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AN ALLETE COMPANY

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MINING LIGNITE AT THE CENTER MINE SINCE 1970



April 2, 2015

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

RE: Revision 38/Renewal 3 to Permit BNCR-9702

Dear Mr. Deutsch,

This submittal contains a response to your letter to us dated February 9, 2015. In this letter you listed technical deficiencies that must be addressed before Revision 38 and Renewal 3 application for BNCR-9702 can be deemed complete. Below is a listing of the deficiencies followed by our response:

**Section 1.1 Calculation of Filing Fee**

1. Please revise Section 1.1 to simply state that the permit currently contains 7018.53 acres and all filing fees have been paid. Remove the second sentence entirely *or* revise the language that refers to new (non-permitted acres) since all acres are permitted. If you wish to retain the second sentence, it would be more appropriate to state that 676.48 acres were added to the permit with Revision 30 and a filing fee of \$6,764.80 was paid. (ZAB)

*As suggested, the second sentence has been deleted.*

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

2. Please update Section 1.7.2 to reflect any changes to the controlling officers of BNI or Allete and the organizational chart since the information was updated with Revision 37. (WTG/ZAB)

*The tables in Section 1.7.2 have been updated as requested.*

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

3. Please update Table 1.9-1 in Section 1.9 to reflect any changes to surface and coal ownership since the table was updated with Revision 37 and complete the corresponding changes on Plate 1-2 (Ownership Map). (WTG/ZAB/GAW)

*Table 1.9-1 in Section 1.9 Surface and Coal Ownership has been updated to reflect current ownerships. Several changes occurred and are highlighted with the Track Changes. Plate 1-2 Ownership Map has also been updated to reflect the changes in ownership.*

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

4. As required by NDAC 69-05.2-05-02(1), please revise the last sentence of Section 1.10 on page 1-27 as follows (or similar wording) to clarify the location for road authority approval documents: "Approval documents from the public road authority with jurisdiction over the road and Areas that have been closed or have obtained approval to work within the 100 feet of the right-of-way can be viewed within Appendices 4.5-1, and Plate 1. Temporary Section Line R.O.W. Vacations." (WTG)

*The last sentence in Section 1.10 has been updated as suggested.*

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

5. Please update the status of surface mining permits issued to BNI in Table 1.11-1 on pages 1-27 and 1-28. Permit 37 has been completely released from bond and Permit BNCR 1101 has been issued since this section was last updated. (RLK/ZAB/FSE/WTG)

*The statuses of Permit 37 and Permit BNCR-1101 in Table 1.11 have been updated as requested.*

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

6. Please update the list of other licenses and permits issued to BNI on pages 1-28 and 1-29 to provide current expiration dates for the various licenses and permits held by BNI Coal, Ltd. The stormwater and coal exploration permits have expired since this section was last updated. The Bureau of Alcohol, Tobacco & Firearms permit information needs to be updated with the recent change in blasting practices at the mine. (NDAC 69-05.2-06-04) (RLK/ZAB/WTG)

*The Air Pollution Control Permit expiration date, the Storm Water Permit effective date and expiration date, The BATF permit information and the Coal Exploration license effective date and expiration date have all been updated to current status.*

### **Section 1.13 Schedule of Past Violations**

7. Please update Section 1.13 to list and describe Notice of Violation 1402 issued on September 9, 2014. (GAW/ZAB/RLK/FSE/WTG)

*A description for NOV 1402 has been added to Section 1.13, as requested.*

### **Section 1.16 Landowner Notification Letters**

8. Please revise Section 1.16 to include all versions of the “Landowner Notification Map” and “Limited Mine Plan” map that were sent with notifications mailed in 1997, 2002, and 2009. The Limited Mine Plan map is not included with the landowner notification letters in Section 1.16, and only the current version of the Landowner Notification Map (Plate 1.3-1) is included in the permit. Please revise to include copies of the maps that were sent with all previous landowner notification letters. (GAW)

*Landowner Notification Maps from 1997 and 2002 and The Limited Mine Plan Maps have been added to Section 1.16, as requested. Plate 1.3-1 has been removed with the addition of the plates to Section 1.16.*

### **Appendix 1-2 Certified Copies of Leases and Assignment Documents, Article of Amendment to Articles of Incorporation**

9. As required by NDAC 69-05.2-06-03(1), please provide a certified copy of the coal lease for the 50 percent coal interest owned by the North Dakota Department of Trust Lands for the SE¼ of Section 29, T142N, R84W where mining is projected to occur between 2016 and 2019 on Plate 4.1-1 (Pit Layout and Facilities Map). (WTG/ZAB)

*BNI is currently in the process of obtaining a lease from the ND Department of Trust Lands for the above referenced parcel.*

### **Plate 2-1 Extended Mine Plan**

10. Please update Plate 2-1 and its legend to reflect any mine plan updates or permit changes since it was last updated; e.g., pit layout and sequence dates in the W½ of Sections 21 and 28 of Permit BNCR-9702, 736 pits in Permit BNCR-1101, complete bond release of Permit 37, and Bond Release No. 4 of Permit BNCR-9401. While removing Permit 37 from the legend, please also revise the dates as necessary for permit additions to BNCR-9702 currently labeled as 2014 and 2019. (WTG/ZAB/FSE)

*The Extended Mine Plan map has been updated to reflect the latest permit changes and bond releases. The map also reflects the latest mining sequence including the west half of Sections 21 and 18. And the planned timing for the additional permitted area in Section 20 and the north half of Section 29.*

### **Plate 3.1-1 Pre-mining Topography**

11. Please revise the mining disturbance boundary line on Plate 3.1-1 to reflect the 50-some acres of expanded pit sequence in the W½ of Section 28 and the SE¼ of Section 29 depicted on Plate 4.1-1 (Pit Layout and Facilities Map) that are not outlined on Plate 3.1-1. (WTG/FSE)

*The mining disturbance boundary was updated.*

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

12. Please update Plate 3.1-2 to depict premining area slopes for the 50-some acres of expanded pit sequence in the W½ of Section 28 and the SE¼ of Section 29 depicted on Plate 4.1-1 (Pit Layout and Facilities Map) for which premining area slopes are not presented on Plate 3.1-2. Please also revise the mining disturbance boundary line. (WTG/FSE)

*The mining disturbance boundary was updated and slopes were added for the expanded pit sequence.*

### **Section 3.3 Groundwater**

13. If there are any changes or updates to the Water Well Inventory or Ground Water Monitoring Well Information Table, both located in Appendix 3.3-1, please make those changes at this time. Any new monitoring well installations or destroyed/mined-through monitoring wells will need to be depicted on the Monitoring Well and Production Well Location Map, Plate 3.3-1. As a side note, Appendix 3.3-1 and Table 4.7-1 provide the same monitoring well inventory/schedule and any changes to Appendix 3.3-1 will also need to be made in Table 4.7-1. (BEB)

