



# Public Service Commission

## State of North Dakota

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February 27, 2013

Jay M. Volk, Ph. D  
Environmental Manager  
BNI Coal, Ltd.  
2360 35<sup>th</sup> Avenue SW  
Center, ND 58530-9499

Dear Dr. Volk:

The Reclamation Division has completed a technical review of BNI Coal, Ltd.'s application for Revision No. 12 to Permit No. BNCR-9401 for the Center Mine in Oliver County, North Dakota. As allowed by NDAC 69-05.2-05-01(4)(b), the 120 day review period for the revision application has been extended an additional 120 days. As of today, February 27, 2013, 109 days remain of the Commission's second 120 day extended review period that is now suspended until the revision application deficiencies are corrected. In light of the large number of review deficiencies and changes that will be required to the revision application for BNI's technical review response, the Reclamation Division's second technical review may not be limited to follow-up deficiencies, but may also include new deficiencies related to those changes. Copies of the revision application as updated for BNI's technical deficiency response will be provided to some advisory committee members and federal agencies for additional review. Please also note that the technical review of Revision 12 coincided with the BNCR-9401 permit midterm review. Some of the following items may therefore relate to the permit midterm review rather than just the changes proposed by Revision 12. The following items must be satisfactorily addressed before the Reclamation Division will recommend Commission action on the revision application.

### General

1. Please review all plates that were updated with the permit revision application and revise them if necessary to depict the correct BNCR-9401 permit boundary. Numerous plates, including Plates 4.1-1 and 4.6-1, and others as noted in specific sections that follow, do not depict the correct permit boundary because line segments L27 and L28 in the N $\frac{1}{2}$ N $\frac{1}{2}$  of Section 5 around the Hagel Creek impoundment have been omitted. (GAW)

### **Section 1.7 Business Entity Information**

2. The second sentence of the first paragraph of Section 1.7 states that “NDAC 69-05.2-06(1)(f) does not apply.” Please include documentation showing a variance from this rule or revise to clarify how this rule “does not apply”. (GAW)

### **Section 1.7.2 Controlling Officers of BNI and Allete**

3. Please remove the entries of Deborah A. Amberg and P.A. Clement listed as BNI corporate officers in the section of BNI Board of Directors on page 1-3 as they are already included in the listing of BNI corporate officers on page 1-2. Please also make the same correction for Section 1.7.2 of the BNCR-1101 permit application. (WTG)

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

4. Please remove the word “revised” from the title of Section 1.8. (WTG)
5. Please revise Note number 7 to correctly name the AutoCAD file for Plate 1.8-2. (WTG)

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

6. The first sentence of Section 1.9 states that “*As stated in NDCC 38-14.1-18 (2), BNI has conducted a search of the records in the Office of the Register of Deeds in Oliver County to obtain this information.*” Please replace “As stated in” with “As required by”. NDAC 69-05.2-05-02(1). (GAW)
7. The last sentence under Section 1.9 states that “*If a corporation did not respond to our letter, there is little we can do about it*”. This language is unacceptable. NDCC 38-14.1-14(1)(c)(6) requires information containing the names and addresses of the principals, officers and resident agent be included in the application for any business entities with interest in lands in or contiguous to the proposed permit area. If BNI is unable to obtain this information from the respective company, it can be obtained by doing a records search with the North Dakota Secretary of State. (GAW)

### **Section 1.10 Areas Unsuitable for Mining**

8. In the first paragraph of Section 1.10, please add a statement that the permit area does not contain lands within the boundaries of the national system of trails or national wilderness preservation system as required by NDCC 38-14.1-07. (GAW)
9. Please update the date for commencing mining and reclamation activities. (WTG)

10. Please relocate the Oliver County minutes for closing section lines to Appendix 1-7 that are currently located in Appendix 1-6 (pages 12 and 13). According to the statement in Section 1.10, approvals pertaining to rights-of-way and road closures are located in Appendix 1-7. (WTG)

### **Section 1.11 Current Surface Mining Permits**

11. Please correct the wording in the third sentence of Section 1.11; it appears that “never” should be substituted for “ever”. Please also expand the last sentence to address suspension or revocation of mining permits as required by NDCC 38-14.1-14(1)(h). (WTG)
12. Please update the BNCR-1101 permit application review status in Table 1.11-1. (WTG)

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

13. The address for the ND Department of Health (Environmental Health Section) should be updated to its current address: 918 East Divide Avenue, Bismarck, ND 58501-1947. (RLK)
14. Please update the Oliver County subsection to remove the phrase “... *at the front portion of this permit book.*” Please also describe Conditional Use Permit number 636 issued to Minnkota Power on October 6, 2011 for a solid waste disposal facility in the NE¼ of Section 8. (WTG)
15. Please update the status of the following items in Section 1.12, number 3, Permits held by Minnkota Power Cooperative:
  - a. Inert waste landfill permit, IT-205, Section 3 landfill, was issued by the ND Department of Health, Division of Waste Management and expired on November 22, 2012;
  - b. NDPDES permit ND-0000370, issued by the ND Department of Health, Division of Water Quality expired on June 30, 2010;
  - c. NDPDES permit NDR05-0012, issued by the ND Department of Health, Division of Water Quality expired on March 31, 2010;
  - d. NDPDES permit NDR32-0630, issued by the ND Department of Health, Division of Water Quality expires on March 31, 2015. NDPDES permit NDR320630 authorizes water discharges from the Milton R. Young Station during the operations of a temporary concrete batch plant. The concrete batch plant is expected to be operated through 2010. Please update if necessary;
  - e. Air pollution permit to operate, T5F76009, was issued by the ND Department of Health, Division of Air Quality and expired on May 5, 2010; and,
  - f. ND Geological Survey, Coal Exploration Permit #OLV 72-12-496 approved 01-25-12, expired 01-25-13. (ZAT)

**Section 1.13 Past Violations**

16. Please substitute Allete for Minnesota Power in the last sentence of Section 1.13. (WTG)

**Section 1.14 Proof of Federal Reclamation Fee Insurance**

17. Please explain the information that this section is providing and list the regulations requiring the information. Appendix 1.14-1 contains payment confirmation documentation from OSM for Permits BNCR-8901 and BNCR-9702. Please include payment confirmation documentation for Permit BNCR-9401 as well. (GAW)

**Section 1.15 List of Consultants**

18. Please revise Section 1.15, List of Consultants, to clarify which information in the permit was collected, evaluated and prepared by each of the consultants listed, and the listed official's position with the company. (GAW)
19. BNI's list of consultants in Section 1.15 should be updated to include Bickel Consulting, LLC for the contract work that Dr. Bickel performed for BNI Coal by providing the Mine Area C Alluvial Valley Floor Evaluation Report. As noted in a subsequent deficiency, this report will need to be incorporated into Section 3.9 of the permit. (BEB)

**Section 1 Appendices**

20. BNI's Certificate of Liability Insurance expired 02/01/2013. Please provide a current Certificate of Liability Insurance in Appendix 1.14-1. NDAC 69-05.2-12-20. (ZAT)
21. In Appendix 1.14-1, please update the status of BNI's Certificate of Insurance (Excess Liability) which expired 11/15/2012. (ZAT)

**Plate 2-1 Extended Mine Plan**

22. On Plate 2-1, please provide the topography for the N1/2 of Section 5, T141N, R83W, and the S1/2 of Section 32, T142, R83W, in Permit BNCR-9401. NDAC 69-05.2-09-02. (ZAT)
23. Please review and update Plate 2-1 and the legend to reflect changes made to the plate during the completeness reviews. For example, the BNCR-1101 and BNCR-9401 permit boundaries should be updated, and it appears the Hagel A Coal Seam Outcrop line is incorrect on the legend. (ZAT/WTG)

### **Plate 3.1-2 Pre-Mining Area Slope Map**

24. On Plate 3.1-2, please update the permit boundary for Permit BNCR-1101 to remove the E1/2 of Section 6 from Permit BNCR-1101. Also please include the line descriptions in the map legend for the lines depicting the permit boundaries for BNI Coal's adjacent surface mining permits. The map should also indicate legal land description range (R83W) at an appropriate location on the map. NDAC 69-05.2-08-02. (RLK)

### **Plate 3.2-1 Drillhole Location Map**

25. Please indicate on the legend of the Drillhole Location Map as well as on the legends of the Overburden Thickness Map and the Hagel Contour Map what the green circular symbols represent for the dozen or so drillholes located predominantly along the west edge of Section 5 and in a couple of areas within the SE1/4 of Section 5. Also, this map should be relabeled as the Drillhole Location and Cross-Section Reference Map because it also identifies the location of the cross-section that is provided in Plate 3.2-1A. (BEB)
26. Please place the layer for the drillhole numbers and drillhole elevations on top of the permit boundary layer in Plate 3.2-1 because several of the drillholes and their corresponding surface elevations are covered up by the permit boundary line, rendering the data illegible. (BEB)

### **Plate 3.2-3 Hagel Contour**

27. It appears the Hagel Contour Map, Plate 3.2-3, needs to be updated because currently the map shows Hagel Seam contour interval elevations extending for a substantial distance across Hagel seam croplines and washout areas, which is unrealistic because the coal seam elevation contours cannot extend beyond or through the outcrop. Please update the map accordingly. (BEB)
28. Currently on the Hagel Contour Map there appears to be about a dozen or so separate contour lines (some very short in length) in the southern part of the proposed permit addition area and we are unsure of the elevation data that all of these individual contours are supposed to represent. Please check your drillhole elevation data and revise this particular map so that it is simplified, legible and accurate. Also, please indicate on the Plate title if this map represents contour elevations of the top or bottom of the Hagel Seam. (BEB)

### **Appendix 3.2-1 Geophysical and Lithologic Logs**

29. The bookmarks for this appendix have only the Revision 12 drillhole logs bookmarked. The original BNCR-9401 drilling logs and geophysical logs that are also included in this appendix do not have to be individually bookmarked, but at least some type of

global bookmark should be provided that allows the reader to verify that the information for them is provided in this section. At a minimum, at the top of this section the Table of Contents should be updated with a bookmark that labels and directs the reader to the Listing of Drill Holes spreadsheet that is provided at the beginning of the section. (BEB)

30. The Listing of Drill Holes master spreadsheet that is located at the beginning of Appendix 3.2-1 should be updated to include the M11-series of holes that were drilled within the Revision 12 area and were used in the compilation of several of the maps that have been updated for this revision. These drill holes include M11-001, M11-006, M11-011, and M11-017. (BEB)
31. If the data is available, please incorporate the geophysical logs for drillholes M11-001, M11-006, M11-011, and M11-017 into Appendix 3.2-1. (BEB)
32. We ask, but don't require, that you rename the bookmarks in Appendix 3.2-1 that are labeled as DHLOGS\_Addition and GEOPHY\_addition. These could simply be renamed to Drillhole or Lithologic Logs, and Geophysical Logs, respectively, or something similar to that to more accurately describe the contents of the sections that are being bookmarked. (BEB)

### **Appendix 3.2-3 Coal Analysis**

33. Coal analysis information for drillholes M11-01, M11-011, and M11-017 has been added to this section; however, the "Listing of Drill Holes with Coal Analyses" spreadsheet located at the beginning of this section should also list those M11 holes in addition to the others that are provided. (BEB)

### **Section 3.3 Groundwater**

34. Narrative on Page 3.3-2 describes that most of the ground water discharge from the permit area is to Hagel and Square Butte Creeks. Previous narrative on the same page describes that there are no springs or seeps in or immediately adjacent to the permit area, which seems to be a conflicting statement unless the ground water discharging to Hagel and Square Butte Creeks is occurring through subcrop areas below grade that provide hydraulic communication with alluvial deposits associated with the creeks. This does not appear to be the case when viewing the topography and geomorphology of the permit area and the location of the Hagel bed outcrop elevations that are displayed on several of the permit maps. Please explain or correct these conflicting statements. (BEB)
35. Hagel Seam contour elevations are provided in Plate 3.2-3 and can be inferred from other data provided in the permit, but we ask that you provide a short description in this section describing the surface water elevations of those portions of Hagel Creek and

Square Butte Creek nearest to the permit area compared with the elevation of the base of the Hagel seam. (BEB)

36. The last paragraph of the Probable Hydrologic Consequences provides some information for "*the only seep in the permit area.*" Please describe in this same paragraph where this particular seep is located and depict its location on the Monitoring Well Location Map, Plate 3.3-1. (BEB)
37. Please briefly summarize BNI's ground water monitoring plan in this section and provide a link to the monitoring plan that is located in the operations section of the permit, Section 4.7. (BEB)

### **Plate 3.3-1 Current Well Monitoring Location Map**

38. Please show all of the Permit BNCR-9401 active ground water monitoring wells on this map with their corresponding surface elevations. Of the eight monitoring wells in the approved ground water monitoring plan for BNCR-9401, there are only three wells/nests shown on this map and the C2 and C3-series of monitoring wells are nonexistent on the map. Also, each monitoring well should be specifically labeled on this map such as C2-1, C2-2 and C3-1, C3-2, etc. and not just the identifying nest or cluster of wells. Please update the map accordingly. NDAC 69-05.2-08-02(1)(d) & (i). (BEB)
39. This Plate is labeled as "Current Well Monitoring Location Map" under the list of Plates in the main directory, but once opened the map is labeled the "Monitoring Well and Production Well Location Map", which is the preferred labeling of this map. Please consider changing the name of this map in the main directory. (BEB)

### **Plate 3.3-2 Location Map Hagel Seam Potentiometric**

40. Hagel Seam potentiometric surface information provided on this map is for areas within Permit BNCR-1101, not BNCR-9401. With available information, please attempt to construct a potentiometric surface grid for Permit BNCR-9401. Ground water narrative in Section 3.3 describes that "*ground water flow is from south to north through the permit area*"; however, the nearest potentiometric gradient to Permit BNCR-9401 provided on the current map in the SE1/4 of Section 8 shows a flow gradient from north to south, the opposite as described in the narrative. Please attempt to incorporate the data that you have available to construct a potentiometric surface map for at least the NE1/4 of Section 8. Additionally, this map should be relabeled as the Hagel Seam Potentiometric Surface Map, which would accurately describe the data provided on the map. (BEB)
41. Some of the monitoring wells depicted on this map are wells that are screened in the Sheet Sand, such as C2-1, C3-1, C4-1, etc., not the Hagel Seam. Please only show those specific monitoring wells that were used to construct the potentiometric surface contours for the Hagel Seam on the map. (BEB)

### **Plate 3.3-3 Location Map Sand Seam Potentiometric**

42. For similar reasons stated in the above-listed deficiency, this map should be relabeled as the Sheet Sand Potentiometric Surface Map. For both the Hagel Seam and Sheet Sand Potentiometric Surface Maps, those monitoring well identifiers shown on the maps should be only that well for the specific zone that is being monitored. Currently, both maps only show C1-1, C2-1, C3-1, etc. (BEB)

### **Appendix 3.3-1 Ground Water Levels**

43. The water level spreadsheet has blank columns under the Depth (ft) and WL (ft) columns for some of the monitoring wells including C3-1, C3-2, C4-1, and C4-2. We expect that most, if not all, of these blank columns denote a dry well. However, that should be specifically labeled as such similar to the other measurement dates within the spreadsheet that lists "DRY WELL". If that is the case, please update the spreadsheet accordingly and if for some other reason a measurement could not be made, please note that in the column. (BEB)

