unit and Landowner Table, Table 3.5-3A, and Woodland Table, Table 3.5-6a, for the acreage being added and do not remove information from the narratives, maps or tables for areas that have been bond released. Please revise to consolidate the information to the extent possible while retaining the original information. (GAW/ZAT)

The tables have been combined as requested. To the extent possible information has been retained, while integrating information and acres being proposed with Rev. 12. The only information that has been removed from this section is information regarding bond released tracts. This has been removed, as these tracts are no longer part of the permit. Parts of the original narrative have been moved throughout this section to precede each land use table.

8. Follow-up to item No. 31: Please revise Plate 3.5-2 as follows to fulfill the requirements of NDAC 69-05.2-08-08(3)(a): (ZAT/GAW)
- a. Remove the cross hatching within the approved permit boundary;
 - b. Clearly depict the approved permit boundary and proposed Revision 12 acres;
 - c. Outline and label the land uses in the approved permit in the same manner as Revision 12 area;
 - d. Include a statement under the Notes section at the bottom of the map that this plate depicts the approved permit boundary with Revision 9 in 2010 after Bond Release 3 and the proposed Revision 12 area;
 - e. Update the Notes section to include Section 8 proposed additional acres included with Revision 12; and,
 - f. Optional: Bond Release Nos. 1, 2, and 3 may be included at your discretion. If you choose to include them, each should be identified clearly and labeled with the year of bond release and acres released. This suggestion is made because Plate 3.5-1 (Historical) depicts the original Permit Boundary with no bond releases. Plate 3.5-1a is the 2004 permit boundary and includes acreage later released with Bond Releases 2 and 3.
- A. *Cross hatching has been removed.*
- B. *The permit boundary has been revised to show the permit boundary more clearly.*
- C. *Land uses for the approved permit and the proposed additional acres have been depicted and labeled the same*
- D. *Plate 3.5-2 has been removed as a plate in the permit. Plate 3.5-1A has been revised to depict the most current information, rather than adding new maps and footnotes to the permit. Plate 3.5-1 still contains the "historical" or original information submitted for the permit.*
- E. *BNI is choosing to not depict bond released areas on Plate 3.5-1A, as to make information within the permit boundary clear.*

9. Please review the acreage for Section 5 in the approved permit area. Plates 3.5-1 and 3.5-1A depict a parcel of industrial land that is not accounted for in Table 3.5-1b. Please make the appropriate acreage adjustments. (ZAT)

This tract was part of the acreage that was bond released with Rev. 9. Table 3.5-1 contains acreage within BNCR 9401 that is currently approved, as well as proposed additional acres in Rev. 12. All acres that have been previously bond released from this permit are not accounted for in acreage tables, as they are no longer part of the permit.

Section 3.6 Pre-Mine Vegetation

10. Follow-up to item No. 32: The new Native Rangeland narrative on page 3.5.5 discusses how fragmented the Revision 12 native grassland is and mentions that this native grassland is left idle. BNI then suggests that the ecology of areas outside of the proposed permit area that are being managed with livestock grazing are representing these idle areas in the Revision 12 addition area. The Reclamation Division finds it unlikely that areas left idle can be properly represented by areas that are being grazed. Please revise Section 3.6 and include information that properly represents the native grassland in the proposed permit area. There is no discussion in Section 3.6 for two of the four dominant ecological sites in the revision area. Please include a detailed discussion about the nature and variability of the vegetation on all of the ecological sites included in this area. It is not necessary to include sampling data from this native grassland if the vegetation of ecological sites is properly characterized and there is an assessment of ecological condition of the mapping units. (GAW)

The Ecological Sites that were used from BNCR 1101 were chosen because they best represent the native rangelands found in the Rev. 12 acres. The native rangelands section of Section 3.6 has been revised to address this and discuss additional ecological sites.