*An updated list (2014) for Table 4.7-1 was added; additionally Plate 3.3-1 was updated with all current BNI mining permit boundaries.*

14. If BNI has installed any new ground water monitoring wells in Permit BNCR-9702 since 2011, please add the installation data and information to the Monitoring Well Completion Reports in Appendix 3.3-3. (BEB)

*BNI has not installed any monitoring wells since 2011; therefore the appendix 3.3-3 will not change.*

15. If there have been any new well or developed spring certifications or re-certifications, please update Appendix 3.3-1 with that information and add the certification forms to Appendix 3.3-2 (Post 1997) and add any new well locations to Plate 3.3-5. (BEB)

*There have been no spring certifications or well certifications since previous submission.*

### **Plate 3.3-1 Monitoring Well and Production Well Location Map**

16. Please review and update all permits boundaries on Plate 3.3-1, especially Permit BNCR-9702. (FSE)

*The plate was updated with all current mining boundaries.*

### **Section 3.4 Surface Water**

17. Please update the list of water-use permits issued by the SWC beginning on page 3.4-1 in the Area Surface Water Resources narrative (Section 3.4.1). Conditional water use Permit No. 03691 is duplicated in the list, Permit No. 04064 cannot be found in the SWC

database, and the location is not provided for Permit No. 03973. (NDAC 69-05.2-08-04(4)(c)) (RLK)

*A table was inserted to show current water permits issued by the SWC.*

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

18. Please update Plate 3.4-1. The map depicts several surface water management features that have been reclaimed or have been modified to serve as developed water resources. As a suggestion, the surface water management features (sediment ponds) could be removed from this map since the information is provided on Plate 4.6-1 (Surface Water Management Plan). The intent of Plate 3.4-1 is mainly to show the premine water features and drainage boundaries in the permit vicinity along with final reclaimed water features as appropriate. [NDAC 69-05.2-08-07(1)] (RLK)

*The sediment ponds were removed as suggested due to replication on Plate 4.6-1. The post-mine wetlands and post-mine developed water resources were removed since they are also depicted on the Plate 4.10-1 Post-Mine Topographic Contours and Plate 4.12-1 Post Mining Land Use.*

#### **Plate 3.4-1A Surface Water Sampling Sites Map**

19. Please update Plate 3.4-1A to depict the current BNCR-9702 permit boundary. (RLK/WTG/FSE)

*Plate 3.4-1A was updated with all current mine permit boundaries.*

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

20. Please update Plate 3.4-3; the mining disturbance boundary appears to be outdated. (FSE)

*The mining disturbance boundary was updated. The contours were updated to reflect contours shown on Plate 4.10-1 Post-Mining Topography. No changes were required for watershed boundaries.*

#### **Section 3.9 Alluvial Valley Floor Determination**

21. At your discretion, you may update the Alluvial Valley Floor Determination narrative and information provided in Section 3.9 by adding the Commission's February 6, 2014 AVF determination regarding the alluvial valley floor study completed for the future addition of land to Permit BNCR-9702 in Section 20, T142N, R84W. (BEB)

*The section was revised with the determination letter, also a description of findings within the narrative. The determination letter was added to Appendix 3.9-1.*

## Section 4.1 Mining Operations and Waste Disposal

22. Please reference Plate 4.1-1 (Pit Layout and Facilities Map) and Plate 4.2-1 (General Mine Plan) in the narrative of Section 4.1 and clarify the purpose of each of these maps. (GAW)

*Page 4.1-1 now references Plate 4.1-1. Plate 4.2-1 has been removed. All previous references to it are now referenced to Plate 4.1-1.*

23. Please review and update the Mining Methods narrative in Section 4.1 for the next five-year permit term. Language presently included in Section 4.1 mentions using three draglines in the permit area but language on page 2 references using two draglines in areas that are not well depicted on Plate 2.1 (Extended Mine Plan). Outdated language in Section 4.1 indicates that the final pit in the northern portion of Section 28 will be completed in 2012 and 2013, and that the final pit in the southern portion of 28 will be dug in 2017 which is not supported by Plate 4.1-1 (Pit Layout and Facilities Map). Historical information should be retained while updating with new information. (GAW)

*This request has been accomplished through a major revision to Section 4.1 beginning on page 4.1-1.*

24. Please update the federal coal paragraph on page 4.1-2 to indicate that federal coal in the N $\frac{1}{2}$ NW $\frac{1}{4}$  and SW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 32 (federal coal lease NDM97633) will also be mined. Please also reconcile the statement that “Mining will cease near the section line between Sections 32 and 29” with the pit sequence on Plate 4.1-1 (Pit Layout and Facilities Map) that depicts about 31 acres of mining in the SE $\frac{1}{4}$  of Section 29 from 2016 to 2019. (WTG)

*This has been done as requested. Please refer to page 4.1-3*

25. Please update Section 4.1 to provide the estimated annual coal production and land area affected for the next five-year permit term. Please also update the narrative to describe operations in the permit area after the 8200 and 736 draglines have moved to Permit BNCR-1101. [NDAC 69-05.2-09-01] (RLK/FSE/WTG/ZAB/GAW)

*This has been done as requested. Please refer to page 4.1-4*

26. Please update the Waste Disposal narrative beginning on page 4.1-3. The narrative states that certain materials will be disposed in a dedicated disposal area that has been reclaimed since 2006 (Permit IT-197 in the SW $\frac{1}{4}$  of Section 34), and in Minnkota’s sludge disposal pit (Permit SU-040) located in the NW $\frac{1}{4}$  of Section 36 that was reclaimed in 2008. It is not clear where the waste once dedicated to disposal in either of these closed facilities (Permit IT-197 and SU-040) is currently being disposed. The stated primary purpose of the remaining disposal pit in the W $\frac{1}{2}$  of Section 3 (Permit IT-205) is for bottom ash disposal although the pit is scheduled for closure because beneficial uses have been found for the bottom ash waste. Please review and revise the narrative as necessary while retaining historical information. (GAW/RLK/WTG)

*This section was updated to illustrate the ash cells in section 5-141-83 are used for waste disposal and are under Minnkota Powers permit SP-159. The other permits that were listed have since been reclaimed by Minnkota Power and hence BNI doesn't use them.*

27. Please update the equipment listing in Section 4.1 as necessary; e.g., the 2600 excavator and several new coal haulers. (FSE/ZAB)

*The updated list can be found beginning on Page 4.1-10.*

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

28. Please update Plate 4.1-1 to depict and label all current Center Mine permit boundaries, or portions thereof, and bond released areas that lie within the current map's extent. (WTG)