### **Appendix 3.3-2 Ground Water Chemical Analysis**

44. Appendix 3.3-2 is labeled as Ground Water Chemical Analysis but this section actually contains both water level and water quality data. Please separate the water level data from the water quality data by deleting the water level hydrographs from this section and placing them in Appendix 3.3-1, Ground Water Levels. (BEB)
45. After the water level hydrographs are moved from Appendix 3.3-2 to Appendix 3.3-1 as noted above, please review the water level hydrograph for monitoring well C4-1. This particular hydrograph shows elevations of a couple of the water level measurements to be below the depth of the bottom screen. Additionally, between the dates of 1992-2007 there are no listed water elevations for monitoring well C4-1 in Appendix 3.3-1, but the water level hydrograph shows a measured water level elevation for most of those monitored years. Please review your collected water level data and well completion report and update the graph as needed. (BEB)

### **Section 3.4 Surface Water**

46. The first paragraph of Section 3.4.2, Permit Area Surface Water Resources, indicates that the wetlands in the permit area are too small to be shown on Plate 3.4-1, General Drainage Map, but the reader is referred to Plate 3.5-1, Pre-mine Land Use Map, to view the location of a small seep located in the SE1/4 of Section 5. Please revise to indicate that the wetlands and seep locations can be seen on Plate 3.5-1. (RLK)
47. In the second paragraph of Section 3.4.2, Permit Area Surface Water Resources, the narrative describes two pre-mine surface water impoundments. A dugout and stock dam location are depicted on Plate 3.5-1A, Pre-mine Land Use and Range Site

(Historical). Please indicate that the features can be seen on this map or other appropriate map. (RLK)

48. It appears that the surface water impoundment described as being in the NW1/4SW1/4 of Section 5 may be within the BNCR-1101 permit area. If this is the case, please add a statement to the second paragraph of Section 3.4.2 indicating the feature is identified and described in permit application for Permit BNCR-1101. (RLK)
49. Section 3.4.3 discusses the impacts of surface mining, but does not allude to the planned retention of surface water management ponds as permanent features in the post mine industrial land use. Considering that the planned industrial use as a special waste disposal facility which will be operated by the land owner rather than BNI Coal, a watershed by watershed comparison of pre and post-mine conditions may not be particularly reliable for this area. However, the narrative should indicate that the final drainage design for the landfill facility will be subject to the requirements of the waste disposal permit. The runoff from the area will be controlled by surface water management features constructed as part of the landfill and as currently proposed the retention of the sedimentation ponds as post mine features. (RLK)
50. On page 3.4-4 the fourth paragraph states that post-mining runoff quantity and quality will be similar because the slopes will be similar to their pre-mining conditions. However, the Post-Mining Area Slope Map, Plate 4.10-2, shows a substantial change in slopes for the landfill footprint. Please revise as appropriate. (RLK)

#### **Plate 3.4-1 General Drainage Map**

51. Please update the permit boundary for Permit BNCR-1101 and the intermittent stream classifications on Plate 3.4-1 to correspond to the information presented in Permit BNCR-1101. (RLK)
52. On Plate 3.4-1, please update the permit boundary for Permit BNCR-9401 to match the boundary depicted on Plate 1.8-1, BNCR-9401 Legal-Description-Map. (RLK)

#### **Plate 3.4-2 Pre-Mine Watershed Map**

53. On Plate 3.4-2, please update the permit boundary for Permit BNCR-1101 to remove the E1/2 of Section 6 from Permit BNCR-1101. (RLK)
54. On Plate 3.4-2, please update the permit boundary for Permit BNCR-9401 to match the boundary depicted on Plate 1.8-1, BNCR-9401 Legal-Description-Map. (RLK)
55. Please include the line descriptions in the map legend for the lines depicting the permit boundaries for BNI Coal's the adjacent surface mining permits. The map should also indicate legal land description range (R83W) at an appropriate location on the map. NDAC 69-05.2-08-02. (RLK)

### **Plate 3.4-3 Post-Mine Watershed Map**

56. On Plate 3.4-3, please remove the dot and dash line apparently outlining the previous version of the permit boundary for Permit BNCR-1101, which can be seen running down the center of Section 6. (RLK)
57. On Plate 3.4-3, please update the permit boundary for Permit BNCR-9401 to match the boundary depicted on Plate 1.8-1, BNCR-9401 Legal-Description-Map. (RLK)
58. Please include the line descriptions in the map legend for the lines depicting the permit boundaries for BNI Coal's the adjacent surface mining permits. The map should also indicate legal land description range (R83W) at an appropriate location on the map. NDAC 69-05.2-08-02. (RLK)

### **Section 3.5 Pre-mining Land Use**

59. Please consider using a revision date at the bottom of each page in Section 3.5 to indicate the entire page was revised. This would eliminate the numerous revision dates within the narrative and on each table. NDAC 69-05.2-05-02(1). (ZAT)
60. Please add tame pasture to the list of pre-mine land uses in the first sentence of the first paragraph on page 3.5-1. (ZAT)
61. The term native grassland is used in the first sentence on page 3.5-1, and the term native rangeland is used on page 3.5-5. Please use native grassland consistently throughout the permit. NDAC 69-05.2-05-02(1). (ZAT)
62. A sentence in the first paragraph on page 3.5-1 states that a tract in the north and west portions of the permit area which has been used for a farmstead and cropland will not be disturbed by mining. Please identify the farmstead on the Pre-Mine Land Use Map and clarify how this acreage was classified in terms of land use since Residential or Farmstead is not listed as a premining land use. NDAC 69-05.2-05-02(1). (GAW)
63. Please review paragraphs one and two on page 3.5-1. Paragraph two, which was added in the last completeness response, needs to be revised for clarity. It is unacceptable to fix outdated narrative by adding a confusing paragraph at the end of existing narrative. As previously stated during the completeness review, describing tracts as acres prior to Revision 12 and acres added in Revision 12 is confusing and will become more confusing with subsequent revisions to the permit. This type of language is not present in the current permit which has had 11 previous revisions and should not be used for this revision. Please remember that the permit is a continuously changing document in which descriptions and locations need to be clear and concise now and in the future. Please use numbers, labels, or a consistent description to easily identify and discuss tracts on Plate 3.5-1; do not use "Prior to" or "added with Rev 12" in the narrative.

Please update and clarify the current narrative in paragraphs one and two as quoted below by inserting appropriate updates into the narrative as suggested below:

***a. “The 18.2 acres of disturbed land (Labeled as DL/Industrial on Plate 3.5-1A) was disturbed by Minnkota Power approximately 32 years ago for construction of the “butterfly” ashponds; the topsoil and a portion of the subsoil was removed.”***

- i. Please review the acreage for the 18.2 acre industrial tract. This original narrative accompanied a 2004 Plate which included the 11.62 acres for the butterfly ash pond, which has been bond released. The 2004 plate was removed from the Revision 12 application during the completeness reviews. The industrial acreage in the current permit as depicted on Plate 3.5-1 is approximately 6.58 acres. (18.2 acres – 11.62 acres BR = 6.58 acres) Please add a sentence to the narrative after the statement above similar to, “Currently only 6.58 acres remains in this industrial tract; 11.62 acres was bond released in 2008 for the butterfly ash ponds.” Add another sentence to clarify the current use of this tract of land, since Plate 3.5-1 depicts a road through this industrial tract, as well as the cropland and native range tracts to the south. BNI’s 2011 annual map depicts this as a coal haul road. You have already stated that Minnkota disturbed the land so please do not replace current land use information with statements that BNI never disturbed this land; just state who uses the road and for what purpose. Add an appropriate statement similar to, “Minnkota Power continues to use a portion of this industrial tract as an access road to the ash ponds. BNI has used the road to haul coal from the ash cells during their construction.”
- ii. Since Plate 3.5-1 will become the approved land use plate, please change the plate referenced to (Labeled as IND on Plate 3.5-1).

***b. “A tract in the north and west portions of the permit area which has been used for a farmstead and cropland will not be disturbed by mining. Presently this area is classed as cropland but by 1998, BNI plans to seed the area, or portions of it to a native grass mix consisting of western wheatgrass, blue grama, green needlegrass and side-oats grama, see [Section 4.12] for further explanations regarding seedings.”***

- i. The location and description of the farmstead and cropland needs to be clear, since part of the tract is in the current permit and part of it is being added with Revision 12 and this portion is now being classified as tame pasture. As noted above, do not describe these two tracts as prior to, or added in Revision 12. Use an actual physical location or assign tract identification numbers on Plate 3.5-1.
- ii. The portion of the statement, *“the cropland tract will not be disturbed by mining”* needs clarification. If the statement remains accurate, please

- leave it in the narrative, but clarify if any associated disturbance has or will occur on this cropland tract, such as a haul road.
- iii. BNI's plan to seed the above mentioned area needs to be changed to past tense or if the area has not been seeded, please provide an explanation why the area was not seeded. Please clarify if the area still actively used and if topsoil and subsoil were respread on the area. Please provide information on the current use.
  - iv. Consider using something similar to the following example, which would incorporate the above suggestions and tie the historical to the current information. "The small cropland tract depicted on the west side of the disturbed/IND land depicted on Plates 3.5-1 and 3.5-1A, was used for a farmstead and cropland and will not be disturbed by mining. BNI had planned to seed the area, or portions of it to a native grass mix by 1998, however the area was never seeded since a portion of this tract is still used by Minnkota as an access road to the ash ponds. The area to the northwest of this tract, which is shown as cropland on Plate 3.5-1A and as tame pasture on Plate 3.5-1, was originally designated as cropland. The tract was disturbed by the landowner and then left idle for many years. When this tract was added with Revision 12 in 2013, vegetation on the tract was similar to other tame pastures in the area, and the tract was designated tame pasture, as shown on Plate 3.5-1."
- c. ***Two wetlands are located in Section 5. There are no wetlands in the portion of Section 8 within the permit boundary. (Original narrative read, "Several small wetlands are located in the west ½ of Section 5. There are no wetlands in the portion of Section 8 within the permit boundary.")***
- i. Since documents in Appendix 1-6 describe seven wetlands in Section 5, some of the original narrative should be retained and clarification should be made as to the number of wetlands in the current permit area, for example, "Several small wetlands are located in Section 5; two are within the current permit boundary. There are no wetlands in the portion of Section 8 within the permit boundary." NDAC 69-0.2-05-02(1). (ZAT)
64. Please add a brief sentence on woodlands somewhere on page 3.5-1. One option may be to add a statement from your woodlands narrative, such as "Woodlands are found in woody draws within tame pasture and native rangeland." Something similar to this would blend well with your last sentence of paragraph one. NDAC 69-05.2-05-02(1). (ZAT)
65. For clarity purposes, on page 3.5-1, please include a tract or legal description for the acres being added with Revision 12, either in a short narrative above the Revision 12 Acreage table or within the table. NDAC 69-05.2-05-02(1). (ZAT)

66. On page 3.5-1, please review Section 32 acreage on the Revision 12 acreage table and update as necessary to address the following:
  - a. The total acreage for Section 32 should be 15.32 acres as stated in the Revision 12 application and the Metes and Bounds.
  - b. Acreage for the woodlands in Section 32 should remain at 0.03 acres.
  - c. The 0.96 acres of ROW depicted on Plate 3.5-1 appears to have replaced some industrial acres. Please review and adjust industrial acreage on the Revision 12 Acreage table to 13.62 acres. NDAC 69-05.2-05-02(1). (ZAT)
  
67. On page 3.5-1, please review Section 8 acreage on the Revision 12 Acreage table and update as necessary to address the following:
  - a. The total acreage for Section 8 should be 139.07 acres as stated in the Revision application and the Metes and Bounds.
  - b. Review the right of way acreage for Section 8 which appears to be slightly low and adjust if necessary. It appears the 6 and 8 may have been accidentally transposed in 1.68 acres, since  $94.53 + 42.68 + 1.86$  gives the correct acreage of 139.07. NDAC 69-05.2-05-02(1). (ZAT)
  
68. On page 3.5-1, please review Section 5 acreage on the Revision 12 Acreage table and update as necessary to address the following:
  - a. The total acreage for Section 5 should be 27.14 acres as stated in the Permit Application and the Metes and Bounds.
  - b. Woodland acreage should be 2.75 acres. (Explained in the deficiencies on woodlands.)
  - c. It appears the 0.19 acres of industrial land use can be removed from the table. It is now depicted as right of way on Plate 3.5-1.
  - d. The native range acreage may need to be adjusted to 4.75 acres since a portion has been replaced with ROW. NDAC 69-05.2-05-02(1). (ZAT)
  
69. On page 3.5-1, please update the total columns on the Revision 12 Acreage table. The total acreage for Revision 12 should be very close to the permit application/metes and bounds total of 181.54 acres. It was noted that rounding the metes and bounds numbers down to two decimal places results in 181.53. (ZAT)
  
70. On page 3.5-1, please remove the last sentence, "*Mapping unit acres by landowner for each land use are found in the tables below. Revised 01-04*" The statement is out of place since it precedes the tables by 3 pages, and these tables have been updated for Revision 12. NDAC 69-05.2-05-02(1). (ZAT)
  
71. Adjustments made to the Revision 12 Acreage Table on page 3.5-1 will affect Table 3.5-1, Premine Landuse Acres, on page 3.5-2. Please make the appropriate adjustments to address the following:
  - a. The acreages for Section 32 should match the Revision 12 Acreage table and the total acreage should be 15.32 acres as stated in the Metes and Bounds.

- b. Adjust the ROW acreage for Section 8, which should bring the total acreage for Section 8 to 161.8 acres as stated in the Metes and Bounds.
  - c. Use acreages from the Revision 12 Acreage Table to adjust the acreages for native range, industrial and woodlands in Section 5. These adjustments should bring the total acreage for Section 5 close to 372.64 acres. (231.99 acres in the current approved permit + 113.51 acres Bond Released + 27.14 acres added with Revision 12 = 372.64 acres.)
  - d. Acreage numbers may not be exact due to previous rounding. Numbers may need to be adjusted slightly or rounded on the table for totaling purposes. If this is necessary we suggest adjusting large acreages slightly, not the small ones such as woodlands, where a 0.01 acreage adjustment is the equivalent of one woodland.
  - e. Please review Bond Release #1 acreage in the footnotes of Table 3.5-1. Total acreage listed is 71.3 acres, but the sum of the individual acreages is 71.04 acres. If any changes are made, appropriate changes must be made on the footnotes for the cropland, hayland and native range Tables in Section 3.5.
  - f. Total acres permitted after Revision 12 should remain as listed at 436.26 acres, which matches the Metes and Bounds. NDAC 69-05.2-05-02(1). (ZAT)
72. Currently the capability narrative is placed after Table 3.5-2 on page 3.5-2. The *REV'D 1-95* at the end of the narrative gives the reader the impression that none of the information has been updated since 1-95, but it appears some updates have been made to Table 3.5-2. Please rearrange or clarify this section of narrative. NDAC 69-05.2-05-02(1). (ZAT)
73. Please remove the following from the cropland narrative on page 3.5-3, “[*Plate 3.5-1*] *Pre-Mining Land Use depicts the BNCR9401 permit as of Rev. 12. [Plate 3.5-1A] Pre-mine Land Use & Range Sites (Historic) contains the approved pre-mine land use map with original the pre-mine land uses, some of which have since been bond released and no longer within the BNCR 9401 permit boundary.*” Replace it with a discussion of how many cropland acres are within the permit boundary, a summary of the acres that have been bond released, and the current cropland acreage within the permit without using references to Rev. 12. Plate 3.5-1, which will be the approved plate upon approval of this permit, is the only reference to location of the cropland that is necessary to ensure clarity. NDAC 69-05.2-05-02(1). (ZAT)
74. Please revise the cropland discussion on page 3.5-3 to explain how the cropland being added with Revision 12 has been managed over the past five years. A sentence in the narrative states that the use of commercial fertilizer and chemical weed control is limited. Please identify the crops grown on the cropland over the past five years and discuss how weeds are controlled and soil fertility is maintained and any other management practices utilized by producers. NDAC 69-05.2-08-08 and NDCC 38-14.1-14(2). (GAW)
75. The cropland narrative on page 3.5-3 incorrectly indicates that the Productivity Index for Oliver County was used in Table 3.5-2 to estimate productivity for cropland within

the permit area. This table provides land capability class percentages for land in the permit area. It appears the reference and link should be to Table 3.5-3, Cropland Productivity Index Calculations and Soil Mapping Units. Please revise as appropriate. Also, please correct the title for Table 3.5-3 in the narrative to be consistent with the table title. (RLK/ZAT)