11. Follow-up to item No. 34: Please identify the woodland mapping units on the woodland map, Plate 3.6-2. BNI responded to this item stating that this is shown on Plate 3.6-3 but this plate does not exist. (GAW)

Woodland Mapping units are shown for woodlands being added in Rev. 12. Information for woodlands prior to Rev. 12 is not available. These are found on Plate 3.6-2. Previous response stating 3.6-3 was a typo.

12. Follow-up to item No. 38: Please include a narrative which describes the vegetation of each tame pastureland area, including dominant species and their relative proportions as required by NDAC 69-05.2-08-08(1)(d). (GAW)

A narrative about tame pasturelands has been included in Section 3.6 as requested. The species list found in Appendix 3.6-5 also contains species found within tame pastureland tracts.

Section 3.10 Fish and Wildlife Resources

13. Follow-up to items No. 44 and No. 45: Please include a summary of the results of the 2010 Wildlife Inventory that is specific to the proposed Revision 12 addition area and

buffer zone. Please also indicate if there are any sharp-tailed grouse leks, raptor nests, USFWS designated critical habitat, wetland habitat suitable for whooping crane, or any habitat suitable for species considered Candidates to the Endangered Species Act. (GAW)

A paragraph discussing the summary of the 2010 Wildlife Report as it relates to the proposed acres has been included in Section 3.10 as requested.

14. Follow-up to item No. 49: Please revise Plate 3.10-1 to depict the pre-mine wildlife habitats of all of the area within one-half mile of the existing and proposed new permit boundary as required by NDAC 69-05.2-08-15. The area that has been bond released should show the habitats as they existed at the time they were permitted. (GAW)

Habitats within ½ mile of the permit have been depicted on Plate 3.10-1 as requested. Bond released acres have been depicted as they currently exist, as these are the land uses that were recorded, during surveys for with rev. 12 acres.

4. OPERATIONS

15. Follow-up to item No. 50: We have made the changes to Adobe Reader that you have suggested and the links to Appendix 4.1-1 and Plate 4.1-1 that are provided in Section 4.1 still do not work. The link to Plate 4.1-1 in Section 4.2 now works. Please repair the links in Section 4.1. (BEB)

The above referenced links have been repaired.

Section 4.12 Revegetation and Post-Mine Land Use

16. Follow-up to item No. 74: Table 4.12-1 - Postmine Landuse Acres, indicates that 0.03 acres of wetlands in Section 5 are planned in the post-mine setting while the pre-mine wetland acreage listed in Tables 3.5-1 and 3.5-7 indicate 0.3 acres of pre-mine wetlands in Section 5. Please correct or provide a narrative in the permit on the replacement for the pre-mine wetland acres in Section 5. (RLK)

This has been corrected as requested.

17. Follow-up to item No. 77: Please include a copy of the letters mailed to the surface owners of the property being added with Revision 12 to show compliance with NDAC 69-05.2-09-13 which states that the applicant shall submit a copy of the surface owner's preference statement. NDAC 69-05.2-09-13 goes on to state that the applicant shall submit comments from state or local authorities who would have to initiate, implement, approve or authorize the land use following reclamation. Please provide information from Oliver County showing that the land in Section 32 has been zoned industrial land. (GAW)

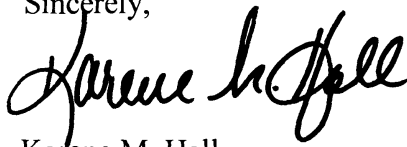
The signed landowner preference statements have been included with this revision Appendix 4.12-2. Appendix 1.5-2 includes the Landowner Notification Letters dated 3-21-12 that were sent to landowners.

18. Appendix 4.12-3, titled Pre and Post Mine Land Use Discussions (Revision 12), contains very little information about the pre- and postmine land uses of the Revision 12 addition area. Instead, this appendix contains more information about the premine vegetation established on the various land uses than that which is provided in Section 3.6, Pre-mining Vegetation. Please re-organize the permit so that information pertaining to the various sections of the permit is located where the titles would suggest that information exists. (GAW)

This appendix is included in the permit to include a discussion and acreage about each tract, and any changes that will occur in post-mine. It has been revised to include pre/post mine land use acreage tables for each tract.