*The permit boundaries and bond releases were updated.*

29. Please update Plate 4.1-1 to reflect any changes with the status or presence of SPGM stockpiles; overburden stockpiles; water management structures; haul roads, access roads, and walkways; and buildings, facilities, utilities, and structures that have occurred since the map was last updated with Revision 37. Please also update the ponds and diversions to differentiate structures that have been removed from ones that are active structures. (WTG/RLK/ZAB/FSE)

*SPGM Stockpiles were updated, overburden stockpile was added. Water management structures were updated. Old water management structures were removed in order to clean up the plate. Haul roads were updated. Changes in the utilities were updated.*

30. Please update Plate 4.1-1 to reflect any pit sequence changes and to identify the five-year coal removal subarea that will be mined during the next permit term. Please also define and label the pit in Section 21 and the N½ of Section 28 that was mined in 2015 prior to moving the 8200 dragline to Permit BNCR-1101. (WTG/RLK/ZAB/FSE)

*The sequence was updated. The existing pit from 2015 was added and labeled, 2015.*

31. Please revise the east-west highwall backslope corridors currently depicted in the S½ of Section 28 and along the section line common to Sections 29 and 32 as necessary to reflect the pit sequence on Plate 4.1-1 that depicts about 31 acres of mining in the SE¼ of Section 29 from 2016 to 2019. (WTG)

*Highwall backslope corridors were added.*

**Plate 4.2-1 General Mine Plan**

32. Please update Plate 4.2-1 to depict and label all current Center Mine permit boundaries, or portions thereof, and bond released areas that lie within the current map's extent. (WTG/RLK/ZAB/FSE)

*These same items are shown on Plate 4.1-1 therefore references to Plate 4.2-1 have been forwarded to Plate 4.1-1 within the permit.*

33. Please update Plate 4.2-1 to reflect any changes with the status or presence of SPGM stockpiles; water management structures; haul roads, access roads, and walkways; and buildings, facilities, utilities, and structures that have occurred since the map was last updated with Revision 37. The map appears to incorrectly identify a proposed haul road in Sections 28 and 33 as an existing haul road, and Section 4.2 (Existing Structures) states that the map shows pond and stockpile locations but several ponds and stockpiles are not shown on this map (WTG/RLK/GAW/ZAB/FSE)

*These same items were updated on Plate 4.1-1, therefore Plate 4.2-1 has been replaced with Plate 4.1-1. Any references for Plate 4.2-1 will be forwarded to Plate 4.1-1.*

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

34. Please revise the last sentence in the first paragraph of Section 4.4 from, "... *no explosives are currently being stored on the mine property*" **to** "No explosives are currently being stored in Permit BNCR-9702" or as appropriate since explosives will be stored in Permit BNCR-1101. (ZAB/FSE)

*The Blasting Plan has been updated to more accurately reflect the blasting operation at the Center Mine including storage of blasting agent and explosives.*

35. Please update the Notice of Blasting Schedule for BNI Coal Ltd., to the most recently published version. (ZAB/FSE)

*The most recent version of the blasting schedule has been put into the section.*

36. Please indicate on page 4.4-2 of Section 4.4 what other documents are attached to Section 4.4 besides the example of the Public Notice of Blasting Schedule. The Blasting Design and Record of Blasting documents should be included as an appendix or a plate. Please note that the Blasting Map is in the permit as Plate 4.4-1 so it may not be necessary to include it in Section 4.4. Please make appropriate modifications to the section, plate, or appendix. (FSE)

*Page 4.4-2 indicates that the Blasting Schedule and an example of the Record of Blasting Operations are following. It also indicates that the typical blasting design can be found on Plate 4.4-2.*

#### **Plate 4.4-1 Blasting Map**

37. Please revise the pit layout and sequence on Plate 4.4-1 to be consistent with the historical pit sequence on Plate 4.1-1 (Pit Layout and Facilities Map) and what will be identified as the five-year coal removal subarea that will be mined during the next permit term. There are considerable differences between the pit layout and year sequence depicted on Plate 4.1-1 compared to the pit layout and year sequence depicted on Plate 4.4-1. (WTG/FSE)

*The most current pit layout and sequence has been added to the map to reflect the next five-year coal removal area.*

38. Please include a table on Plate 4.4-1 that shows the maximum permissible weight of explosives to be detonated at intervals as indicated in NDAC 69-05.2-09-04(8). (FSE)

*A table has been added which shows the maximum permissible weight of explosives to be detonated at intervals. Also distance interval lines have been drawn around the nearest non mine owned structures.*

#### **Section 4.5-1 Transportation Plan Narrative**

39. Please include a statement indicating Professional Engineering Certification will be completed for haul roads as required by NDAC 69-05.2-09-06(2) and Policy Memorandum No. 23. (FSE)

*This text can be found on Page 2 of Section 4.5-1.*

40. Please revise and update Section 4.5-1 to the current conditions. Include a schedule for construction and reclamation of haul roads. Also, please provide the Oliver County road construction standards that will be used to reconstruct public roads. (FSE)

*These requests have been fulfilled through revisions beginning on Page 8 of Sec.4.5-1.*

41. A sentence near the end of the first paragraph on page 1 of Section 4.5-1 states that topsoil will be respread on haul road ditches to facilitate a vegetative cover, and a sentence in the last paragraph on page 4.5-1 states the topsoil will be removed from these ditches when the haul road is reclaimed. Please revise the narrative to clarify if topsoil was ever respread on any haul road ditches in the permit and identify those areas on a map. Also, please revise the sentence in the first paragraph to clarify that topsoil will not be respread on haul road ditches. (GAW)

*Page 1 has been modified as requested.*

42. Please include a detailed Typical Cross Section (possibly new Plate 4.5-2) indicating existing and proposed surfaces, material type, layer thickness, slopes, center line, etc. NDAC 69-05.2-09-06. (FSE)

*Plate 4.5-2 has been added to the permit document.*

#### **Plate 4.5-1 Permit Boundary and Overall Transportation Plan**

43. Please update Plate 4.5-1 to depict and label all current Center Mine permit boundaries, or portions thereof, that lie within the current map's extent. Please also depict all proposed and existing haul roads. Significant road and ramp differences exist between what is depicted on Plate 4.5-1 and Plate 4.1-1 (Pit Layout and Facilities Map). Please also revise the legend to remove Permit 37, clarify the difference between approved and existing haul roads, and use different line types for proposed access roads and county access roads (FSE/GAW)

*All current Center Mine permit boundaries have been updated. Proposed haul road and existing haul roads have been updated to reflect what has been constructed and what has been permitted but remains to be constructed. County access roads have their own line type. There currently are no proposed access roads.*