76. In Table 3.5-3, Cropland Productivity Index Calculations and Soil Mapping Units, please indicate the crop type for the yield estimate being provided in the table (yield appears to be based on wheat). (RLK)
77. In Table 3.5-3, the purpose of the totals provided for the Productivity Index and bu/ac columns is not clear. Please clarify what they may be used for or consider removing them from the table. (RLK)
78. The total cropland acreage provided for Section 8, Erhardt ownership, in Table 3.5-3 does not agree with the acreage listed for Section 8, Schmidt ownership (currently listed owner), in Table 4.12-1, or the table at the end of Appendix 4.12-3 for acres permitted prior to revision 12. Please correct as appropriate. NDAC 69-05.2-08-08(1)(c)(2). (RLK/GAW)
79. Please revise Table 3.5-3, to incorporate the cropland productivity indices found in Table 18 of Appendix 3.8-3, High Intensity Soil Survey Report by Prairie Soil Consultants LLC for the appropriate map units. The agronomic interpretations were made by the soil classifier for map units which were not correlated in the original NRCS Soil Survey for Oliver County. (RLK)
80. Table 3.5-3 appears to combine acreage and index for soil map units from the Nordan Lunde soil survey and the recent surveys by Prairie Soil Consulting, LLC but in the case of map units 81D and 81E the map units are assigned to different soil types in each survey with slightly different ratings. Please update the table to list map units in a manner consistent with the soil legend used in Premine Soil Map, Plate 3.8-1, and update the productivity index values accordingly. (RLK)
81. Please complete Table 3.5-3, Cropland Productivity Index Calculations and Soil Mapping Units, by providing a weighted average Productivity Index (PI) value for each surface owner's cropland in the permit area, which appears to be the purpose of this table. NDAC 69-05.2-08-08(1)(c)(2). (GAW)
82. Please complete Table 3.5-4, Hayland acres by mapping unit, landowner and associated suitability group... by providing an average weighted yield value, which appears to be the purpose of the table. NDAC 69-05.2-08-08(1)(c)(2). (GAW)
83. A narrative on hayland premine land use should be included in Section 3.5-3, Pre-Mining Land Use, to indicate that the productivity information for pre-mine hayland is presented in Table 3.5-4. The narrative should include what is or was typically grown

on hayland within the permit and how productivity is determined. Also, it may be worth indicating that in the post-mine setting there are no hayland acres planned since the pre-mine hayland tracts are located in areas proposed for post-mine industrial land use. Please refrain from using the language “prior to Revision 12” and include a link to the productivity by mapping unit information in Appendix 3.6-1. NDAC 69-05.2-08-08(4). (RLK/ZAT)

84. Please remove, “the proposed addition acres of,” in the second sentence of the native rangelands narrative on page 3.5-5, since these acres will not be “proposed” when Revision 12 is approved. NDAC 69-05.2-05-02(1). (ZAT)
85. Please clarify the Native Rangeland narrative on page 3.5-5 by rewriting the following statements. *[Plate 3.6-1] depicts the ecological sites of the proposed additional acres, while range sites found within the approved permit can be found on [Plate 3.5-1A]. The tables 3.5-5 and 3.5-5a below, contain native range land acres by range sites (For Acreages Approved Prior to Rev. 12) and ecological sites (For Acreages Added in Rev. 12.)* Do not refer to Plate 3.5-1A as the approved permit. Plate 3.5-1 will become the approved map upon the Revision 12 approval and narrative in this document must consistently refer to Plate 3.5-1 as the approved or current Pre-mine Land Use Map. Please simply state that native rangeland in the original permit, included on Table 3.5-5 and depicted on Plate 3.5-1A, is classified by range site and reference the link where the range site information is found. Briefly explain the change from range sites to ecological sites. Describe the physical location of Revision 12 native range acres included on Table 3.5-5a and depicted on Plate 3.6-1, which will be classified by ecological site. Please include a link to the ecological site information and briefly explain why the associated yields for Oliver County, ND are included on Table 3.5-5a but not on Table 3.5-5. NDAC 69-05.2-05-02(1). (ZAT)
86. Please review the following statement in the native rangeland narrative, “*See [Appendix 4.12-3] Pre/Postmine Land Use Discussions, and [Appendix 3.6-4] Similarity Index Reports completed by KDK Consulting, for information and data regarding native rangelands*”. Please clarify that this information is for Revision 12 acreage by moving it out of the general native rangeland narrative and into the narrative for Revision 12 native rangeland by ecological site. NDAC 69-05.2-05-02(1). (ZAT)
87. A sentence in the native grassland narrative on page 3.5-5 states that “*Habitat fragmentation, caused by embedded croplands within the native rangelands, is allowing for an increased rate of invasive species to replace native species.*” Please revise to clarify what is meant by this statement. The statement as written indicates that cropland species are invading the native grassland when in reality the embedded cropland fields are causing management problems which results in the native grassland being idle during the growing season which benefits invasive species such as Kentucky bluegrass and smooth brome grass. Please revise to provide clarity. NDAC 69-05.2-05-02(1). (GAW/ZAT)

88. Please revise Table 3.5-5, Native Grassland Acres by Range Site, by changing the word “Ecological Site” in the heading of the second column to “Range Site”. NDAC 69-05.2-05-02(1). (GAW/ZAT)
89. A silty site is listed in Table 3.5-5a but NRCS did not develop a “silty” ecological site. Please review and revise as necessary. NDAC 69-05.2-05-05. (GAW)
90. Please include a footnote at the bottom of Table 3.5-5a to clarify where the estimated yield values (lbs/ac) listed for the ecological sites were derived. NDAC 69-05.2-05-02(1). (GAW)
91. Please revise the title of Table 3.5-5 to be consistent with the narrative and the title on Table 3.5-5a. Also remove “(Approved Prior to Rev. 12)” from the title. Consider using something similar to Native Rangeland Acres by Range Site [Plate 3.5-1A]. NDAC 69-05.2-05-02(1). (ZAT)
92. Please change the title on Table 3.5-5a to something similar to, “Revision 12 Native Rangeland Acres by Ecological Site [Plate 3.6-1] and associated yields for Oliver County, ND. NDAC 69-05.2-05-02(1). (ZAT)
93. Please review and update Table 3.5-5a, Native Rangeland Acres by Ecological Site, to reflect acreage changes made to native range in Section 5 on the Revision 12 Acreage Table and Table 3.5-1. NDAC 69-05.2-05-02(1). (ZAT)
94. Please revise the Woodland narrative on page 3.5-7 of Section 3.5 to clarify where the woodland mapping unit acreage by surface ownership can be found. NDAC 69-05.2-08-08(1)(c)(1) (GAW)
95. Revise the entire woodland narrative on page 3.5-7 as it is confusing and incomplete. Use the following suggestions to organize the Woodlands narrative clearly and concisely:
  - a. Do not refer to “woodlands found within proposed additional acres (Rev 12)” or “acres Prior to Rev 12” but rather refer to the woodlands by their numbers as they are depicted on Plate 3.5-1. Referring to woodlands by number will eliminate confusion in the narrative.
  - b. Arrange the narrative logically, just as your Woodlands Table is arranged. Provide some narrative for woodlands 1-7. You may wish to state these were included in the original permit or use something similar to the first sentence of the woodlands section in Appendix 3.6-1. Provide a link to Appendix 3.6-1.
  - c. In the woodland narrative restate, update, or clarify the last sentence from Appendix 3.6-1 which states, “*There are approximately 1.5 acres of primarily tall shrubs and three trees which will be disturbed by mining or associated disturbance.*” Add narrative to clarify the acreage of disturbed woodlands 1-7 to date. State that Woodland #3 (1.0 acre) and a portion of Woodland #2 (0.05

- acres) were disturbed and why. Discuss if any of the remaining woodlands 1-7 were or will be disturbed and for what purpose.
- d. Summarize the mitigation of woodland #3 and a portion of woodland #2 and reference Section 4.12-2. It appears BNI has mitigated 1.5 acres of woodlands, but only 1.05 acres were disturbed. If this is the case, it would be beneficial to clearly state which of the remaining Woodlands 1-7 will be disturbed and clearly state which have already been mitigated.
  - e. Remove all references to woodland acres being reclaimed on page 3.5-7. Woodland #3 was not reclaimed; it was mitigated with a shelterbelt in another location. The ash ponds were built and the land was bond released as industrial. BNI's statement, "*Woodland #3 (1.0 acres) has been reclaimed, as this was part of the acres that have been previously bond released from this permit,*" gives the impression the land and woodland were reclaimed to their original states and locations.
  - f. Continue with narrative on woodlands 8-16. It is appropriate to state woodlands 8-16 were added with Revision 12. Provide links to the appropriate data and plates.
  - g. Identify the Woodlands 8-16 that will be disturbed, the acreage, and for what purpose.
  - h. End the narrative with the reclamation discussion and a link to the reclamation plan. Currently there are separate narratives for the current acreage and Revision 12, please combine this into a single discussion.
  - i. Refer to Plate 3.5-6 by one name consistently in the narrative and table title. NDAC 69-05.2-05-02(1). (ZAT)
96. Please revise the Woodland narrative on page 3.5-7 of Section 3.5 to clarify if the permit area contains any mixed deciduous, tall and low shrub communities and how they were classified. Please also clarify if the permit area contains any low shrub communities that were not classified as woodland, such as patches of western snowberry, and clarify how this community type was characterized and accounted for. NDAC 69-05.2-05-02(1). (GAW/ZAT)
97. Please review and update Table 3.5-6 Woodland Acres by Landowner to address the following:
- a. Please change the title on Plate 3.5-6 to Pre-mine Woodland Acres by Landowner to be consistent with the narrative.
  - b. Please change the acreage of woodland #9 back to 2.27 acres, as it was listed in the previous completeness submittals.
  - c. It appears that the 0.01 acre woodland in Section 32 that was numbered #14 in the 3<sup>rd</sup> completeness submittal was removed with this submittal since it is now in the ROW, resulting in 0.026 acres of total woodlands for Section 32, which is stated correctly on Table 3.5-6. It also appears that the woodlands numbered 15-17 in the 3<sup>rd</sup> Completeness submittal were renumbered as 14-16 with this submittal. Woodlands 14-16 should be listed in Section 5 as 0.01 acres, 0.01 acres, and 0.07

- acres respectively. The total acres of woodlands for Section 5 should be 4.75 acres.
- d. Total acreage for woodlands 1-16 should be 4.776 acres or 4.78 acres.
  - e. Please revise the footnote at the bottom of Table 3.5-6. The current statement gives the impression that 1.05 acres of woodlands were reclaimed and bond released, which is not the case. If needed, see the woodland narrative deficiencies for a further explanation. NDAC 69-05.2-05-02(1). (ZAT)
98. The first sentence of wetland narrative on page 3.5-8 reads “*The wetlands are located in drainage ways or intermittent streams, the CLASS III wetland will not be disturbed by mining, see [Section 4.12] for replacement of the 0.1 acre of CLASS IF*”. Please revise this sentence so that it is a complete sentence (subject and finite verb) and clarify its intent. Please also clarify if there are any intermittent streams in the permit area. NDAC 69-05.2-05-02(1). (GAW)
99. In the last paragraph on Section 3.5, page 3.5-8, please clarify that the post mining topography may be steeper than the pre-mining topography only on areas that have a postmining land use of Industrial Lands. NDAC 69-05.2-05-02(1). (GAW)
100. Please change the link in the first sentence of the Wetlands narrative at the top of page 3.5-8, from [Section 4.12] to the correct link [Section 4.12-2]. (ZAT)
101. On page 3.5-8, please remove or correct the acreage in the first sentence under the heading Disturbed Land (DL)/Industrial. Acreage should reflect changes made to Table 3.5-1 in response to deficiencies related to Table 3.5-1. NDAC 69-05.2-05-02(1). (ZAT)
102. On page 3.5-8, under the heading Disturbed Land (DL)/Industrial, please remove the statement, “*All disturbances on these tracts were not done by BNI, and were done prior to BNI leasing them.*” Instead please just state who disturbed the land and when. Also explain how BNI currently uses or plans to use this disturbed land, since Plate 3.5-1 depicts coal haul roads on portions of the industrial land in Sections 32 and 5. It also appears from the Pit Layout and Facilities Map, Plate 4.1-1 that BNI plans to build a haul road through Permit BNCR-9401 to haul coal from the permit BNCR-1101. NDAC 69-05.2-05-02(1). (ZAT)
103. In sentence one on page 3.5-8, under the heading Tame Pasture, please change the phrase, “*within acres added in Rev. 12*” to a quarter section location. This will clarify the location of the tame pasture tracts and direct any reader to the correct location on Plate 3.5-1 and it will also eliminate confusion in the narrative that might occur with future revisions to this permit. NDAC 69-05.2-05-02(1). (ZAT)
104. Please review the last sentence in the Tame Pastureland narrative on page 3.5-8, which is not consistent with Section 4.12-1 that states tame pasture will be reclaimed to tame

pasture. Please review and modify the narrative as appropriate. NDAC 69-05.2-05-02(1). (ZAT)

105. Please add narrative for the Developed Water Resources land use in Section 3.5. The total number of developed features should be provided in addition to the total acres of water sources. The distribution of water sources is a consideration when evaluating water availability for livestock grazing. Also it would be appropriate to state in the narrative what the developed water resources are typically used for in the permit area. All DWRs should be depicted and labeled on Plate 3.5-1. NDAC 69-05.2-05-02(1). (RLK/ZAT)

### **Plate 3.5-1 Premine Land Use**

106. Tame pastureland labels in Section 32 are shown on areas that appear to also be labeled as Industrial land. Please include an arrow to show which areas are tame pastureland or place the labels within the tame pastureland polygons. NDAC 69-05.2-05-02(1). (GAW)
107. The wetlands narrative and Table 3.5-7 on page 3.5-8, discuss wetlands in the permit as Class II or Class III, but Plate 3.5-1 depicts them as a seasonal wetland and a temporary wetland. For consistency, please clarify this in the narrative or change the labels on Plate 3.5-1. NDAC 69-05.2-05-02(1). (ZAT)
108. Please correct the bookmark title for Plate 3.5-1A to read Plate 3.5-1A (currently listed as Plate 3.5-1). (ZAT)

### **Section 3.6 Pre-mining Vegetation**

109. The Section 3.6 narrative begins with “*Appendix 3.6-1 contains the following information:*” and goes on to describe the information contained in several appendices in two enumerated paragraphs. The lead-in to the enumerated paragraphs provides no indication of how or what information is being presented. The grouping of information under items 1 and 2 each include references to different information and topics. The numbering is misleading as one would expect each to present one topic. Please revise the beginning of the section to clearly indicate how information is presented in the section. (RLK)
110. Please revise Page 1 of Section 3.6 to clarify that all of the information on page 1 is only relevant to the acreage included with the original permit and that the balance of the information in this section applies to the Revision 12 addition area, if that is the case. For example, sentences in the fourth paragraph on page 3.6-1 states that the lowest and highest producing cropland soils are Vebar soils and Amor-Sen soils, respectively. However, Table 3.5-3 identifies several cropland soil mapping units that have productivity indices (P.I.) values that are higher than what is listed for the Amor-Sen complex and several mapping units with P.I.’s lower than the Vebar mapping

units. Please review and revise this statement accordingly. Perhaps a weighted average P.I. value for the cropland acreage by surface owner would be more meaningful than P.I values for mapping units that comprise a very minor amount of the cropland acreage. Likewise, the native grassland discussion about the area having a prolonged history of heavy season-long grazing is obviously referring only to the acreage included with the original permit area. Please review and revise to provide clarity. NDAC 69-05.2-05-02(1). (GAW/ZAT)

