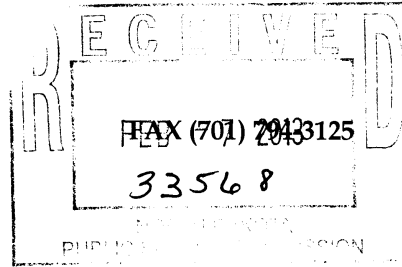


PHONE (701) 794-8734



AN ALLETE COMPANY

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

February 05, 2013

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

RE: Revision 52 to Permit BNCR-8106

Dear Mr. Deutsch,

This submittal contains a response to your letter to us dated January 22, 2013. In this letter you listed technical deficiencies that must be addressed before the permit renewal and revision application for Revision 52 to BNCR-8106 can be deemed complete. Below is a listing of the deficiencies followed by our response:

Table of Contents

1. Please revise Section 1.7 to reflect the revised subsection titles with Revision 51. (WTG)

The Table of Contents was updated to match the listings of Section 1.7 as depicted in the Legal and Financial Section.

Permit BNCR-8106 List of Plates

2. Please make the following corrections to the Permit BNCR-8106 List of Plates: (WTG)
 - a. The description for Plate 1 of 1 should be revised to read "Legal Description Permit BNCR-8106 Revision 51";
 - b. The listing for Plate 5A should be deleted because the plate has been removed from the permit; and,
 - c. The description for Plate 12 should be revised to read "Pit Layout and Facilities Map".

The List of Plates has been updated as requested with the exception of item b. This map will be retained in the permit for historical purposes, as requested in Item No. 6 below.

Section 1.7.2 Controlling Officers of BNI and Allete

3. Please update Section 1.7.2 to reflect any changes that may have occurred since the last update made with Revision 51. (WTG)

The Controlling Officers for BNI have not changed. The Controlling Officers for ALLETE have been updated as requested.

Section 1.9 Surface and Coal Ownership

4. Please update Section 1.9 to reflect any changes that may have occurred since the approval of Revision 51 and list any changes as well on Plate 9A Ownership Map. (WTG)

Section 1.9 and Plate 9A Ownership Map have been updated.

Section 1.12 Other Licenses and Permits

5. Please review and update Section 1.12 to reflect any changes that may have occurred since Revision 51. The following items were identified as needing revision: (RLK)
 - a. Please update the address for the North Dakota Department of Health, Environmental Health Section to reflect the current address of 918 East Divide Ave, Bismarck ND 58501-1947;
 - b. Please update the expiration date for NDPDES Permit ND-0024601 as it is our understanding that this permit was renewed in 2012; and,
 - c. Please update the Coal Exploration Permit to the one held by BNI that is currently effective.

The North Dakota Department of Health address and the Coal Exploration Permit have been updated. The renewed NDPDES Permit was updated to the current permit in Revision 51.

Section 3.5 Pre-Mining Land Use

6. BNI updated Section 3.5 with Revision 51 to account for only the acreage remaining in the permit and has replaced an aerial background photograph taken in 1974 on the Premine Land Use Map, Plate 5, with 2012 aerial photography. Please revise this section to retain the historical Pre-mine land use information. The pre-mine land use acreages in the table in Section 3.5 should account for all of the acreage that was ever in the permit. For example, 230.16 acres of native grassland in Section 23 was in this permit at one time and this acreage cannot be reduced to 145.53 as was done with Revision 51. Please revise to retain the original baseline information. (GAW)

The 1974 permit has been put onto Plate 5. The premine acres tables have been updated to include acreages that had been previously in the permit and the acres added in Rev. 51.

7. A paragraph on page 2 of Section 3.5 states “*The capability of the soils in this permit area is nearly impossible to determine, based on soil survey data in Appendix I. All of the soils within the permit have been removed & replaced or placed in SPGM stockpiles and the professional soil classifier - Mr. Robert Howey is deceased*”. Please revise this paragraph to clarify that portions of the permit were affected by mining activities prior to regulations requiring that SPGM be salvaged, and reference where soil survey information is located in the permit for areas subject to various reclamation requirements. Also reference where applicable law period information can be found and the maps that show these areas. (GAW)

This paragraph has been revised. The soil survey and the premine land use map have been referenced. Law lines have been added to the premine land use map to depict which areas were disturbed during each law period.

8. Please revise the narrative in Section 3.5 to discuss re-permitting Tract 5 containing 5.57 acres in the NW¼ of Section 36 with Revision 51. This land was previously permitted then bond released in 1992. The narrative should discuss all of the requirements set forth in Policy Memorandum No. 22 as was done when bond released land was added with Revision 46. This includes a summary of reclamation activities previously carried out, i.e., land use, topsoil and subsoil respread thicknesses, specific vegetation success standards and final postmine topographic map of the tract. (GAW)

A narrative about the 5.57 acre industrial tract that has been added to Section 3.5 discussing requirements set forth by Memorandum No. 22.