#### **Appendix 4.5-1 Road Closure Information**

44. It appears that BNI needs to document that it has received Oliver County Commission approval to close the one-half mile segment of the north-south section line between the SW $\frac{1}{4}$  of Section 28 and the SE $\frac{1}{4}$  of Section 29 because the pit layout and sequence on Plate 4.1-1 (Pit Layout and Facilities Map) depicts mining through the southern-most 1,600 feet of that section line in 2016. Presently it appears that BNI only has approval to conduct surface coal mining operations within 100 feet of the outside right-of-way on the east side of the entire north-south section line between Sections 28 and 29 granted on December 5, 2000 (and repeated for the east side of the section line between the NW $\frac{1}{4}$  of Section 28 and the NE $\frac{1}{4}$  of Section 29 on March 8, 2012). As required by NDAC 69-05.2-04-01.3(2) and (4), please obtain or document approval from the Oliver County Commission to close the one-half mile segment of the north-south section line between the SW $\frac{1}{4}$  of Section 28 and the SE $\frac{1}{4}$  of Section 29 and add the documentation to Appendix 4.5-1. (WTG)

*BNI has not yet obtained approval to close a one-half mile segment of the section line between the SW $\frac{1}{4}$  of Section 28-142-84 and the SE $\frac{1}{4}$  of Section 29-142-84. The approval documents from the Oliver County Commission for the closure will be added to the permit when approval is granted.*

45. As noted during our review of Revision 35 to Permit BNCR-9702, BNI does not have North Dakota Department of Transportation approval to conduct surface coal mining operations within 100 feet of the outside right-of-way on the south side of the east-west section line (ND Highway 25) between the NW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 21 and the SW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 16 in land added to Permit BNCR-9702 with Revision 30. BNI indicated in a Revision 35 review response that it has no intention of conducting surface coal mining operations within 100 feet of the outside right-of-way on the south side of ND Highway 25 in Section 21 but would add approval documents for doing so to the permit at a later time. Please be reminded that a permit condition prohibiting such activity prior to receiving the road authority's approval was attached to the approval of Revision 30. If plans have changed and any mining activities will occur within 100 feet of the highway right-of-way, please consult the Department of Transportation to seek approval to conduct surface coal mining operations within 100 feet of the outside right-of-way on the south side of the east-west section line (ND Highway 25) between the NW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 21 and the SW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 16, and add documentation of the approval to Appendix 4.5-1. ND DOT's approval process has historically not provided for public notice, an opportunity for hearing, and written findings; therefore, the Commission must provide the notice and opportunity before allowing any mining related activities to occur within 100 feet of the public road right-of-way as required by NDAC 69-05.2-04-01.3(3). Considering that BNI is expected to submit a revision application to add land to Permit BNCR-9702 to extend mining westward into Section 20, we suggest that BNI also seek approval to conduct surface coal mining operations within 100 feet of the outside right-

of-way on the south side of the east-west section line (ND Highway 25) between Section 20 and Section 17 during the same approval process. (WTG)

*No mining is planned within 100' of the outside Right of Way of ND Highway 25. A power line is located between the mining operations and the highway and BNI has no intention of relocating the power line for future mine expansion.*

#### **Appendix 4.5-1 Plate 1 Temporary Section Line R.O.W. Vacations**

46. As noted in the related item in Appendix 4.5-1 (Road Closure Information), please update Appendix 4.5-1 Plate 1 to depict and label approval to close the one-half mile segment of the north-south section line between the SW $\frac{1}{4}$  of Section 28 and the SE $\frac{1}{4}$  of Section 29. (WTG)

*Map is current. No changes have been made to this segment of road.*

47. If any mining will occur within 100 feet of the Highway 25 right-of-way, please update Appendix 4.5-1 Plate 1 to depict and label approval to conduct surface coal mining operations within 100 feet of the outside right-of-way on the south side of the east-west section line (ND Highway 25) between the NW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 21 and the SW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 16. (WTG)

*Map is current. No changes have been made to this segment of road*

48. While updating Appendix 4.5-1 Plate 1 to depict and label approval to close a section line or to conduct surface coal mining operations within 100 feet of the outside right-of-way, please update the plate's legend as well to remove Permit 37 and the duplicative lines and labels for state highways. (FSE)

*Permit 37 has been removed from the legend of Appendix 4.5-1 Plate 1. Also the duplicate ND Hwy lines have been removed.*

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

49. Please update the New Construction, Existing Structures, and Mined-Through Structures subsections of Section 4.6 to reflect changes with the status of water management structures as appropriate for current conditions and the next five-year permit term. (NDAC 69-05.2-09-09) (RLK/FSE/WTG)

*The tables and sections have been updated to reflect permitted structures that where not built and structures that have been mined through.*

50. Please review and update the information and reclamation schedule for Diversion 10-1 and Diversion 4-1 provided in Section 4.6. There appears to be no mining or reclamation purpose for Diversion 10-1 and thus plans should be made to reclaim the structure or provide information in the Section 4.6 narrative to support a continued use of the structure. The reclamation date for Diversion 4-1 is listed as life of mine but it is not clear what the present function is for the diversion considering its proximity to Diversion 5-1. Please plan to reclaim the diversion at the time when the nearby stockpiles are

removed or when repairs are made to repair the differential settling in the SW¼ of Section 4, or an earlier time. (NDAC 69-05.2-16-06(5)) (RLK)

*Diversion 4-1 is scheduled to be reclaimed in 2016. Diversion 10-1 is scheduled to be reclaimed in 2020, 3 years after the final reclamation of Minnkota's ash cell. The ash cell is scheduled to be seeded in 2017 at which time the majority of stockpiles in Section 10 will be respread.*

51. Please update Table 4.6-1 in Section 4.6 as appropriate for any changes in the construction and reclamation schedule. It appears that the planned construction years need to be updated for Sedimentation pond 28-4 and Diversion 28-5. (NDAC 69-05.2-09-09) (RLK/FSE)

*The Table has been updated to reflect the changes in construction and reclamation schedule. The reclamation of Diversion 6-1 has been moved back to 2018 to allow for the stand between the downstream wetlands to establish following repair work which was completed in late 2014. Diversion 8-1 was moved back a year to 2016 as the drainage area was seeded in 2013.*

52. Please update the water management plan to clarify how runoff from the cessation pit in Sections 21 and 28 and Variance Area 12 will be controlled during the cessation period, and include a topographic map that shows how the surface area will be shaped during the cessation period. It is not clear if the existing water management features have been designed to handle runoff from the cessation pit and Variance Area 12. (FSE/GAW)

*A paragraph has been added to the Construction, Reclamation and Maintenance Procedures section.*