111. As stated in other deficiencies, please remove references to, "*within the proposed additional acres..., within the proposed acres..., within the Revision 12 additional acres..., within the approved permit..., and acres prior to Revision 12...,*" from all of Section 3.6. Replace this language with legal or tract land descriptions, woodland numbers, or some type of description that will not require a reader to look up what acreage was added in Revision 12. NDAC 69-05.2-05-02(1). (ZAT)
112. It is not clear what is meant by the following sentence on page 3.6-1: *The variability of vegetation on cropland varied depending upon the crops grown in the past.* There is no discussion of how previously grown crops are causing vegetation to vary on cropland. The paragraph goes on to identify higher and lower yielding soil types. Please revise to clarify what is meant by the statement. (RLK)
113. On page 3.6-1 it is not clear in the narrative that the reference to potential production found in Appendix 3.6-1 pertains to cropland in the permit area prior to Revision 12. Please include a reference to the updated cropland productivity information (Table 3.5-3) and updated discussion on crop production. (RLK)
114. Please revise the last sentence of the 4<sup>th</sup> paragraph on page 3.6-1 which incorrectly refers to Plate 3.5-1A. The correct plate is Plate 3.5-1. NDAC 69-05.2-05-02(1). (ZAT)
115. Please revise the bolded heading of Additional Acres (Revision 12) at the top of page 3.6-2. The heading should indicate this section is for Revision 12 Premine Vegetation and should be placed at the top of the page. NDAC 69-05.2-05-02(1). (ZAT)
116. Please include a table or chart that shows the NRCS ecological sites for each soil mapping unit on the native grassland. BNI obviously used this information to develop Table 3.5-5a. While this information is not correctly included in the PSC Revegetation Success Standards document, it is available from NRCS. NDAC 69-05.2-05-02(1). (GAW)
117. Please revise the third and fourth paragraphs on page 3.6-5 of Section 3.6 so that the narratives are specific to the sites within the permit area. This saline lowland site is not on bottomlands and it is not adjacent to semi-permanent or temporary wetlands. Likewise, the loamy overflow site is not on a nearly level swales or depression. The fourth paragraph also suggests that western snowberry is a forb but NRCS and nearly everyone else classifies this species as a shrub. NDAC 69-05.2-05-02(1). (GAW)

118. Please revise the third paragraph on page 3.6-6 of Section 3.6 to clarify that the detailed samples to acquire ecological condition were taken on representative sites outside of the permit area. The sentence as structured implies that sites within the permit area were sampled. NDAC 69-05.2-05-02(1). (GAW)
119. The woodland narrative on page 3.6-6 states that most of the woodlands are found within tame pastureland or DL (disturbed land/industrial land uses), and adjacent land uses were industrial. This statement is counter-intuitive and misleading since woodlands by definition are naturally occurring trees and shrubs, and it appears that the woodlands identified on Plate 3.5-1 are located in undisturbed drainages. Please revise to clarify if these woodlands are on lands that were previously disturbed. NDAC 69-05.2-05-02(1). (GAW)
120. Please revise the last paragraph on page 3.6-6 to provide clarity. It is not clear what is meant by the statement "*Most woodlands are in fair to good condition and to be in balanced relative abundance*". Clarify what is meant by "balanced relative abundance". The second sentence states that the quality of these woodlands is directly associated with the quality of wildlife habitat they provide. Please revise to describe the nature and variability of the vegetation comprising these woodlands and provide an assessment of their quality. It appears the first word of the third sentence in this paragraph should be "They" rather than "The". And finally, the last sentence in this paragraph states that BNI will reclaim all disturbed acres of woodlands to equal or better quality of pre-mine conditions. Please clarify how pre- and post-mine woodland quality has been and will be determined, using statistically valid sampling techniques. NDAC 69-05.2-08-08(1)(d), NDAC 69-05.2-22-07(1) and NDAC 69-05.2-05-02(1). (GAW)
121. Please revise the fourth and fifth paragraphs on page 3.6-7 to clarify how the industrial land is being used. The narratives state that this land use was not seeded and is not being grazed, but then goes on to state that the native component is being displaced by invasive species. This is very confusing. Please revise to clarify how the tame pastureland and disturbed/industrial land uses are being managed and include a discussion about the nature and variability of the vegetation established. The Reclamation Division is aware that most of the industrial area is being used as a parking lot by Minnkota but this is not even mentioned in the narratives. Please revise the narratives to appropriately describe and characterize these land uses. NDAC 69-05.2-05-02(1). (GAW)
122. Please review the narrative on tame pastureland on page 3.6-7 which discusses 3 tracts of tame pastureland. Please explain how tracts were determined since Plate 3.5-1 appears to depict more than three tracts of tame pasture. NDAC 69-05.2-05-02(1). (ZAT)
123. Please provide narrative in Section 3.6 for the Revision 12 cropland in Section 8, which includes the typical crops produced, current yields, and typical farming practices

such as crop rotation, no-till, minimum tillage and summer fallow. NDAC 69-05.2-05-02(1), NDAC 69-05.2-08-08(1)(d) and NDAC 69-05.2-08-08(4). (ZAT)

### **Plate 3.6-1 Ecological Sites Map**

124. The clayey site located along the section line in the NW1/4 of the NE1/4 of Section 5 is split indicating the site is comprised of two soil mapping units both of which are classified as a Clayey ecological site on Plate 3.6-1. However, the soils map, Plate 3.8-1, identifies both areas as a Savage soil mapping unit. Please review and clarify why this site is split as two distinct clayey sites or make the necessary corrections. NDAC 69-05.2-05-02(1). (GAW)
125. Plate 3.6-1 identifies a Shallow Loamy/Thin Loamy Ecological site in the NW1/4 of the NE1/4 of Section 5 and this site is identified as map unit 81E, Lehr loam, on the soils map, Plate 3.8-1. However, the high intensity soil survey does not include mapping unit 81E (or 81D) and limits the Lehr mapping unit to C slopes. The Lunde soil survey does include an 81E mapping unit but it is listed as a Cabba-Zahl complex. Please review and update as necessary. NDAC 69-05.2-05-02(1). (GAW)

### **Plate 3.6-2 Woodlands**

126. Please change the name in the legend of this plate to simply woodlands rather than “Rev 12 Woodlands” since this plate depicts all of the woodlands in the permit area not just the woodlands associated with the Revision 12 addition area. NDAC 69-05.2-05-02(1). (GAW)
127. The tall shrub sample location outside of the proposed permit boundary in the NW¼ of Section 5 is depicted as being located on the water of Hagel Creek. Please correct this error. NDAC 69-05.2-05-02(1). (GAW)
128. Please revise the note section of the legend on Plate 3.6-2 to clarify that information for woodlands 1-7 is found in [Appendix 3.6-1] and information for woodlands 8-16 is found in [Appendix 3.6-3]. NDAC 69-05.2-05-02(1). (ZAT)

### **Appendix 3.6-1 SCS Sheets & Historical Data**

129. Appendix 3.6-1 is entitled “SCS Sheets & Historical Data” in the table of contents but the document is listed as “Table of Contents” in the bookmark section of the permit application and the heading at the top of page 1 of the Appendix is labeled “Historical Data”. Please revise so that this Appendix is identified and labeled in a consistent manner. There are no SCS Sheets in this document, please also, clarify what is being portrayed as “SCS Sheets”. NDAC 69-05.2-05-02(1). (GAW/ZAT)

130. Please remove the first sentence of the paragraph below the table of contents in Appendix 3.6-1, which deals with the historical data for this permit area, since this information should be included in the title. NDAC 69-05.2-05-02(1). (ZAT)
131. Please remove the reference to proposed additional acres to Permit 9401 in the paragraph that follows the table of contents on the first page of Appendix 3.6-1. Clearly indicate that the paragraph contains links to the Revision 12 vegetation information by replacing the first sentence with a topic sentence that refers to Revision 12. NDAC 69-05.2-05-02(1). (ZAT)
132. The narrative on page 1 of Appendix 3.6-1 states that ecological site descriptions have been used to classify the native rangeland and reclaimed grassland within the proposed addition acres of the permit. Please clarify how the ecological site descriptions were used to classify the reclaimed grassland. NDAC 69-05.2-05-02(1). (GAW)
133. Please change Plate 3.5-1 to Plate 3.5-1A in the first sentence of Range Site Descriptions on page one of Appendix 3.6-1. (ZAT)
134. Please review the information for woodland #1 in Appendix 3.6-1 and update the narrative if this woodland will be disturbed by construction of the proposed haul road to BNCR-1101. NDAC 69-05.2-05-02(1). (ZAT)
135. Please review and update the information for woodland #2 in Appendix 3.6-1. Please remove the statement, "This area will not be disturbed," and add narrative stating 0.05 acres was disturbed and for what purpose. NDAC 69-05.2-05-02(1). (ZAT)
136. In Appendix 3.6-1, please update the narrative at the bottom of the Woodland Descriptions page to reflect the total acreage of woodlands that will be disturbed, since it appears that the 0.05 acre disturbance to woodland #2 was not originally included in the total woodlands to be mitigated. We suggest adding narrative that indicates the total acres expected to be disturbed and describe the 1.5 acres of woodlands already mitigated. Clearly state if any additional mitigation of woodlands will be required for these 7 woodlands. NDAC 69-05.2-05-02(1). (ZAT)

#### **Appendix 3.6-2 USDA/NRCS Ecological Site Descriptions**

137. Please include the appendix number and title in the bookmark section of the application so that it is clear which appendix is being viewed when it is opened. NDAC 69-05.2-05-02(1). (GAW)

#### **Appendix 3.6-3 Woodland Density and Cover Data**

138. Please remove, "*for the Revision 12 Acres in 9401 Permit Boundary*" from the first page of Appendix 3.6-3 and replace it with, "for Woodlands 8-16". NDAC 69-05.2-05-02(1). (ZAT)

139. As stated in other deficiencies, remove the descriptions, “*within the proposed additional acres..., within the proposed acres..., within the Revision 12 additional acres... and acres prior to Revision 12...*” from the narrative of Appendix 3.6-3. It is appropriate to mention Woodlands 8-16 were added with Revision 12 in the first sentence of the narrative and to give quarter section or quarter/quarter section locations to enable any future reader to easily identify locations without looking up what acreage was added with Revision 12. NDAC 69-05.2-05-02(1). (ZAT)
140. Please clarify the following statement in the second paragraph of Appendix 3.6-3, “*In general, the woodlands are comprised of three distinct plant communities (i.e., tall shrub and deciduous), which exhibit overstory canopies comprised of woody species with understory vegetation comprised of herbaceous plant species*”. Please clarify if any of the woodlands 8-16 are low shrub communities and if so, include low shrub community discussion. If there are no low shrub communities, correct the narrative. NDAC 69-05.2-05-02(1). (ZAT)
141. Please review the second paragraph on page 1 of Appendix 3.6-3 and revise so that what is stated in the narrative is consistent with the sampling data. For example, a sentence states that the tall shrub community is dominated by one or more of the following species, including round-leaved hawthorn, but hawthorn is not listed as a species present in the sampling data. Likewise, boxelder is listed as being a dominant tree species in the tree community but this species is not even listed in the sampling data. Conversely, low shrub communities are not discussed in this narrative or depicted on Plate 3.6-2, Woodlands, but western snowberry is shown as being prevalent in both the tall shrub and deciduous tree sampling data. Please review the narrative and revise so that the statements adequately characterize the pre-mine woodland communities and are supported by the data presented. In addition, please discuss how low shrub species not associated with tall shrubs or trees were classified. NDAC 69-05.2-05-02(1). (GAW)
142. Please revise the first sentence of the last paragraph on page 1 of Appendix 3.6-3, Woodland Density and Cover Data, to clarify how the woodland reclamation standards will be developed to meet or exceed the pre-mine density and diversity values. The premine data being used to establish the standard must meet the statistical sample adequacy requirements. NDAC 69-05.2-05-02(1). (GAW)
143. Please clarify how the relative percent total values were calculated in the herbaceous cover tables in Appendix 3.6-3. It is not clear how the values listed were calculated. NDAC 69-05.2-05-02(1). (GAW)
144. Please identify the date that sampling was conducted at each location in the woodland density and cover tables in Appendix 3.6-3. In addition, please include the name or names of the individuals who collected the data and created the summary information. NDAC 69-05.2-05-02(1). (GAW)

145. Please include total and average stem values for each species listed in the density table in Appendix 3.6-3. Please also include the conversion factors used to convert stems per quadrant to stems per acre in the woodland density table in Appendix 3.6-3. It seems obvious a different factor was used for the low shrub counts within tall shrub and deciduous communities. NDAC 69-05.2-05-02(1). (GAW)

#### **Appendix 3.6-4 Native Range Similarity Index Sheets**

146. Please revise the Rangeland Similarity Index sheets to include the legal description of the tract on the Similarity Index form so that information is present when printed. If appropriate, Permit BNCR-1101 should be listed in the location so that a reader readily knows that a map showing the sampling location can be found in that permit rather than in Permit BNCR-9401. NDAC 69-05.2-05-02(1). (GAW)

#### **Appendix 3.6-5 Vegetation Species List (Revision 12)**

147. Please use a consistent title for Appendix 3.6-5 in the bookmark and on the first page of the appendix. A tract or legal description would be more useful than “new acres” in the title. NDAC 69-05.2-05-02(1). (ZAT)

#### **Section 3.7 Prime Farmlands**

148. As required by NDAC 69-05.2-05-02(1) and 69-05.2-09-15, please review the following items as noted in or required for Section 3.7 and revise the narrative as appropriate in response:
- a. Expand the Section 3.7 narrative to include the information required for prime farmland operation and reclamation plans by NDAC 69-05.2-09-15(2), (3), (6), and (7).
  - b. The Soil Survey of Oliver County, North Dakota (1975) identifies prime farmland soil mapping units in the permit area - NRCS did not conduct a survey in 1995.
  - c. The Commission does not issue a negative declaration of prime farmland performance standards (NDAC 69-05.2-26), rather it approves or denies the applicant’s conclusion that prime farmland performance standards do not apply to prime farmland soil map unit delineations (exempt).
  - d. The first paragraph of Section 3.7 blends Section 3.7 of the approved permit with a description of prime farmland in Section 8 added with Revision 12 but the resulting paragraph is disjointed and confusing. We suggest that an introductory paragraph to Section 3.7 explain the identification of prime farmland soil mapping units (Soil Survey of Oliver County) and further explain that the prime farmland performance standards (NDAC 69-05.2-26) apply to prime farmland soil map unit delineations (or portions thereof) if the delineation parcel has been historically used for cropland as defined by NDAC 69-05.2-01-02(43). Following the introductory paragraph the narrative should clearly describe the prime farmland soil map unit tracts.