Section 4.1 Coal Removal

9. Please update the list of equipment to reflect the equipment list recently updated with Revision 34 to Permit BNCR-8202. (WTG)

The updated Equipment List is included with this submittal.

Section 4.7.2 Ground Water Monitoring Plan

10. Currently, narrative in the *Quarterly Ground Water Monitoring* portion of this section states that ground water levels will be measured quarterly from all current piezometers and C1-1, C2-1, C2-2, etc. Since additional monitoring wells have been added to the ground water monitoring plan with the proposed BNCR-1101 permit area addition and the fact that the ground water monitoring plan is continually evolving and changing, it would make sense to update this narrative to simply state that ground water levels will be measured quarterly from all current active piezometers listed in the Ground Water Monitoring Well Schedule, Table 4.7.1. (BEB)

This section was updated to state that all current piezometers will be monitored.

11. Currently, narrative in the *Annual Ground Water Sampling* portion of this section states that ground water samples will be collected annually from all current piezometers and C1-1, C2-1, C2-2, etc. Since water quality sampling is not required for all of the wells in your ground water monitoring plan, this narrative should be updated to state that water

quality sampling will be conducted annually on those wells that are denoted as requiring annual water quality sampling as listed in the Ground Water Monitoring Well Schedule, Table 4.7.1. (BEB)

This section was updated to address the wells assigned with water sampling.

12. Please update the Ground Water Monitoring Well Schedule, Table 4.7.1, to provide updated information regarding the current status of the wells in the monitoring plan (Active, Destroyed, etc.) in addition to adding all of the wells that are incorporated into your ground water monitoring plan. Alternatively, replacing existing Table 4.7.1 with Appendix 3.3.1 from the Permit BNCR-1101 application would be acceptable and would be our preferred response to this information request. (BEB)

The Table was replaced and updated. The Table has the same format as BNCR-1101

13. Please update Plate 4.7.1, Location of Ground Water Monitoring Nests Map, so that the information provided on the map is current. Monitoring wells that have been destroyed or plugged should be depicted on the map in a different color than the active wells. As a suggestion, producing one monitoring well location map that incorporates all existing permit areas (including proposed Permit BNCR-1101) could be provided that covers all monitoring wells in all permit areas. Consolidation of all wells on one map would eliminate BNI from having to continually update the different well location maps that are provided for the different permit areas, thereby requiring only one map to remain current for all permits. (BEB)

A consolidated map with a updated aerial photo was inserted.

14. Appendix 4.7.2.1 provides the *Ground Water Monitoring Sampling Protocol* that was prepared by MVTL many years ago. Some of the information provided in this section is outdated including descriptions of some of the equipment used by MVTL for obtaining water level and water quality sampling data. It is our understanding that MVTL has adopted a *Standard Operating Procedure Manual* as a guidance document to field technicians for collecting ground water data and if applicable, may be used to replace the existing protocol document. Please incorporate any necessary updates to this section so that the information provided in the permit is current with existing ground water data collection practices. (BEB)

An up to date SOP from MVTL was inserted within this section.

Section 4.9 Reclamation Schedule

15. Please update the list of sedimentation ponds and their reclamation date to indicate the bond release number and date for ponds 23-6, 23-7, 25-2, and 25-3. (WTG)

The list of sedimentation ponds was updated to include the bond release number and corresponding date.

Section 4.12 Revegetation and Post Mining Land Use

16. Please review the acreage values in Table 4.12-1, Postmine Acres by Land Use, and revise to account for the replacement trees that are subject to revegetation success standards. Woodland acreage in Permit BNCR-9401 was being replaced in Section 36 in Permit 37 but this acreage has now been added to Permit BNCR-8106. Please revise the table accordingly, and discuss this matter in the narrative of Section 4.12.1. (GAW)

Acres have been revised to account for additional acreages and the replacement woodland acres planted within Permit 37. The narrative of Section 4.12.1 has been revised to include a discussion about these woodland acres.

17. Tract 5 containing 5.57 acres in the NW¼ of Section 36 that was added to the permit with Revision 51 was previously bond released as industrial land and is included in what is labeled as a Waste Pit Area on the 2011 Annual Map. BNI is changing the postmine land use of this tract from industrial land to native grassland and has included a landowner preference statement from the surface owner, Minnkota. Please review records to ensure this tract of land is not included in the ND Department of Health landfill permit and that Oliver County has not zoned this area as industrial land. It is not clear why this area could be bond released as industrial use for waste disposal then re-permitted with an agricultural postmine land use. (GAW)

This was incorrect information. BNI does not plan on changing the post mining land use. This tract will remain industrial. Both the Pre/Post mine land use maps have been updated to display the correct information. A letter along with a corrected preference statement and map were sent to the landowner. The new signed preference statement has been added into the permit at the end of Section 4.12 Postmine Land Use.