Thank you for your consideration of this matter. 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 written in a cursive, flowing style.

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)

September 28, 2012

June 15, 2012

Date May 4, 2012
Revision Number 12
State ND
Zip Code 58530

Name of Company, Corporation, Partnership, or Individual BNI Coal, Ltd.	Permit Number BNCR-9401	Revision Number 12	
Address 2360 35th Avenue SW	City Center	State ND	Zip Code 58530

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.

add 181.58 acres in Sections 5 and 8, T141N, R83W and Section 32, T142N, R83W to the existing permit and update all applicable sections for the acreage addition.

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
Center Mine	139.09	8	141	83	Oliver
ADDRESS					
2360 35th Avenue SW	27.17	5	141	83	Oliver
Center, ND 58530	15.32	32	142	83	Oliver
TOTAL ACRES	181.58				

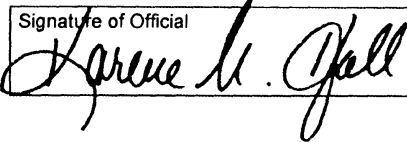
Based upon the proposed changes and any incidental boundary revisions to the permit as stated herein, a new or adjusted bond, or its equivalent, duly executed in accordance with Section 38-14.1-16 of the North Dakota Century Code and Chapter 69-05.2-12 of the North Dakota Administrative Code will be 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:

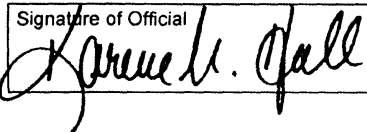
1. All information and documents required by Sections 38-14.1-13, 38-14.1-14, and 38-14.1-15 of the North Dakota Century Code and Article 69-05.2 of the North Dakota Administrative Code, are submitted as part of this permit application;
2. Information and documentation contained in the permit application 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

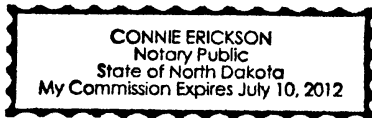
I, Karene M. Hall, being first and duly sworn, verify that the information contained in this Permit Revision Application is true and correct to the best of my knowledge and belief.


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

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

Subscribed and Sworn before me, this 4th day of May, 2012.

(SEAL)





 Notary Public
 My Commission Expires July 10, 2012

**METES & BOUNDS OF
PERMIT BNCR 9401
Revision 12**

A Tract Of Land Lying In Section 32, Township 142 North, Range 83 West and Sections 5 and 8, Township 141 North, Range 83 West, Of The Fifth Principal Meridian, Oliver County, North Dakota, Described As Follows:

Beginning at the Southeast Corner of Section 5, Township 141 North, Range 83 West;
(NAD 27-ND State Plane South Zone- US Foot- N: 506,603.4, E: 1,822,015.8);