- e. It does not appear that the description for Tract 2 should reference the SE¼ of Section 5 because no land is being added to the SE¼ of Section 5 with Revision 12.
- f. Revise the title for Table 3.7-1 to describe prime farmland soil map units in the BNCR-9401 permit area because there are 13 prime farmland soil map units in Oliver County.
- g. Remove all but the ArA and the GaB soil map units from Table 3.7-1 because they are the only prime farmland soil map units historically used for cropland within the BNCR-9401 permit area.
- h. Describe the plate(s) that depict(s), or will depict, the prime farmland soil map unit stockpile locations (Plate 4.1-1), and clarify the narrative for stockpiling prime farmland soil map units from Section 8. The narrative seems to imply that the prime farmland soil map units stripped in Section 8 will be stockpiled in Section 9 of BNCR-1101 rather than Section 8 of BNCR-9401, but please clarify. Please also describe the ownership of both parcels.
- i. Relocate the first sentence of the last paragraph of Section 3.7 to the description of Tract 1 because only the area designated for respreading prime farmland from Tract 1 is depicted on Plate 4.10-1. Please clearly differentiate that Section 8 prime farmland soil map units will be respread in Section 9 of BNCR-1101 with the designated area depicted on Plate 4.1-1 of Permit BNCR-1101. Please also describe the ownership of both parcels and the total acreage that will be respread in Section 9. (WTG)

### **Appendix 3.7-1 Oliver County Soil Survey and Prime Farmland Correspondence**

149. Please update Appendix 3.7-1 to include the ArA prime farmland soil map unit description. (WTG)

### **Plate 3.7-1 Prime Farmland Soils**

150. Please revise the prime farmland legend on Plate 3.7-1 as follows: change the legend title as necessary to specify prime farmland soils within the BNCR-9401 permit area because there are 13 prime farmland soil map units in Oliver County; retain only those prime farmland soil map units that occur in the permit area (including the exempt map units); and, provide a reference for the NRCS soil map unit legend (the Soil Survey of Oliver County and an NRCS website such as the Field Office Technical Guide). (WTG)
151. As requested during the completeness review, please depict exempt prime farmland soil mapping units (or portions thereof) in the original permit area on Plate 3.7-1 similar to the depiction of exempt tracts in the Revision 12 added acreage. This effort may require a scanned geo-referenced image of sheet number 45 from the Soil Survey of Oliver County that we can provide. (WTG)

### **Section 3.8 Soil Resources**

152. Please review and revise as necessary the following portions of Section 3.8:
- a. Please combine the first two paragraphs of page one in Section 3.8 and restrict the paragraph narrative to the Nordan J. Lunde soil survey.
  - b. Please list a date of February 23, 1995 for the Lunde soil survey report in the paragraph narrative for the Nordan J. Lunde soil survey.
  - c. Please add Plate 3.8-1 (Lunde soil survey) from the approved permit to Appendix 3.8-2 and provide a link to Plate 3.8-1 (Lunde soil survey) by way of Appendix 3.8-2 in the paragraph narrative for the Nordan J. Lunde soil survey.
  - d. Please relocate the last sentence of the second paragraph on page one to the first paragraph of the Soil Removal subsection (“*We intend to remove and replace all topsoil and subsoil material available within the disturbance area*”).
  - e. Please make the following corrections to the third paragraph on page one: remove the date reference (2012) to acres added and replace it with a reference to Revision 12; use the correct acreage numbers as they apply to the parcels added to the permit; insert “8” in following the statement “... *for the NE¼ of Section was ...*”; list the consultant for the Section 5 and 32 soil survey; and, individually list the three soil surveys by consultant and specific date that are depicted on Plate 3.8-1.
  - f. Please correct the maximum depth of subsoil removal to read 60 inches rather than 48 inches in the Soil Removal subsection.
  - g. Please combine the third and fourth paragraphs on page two and shorten the paragraph considerably because Option 1 of Policy Memorandum No. 17 will be used for SPGM removal and redistribution (there will not be any projected respread depths or spoil sampling).
  - h. Please remove the first paragraph on page three (wetlands) because it does not appear to apply to the BNCR-9401 permit.
  - i. Please remove the second paragraph on page three and replace it with a paragraph describing mulching and other soil stabilizing practices that will be used as required by NDAC 69-05.2-22-05. (WTG)
153. The last sentence in the Section 3.8 narrative states “*Ash cells nearby BNCR-9401 will be reclaimed and filled with SPGM to depths and standards dictated by regulations for the ND Wastewater permit...*” We believe the SPGM would be required as part of the landfill final cover under North Dakota’s solid waste regulations and permits applicable to the landfill facility. Please revise as necessary. (RLK)

### **Plate 3.8-1 Soils Map**

154. Please review the following items on Plate 3.8-1 and revise as appropriate:
- a. Add a separate clearly titled soil map unit legend for the 1995 Lunde soil survey that is identical to the soil map unit legend on Plate 3.8-1 of the approved BNCR-9401 permit, and remove the Lunde soil survey soil map units labeled as “pre” from the existing soil map unit legend.

- b. Remove the “pre” prefix for all of the soil map unit numbers in the Lunde soil survey area and ensure that the soil map units in the Lunde soil survey area are labeled identical to those on Plate 3.8-1 of the BNCR-9401 permit.
  - c. Please correct the soil map unit boundaries in the NW¼NE¼ of Section 5 where two 81E 5/30 soil map units are adjoining - it appears that a parcel of soil map unit 100C may have been mistakenly omitted.
  - d. Please list the parcels in the explanation note as the N½N½ of Section 5 and the S½S½ of Section 32 because small portions of both sections in the 2012 soil survey area are in the W½ of the respective sections. (WTG)
155. Soil mapping units 81D and 81E are listed as Lehr loam soils in the legend of Plate 3.8-1 but this is not consistent with what is listed in Appendix 3.8-2 and 3.8-3. Please review and revise accordingly. NDAC 69-05.2-05-02(1). (GAW)

### **Section 3.8 Appendices 3.8-1 through 3.8-4**

156. Please retitle Appendix 3.8-1 on the Section 3 Home Page and the permit Table of Contents as Nordan J. Lunde Soil Inventory and Computation Sheets. (WTG)
157. As previously noted in Section 3.8, please add Plate 3.8-1 (Lunde soil survey) Revised 5-95 from the approved BNCR-9401 permit to Appendix 3.8-2. (WTG)
158. Please add the date of February 2011 following the title of Appendix 3.8-3 on the Section 3 Home Page and the permit Table of Contents. Please note that the document resulting from the changes made to the high intensity soil survey report completed in response to the technical review of the BNCR-1101 permit application should be the same document included with the application for Revision 12 to BNCR-9401. (WTG)
159. Please retitle Appendix 3.8-4 on the Section 3 Home Page and the permit Table of Content to match that of Appendix 3.8-3, but add the date of April 2012 following the title to differentiate it from Appendix 3.8-3. (WTG)
160. Please include a reference to Section 32, T142N, R83W, on page 3 of Appendix 3.8-4 for acreage included in the soil survey, and correct the reference to Section 5 to be in T141N rather than T142N. (WTG)

### **Appendix 3.9-1 Alluvial Valley Floor Determination**

161. Please correct the typographical error labeling the bookmark in Appendix 3.9-1 as *Soil Testing and Consluting Letter September 2, 1992*. It appears obvious the desired word intended for this bookmark is Consulting. (BEB)
162. The Reclamation Division’s January 17, 1995 Alluvial Valley Floor Determination Letter that is provided in Section 3.9 specifically states that Square Butte Creek downstream of Nelson Lake Dam is outside the range of the Permit BNCR-9401 AVF determination area. Drainages in Sections 4 and 9 directly east of the permit area

draining to Square Butte Creek, and Square Butte Creek proper are required by NDAC 69-05.2-08-13 to be investigated for the presence of an alluvial valley floor because they are located adjacent to the proposed permit area. Fortunately, the study area for the Alluvial Valley Floor Evaluation report that was prepared by Bickel Consulting, LLC for Permit BNCR-1101 has incorporated those tributary drainages located in Sections 4 and 9 as well as applicable portions of Square Butte Creek downstream of Nelson Lake into the report. Correspondingly, please incorporate the approved Center Mine Alluvial Valley Floor Evaluation Report that was prepared by Dr. Bickel for Permit BNCR-1101 and the Reclamation Division's July 14, 2011 AVF determination letter into the applicable sections of this permit. (BEB)

### **Section 3.10 Fish and Wildlife Resources**

163. Please revise Section 3.10, Fish and Wildlife Resources, to clarify which information is relating to the original permit area and which information is relevant to the Revision 12 addition area. NDAC 69-05.2-05-02(1). (GAW)
164. Please revise Section 3.10, Fish and Wildlife Resources, to clarify compliance with NDAC 69-05.2-08-15 which requires a plan to acquire fish and wildlife information. NDAC 69-05.2-05-02(1). (GAW)
165. Please revise the second paragraph on page 2 of Section 3.10, Fish and Wildlife Resources, so that the information is comprehensible. The first two sentences talk about a mine wide monitoring plan but the third sentence states "*This survey was conducted by Kelly Krabbenoft... in 2009-2011.*" It is not clear to which survey this sentence is referencing. Please revise to clearly discuss the wildlife inventory work that was completed on the Revision 12 addition area and describe the condition and value of the various habitats. NDAC 69-05.2-05-02(1). (GAW)
166. Please revise Section 3.10 to clarify if suitable habitat exists in the proposed addition or adjacent area that is capable of supporting any Threatened, Endangered or Candidate species. Specifically discuss if suitable habitat exists for the Dakota skipper and Sprague's pipit. NDAC 69-05.2-08-15(3). (GAW)
167. Please revise page 2 of Section 3.10 to discuss the results of the survey completed in 2010 and 2011. Appendix 3.10-5 indicates that 6 species of concern were documented on the proposed permit addition area. Please provide a discussion about the presence of these species. NDAC 69-05.2-05-02(1). (GAW)
168. Please revise page 2 of Section 3.10 to specifically indicate the dates wildlife survey work was completed on the permit and adjacent area and methodology used. Please clarify why detailed inventory work was not completed to survey for species listed as candidate species. NDAC 69-05.2-08-15(3). (GAW)

169. Please revise the whooping crane narrative on page 2 of Section 3.10 to discuss if the wetlands in or adjacent to the permit area are suitable stopover habitat for whooping cranes. This should include the waters of Nelson Lake and Hagel Creek. NDAC 69-05.2-05-02(1). (GAW)
170. Please revise Section 3.10 to clarify if any plant species of concern or plant communities considered important by the ND Parks and Recreation Department or USFSW exist in or adjacent to the proposed permit addition area. Please discuss consulting with these agencies during the inventory study. NDAC 69-05.2-08-15(3). (GAW)

#### **Appendix 3.10-2 Wildlife Study (2010)**

171. Appendix 3.10-2, Wildlife Study, is identified as Appendix 3.10-3, Fish and Wildlife Resources Report, in the bookmark section of the permit when the appendix is opened. Please correct as necessary to eliminate the inconsistency in the appendix number and name. NDAC 69-05.2-05-02(1). (GAW)
172. Please include a copy of the plan for acquiring wildlife information for the study area that was submitted and approved by the ND Public Service Commission. NDAC 69-05.2-08-15(2). (GAW)
173. The first page of Appendix 3.10-2 states that BNI responded to PSC's initial review letter on July 21, 2010 and that the wildlife plan was approved on September 16, 2010. Our records indicate that BNI responded to our initial review on August 31, 2010 rather than July 21, 2010 as written and listed in the bookmarked section of the permit and the plan was approved on September 10, 2010 not September 16, 2010 as listed. Please review and correct as necessary. NDAC 69-05.2-05-02(1). (GAW)
174. The sixth paragraph on page 3 of Appendix 3.10-2 states that all habitat types are identified on the Pre-Mine Land Use Map, Plate 3.5-2. Please clarify why the wildlife habitats would not be identified on Plate 3.10-1, the Wildlife Study Map. NDAC 69-05.2-05-02(1). (GAW)
175. The terms "habitat types" and "land uses" are used interchangeably in Section 3.10 of the permit. Please revise and use the term habitat types in Section 3.10 rather than land use since there are differences between land use (Section 3.5) and habitat type (Section 3.10) and Section 3.10 deals with fish and wildlife resources (i.e., habitat type). NDAC 69-05.2-05-02(1). (GAW)
176. Please revise the second paragraph of pheasant crowing counts discussion on page 4 of Appendix 3.10-2 with information about the results of the surveys. NDAC 69-05.2-05-02(1). (GAW)

177. The sentence regarding the Raptor Nest Survey on page 4 of Appendix 3.10-2 states that sites were visited to determine species, nest activity and breeding success. However, no other information is provided and nothing regarding raptor nests is shown on Plate 3.10-1. Please revise to explain this statement and provide the necessary information. NDAC 69-05.2-05-02(1). (GAW)
178. A sentence in the first paragraph on page 5 of Appendix 3.10-2 references the Pre-Mine Land Use section for acreages of each habitat type in the permit. Please clarify why the premine land use section of the permit would be referenced rather than Section 3.10 of the permit. NDAC 69-05.2-05-02(1). (GAW)
179. The woodland canopy cover information listed on page 7 of Appendix 3.10-2 is not supported or consistent with the woodland sampling data. Please revise the narrative to explain why this is the case or revise accordingly. NDAC 69-05.2-05-02(1). (GAW)
180. Please revise Appendix 3.10-2 to include an evaluation of the present value and/or condition of the various wildlife habitats as indicated would be done in the approved wildlife inventory plan. The summary discussion at the end of the cropland, native rangeland, shelterbelt land uses or habitat types in this appendix states that each of the habitats ‘can be beneficial’ to many wildlife species depending on condition and management. Please revise and definitively rank the present condition or value of the habitat types in each tract compared to its potential. The woodland narrative in Appendix 3.10-2 provides no information regarding the condition or value of the habitat type. Section 4.12-1 of the permit states that high percentage of smooth brome grass and Kentucky bluegrass on native grassland limits the habitat functions of the land. Please further explain this and provide technical references as supporting documentation. NDAC 69-05.2-05-02(1). (GAW)
181. Please revise the shelterbelt narrative to specifically state which shelterbelts and windbreaks in the permit area are being mowed or grazed to help determine the value of these plantings if this type of management reduces their value to wildlife as stated. NDAC 69-05.2-05-02(1). (GAW)
182. Much of the discussion in the first paragraph on page 9 of Section 3.10-2 does not appear applicable to the wetlands in this proposed permit area. Language such as “*Semi-permanent and larger seasonal wetland in cropland*” is used but there are none known to exist in this proposed permit area and in another instance it is stated that “*dry wetland basins are often hayed*”. Please review and revise to provide detailed information specific to this permit area. NDAC 69-05.2-05-02(1). (GAW)
183. Please revise the Developed Water Resource narrative on page 9 of Appendix 3.10-2 to provide specific information for each of these feature since their value as habitat can vary greatly depending on the amount of use they receive from livestock. The narrative as currently written provides no information as to the present value of this habitat type. NDAC 69-05.2-05-02(1). (GAW)