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

53. Please update Plate 4.6-1 to depict current and planned water management features. Please also update the contour lines and watershed boundaries to more closely depict the present topography within the permit area. Please also correct the legend as necessary because it depicts existing diversions as blue and as grey lines. It appears that the label for the grey diversion line should be corrected to read "removed" diversions. (NDAC 69-05.2-09-09) (RLK/FSE/ZAB/WTG)

*The topographic contours have been updated and watershed boundaries have been added in Sections 21 and 28. The legend has been corrected.*

#### **Section 4.9 Reclamation Schedule and Plate 4.9-1 Reclamation Variance Areas**

54. Please update the reclamation schedule narrative on page 4.9-1 to include reclamation plans for the next permit term that are consistent with updated Plate 4.1-1 (Pit Layout and Facilities Map) and updated Plate 2-1 (Extended Mine Plan). (ZAB/FSE/WTG)

*This has been done as requested. Modified text begins on Page 4.9-1.*

55. Please review and update the Reclamation Schedule Table on page 4.9-2 to be consistent with updated Plate 4.1-1 (Pit Layout and Facilities Map) and updated Plate 2-1 (Extended Mine Plan). (ZAB/FSE/WTG)

*This table has been removed. It has been replaced with individual paragraphs discussing yearly activities. Please refer to Page 4.9-1.*

56. Please update the Variance Area 8 narrative in Section 4.9 to describe the current plan to backfill the pit area with overburden materials rather than bottom ash. (NDAC 69-5.2-09-09(b)) (RLK)

*This has been done as requested beginning on Page 4.9-7.*

57. Please review the narrative for Variance Area 12 and explain why the variance area does not include all of the 2014 (and 2015) pit area in Sections 21 and 28. The western portion of this pit is not included in the Variance Area 12 but mining is not going to resume west of the 2014 (and 2015) pit until 2019. It would appear that the western portion of this pit should be included in an area having a variance from the contemporaneous reclamation requirements. (GAW)

*The western extents of Variance Area 12 have been extended to include all currently unreclaimed mineral removal areas in Sections 21 and N1/2 28. Thank you for the observation and suggestion.*

58. The narrative for Variance Areas 1 through 14 on pages 4.9-3 through 4.9-7 needs to clearly describe, and Plate 4.9-1 (Reclamation Variance Areas) needs to clearly depict, current variances relevant to the next permit term. Please update Section 4.9 and Plate 4.9-1 as follows:

- a. Remove the sump/sediment trap areas in Sections 21 and 28 from Plate 4.9-1 since these features are used in support of active mining and **do not** require a variance. Sumps should be addressed with the drainage corridors, haulage routes and equipment access trails discussed in Other Reclamation Variance Conditions section on page 4.9-7.
- b. Remove Pond 21-1 from Plate 4.9-1 since ponds **do not** require a variance, and pond reclamation is addressed in the Section 4.6 (Surface Water Management Plan).
- c. Review the small corridor in variance areas 3 and 10 in the N $\frac{1}{2}$ N $\frac{1}{2}$  of Section 21 where Slope 1 is located. If the ramp area is the only feature in this location, the area may be removed from Plate 4.9-1 since haul roads and ramps are used in support of mining and **do not** require a variance.
- d. On Plate 4.9-1, combine any areas in Sections 21 and 28 that require a variance into Variance area 12. Remove all other variance areas in Sections 21, 22, 27, and 28 that have been vegetated and no longer require variances. However, a brief discussion and separate map needs to be retained to identify the historical variance areas.

- e. Remove variance areas 2, 5, 7, and all vegetated areas within Variance #9 from Plate 4.9-1. Areas that require a variance in #9 should be depicted as one area.
- f. Update the narrative on page 4.9-4 and 4.9-5 for variance areas 6 and 9.
- g. Update the narrative on page 4.9-4 for variance #8 and include the most recent plans and projected time frame for reclamation of the ash cell in Section 3.
- h. Update paragraph 1 of the narrative for Variance Area 12 on page 4.9-6 if necessary.
- i. Revise the second paragraph of the Variance Area 12 narrative by removing language stating the wetland was part of Variance Area 14 and was added to 12. Provide the location and reclamation plans for the wetland.
- j. Remove any references to area 13 in the Variance Area 13 narrative and remove the heading that will add the paragraph to the Variance Area 12 narrative.
- k. Remove the narrative for all variance areas except 6, 8, 9, and 12.
- l. The historical information currently in this section does have value and we suggest adding a statement to the introduction of the variance areas on page 4.9-3 to indicate this section was updated with a permit renewal in 2015 and information on the reclaimed variance areas prior to 2015, a new subsection was added to summarize the past variances (as requested by part d above). (ZAB)

*All aspects of this deficiency have been addressed. The permit text and Plate 4.9-1 have been modified to more clearly reflect the variance areas which are currently in effect. The text of Section 4.9 now briefly discusses each previously approved variance area and refers the reader to an archive. BNI intends to grow this archive as variance areas are reclaimed or otherwise no longer necessary. The resulting document will be a comprehensive history of all variance activity within BNCR-9702. These revisions begin on Page 4.9-5.*

#### **Section 4.10 Backfilling and Regrading Plan**

- 59. The Section 4.10.1 (Design Methods) narrative describes the planned use of the Section 3 pit by Minnkota for a bottom ash landfill and the postmine topography based on the double final pit being filled with bottom ash. Please provide narrative describing the current plans to fill the pit and reclaim the area with overburden material and selected subsoil stockpiles as outlined in BNI Coal's April 1, 2014, subsoil substitution request. (NDAC 69-05.2-09-11(3)) (RLK)

*This paragraph has been updated as requested. Please refer to Page 4.10-1.*

- 60. Please update Section 4.10.2 (Construction Methods) to provide the preliminary information for the postmining stockpiles proposed for the mine area and shown on Plate 4.12-1 (Post Mining Land Use). As a suggestion, a table could be used to list the

preliminary postmine developed water resources information such as the location, watershed area, expected feature area and depth, along with the estimated 80 percent and 50 percent chance runoff yield. (NDAC 69-5.2-09-09(b)) (RLK)

*BNI will have a proper response to this deficiency in the next round of deficiencies.*

61. Please update Section 4.10 to include a narrative describing the five-year cessation pit planned in the W½ of Section 21 and NW¼ of Section 28. Plate 4.1-1 (Pit Layout and Facilities Map) depicts mining ceasing in 2014 and resuming in 2019. Please discuss how the highwall will be stabilized during this cessation period and discuss how the overburden east of the pit (Variance Area 12) will be shaped to control runoff during the cessation period. (GAW/FSE)