Thence **North 00°02'45" West**, along the East line of Said Section 5, **a distance of 3438.58 feet**;
Thence **South 89°57'15" West**, **a distance of 260.00 feet**;
Thence **South 59°57'15" West**, **a distance of 400.00 feet**;
Thence **South 36°33'01" East**, **a distance of 786.14 feet**;
Thence **South 00°58'52" West**, **a distance of 845.12 feet**;
Thence **South 00°00'00" East**, **a distance of 591.30 feet**;
Thence **North 89°35'51" West**, **a distance of 2061.32 feet**;
Thence **North 37°54'50" West**, **a distance of 731.13 feet**;
Thence **North 00°00'00" East**, **a distance of 585.00 feet**;
Thence **North 19°56'33" East**, **a distance of 1213.50 feet**;
Thence **North 45°03'02" East**, **a distance of 1126.37 feet**;
Thence **North 00°03'02" East**, **a distance of 897.44 feet**;
Thence **North 41°11'44" East**, **a distance of 635.50 feet**;
Thence **North 42°49'06" West**, **a distance of 102.90 feet**;
Thence **North 58°16'11" West**, **a distance of 385.15 feet**;
Thence **North 47°59'41" West**, **a distance of 70.72 feet**;
Thence **North 60°49'23" West**, **a distance of 127.22 feet**;
Thence **South 88°35'20" West**, to a point on the East Permit line of BNCR 8106, **a distance of 92.37 feet**;
Thence **South 21°20'31" West**, along said East Permit line, **a distance of 199.97 feet**;
Thence **North 67°55'57" West**, continuing along said Permit line, **a distance of 100.00 feet**;
Thence **South 16°23'03" East**, **a distance of 188.67 feet**;
Thence **South 45°02'08" West**, **a distance of 302.87 feet**;
Thence **South 82°44'57" West**, **a distance of 495.86 feet**;
Thence **South 06°02'23" West**, **a distance of 775.62 feet**;
Thence **South 35°19'12" East**, **a distance of 284.44 feet**;
Thence **South 13°22'38" East**, **a distance of 195.30 feet**;
Thence **South 33°56'42" West**, **a distance of 378.40 feet**;
Thence **North 89°56'58" West**, **a distance of 939.94 feet**;
Thence **South 30°03'36" West**, **a distance of 1300.00 feet**;
Thence **South 00°03'36" West**, **a distance of 1500.00 feet**;
Thence **South 29°31'37" East**, to the North line of Said Section 8, **a distance of 1518.94 feet**;
Thence **South 89°35'36" East**, along said North line, **a distance of 524.43 feet**;
Thence **South 00°24'24" West**, **a distance of 330.00 feet**;
Thence **South 89°35'36" East**, to the North-South Quarter line of Said Section 8, **a distance of 364.40 feet**;
Thence **South 00°06'48" West**, along said North-South line to the Center of Said Section 8, **a distance of 2300.91 feet**;
Thence **South 89°47'19" East**, along the East-West Quarter line of Said Section 8 to the East Quarter Corner of Said Section 8, **a distance of 2638.38 feet**;
Thence **North 00°05'21" East**, along the East line of Said Section 8, **a distance of 2622.15 feet** to the Point of Beginning.

The Above Described Tract of Land Contains **436.26 Acres**, More Or Less.

Notes:

1. The basis of this survey is the 1927 North Dakota State Plane System, South Zone, US Survey Feet. Details available upon request @ 701-794-8735 ext. 260.
2. Survey control was re-established in 1993 by Measurement Sciences, Inc. Using Trimble 4000 GPS receivers and Trimble software.
3. Additional survey control was established in 1994 by Ulteig engineers using Sokkia 3BII total station (laser). Corrected coordinates for existing land corners and additional land corners were also established in 1995 and 1996 by Ulteig Engineers.
4. These calculations were done with Carlson Survey 2010 with AutoCAD & AutoCAD Map 3D 2010. An electronic copy is available upon request. Checking closure & acreages with AutoCAD is encouraged. A current digital ortho photo of the land is available for use in AutoCAD.
5. For electronic documents, this document was originally issued and sealed by Todd Marschall, RLS 4431, and is stored at BNI Coal Inc., 2360 35th ave. SW, Center, ND 58530-9499.
6. Please realize that measurements are never exact and that acreages are not a count.
7. Electronic version saved as: Legal-Description\2012-Center\BNCR 8202-Bond Release 1-Legal Description-Map 020612.
8. This document is not expected to perfectly match other documents with a different basis of survey. Round off error should be expected.

Certification:

I, Todd Marschall, hereby certify that this document is a reasonable representation and that I am a Registered Professional Land Surveyor in the State of North Dakota. I hereby certify that the representation shown on this sheet was prepared by me or under my direct supervision. Any alterations to this document will void my certification.



Todd Marschall, R.L.S. 4431

10-2-12
Date