184. Please revise the third paragraph on page 11 of Section 3.10-2 to clearly state where the designated critical habitat for the piping plover is in relation to the proposed permit area. NDAC 69-05.2-05-02(1). (GAW)
185. The fourth paragraph on page 11 of Section 3.10-2 uses the terminology Category II candidate species when discussing candidate species to the Threatened and Endangered Species Act. We understand that the terminology “Category II” is no longer used and the species mentioned in this paragraph are Candidates species the USFWS has proposed for addition to the Federal endangered and threatened species list. Please revise to reflect the current accepted terminology. NDAC 69-05.2-05-02(1). (GAW)
186. Please revise the Dakota Skipper narrative that begins on page 11 of Appendix 3.10-2 to clearly state which tracts of native grassland were determined to have the greatest potential to support the Dakota Skipper. Please also include a map that shows where Dakota Skipper surveys were conducted in 2009, 2010 and 2011. The USFWS requested that BNI avoid any impacts to potential Dakota skipper habitat via email dated March 11, 2010. In addition, NDAC 69-05.2-08-15(3)(c) requires the identification of habitats identified through agency consultation. (GAW)
187. The fourth paragraph on page 12 of Appendix 3.10-2 states that “*The grazing use patterns on the native rangeland tracts within the permit were often more intense than the Dakota Skipper prefer ...*” A sentence in the last paragraph on page 12 of Appendix 3.10-2 states “*Many tracts are likely trending away from their present status due to apparent management changes that are decreasing intensity of use...*” These statements are contradictory to each other so please revise as necessary and identify which tracts had habitat most suitable for the Dakota Skipper. NDAC 69-05.2-05-02(1). (GAW)
188. The first sentence on the second paragraph on page 14 of Appendix 3.10-2 states that “*Based on USFWS comments at the time of plan submittal, the 100 species of concern in ND were paid special attention to...*” Please include a copy of correspondence where the UFSWS mentions or refers to the 100 species of concern. NDAC 69-05.2-05-02(1). (GAW)
189. A sentence in the second paragraph on page 14 of Section 3.10-2 states that the Sprague’s pipit was sighted in the largest tracts of contiguous native rangeland. However, Appendix 3.10-1 shows that this species was sighted in tracts containing about 80 acres of native rangeland that is surrounded by cropland, Sections 30 and 19, and in Section 12 where the native grassland is impacted by irregular shaped fields of cropland. Please revise to accurately characterize each landscape where this species was observed. This should include native grassland tract size, ecological site information with species dominance and vegetation structure, and tract and site management information (such as estimated percent utilization, grazing patterns and timing, and the amount of litter present). NDAC 69-05.2-05-02(1). (GAW)

190. Please include a map that shows the exact location where Sprague's Pipet was observed and the date of each observation as required by the approved inventory plan. Table 3.10-1 provides only species absence or presence information based on ownership tract, which is insufficient. NDAC 69-05.2-05-02(1). (GAW)
191. A sentence on page 14 of Section 3.10-2 states that "*No other T & E species were found during wildlife ground reconnaissance surveys in any of the years sampling from 2009-2011*". This sentence implies that a Threatened or Endangered species was sighted. Please clarify if a Threatened or Endangered species was sighted within the study area. NDAC 69-05.2-05-02(1). (GAW)
192. The USFWS requested in their review letter dated March 3, 2010 that BNI further classify wetlands as to their suitability as potential stopover habitat for the whooping cranes, and provide acreage and temporal expected loss of such habitat. Please review the USFWS correspondence and revise as necessary to address all of their suggestions and comments. NDAC 69-05.2-05-02(1). (GAW)
193. The first sentence of the "Critical Habitat Evaluation" narrative on page 14 of Appendix 3.10-2 states that "*Upon review of data resulting from high intensity ground reconnaissance over multiple years, it can be concluded that no designated critical habitat occurs for any threatened, endangered or candidate species within the proposed permit or buffer area*". Designated critical habitat determinations are only made by the USFWS under the Endangered Species Act and this terminology should be used in this strict sense. Please revise to clarify if there is any designated critical habitat in the study area for each T & E species and the proximity of any designated critical habitat to the permit and study area. NDAC 69-05.2-05-02(1). (GAW)
194. Please revise the last paragraph on page 14 of Appendix 3.10-2 to specifically state the distance the permit area is to the Missouri River where designated critical habitat for the piping plover exists. In addition, the sentence as currently written is incomplete. NDAC 69-05.2-05-02(1). (GAW)
195. A sentence in the last paragraph on page 14 of Appendix 3.10-2 states that "*No effects from mining should occur on the riverine habitats*". Please clarify what is meant by this statement. NDAC 69-05.2-05-02(1). (GAW)
196. A sentence in the last paragraph on page 14 of Appendix 3.10-2 states that "*There are no regionally critical streams, wetlands, riparian areas...within the permit or buffer area.*" However, Nelson Lake and Hagel Creek border the permit area. Please clarify what is meant by the terminology "regionally critical stream." NDAC 69-05.2-05-02(1). (GAW)
197. A sentence in the first paragraph on page 15 of Appendix 3.10-2 states that the permit areas are "*within the broad migration corridor used by whooping cranes... and no critical use habitats for them exists within the permit area*". It appears that the

cropland, native rangeland and wetlands in the permit area and adjacent area could conceivably be used as stopover habitat. Please clarify as necessary. NDAC 69-05.2-05-02(1). (GAW)

198. The first two sentences in the second paragraph on page 15 of Appendix 3.10-2 states that “*Access to areas within the buffer zone around the permit was limited to county roads in most cases to collect habitat and wildlife information*” and the “*Nonetheless, a review of the map, Plate 3.10-1, indicates that no threatened or endangered plant or animal species are present based on current information*”. The approved inventory plan required detailed information for the study area which included a 1-mile buffer around the proposed permit area. If access to this buffer area was limited, please clarify how the requirements of the approved inventory plan have been fulfilled. A review of a map that was prepared by BNI based on current information should not be the basis of determining the presence of threatened and endangered species. NDAC 69-05.2-05-02(1). (GAW)
199. Please revise the “Significant Ecological Communities” discussion on page 16 of Appendix 3.10-2 to specifically state which ecological communities the ND Parks and Recreation Department considers “Significant Ecological Communities” in Oliver County. Then specifically state whether or not the study area contains any of these Significant Ecological Communities. Please edit this section of the permit and remove all language that disregards the NDNHI database because the purpose of this study was to determine whether or not the study area contains rare or unique plants or ecological communities. Most of the discussion in this section of the permit discredits NDNHI data base information; however, BNI does not even define which rare plants or significant ecological communities have the potential to exist in the study area. NDAC 69-05.2-05-02(1). (GAW)
200. On page 20 of Appendix 3.10-2, please clarify the prairie type identified by GAP Analysis as being most unique in North Dakota. The last paragraph on page 20 does not make it clear if this “Bluestem – Needlegrass – Wheatgrass” prairie is referring to part of the tall grass prairie or mixed grass prairie ecosystem. Also it is not clear what is meant by the statement “*One exception would be a greater distribution map for the Sprague’s pipit compared to our results*”. Please revise as necessary to provide clarity. NDAC 69-05.2-05-02(1). (GAW)

#### **Appendix 3.10-6 Fish Sampling**

201. The last sentence of the first page of Appendix 3.10-5 states that it is highly unlikely that mining operations will have negative impacts to any potential fish populations within or adjacent to the proposed permit area. Please quantify this statement by explaining why this is the case and include a discussion on Lake Nelson as a North Dakota Tier II fishery. NDAC 69-05.2-05-02(1). (GAW)

### **Appendix 3.10-9 Grouse and Pheasant Tables**

202. The bookmark indicates that this is Appendix 3.10-7, but elsewhere this document is referred to as Appendix 3.10-9. Please correct this discrepancy. NDAC 69-05.2-05-02(1). (GAW)
203. Appendix 3.10-9 indicates that pheasant crowing count locations 29 through 35 were added but only stops 30 through 34 are shown on Plate 3.10-1. Stops No. 29 and 35 and another unlabeled stop are shown on the map, Plate 3.10-1, north of the study area in Section 34. It appears these labels were simply placed at this location when the map was produced as they are not located along the crow counting corridor. A sentence on page 4 of Appendix 3.10-2 states that an additional 8 stops were specifically made for this area but only 7 are listed in Appendix 3.10-7. Please review and correct as necessary. NDAC 69-05.2-05-02(1). (GAW)
204. The pheasant tables in Appendix 3.10-9 contain a lot of information for stops not identified on Plate 3.10-1. Please revise so the information is specific to the proposed study area. The average values listed in the table include numbers adjacent to active mining areas so these tables do not properly provide baseline information for the area. Old monitoring sites that are located in the study area may be included in these tables. This would include stops 1, 2, 3, 13, 14, 15 and possibly No. 28. Please revise accordingly so the tables establish appropriate baseline information. NDAC 69-05.2-05-02(1). (GAW)
205. Please revise the grouse tables so that the information is specific to the study area and provide an average number of observed displaying males on these leks. Including numerous old lek sites that have been disturbed by mining skews. The data and a number of these sites are not shown on Plate 3.10-1 because they are located outside of the study area. Please revise to provide baseline data for the study area. NDAC 69-05.2-05-02(1). (GAW)
206. Please edit the notations at the bottom of the grouse and pheasant tables in Appendix 3.10-9 to include only information relevant to the study area. NDAC 69-05.2-05-02(1). (GAW)

### **Section 3.12 Cultural and Historical Resources**

207. Other than a strip of land covering the extreme northern portions of Section 8 for a width of 330 feet across the section that was surveyed in 1992, there is no additional cultural resource information provided in the permit for the remainder of the NE1/4 of Section 8 that is being incorporated into the permit with Revision 12. In addition, please provide the cultural resource inventory report(s) for that portion of the area being added to the permit in Sections 5 and 32 that is not covered by 1992 inventory report. It appears that a portion of the area being added to the permit in Section 5 was covered by the 1992 report, but it does not appear that the entire area being added to

the permit in Section 5 was included in the 1992 report. In Section 3.12, please provide the pertinent cultural resource inventory reports, significance determinations, mitigation reports, and SHPO correspondence for the areas being added to the permit with this revision. That portion of Section 8 being added to the permit was included in “BNI Coal: A Cultural Resource Inventory of 7,680 Acres in Area C in Oliver County, North Dakota” prepared by Ethnoscience, Inc. in May, 2008. (BEB)

#### **Section 4.1 Coal Removal**

208. Please remove or clarify the nonsensical phrase “*capped with solid waste*” in reference to the coal combustion waste cells in the fourth paragraph of Section 4.1. (WTG)

#### **Plate 4.1-1 Pit Layout and Facilities Map**

209. Please revise the Pit Layout and Facilities Map, Plate 4.1-1, to show the permit boundary consistent with what is shown in Plate 1.8-2, Legal Description of Additional Acres. The boundary near the center of the N1/2 of Section 5 is incorrect. NDAC 69-05.2-05-02(1). (GAW)
210. BNI is proposing a new coal haul road and a pond in the wooded draw located in the NW1/4 of the NE1/4 of Section 5. Please revise the Pit Layout and Facilities Map, Plate 4.1-1, to not show any disturbance to this wooded draw or provide justification for disturbing the wooded draw. NDAC 69-05.2-09-02 (11), NDAC 69-05.2-09-17, NDAC 69-05.2-13-05 and NDAC 69-05.2-13-08(6)(a). (GAW)
211. Please depict the Hagel Creek stream buffer zone required by NDAC 69-05.2-16-20(2) on Plate 4.1-1. Also please clearly identify any disturbances (including ponds, pond outfalls, roads, etc.) that will occur within 100 feet of the stream buffer zone either on the map and, if so, explain the need to do so in the appropriate narrative. (WTG)
212. As required by NDAC 69.05.2-05-02(1), please depict and label the boundary of unleased federal coal intended for eventual mining in the NE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 8, T141N, R83W, on Plate 4.1-1. Plate 4.1-1 must also be revised to show no mining of the unleased federal coal in the NE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 8 at this time. Mining of this tract cannot be depicted on the Pit Layout and Facilities map until the coal has been leased. (WTG)

#### **Section 4.4 Blasting Plan**

213. In Section 4.4, please include an example letter that will be sent to the appropriate people informing them how to request a preblasting survey, along with a list of all residents and owners of dwellings or structures within one mile of the permit area that will be notified in writing at least 30 days before blasting. NDAC 69-05.2-17-02(1). (MDB)

214. The discussion in Section 4.4 of the preblast survey states "... *the resident or owner will be advised they should contact BNI to obtain a copy of this survey.*" As per NDAC 69-05.2-17-02(2), the resident must request the preblast survey through the Commission who will then contact the mine. (MDB)
215. Please include a statement in Section 4.4 concerning the periodic blast monitoring to ensure compliance with blast standards under NDAC 69-05.2-17-05(5)(c). Monitoring should occur at least twice a year at minimum. (MDB)
216. The blasting notice in Section 4.4 states "*Blasting locations are within the boundaries of Permit BNCR-8901 ...*". Please correct the permit to BNCR-9401. Also, please update blasting times, the notice period, section, township, and range, as some areas are not located in Permit BNCR-9401. (MDB/ZAT)
217. Please include a blasting map showing any structures within the nearby vicinity of the blasting area, as well as the distance to each of those structures. (MDB)

#### **Section 4.5 Transportation Plan**

218. Please remove the reference to leaving subsoil in fill segments of haul roads and using subsoil as haul road fill material because Option 1 of Policy Memorandum No. 17 (save and respread all available SPGM) is the method that will be used for SPGM removal and redistribution in BNCR-9401. Some loss of subsoil is unavoidable when the surfacing material is removed during reclamation of a haul road built of subsoil, and intermingling of materials at the overburden/spoil and subsoil interface degrades subsoil quality resulting in additional subsoil loss. Please revise Section 4.5 to remove any reference to constructing haul roads from subsoil. (MDB/WTG)
219. Please include plans in Section 4.5 to remove and reclaim each road not retained under the proposed post mining land use, and include schedules for construction and reclamation as required by NDAC 69-05.2-09-06(1)(h). (MDB)

#### **Appendix 4.5-2 Culvert Information Sheets**

220. Many of the culvert designs in Appendix 4.5-2 show velocities in excess of 5 feet per second. For those culverts, please include the type of erosion protection that will be placed at the outfall of the culvert to minimize erosion. (MDB)

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

221. In Section 4.6, please include a description of the sediment and erosion controls that will be used for the haul road ditches that outlet to Nelson Lake in the northwest corner of the permit area. Currently, a series of rock checks and sumps are used by Minnkota to comply with the conditions of their NDPDES stormwater permit. (RLK)

**Plate 4.6-1 Surface Water Management Plan**

222. Please revise Plate 4.6-1 to show the permit boundary consistent with what is shown in Plate 1.8-2, Legal Description of Additional Acres. The boundary near the center of the N1/2 of Section 5 is incorrect. NDAC 69-05.2-05-02(1). (GAW)
223. Please revise Plate 4.6-1 to not show the construction of Pond 5-7 in the wooded draw or provide justification for doing so. NDAC 69-05.2-13-08(6)(a) requires that ponds and haul roads be located to avoid important fish and wildlife habitat. (GAW)
224. On Plate 4.6-1, an area of blue cross hatching similar to that used for Nelson Lake is depicted on an upland area in the S1/2 of Section 32 just to the west of the planned haul road. Please describe or revise as appropriate. (RLK)
225. On Plate 4.6-1, please depict the location on the haul road segment entering the west side of the permit area from the Nelson Lake crossing and continuing through the north end of the permit area in the SE1/4 of Section 32. (RLK)

**Section 4.6 Appendices**

226. As shown on Plate 4.6-9a Pond 5-7 was designed with a runoff curve number of 88.6 for the disturbed areas; however, a runoff curve number of 90 should be used for all disturbed acres. Please correct. (MDB)
227. Plate 4.6-9a, Pond 5-7 shows the principal spillway at the same elevation as the cleanout level of 1946 feet. If a principal spillway was set at this elevation, the pond would discharge freely and would not have capacity for the designed storm event. In addition, no design plans or calculations are included for a principal spillway. Please change this plate as appropriate. It appears this should be labeled as a dewatering pipe that has a gate value to control the flow. If it is an actual principal spillway, please redesign the pond and include drawings and calculations for the spillway. (MDB)
228. The emergency spillway of Pond P-5-6 intercepts diversion D-5-2 and topsoil pile M15T09 several times. This is not acceptable as runoff collected by the diversion would flow out the spillway (short circuit) and not to the pond as designed. Please adjust the location of the emergency spillway. (MDB)
229. Appendices 4.6-1 through 4.6-7 discusses that the landowner wishes to retain these ponds which would change the topography. At this time, BNI has not demonstrated that these ponds meet the requirements of NDCC 38-14.1-24(7). Please update the ponds with the necessary information required. If the ponds are updated to permanent status, please adjust Plate 4.10 Post Mining Topography to show the final configurations. If the ponds are left as temporary, please update Appendix 4.14-1 Worst Case Bond Estimate to include the pond in the removal cost. (MDB)