*Bullet point #6 has been added to Page 4.10-2 to address this topic.*

62. Section 4.10 contains narrative regarding the final pits essentially stating that mining will continue westward beyond Section 21. Please revise this narrative to explain how the information on Plate 4.10-16 (Final in Pit Sections 21 and 28, Reclamation Cross Sections from Post Mine Topography) is relevant with the assumption that mining will continue westward. (GAW/FSE)

*Plate 4.10-16 is no longer relevant and has been removed from the permit.*

63. The wetland design information in Appendix 4.10-1 (Wetland Designs) identifies the wetland in Section 21 as wetland No. 1 but the title for Plate 4.10-11 identifies this wetland as Wetland No. 6, and the design information is different. Please review and reconcile accordingly. The elevation information for this wetland in Appendix 4.10-1 is not consistent with the approved postmining elevations. Likewise, the design elevation information for Wetland No. 4 in Section 5 in Appendix 4.10-1 is not consistent with what is depicted on Plate 4.10-1 (Post Mining Topographic Contours). Please review all wetland design information in Appendix 4.10-1 and update as necessary. (GAW)

*The wetland section of section 4.10 has been completely redone. All design calculation information has been removed from the text and is now incorporated into plates for each individual wetland. Please refer to Page 4.10-3.*

#### **Plate 4.10-1 Post Mining Topographic Contours**

64. Please update Plate 4.10-1 to depict postmining topographic contours for the 50-some acres of expanded pit sequence in the W½ of Section 28 and the SE¼ of Section 29 depicted on Plate 4.1-1 (Pit Layout and Facilities Map) for which postmining topography is not presented on Plate 4.10-1. Please also revise the mining disturbance boundary line. (WTG/FSE)

*Plate 4.10-1 was updated. The topography was updated within the expanded pit sequence and within the updated mining disturbance boundary. The hatching was updated to reflect to date grade approval areas.*

#### **Plate 4.10-2 Post Mining Slope Analysis**

65. Please update Plate 4.10-2 to depict postmining area slopes for the 50-some acres of expanded pit sequence in the W½ of Section 28 and the SE¼ of Section 29 depicted on Plate 4.1-1 (Pit Layout and Facilities Map) for which postmining area slopes are not presented on Plate 4.10-2. Please also revise the mining disturbance boundary line. (WTG/FSE)

*Plate 4.10-2 was updated to reflect the addition of the expanded pit sequence and the updated mining disturbance boundary. The table comparing pre and post mine slopes was updated to the current mining disturbance boundary.*

#### **Section 4.11 Suitable Plant Growth Material (SPGM) Removal and Replacement**

66. Please update the first paragraph of the SPGM Removal narrative on page 4.11-1 to include trucks and shovels for equipment used to remove SPGM. (WTG)

*The truck and shovel fleets have been added as equipment that will be used to remove SPGM to the SPGM Removal narrative.*

67. Please update the fifth paragraph of the SPGM Replacement narrative on page 4.11-2 to correct the statement that currently reads as follows (emphasis added): “Based on the prediction and in accordance with PSC policy memo 17, we **do not** intend to remove the entire depth of material shown on the soil survey for the mining area.” (WTG)

*The fifth paragraph on page 4.11-2 in Section 4.11 has been updated as suggested, to delete the words “do not” from the text.*

68. Please update Section 4.11 to incorporate BNI’s subsoil substitution plan for five subsoil stockpiles in Permit BNCR-9702 that are being considered for use as fill in closure of Minnkota Power Cooperative’s Milton R. Young Station bottom ash inert waste landfill in the 68 acre bond released area of Section 3 in Permit BNCR-9702. The Section 4.11 narrative should be updated to summarize the February 18, 2013 plan and the April 1, 2014 subsoil substitution standards as they relate to subsoil stockpiles in BNCR-9702. Two new appendices to the section should include applicable stockpile laboratory analysis from Attachment 3 and the location map as Attachment 4 of February 18, 2013 plan, as well as the entire April 1, 2014 subsoil substitution standards document. (WTG/RLK)

*Section 4.11 has been updated. A narrative has been added to the end of this section discussing the subsoil substitution plan that BNI proposed on February 18<sup>th</sup>, 2013. Two new attachments to this section have been added. Attachment 1 includes the February 18<sup>th</sup>, 2013 submittal and Attachment 2 includes the April 1<sup>st</sup>, 2014 submittal.*

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

69. Please revise Section 4.12 to add narrative about reclaiming section line roads and trails to their premine condition, and to a condition that will allow surface owners to access their property. Reclaimed section line roads and trails are a necessary support facility for

the postmine land uses and they should be constructed to function as such as required by NDAC 69-05.2-09-13. Section line roads and trails are depicted on Plate 4.12-1 (Post Mining Land Use) and are shown to comprise 187 acres of the permit. Please discuss how section line roads will be constructed and discuss how the section line trail located between Sections 3 and 4 is going to be stabilized to eliminate the ruts and gullies that have formed along this trail. (GAW)

*Section 4.12.3 has been revised to include a narrative about postmine road, trails, and right of ways. This narrative states that BNI will reclaim them if the existed premine- or to support the land use. We have not included a specific plan to reclaim the section line trail between Section 3 and Section 4. We recognize that this section line trail has developed ruts and gullies. As work in this area is completed (Minnkota Ash Cell Closure), we will work correct the erosional features that have formed on this trail. We possibly fence the section road so that multiple paths are not worn.*

#### **Section 4.12.1 Postmine Land Use Acreages**

70. Please review and update Table 4.12-1 (Postmine Land Use Acres) and Plate 4.12-1 (Post Mining Land Use) as appropriate for the next permit term. Also, it appears that some cropland was reclaimed to hayland at the landowner's request. These areas are currently producing hay and the plate and table acreages should be updated for tracts BNI plans to bond release as hayland. (NDAC 69-05.2-23-01 & 02) (ZAB/RLK)

*We have updated Table 4.12-1 and Plate 4.12-1 as appropriate. It was requested by the landowner that the piece of land in Section 8 be planted to hayland. However, it is currently under a purchase contract, and is expected to be finalized in the near future. When finalized BNI will send out a landowner preference statement to the new landowner, and make changed accordingly. Tables 4.12-1 and the narrative and table in Section 4.12.2 have been changed to reflect this area being reclaimed as hayland*

71. Table 4.12-1 does not show any cropland in Section 28 but Plate 4.12-1 (Post Mining Land Use) identifies a tract of reclaimed cropland. Please review and correct this discrepancy. (GAW)

*The acreages for Section 28 listed in Table 4.12-1 have been updated. The plate and table now are consistent. Additionally the table for Section 28 in Section 4.12.2 has been revised to reflect these updates.*

72. Table 4.12-1 indicates that there are 0.4 acres of Fish and Wildlife Habitat Grassland in Section 3 but this land use is not depicted on Plate 4.12-1 (Post Mining Land Use) or discussed in the narrative of Section 4.12.2. Please review and clarify as necessary. (GAW)