18. Please include landowner preference statements for all lands that were in Permit 37 prior to Revision 51 where changes from the premine land use are occurring. This would include lands located in the W½ of Section 23, the S½ of Section 35, and the N½ of Section 36. (GAW)

There were no landowner preference statements in Permit 37 that pertained to the tracts being added to BNCR 8106. However, landowner preference statements included in the approved BNCR 8106 do cover these tracts. They can be found on pg. 4.12-12 & 4.12-27 (N1/2 of 36), 4.12-25 (S1/2 of 35), and the letter dated 7-11-02 on pg. 4.12-3 (SE1/4 of Section 23). A corrected landowner preference statement has been included in this section for the 5.57 acre tract of in Section 36 that was re-permitted in Rev. 51. (See #17)

Section 4.13 Fish and Wildlife Resource Protection and Enhancement Plan & Fish and Wildlife Monitoring Plan

19. Please update the Section 4.13 narrative because the narrative that we have on file (Rev 44, 3-28-06) is missing text on page 4.13-2. (RLK)

Section 4.13 has been included as requested.

20. Please review Section 4.13 and update as necessary so the monitoring plan is consistent with other permits at the BNI Center Mine. This should include changes to the incidental species observation narrative on page 4.13-3 so the information obtained is meaningful. Please also update the Threatened, Endangered and Candidate species list on page 4.13-5 and include surveys for Sprague's pipit on reclaimed grassland areas. Please also revise Plate 39 so that it clearly shows permit boundary, bond released areas and wildlife monitoring area. It is recommended that an additional grassland breeding bird survey be selected that is more representative of BNI's reclamation. (GAW)

Section 4.13 has been updated to be consistent with other permits as requested. Plate 39 has also been updated to show the most recent wildlife monitoring plan for this area.

Map Book I

21. Please revise Plate 4A, Soils Map, to include the soil mapping units located in on the land in Section 35 (Tract 4) that was added to Permit BNCR-8106 with Revision 51. (GAW)

The soil survey for BNCR 8106 depicted this tract as disturbed prior to 1976 and, there was not a soil survey associated with Permit 37. We have included the NRCS soil survey polygons and soils key for the tract.

Map Book II

22. Please revise Plate 15C, Post Mining Landuse, to label the tree planting that is being used to replace the woodland acreage that was disturbed in Permit BNCR-9401. The map identifies this tree planning as a conservation planting which is incorrect. (GAW)

The tree planting has been labeled on this plate as requested.

23. Please revise Plates 15C and 15D so that they retain all of the information that was on these maps prior to Revision 51. The post mine land uses were depicted on all areas that were included in this permit prior to Revision 51, the acreage amounts by surface owner were listed, and conservation field windbreaks and shelterbelts were depicted. Please revise to continue to depict and describe this information on these maps. (GAW)

Post mine land uses and conservation field windbreaks/shelterbelts have been retained on the maps. The acreage amounts and surface owners have not been depicted as they originally were on this plate to aid in hand calculations when using the AutoCad software program to calculate land use acres. Now landuse acres are calculated and summarized using ArcGIS and these elements are no longer a necessary element on this map. In an effort to keep maps clear and concise, they are not depicted on this map. Please see section 4.12-1 Post mine Land use to view a table of the post mine acreages and Plate 1-2 Ownership Map for depiction of the ownership by tract. Changes were made to Plate 15C. Plate 15D was not affected by the changes made.

24. The third paragraph on page 1 of Section 4.12.4 states that the 1975 and 1979 law lines are depicted on the Post Mine Land Use Map. Please revise to show the 1975 law line on this map. (GAW)

The post mine land use map has been updated to include the 1975 and 1979 law lines.

The Reclamation Division also suggests that as part of this renewal, BNI begin to update Section 4.12.4, Determining Reclamation Success, to add technical standards for cropland (and hayland) productivity for portions of the permit area that may be considered for final bond release in the next few years. We have also noted that the cropland technical standard for the SW¹/₄ of Section 23 is not provided in the Revision 51 update to the section but was provided in earlier versions. (RLK/GAW)

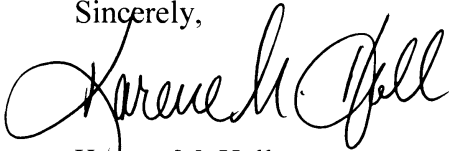
Technical Standard for the SW4 of Section 23 Cropland has been included with the renewal. Section 4.12.4 will be updated with technical productivity standards for areas that are being considered for bond release in the future as plans are developed.

Also, we are aware that several other changes to this permit will be needed for plans associated with Permit BNCR-1101, such as re-working the crown on the primary haulroad to accommodate the dragline move and the dragline trail around the haulroad overpass. If the details of these plans have been developed, they can be added to the pre-renewal revision. If not, a separate revision with these changes will have to be filed later.

The detailed plans for the above mentioned haul road update are not available at this time.

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

Sincerely,

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

Karene M. Hall
Permit Coordinator