#### **Section 4.7 Water Monitoring and Drill Hole Reclamation Plans**

230. Narrative in the first paragraph in Section 4.7.2, GROUNDWATER MONITORING PLAN under the subsection labeled Annual Ground Water Sampling, states that Table 4.7-1 shows which piezometer wells will be monitored; however, there is no Table 4.7-1 in the permit. Please place a list of the wells being monitored into this section. (BEB)
231. To comply with the requirements of NDAC 69-05.2-14-03, please specifically state in the Drill Hole Reclamation Plan in Section 4.7.3 that BNI does not plan to retain any drillholes, boreholes, or wells for other uses, if that is the case. (BEB)
232. Please add to the Ground Water Monitoring Plan in this section by specifically stating that your ground water monitoring wells will be protected during use by barricades, or fences, or other protective devices approved by the commission. NDAC 69-05.2-14-02. (BEB)

#### **Section 4.9 Reclamation Schedule**

233. The Reclamation Schedule indicates reclamation of surface water management structures is planned for 2043-2045, while the pond designs provided in the Surface Water Management Plan, Section 4.6 indicate that most ponds are permanent. Please update Section 4.9 to include the construction and reclamation year of each pond and diversion per NDAC 69-05.2-09-09(1)(d). (RLK/MDB)

#### **Plate 4.10-1 Post Mining Topography**

234. Please revise Plate 4.10-1 to show the permit boundary consistent with what is shown in Plate 1.8-2, Legal Description of Additional Acres. The boundary near the center of the N1/2 of Section 5 is incorrect. NDAC 69-05.2-05-02(1). (GAW)

#### **Plate 4.10-2 Post Mining Area Slope Map**

235. Please revise Plate 4.10-2 to show the permit boundary consistent with what is shown in Plate 1.8-2, Legal Description of Additional Acres. The boundary near the center of the N1/2 of Section 5 is incorrect. NDAC 69-05.2-05-02(1). (GAW)
236. On Plate 4.10-2, please update the permit boundary for Permit BNCR-1101, to remove the E1/2 of Section 6 from Permit BNCR-1101. Also please include the line descriptions in the map legend for the lines depicting the permit boundaries for BNI Coal's the adjacent surface mining permits. The map should also indicate legal land description range (R83W) at an appropriate location on the map. NDAC 69-05.2-08-02. (RLK)

#### **Section 4.11 Suitable Plant Growth Material Removal and Replacement**

237. Please add a reference and link to Appendix 3.8-4 in the first paragraph of Section 4.11 because Appendix 3.8-4 is the soil survey completed for a small area of Section 5 and Section 32. (WTG)
238. Please reference Option 1 of Policy Memorandum No. 17 (save and respread all available SPGM) in the fifth paragraph on page one of Section 4.11 as the method that will be used for SPGM removal and redistribution in BNCR-9401. (WTG)
239. In the paragraph preceding Table 4.11-1, please correct the typographical errors in the spelling for “mixture” and “depths” appearing in the paragraph. (RLK)
240. Please remove the last paragraph of Section 4.11 (pursuing mixing agreements) because it contradicts a statement in Section 3.8. (WTG)

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

241. The first sentence of Section 4.12, Revegetation and Post Mining Land Use, states that “*Pursuant to NDAC 38-14.1-1-4 (2) (b), the utility and capacity of the reclaimed land will have the capacity to support alternative uses equal to or greater than the pre-mining land use.*” Please explain how this is possible given that the agricultural lands will be converted to an Ash Disposal Facility that contains steep side slopes and be zoned as industrial lands. NDAC 69-05.2-05-02(1). (GAW)
242. Please update the second paragraph on page 4.12-1 to recognize the land being added with Revision 12. The first sentence incorrectly indicates that there is more acreage associated with a stock dam than woodlands and wetlands, and the pre-mining land uses associated with Revision 12 acreage are not mentioned. NDAC 69-05.2-05-02(1). (GAW)
243. On page 4.12-1 please add tame pasture and industrial to the land uses in the first sentence under Section 5. NDAC 69-05.2-05-02(1). (ZAT)
244. Please update the second paragraph on page 4.12-1 to clarify if the ponds shown on the post mine land use map, Plate 4.12-1, are being left as sediment ponds or developed water resources. NDAC 69-05.2-05-02(1). (GAW)
245. Please add a statement at the end of the first paragraph for Section 5 on page 4.12-1 that the landowner requests all sediment ponds be retained as permanent structures. Provide narrative to discuss that the ponds will be retained and the approximate acreage. NDAC 69-05.2-05-02(1). (ZAT)
246. Please revise the sentence in the third paragraph on page 4.12-1 that states that “The land use change will not present an actual or probable hazard to public health or safety

- since the area will not be accessible to the public”. Actual or probable hazards to public health and safety are not necessarily limited to access to the site. Please revise to address all potential hazards to public health or safety, or threat of water diminution or pollution from these lands as required by NDAC 69-05.2-23-03(2). (GAW)
247. A sentence in the third paragraph on page 4.12-1 states that the ND State Health Department will be issuing a permit for the ash disposal facility. Please clarify if this permit has been acquired. NDAC 69-05.2-05-02(1). (GAW)
248. In Section 4.12, the narrative discussing industrial land use in Section 5 states in regard to Minnkota’s landfill: “*The facility is inconsistent with applicable land use policies ... approved by the Oliver County Zoning Commission.*” From the remainder of the narrative discussing the zoning change approval and permit reviews, it appears the indicated text should read “*...is not inconsistent...*” or “*...is consistent...*” Please review and revise or provide an explanation as appropriate. (RLK/GAW/ZAT)
249. Please revise the sentence in the third paragraph on page 4.12-1 that states “*This change will not cause or contribute to violation of federal, state or local laws because the Oliver County Commission, the ND State Health Department and PSC are reviewing all permit plans.*” Agency plan review does not ensure compliance with applicable regulations. It should state what Minnkota Power will be doing to comply with these laws. Please revise accordingly. (GAW)
250. A sentence near the end of the third paragraph on page 4.12-1 states that the NW1/4 of Section 5 has the capability to support the agricultural land uses of cropland and native grassland but the postmine land use map shows that other land uses are to be reclaimed. Please review and revise the statement accordingly. NDAC 69-05.2-05-02(1). (GAW)
251. It is not clear what is being stated in the first two sentences of last paragraph on page 4.12-1. The first sentence mentions a conservation tree planting but then the second sentence states that an additional row of trees will be planted “with reclaimed acres of existing woodlands in post mine”. Woodlands and shelterbelts are distinct land uses and it is not appropriate to suggest that a row within a planting will be something other than what the whole planting is designed to become. The last paragraph on page 4.12-1 uses the terms “conservation tree planting” and “woodlands” interchangeably so it is not clear what is being stated. Please revise to provide clarity. NDAC 69-05.2-05-02(1). (GAW)
252. The last sentence on page 4.12-1 states that “Species of conservational plantings and possible location see Section 4.12-1”. Please revise this incomplete sentence to provide clarity. In addition, please correct the typo in the preceding sentence, which states, “*Currently, these woodlands wood not be reclaimed until life of mine ...*” NDAC 69-05.2-05-02(1). (GAW/ZAT)

253. Please clarify the statement regarding prime farmland reclamation in Section 8 on page 2 because the Section 3.7 narrative describes reclaiming Section 8 prime farmland soil map units in Section 9 of Permit BNCR-1101 of the same land ownership. (WTG)
254. Please revise the Section 32 narrative on page 4.12-2 to mention all of the pre-mine land uses on this tract including a brief discussion on the capability of the land, zoning, and compatibility with the surrounding land use. NDAC 69-05.2-05-02(1). (GAW/ZAT)
255. Table 4.12-1, Postmine Landuse Acres, has two asterisks behind the word “woodland” in column one but the asterisk is not explained. Please provide an explanation of the asterisks or otherwise correct. NDAC 69-05.2-05-02(1). (GAW)
256. Conservation shelterbelts are discussed in the narratives on pages 4.12-1 and 4.12-2 of Section 4.12 but no shelterbelts are listed in Table 4.12-1 nor are any shown on Plate 4.12-1. Please revise to provide clarity and consistency. NDAC 69-05.2-05-02(1). (GAW)
257. Plate 4.10-1, Post Mining Topography, and Section 4.1, Coal Removal Plan, indicate that an Ash Disposal Pit is to be constructed and reclaimed in Section 8 but no land use changes are shown on this area on the Post Mine Land Use Map. Please review and fully explain this discrepancy. Since BNI currently does not have a coal lease for the federal coal in Section 8 and an industrial postmine land use has not yet been approved for that area, it would not be appropriate to show an industrial use for this tract. However, the future intentions for this tract should be explained for consistency with other sections of the permit. NDAC 69-05.2-05-02(1). (GAW)
258. Please revise the Post Mine Land Use Table 4.12-1 on page 4.12-2. The Post Mine Land Use table should have the same organization as the Pre-mine Land Use Table 3.5-1. NDAC 69-05.2-05-02(1). (ZAT)
259. In Table 4.12-1, the acres listed in the “Total” column do not add up to the total as indicated in the bottom row of the table. The totals for native grassland, industrial and woodland categories appear to be in error. Please review and revise as appropriate. Acreages should reflect any corrections made to the Pre-mine Land Use Table 3.5-1 as requested in the deficiencies for Section 3.5. NDAC 69-05.2-05-02(1). (RLK/ZAT)

#### **Section 4.12-1 Revegetation Methods**

260. We recommend that BNI revise the Perennial Grassland Seed Mixture, Table 4.12-1, to include native forbs. NDCC 38-14.1-24 (21). (GAW)
261. A sentence in the second paragraph on page 2 of Section 4.12-1 states that reclaimed woodland densities will be equal to or greater than pre-mine conditions with the citation NDAC 69-05.2-22-07(4)(e)(1). NDAC 69-05.2-22-07(4)(e)(1) simply

references a standard, not the pre-mine woodland density. The density standard can only be based on the pre-mine densities if sample adequacy was achieved, which was not the case in this instance. Please review and revise the statement accordingly. (GAW)

262. An asterisk in Figure 1, Woodland Species Mix, on page 2 of Section 4.12-1 states that “In some areas direct respread may be used to re-establish species”. It is not clear what is meant by this statement since direct respread to replace woodlands is not discussed anywhere else in Section 4.12. Please review to provide clarity and thoroughly discuss the planting and seeding methodology as required by NDAC 69-05.2-09-11(6)(c). NDAC 69-05.2-05-02(1). (GAW)
263. A sentence in the second paragraph on page 3 of Section 4.12-1 states that “the conservational planting will consist of an additional row of tall shrub species that benefit wildlife...” It is not clear what is meant by this statement. The entire conservation planting should be designed to benefit wildlife as required by NDAC 69-05.2-09-17. (GAW)
264. Please include a shelterbelt design plan for the conservation tree planting and a discussion about the planting and seeding methods that will be used as required by NDAC 69-05.2-09-11(6). (GAW)
265. Please revise the following sentence in Section 4.12-1 on page 2, paragraph two, under the heading Woodlands. Please change “*Woodlands found within revision 12 additional acres are mainly deciduous communities*” to “Woodlands 8-16 are mainly deciduous communities”. Using the woodland numbers correlates with Plate 3.5-1 and eliminates confusion in the narrative that might occur with future revisions to the permit. NDAC 69-05.2-05-02(1). (ZAT)
266. Please review Section 4.12-1 narrative on woodlands. This section should cover re-vegetation for all woodlands including woodlands 1-16 that will be replaced. Review this section and ensure language applies to all woodlands not just woodlands 8-16. NDAC 69-05.2-05-02(1). (ZAT)
267. Please clarify the second sentence on page 3 of Section 4.12-1 by identifying the woodland to be reclaimed by number. NDAC 69-05.2-05-02(1). (ZAT)
268. In Section 4.12-1, please remove the phrase “found within acres added in Rev. 12” from the first sentence under Tame Pasture on page 3 and use a physical tract or legal description. Also include the number 2 within the parentheses surrounding (Figure) at the end of the sentence. NDAC 69-05.2-05-02(1). (ZAT)

**Section 4.12-2 Determining Reclamation Success**

269. Narratives discussing both silty native grassland reference area sites incorrectly indicate that the sites were in good range condition in 2011. The summary data include for both sites indicate that the sites are not in good range condition. Please revise the narratives to correct these errors and provide data used determine their actual ecological condition (Similarity Index). NDAC 69-05.2-08-08(2). (GAW)
270. A statement on page 3 of Section 4.12-2 indicates that the majority of the grasslands in the area have sustained long high use. Please revise to clarify if this statement is referring lands being added to the permit with Revision 12 or other lands. This statement conflicts with statements in Sections 3.5 and 3.6 of the permit. Please clarify as necessary. NDAC 69-05.2-05-02(1). (GAW)
271. Please revise Section 4.12-2 to demonstrate that the proposed native grassland reference areas adequately characterize the range and ecological sites they propose to represent. There is no discussion comparing the ecological condition of the lands being added with Revision 12 to the proposed reference areas and the proposed new reference areas are not depicted on a map that includes the soil mapping units as required. Please provide the required information. NDAC 69-05.2-08-08(2)(c). (GAW)
272. A single paragraph at the bottom of page 4 of Section 4.12-2 has been added for the native grasslands included with Revision 12. Please revise the first four pages of this section so that the information is applicable to all of the native grasslands in the permit area. One should not have to read to the end of page 4 to determine that the previous information is only applicable to the lands included in the original permit area. NDAC 69-05.2-05-02(1). (GAW/ZAT)
273. All woodland narrative on page 5 of Section 4.12-2 should be included under the Woodlands heading. In addition, the following changes should be made:
  - a. Start the narrative by restating that woodlands 1-7 were in the original permit and woodlands 8-16 were added with Revision 12.
  - b. Revise the narrative to indicate 1.5 acres of pre-mine woodlands and woody species found in native rangeland disturbed by mining have been mitigated.
  - c. Remove the Woodland Acres Rev. 12 heading so that all woodlands are discussed under the same heading. NDAC 69-05.2-05-02(1). (ZAT)
274. A sentence in the woodland narrative on page 5 of Section 4.12-2 states that the woodland being mitigated in Section 36 is included in Permit 37. Please review and revise to correct this error. (GAW)
275. Please revise the woodland standard listed as being applicable to the Revision 12 addition in Section 4.12-2 so that the standard meets the woodland revegetation success standards listed in Section II-F of the revegetation success standards document.