*The acreages for Section 3 in Table 4.12-1 have been revised. These 0.40 acres were coming from the Western snowberry re-spread areas, and were incorrectly being classified as fish and wildlife habitat. Table 4.12-1 has been changed to reflect these 0.40 acres included in the native grassland. Additionally, the narrative and table within Section 4.12.2 for Section 3 has been revised to note the size of western snowberry areas.*

73. Table 4.12-1 and Plate 4.12-1 (Post Mining Land Use) indicate that the disturbed land located in the NW¼ of Section 8 is to be reclaimed to native grassland but Reclamation Division staff believe that a hayland seed mixture may have been planted on this area. Please review and revise if necessary. Updated landowner preference statements may be needed if land use changes are proposed. (GAW)

*At the request of the landowner, this area was seeded to hayland. This piece of land is currently under a purchase contract, and is expected to be finalized in the near future. BNI will send out a landowner preference statement and then update the permit accordingly. Tables 4.12-1 and the narrative and table in Section 4.12.2 have been changed to reflect this area being reclaimed as hayland*

#### **Section 4.12.2 Premine and Postmine Land Use Discussions**

74. As required by NDAC 69-05.2-05-02(1), please revise the spacing or arrangement of Section 4.12.2 so the acreage charts are on the same page as the narrative for each section. (ZAB)

*Spacing was adjusted within Section 4.12.2. The text was also changed to Times New Roman Size 12 font.*

75. Neither the narrative nor the acreage comparison table in Section 4.12.2 provided for Section 5 describe a small postmine DWR shown in the SE¼ of Section 5 on the Post Mining Land Use map (Plate 4.12-1). Please review and revise as appropriate. (NDAC 69-05.2-23) (RLK)

*The narrative discussing Section 28 in Section 4.12.2 has been revised to state that one Pond (DWR) will be undisturbed in this section. The postmine land use Table 4.12-1 has been revised as well as the table that follows the narrative within Section 4.12.2 to show that 0.10 acres of DWR will remain in this section.*

76. The two developed water resources depicted in Section 28 on the Post Mining Land Use map (Plate 4.12-1) appear to have a combined area that is more than 0.2 acres as indicated in the land use comparison table for Section 28 provided in Section 4.12.2. Please review and clarify as appropriate. (NDAC 69-05.2-23) (RLK)

*The postmine acreages for Section 28 have been revised within Section 4.12.2. This acreage accurately reflects the postmine land use, including 1.2 acres of DWRs.*

77. The postmine land use acreage listed for Section 32 in the Section 4.12.2 table does not appear to agree with what is shown on the Post Mining Land Use map (Plate 4.12-1). The land use map indicates that almost the entire section will be cropland but the table indicates that there will only be about 206 acres of postmine cropland that is only a slight increase from the premine acreage. Please update as appropriate. (NDAC 69-05.2-23) (RLK)

*The postmine land use acreage for Section 32 in the Section 4.12.2 table has been revised. This table now accurately reflects what is shown on Plate 4.12-1 and what is listed in Table 4.12-1*

78. Please review and revise Section 4.12.2 tables and narrative to be consistent with Table 3.5-1 (Premine Land Use Acres), Table 4.12-1 (Postmine Land Use Acres), land owner requests, and BNI's bond release plans. For example, the acreage chart for Section 5 in Section 4.12.2 does not include the 35.4 acres of Fish and Wildlife Habitat (Grassland) that is discussed in the narrative and depicted on Plate 4.12-1 (Post Mining Land Use). Please also closely review the totals in the acreage tables and correct as necessary so the total postmine acreage is equal to the premine acreage for each section. Several tables currently display a net loss in acreage from premine to postmine conditions; the largest loss is 3.8 acres in Section 5. (ZAB)

*All Tables within 4.12.2 have been reviewed. They are now consistent with Plate 4.12-1 and Tables 3.5-1 and 4.12-1.*

### **Section 4.12.3 Reclamation Information**

79. Please revise the narrative in the first paragraph of Section 4.12-3 by removing the phrase "Generally (dependent on annual conditions)...", and adding narrative to clarify that seeding and planting of disturbed areas will be conducted during the first normal period for favorable planting conditions after suitable plant growth materials have been respread as required by NDAC 69-05.2-22-04. (ZAB)

*The first paragraph on page 1 of Section 4.12-3 has been revised as requested.*

80. Please add narrative to the end of the first paragraph of Section 4.12-3 to clarify that those areas respread too late in the fall for seeding, and areas seeded in the fall that do not establish adequate vegetation to control erosion, will be mulched and crimped to control wind and water erosion as required by NDAC 69-05.2-22-05. (ZAB)

*The first paragraph on page 1 of Section 4.12-3 has been revised as requested.*

81. Please update the seed mixes in Section 4.12-3 if appropriate. (ZAB)

*There have been no changes to seed mixes.*

*BNI is considering adding forbs to our seed mix. However, we are undecided if it will be more beneficial to seed forbs initially or inter-seeded later after grasses have established. If any changes are made the seeding mix will be updated.*

82. The premine fence narrative on page 4.12.3-2 of Section 4.12.3 states that premine fence locations and conditions have been noted on Plate 4.2-1 (General Mine Plan). Please revise the plate reference and hyperlink as necessary because Plate 4.2-1 does not depict or describe any premine fences or their condition. If BNI intends to replace only those fences that were in useable condition prior to mining as stated in the narrative, please provide documentation on the condition of premine fences. (ZAB/GAW)

*The narrative on page 4.12.3-2 of Section 4.12.3 has been revised. The language stating that the fenceline condition and locations was depicted on Plate 4.2-1 has been removed.*

*Also this paragraph has been revised to clarify that fencelines in and condition will be replaced as needed to support the postmine land use or at the request of a landowner.*

83. Language in the first paragraph of page 4.12.3-3 states that BNI implements grazing as quickly as possible; however, none of the reclaimed native grassland in BNCR-9702 has ever been grazed. This land includes the reclaimed native grassland located in the N½ of Section 34 and the SE¼ of Section 3. The Reclamation Division is concerned with the prevalence of smooth brome grass and Kentucky bluegrass on these tracts and would encourage implementing prescribed grazing on these tracts as soon as possible to maintain or improve species composition. Please revise Section 4.12.3 to clarify how BNI plans to control invasive species on reclaimed native grassland. (GAW/ZAB)

*We plan to implement grazing on tracts within 9702 as vegetation is established, tracts are of manageable size, and accessible. In 2014, a fence was installed in the N2 of Section 34 in preparation for grazing. The SE ¼ of Section 34 has not been grazed as we anticipate disturbance activities in that area with the closure of the Minnkota Ash Cell in this Section.*

84. Please review the planned planting dates listed for each shelterbelt in the shelterbelt table on pages 4.12.3-3 through 4.12.3-5 and update if changes are necessary. The table shows that plantings were planned in 2012 and 2014 but these trees have not been planted. (GAW/ZAB)

*The shelterbelts table on pages 4.12.3-3 through 4.12.3-5 has been revised. We anticipate 2 plantings for next year (2016); one in the NW4 of Section 5 and one in the NW4 of Section 33. We will likely prep these areas in the fall of 2015 and plant in the spring of 2016.*

85. Please include in the permit a plan for conducting periodic measurements of the vegetation on the reclaimed cropland, hayland, and native grassland located in Sections 3, 4, 27, and 34 that will provide an assessment of reclamation success. Please also include summary data from past monitoring if available. NDAC 69-05.2-22-07(5)(b) (GAW/ZAB)

*BNI has collected some data on these sections (Section 34, 3, 4, 27); however this has just been trend data. Data collection will be initiated on these tracts as makes logical sense for bond release. With the exception of 34 these tract have potential associated disturbances that we anticipate will occur. We have not included a plan for "periodic" measurements within these tracts in the permit. Data collection will occur as we anticipate bond release.*

#### **Section 4.12.4 Determining Reclamation Success**

86. Please revise Section 4.12.4 to include native grassland reference areas that are in reasonable ecological condition. The existing silty native reference areas have become dominated with Kentucky bluegrass that places them in an Invaded State according to NRCS transition models; therefore, they cannot be used to demonstrate revegetation success. (GAW)

*We recognize that the condition of these sites has declined. Thus, BNI is currently in the process of identifying areas that may be used as new reference areas. We will work with the NDPSC and NRCS to identify and establish these new locations.*

#### **Section 4.12.5 Potential for Reclamation Success**

87. Please review and revise Section 4.12-5 to clarify what is meant by the statement that monitoring vegetation during establishment and development is the job of shift supervisors. Please discuss how BNI is collecting quantitative bond release data during the vegetation responsibility period and include summary information showing reclamation success. Please also discuss how BNI has demonstrated final bond release revegetation success on agricultural lands at the Center Mine that were subject to our current reclamation law. Although several sentences in the permit indicate that BNI is committed to implementing sound management practices, the Reclamation Division is concerned with current management of reclaimed native grasslands that essentially involves haying to the benefit of Kentucky bluegrass. (GAW)

*The narrative in Section 4.12.5 has been revised. The language about vegetation monitoring has been revised.*

*On our mine site (excluding BNCR 1101) we only have a handful of reclaimed native rangeland sites (Sections 25,2,23,24,8,9,34, and 3). All of these sites except two have had grazing. The two tracts that have not been grazed are in Section 34 and Section 3. In 2014, a fence was installed to prepare for grazing in Section 34. We have not initiated grazing in this area, as we anticipate further associated disturbances with the removal of stockpiles, ponds, and closure of the Minnkota Ash Cell.*

#### **Section 4.13 Fish and Wildlife Resource Protections & Enhancement Plan & Fish and Wildlife Monitoring Plan**

88. Please review the Fish and Wildlife Monitoring Plan and revise as necessary to ensure that it accurately reflects BNI's current actual wildlife monitoring. The narrative should clarify if BNI has a mine-wide wildlife monitoring plan. (GAW)

*The narrative has been revised. The Federal Threatened, Endangered, and Candidate Species Found in North Dakota Table found on page 4.13-7 has been updated.*

89. Please revise the Fish and Wildlife Monitoring Plan to include a discussion about whether Permit BNCR-9702 or the monitoring area contains any habitat suitable for any Threatened, Endangered or Candidate Species. Please also revise the monitoring plan to include a plan for conducting surveys of any of these species that have the potential to exist in the Mine Wide monitoring area. (GAW)

*The narrative has been revised to discuss potential for Threatened, Endangered, or Candidate Species to exist in monitoring area. A comment was also added stating although surveys are conducted minewide, that this plan is specific to BNCR 9702; however BNI is in the process of consolidating their wildlife monitoring plans.*

#### **Plate 4.13-1 Wildlife Monitoring Map (Minewide)**

90. Please revise Plate 4.13-1 to depict the monitoring area that should include current permitted areas and a buffer zone. Please also revise as necessary to depict planned surveys and survey site locations. (GAW/FSE)

*Plate 4.13-1 has been updated. The "Pending" labels have been removed, and Permit 37 has been removed from the plate. Buffer zones have not been depicted on this plate. The buffer zones were used for initial baseline studies only. Although, these areas are not part of our official monitoring area, we do record any incidental sightings that occur as surveys are conducted. Survey locations are up to date.*

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

91. Please discuss all of BNI's permits included in the consolidated bonding area. Also specify where material to fill the ash pit in Section 3 will come from prior to SPGM respread in the calculations for the Worse Case Bond Estimate (Appendix 4.14-1). (FSE)

*BNI will have a proper response to this item in the next round of deficiencies.*

#### **Plate 4.14-1 Worst Case Bond Calculation**

92. Please review and update Plate 4.14-1. The permit boundary is incorrect, some of the structures/facilities depicted on the map appear to be outdated, new road construction is not shown (bypass in Sections 35 and 36 of Permit BNCR-8106), the pit locations are not representative for the worst case scenario, and the depicted mining limit has changed. (FSE)

*BNI will have a proper response to this item in the next round of deficiencies.*

#### **Plate 4.14-2 Worst Case Bond-Pit Cross Sections**

93. Please update the cross sections for Plate 4.14-2 in accordance with the changes made in the plan view map (Plate 4.14-1). (FSE)

*BNI will have a proper response to this item in the next round of deficiencies.*

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

94. Please update the worst-case calculations using the July 2014 variable costs. (FSE)

*BNI will have a proper response to this item in the next round of deficiencies.*

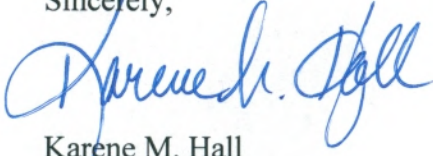
#### **Section 4.15 Signs and Markers, Air Monitoring, Socioeconomic Information, Scenic and Aesthetic Impacts**

95. The last sentence on page 4.15-1 of Section 4.15 states, "Signs will be of uniform design, made from durable material and conform to local ordinances and codes." Please add a statement that signs and markers will be maintained. NDAC 69.05.2-13-04(2). (ZAB)

*Page 1 in Section 4.15 Signs and Markers has been updated to include a statement that signs and markers will be maintained.*

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

Sincerely,



Karene M. Hall  
Permit Coordinator