Reclaimed woodlands must meet the woodland performance standards, not the shelterbelt standard as listed. (GAW)

276. Please remove the Revision 12 language from the woodland section of Section 4.12-2 since all of the woodlands that are to be reclaimed in Permit BNCR-9401 will be subject to the woodland standard. NDAC 69-05.2-05-02(1). (GAW)

### **Section 4.12-3 Potential for Reclamation Success**

277. In Section 4.12-3 it states that Section 8 has a pre-mine zoning of agriculture and that the section will remain agricultural in the post mine setting; however, the Post Mining Topography, Plate 4.10-1 and Section 4.1, Coal Removal Plan, indicates that an Ash Disposal Pit is to be constructed on this tract. Please review and clarify this issue. We suggest indicating in the narrative that prior to mining and construction of disposal cell 4 that a zoning change would be obtained and a permit revision will be submitted to change the post mining land use accordingly. (RLK/GAW)
278. On page 4.12-1 of Section 4.12-3, please add zoning narrative for Section 32 at the end of paragraph 6 where the zoning of Sections 5 and 8 is discussed. NDAC 69-05.2-05-02(1). (ZAT)
279. Please remove “*BNI does not buy cheap seed ...*” from the last sentence on page 4.12-1 of Section 4.12-3. Please revise the remainder of the sentence to clarify what each seed mix is designed on. NDAC 69-05.2-05-02(1). (ZAT)
280. Please revise the second sentence on page 4.12-1 of Section 4.12-3, which states, “*All seed used will meet applicable state seed laws and will not be poisonous or noxious.*” The sentence should model NDAC 69-05.2-22-01 that states “*Species planted must be compatible with plant and animal species of the area, meet the requirements of applicable state and federal seed and introduced species laws, and must not be poisonous or noxious.*” NDAC 69-05.2-05-02(1). (ZAT)

### **Plate 4.12-1 Post Mining Land Use**

281. Plate 4.12-1 identifies what is labeled as a “Possible Woodland Planting Locations”. Please revise to definitively identify the post mine land uses. BNI is advised to plant trees on lands that have been disturbed by mining activities and not disturb additional lands for replacement tree plantings. NDAC 69-05.2-13-05. (GAW)
282. A pond is shown in the southeast corner of Section 5 on Plate 4.12-1 but no sediment pond is to be built at this location according to the Pit Layout and Facilities Map. Please review, clarify and revise as necessary. (GAW/ZAT)

283. Please review the ponds shown on Plate 4.12-1. All ponds that will be retained in the post mine setting should be labeled as they are on the Surface Water Management Plan Plate 4.6-1. NDAC 69-05.2-05-02(1). (ZAT)
284. Please depict the 3<sup>rd</sup> Ash Cell on Plate 4.12-1. NDAC 69-05.2-05-02(1). (ZAT)
285. On Plate 4.12-1, please label the seasonal wetland in the west half of Section 5 as SW, as it is labeled on the Pre-mine Land Use Plate 3.5-1. This information should also be added to the legend. NDAC 69-05.2-05-02(1). (ZAT)

#### **Appendix 4.12-1 SCS Sheets and Correspondence**

286. Please relocate the 1992 Minnkota Power Cooperative landowner preference statement from Appendix 4.12-1 to Appendix 4.12-2. Please also revise the Appendix 4.12-1 Table of Contents (items 1, 2, and 7 have been or will be removed), remove the SCS sheet that does not pertain to BNCR-9401, and rename the appendix to clearly indicate its content and purpose, e.g., zoning approvals. NDAC 69-05.2-05-02(1). (ZAT)

#### **Appendix 4.12-3 Pre/Post Mine Land Use Discussions (Revision 12)**

287. Please revise Appendix 4.12-3 to address the whole permit area not just the Revision 12 addition area. Please use narrative that is consistent with the requested changes to Section 3.5 and Section 3.6. NDAC 69-05.2-05-02(1). (GAW/ZAT)
288. Please repair the link to Plate 3.1-1, Pre-mine Topography, in the middle of paragraph one, page 1, of Appendix 4.12-3. (ZAT)
289. Please correct the title behind the link to Section 4.12-3 at the end of paragraph one, page 1, of Appendix 4.12-3. The correct title for Section 4.12-3 is Potential for Reclamation Success. (ZAT)
290. The third paragraph on page 1 of Appendix 4.12-3 states that BNI has not received any surface owner preference statements, but preference statements are included in Appendix 4.12-2. Please review and clarify as necessary. NDAC 69-05.2-05-02(1). (GAW)
291. On page 1 of Appendix 4.12-3, please review the last two sentences of paragraph four. You may wish to consider omitting both sentences, since the link to Appendix 4.12-1 appears to be an error and the last sentence references Section 4.12, which was already referenced in a previous paragraph. The first sentence of this paragraph should be retained. (ZAT)
292. Please revise the last paragraph on page 1 of Appendix 4.12-3 to discuss Sprague's pipit as a Candidate species to the Threatened and Endangered Species Act. This species was listed in 2010 during the survey period. NDAC 69-05.2-05-02(1). (GAW)

293. Please revise the wildlife narrative for each tract in Appendix 4.12-3 to mention if Sprague's Pipit habitat was present and if this species was sighted. Please also revise the narratives that incorrectly state that the Dakota Skipper is a "potential" candidate species. The fact is this species is a Candidate species to the Threatened and Endangered Species Act. Please revise to use precise language when referring to Threatened and Endangered Species. NDAC 69-05.2-05-02(1). (GAW)
294. Please revise the Section 5 and Section 32 narratives in Appendix 4.12-3 to clarify how the industrial areas are being used to justify the classification of these areas as Industrial Land. The narrative makes no mention of the industrial uses occurring on the areas but repeatedly points out that this land is dominated with perennial vegetation which leads one to believe that these areas should be classified as tame pastureland or fish and wildlife habitat grassland or something other than Industrial Land. If portions of these areas are used intensively as Industrial Land then maps should be provided to delineate areas actively used as Industrial land and the associated areas established with vegetation. If changes are made, appropriate changes will also have to be made to Sections 3.5 and 3.6. NDAC 69-05.2-05-02(1). (GAW)
295. On page 3 of Appendix 4.12-3, remove (*Rev.12Acres*) from the titles for Section 5 and Section 8. This section should include all acreage in Section 5, including the Section 5 Table for acres permitted prior to Revision 12 on page 5. (ZAT)
296. Please update the pre-mine and post-mine acreages on the Section 5 Table in Appendix 4.12-3, page 3. Acreages should reflect changes made to the Revision 12 Acreage Table on page 1 of Section 3.5. (ZAT)
297. The stockponds/DWR's planned for retention as permanent features in Section 5 need to be addressed in the narrative of Appendix 4.12-3. (ZAT)
298. Please update the pre-mine and post-mine acreages on the Section 32 Table in Appendix 4.12-3, page 4. Acreages should reflect changes made to the Revision 12 Acreage Table on page 1 of Section 3.5. (ZAT)
299. Please update the pre-mine and post-mine acreages on the Section 8 Table in Appendix 4.12-3, page 5. Acreages should reflect changes made to the Revision 12 Acreage Table on page 1 of Section 3.5. (ZAT)
300. Please review the three Post-mine acreage tables for acres permitted prior to Rev. 12 on page 5 of Appendix 4.12-3. Acreages should reflect any changes made to Table 3.5-1 on page 2 of Section 3.5, Pre-mine Land Use. (ZAT)
301. Please refer to the Post Mine Land Use Plate 4.12-1 somewhere in Appendix 4.12-3, since the land uses and acreages listed in the Post Mine Land Use Tables should be depicted on Plate 4.12-1. (ZAT)

**Section 4.13 Fish and Wildlife Resource Protection, Enhancement, and Monitoring Plan**

302. The first sentence in the first paragraph on Section 4.13 and the first sentence of the fourth paragraph on page 2 of Section 4.13 state that BNI will to the extent possible, and using the best technology currently available, minimize disturbances and adverse impacts on fish and wildlife and related environmental values. Please revise to specifically state the measures that will be taken to minimize disturbances to important habitat and the best technology techniques that will be used. NDAC 69-05.2-05-02(1). (GAW)
303. Please revise the second sentence of the fourth paragraph on page 1 of Section 4.13 to clarify that Sprague's pipit and Dakota skipper are Candidate species to the Threatened and Endangered species Act, and not just species of concern as stated. NDAC 69-05.2-05-02(1). (GAW)
304. The first sentence of the second paragraph on page 2 of Section 4.13 states that Sprague's pipit was seen within the permit and buffer areas and the second sentence references Appendix 4.12-3; however, there is no mention of this species in Appendix 4.12-3. Please revise to clearly identify when this species was identified on the proposed permit addition area and characterize the type and conditions of the site this species was observed utilizing. NDAC 69-05.2-05-02(1). (GAW)
305. A sentence in the second paragraph on page 2 of Section 4.13 states that during mining and post mining, species of concern will likely be found in approximately the same relative abundance given the habitat type similarity surrounding the permit. Please include evidence from previous monitoring that mining activities do not displace species of concern and that the reclaimed post mining land uses will contain habitat capable of supporting each of the observed species of concern. Stating that suitable habitat exist on areas surrounding the permit does not meet the requirements of NDAC 69-05.2-09-17 or 69-05.2-13-08. NDAC 69-05.2-05-02(1). (GAW)
306. A sentence in the second paragraph on page 2 of Section 4.13 identifies a number of species of concern and states that BNI will reclaim high value native rangeland habitat for these species. Please explain this statement in consideration that most of the pre-mine native grassland in the permit area is going to be converted to industrial land. NDAC 69-05.2-05-02(1). (GAW)
307. Please revise the third paragraph on page 2 of Section 4.13 to explain why woodlands, wetlands and native grassland are considered important habitat locally but not regionally. NDAC 69-05.2-05-02(1). (GAW)
308. Please include reference data supporting the claim that Sprague's pipits are more prevalent on reclaimed native grasslands than on adjacent undisturbed areas and that this species finds reclaimed native grasslands at the BNI mine as suitable habitat. The statements as written provide only anecdotal evidence and are not supported by factual

- data that is required to make such statements. The proposed monitoring plan should be revised to provide hard evidence of this claim. NDAC 69-05.2-05-02(1). (GAW)
309. The third paragraph on page 2 and the fourth paragraph on page 3 of Section 4.13 discuss reclaimed wetlands with enhancement features but no wetlands are going to be reclaimed in this permit. Also, the last paragraph on page 2 includes broad generic information about cropland that is not applicable to the permit. Please review and revise as necessary. NDAC 69-05.2-05-02(1) (GAW)
310. Please revise the second paragraph on page 3 of Section 4.13 to clarify that most of the pre-mine native grassland was located in Section 5 rather than the NE1/4 of Section 8. Also, explain how seeding just seven native grass species on the reclaimed native and industrial land is going to result in an increase of diversity compared to the pre-mine setting. NDAC 69-05.2-05-02(1). (GAW)
311. A sentence in the third paragraph on page 3 of Section 4.13 states that this will be a very industrial area and that placing woodlands farther away from the industrial area will be beneficial. Please revise to clarify how the industrial land will be used and the activities that will occur on the industrial lands and its projected impacts to wildlife after mining and reclamation. NDAC 69-05.2-05-02(1). (GAW)
312. The first sentence on the last paragraph on page 3 of Section 4.13 states that no special location or design of sediment ponds, diversions, SPGM stockpiles or other structures are needed based on the absence of high value habitat in areas where structures will be located. The Pit Layout and Facilities Map shows that sediment pond and haul road are to be constructed through the large woody draw located in the NW1/4 of the NE1/4 of Section 5. This woodland is reported to be in good condition and providing excellent habitat for wildlife. Please revise the first sentence of the last paragraph on page 3 to describe how this important habitat will be avoided and protected from mining related disturbances or provide justification for disturbing this habitat. NDAC 69-05.2-13-08(6)(a). (GAW)
313. The eighth paragraph on page 4 of Section 4.13 states that native grasses will be seeded on cropland areas and use will be restricted on existing native grasslands. Please clarify what is meant by this statement. It reads as if the pre-mine cropland is going to be converted to native grassland and that use of the idle pre-mine native grassland will be managed with even less use. NDAC 69-05.2-05-02(1). (GAW)
314. In the 2010-2011 monitoring report, BNI states that incidental wildlife sightings are of limited value. Therefore, please revise the third paragraph on page 5 of Section 4.13 to discuss how the incidental sighting monitoring techniques will be conducted so that the information obtained is informative and worthwhile. Likewise, revise the Big Game, Fur Bearers and Raptors and Waterfowl narratives on pages 5 and 6 of Section 4.13 to discuss how monitoring will be conducted and documented to provide meaningful information. NDAC 69-05.2-05-02(1). (GAW)

315. Please revise the (Mine Wide) Fish and Wildlife Monitoring Plan, Section 4.13, to include specific annual monitoring for Sprague's pipit on undisturbed and reclaimed lands and identify habitats with the greatest potential for this species to exist on the Wildlife Monitoring Map, Plate 4.13. (GAW)
316. Please revise the (Mine Wide) Fish and Wildlife Monitoring Plan, Section 4.13, to include specific annual monitoring plans for Dakota skipper on undisturbed native grasslands and identify the habitats with the greatest potential for this species to exist on the Wildlife Monitoring Map, Plate 4.13. The USFWS requested that BNI avoid impacts to potential Dakota Skipper habitat, see email dated March 11, 2010, page 26 of Appendix 3.10-3 of Permit Application BNCR-1101. Please address how BNI will comply with this request. NDAC 69-05.2-08-15(3)(c) (GAW)
317. BNI repeatedly states in Sections 3.5, 3.6 and 4.12 how the present management of the native grasslands in the permit area is decreasing the habitat value of this land use and that the ecological condition is generally declining. Please discuss the measures BNI will take to encourage the surface owners to manage the undisturbed native grassland during the permit term to ensure the land is properly managed to enhance the habitat value of this land for wildlife and improve ecological conditions. This should include management of tracts of native grassland that become isolated or are otherwise affected by mining related activities. NDCC 38-14.1-17(8). (GAW)
318. NDAC 69-05.2-09-17(1)(e) requires that the applicant, BNI, consult with the Commission and State Game and Fish Department before selecting indicator species that will be monitored to assess the effects of surface mining on fish and wildlife resources. Please include a discussion about how this was accomplished. If not already done so, the Reclamation Division recommends that a meeting be arranged with Game and Fish Department personnel and the Commission to discuss this issue. (GAW)

#### **Section 4.14 Reclamation Cost Estimate for Bonding Purposes**

319. The fourth paragraph of the narrative states "*In order to do this, the bond for BNCR-9401 must be temporarily converted to an incremental bond.*" This statement is incorrect and should be removed. If activities involved with Ash Cell IV development will not take place until the next permit term (2015), then there is no need to change from the worst case to an incremental bond. (MDB)

#### **Appendix 4.14-1 Worst Case Bond Estimate**

320. Please include reclamation costs for Pond 5-7 in Appendix 4.14-1. (MDB)

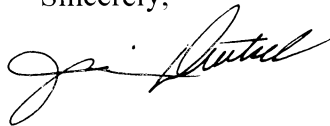
321. Depending on what changes are made with Appendices 4.6-1 through 4.6-7 with regard to these ponds being permanent or temporary, the removal and reclamation of these ponds may also need to be included in the worst case estimate. (MDB)
322. Please update Appendix 4.14-1 to the July 2012 Variable Costs. (MDB)

As noted by many of the above items, there are numerous inconsistencies between what is stated in various parts of the permit application. Many of the changes that have to be made to correct this application will affect multiple sections of the permit, especially the pre- and postmining land use sections. Prior to submitting your response to this letter, please thoroughly review the revised narratives and plans to ensure that similar inconsistencies do not occur in the next submittal. By ensuring that inconsistencies do not exist and the information and plans in the revised application is otherwise presented in a clear and concise manner, staff's review time will go faster and that should result in quicker Commission action on this revision application.

Also, attached are copies of comments that we have received from Advisory Committee members to date.

If you have any questions, please contact this office.

Sincerely,



James R. Deutsch  
Director  
Reclamation Division

cc: Oliver County Auditor

Attachments