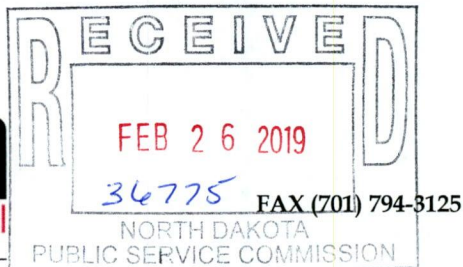


PHONE (701) 355-5588



A BNI ENERGY COMPANY



February 25, 2019

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

RE: Renewal 7/Revision 37 to Permit BNCR-8202

Dear Mr. Moos,

This submittal contains our response to your letter of Pre-renewal Review deficiencies to Permit BNCR-8202 dated December 14, 2018. The following deficiencies must be addressed before the Renewal 7/Revision 37 application can be deemed complete. Below is a listing of the deficiencies followed by our response:

Section 1.7 – Business Entity Information

1. Please update the corporate officers and board members for BNI Coal, Ltd., BNI Energy, Inc. and Allete in Section 1.7.2 as required by NDAC 69-05.2-06-01(1) if any changes have occurred since Revision No. 36. (WTG/PJR/RLK)

Section 1.7 Business Entity Information has been updated to correspond with the recent submittal in Revision 6 to BNCR-1101.

Section 1.9 – Surface and Coal Ownership

2. Please update the permit area surface ownership in Section 1.9 as required by NDCC 38-14.1-14(1)(c)(2) and make the corresponding updates to Plate 9 (Ownership Map) if any changes have occurred since Revision No. 36. (WTG/PJR/RLK/JSP)

The surface ownerships inside the permit boundary have not changed.

3. Please update the adjacent surface ownership in Section 1.9 as required by NDAC 69-05.2-06-01(1)(a) and make the corresponding updates to Plate 9 (Ownership Map) if any changes have occurred since Revision No. 36. (WTG/PJR/RLK/JSP)

Updates to the Adjacent surface ownerships are included in Section 1.9 of the Legal and Financial Section and on Plate 9 Ownership Map.

Section 1.12 – Other Licenses and Permits

4. Please update the other licenses and permits in Section 1.12 as required by NDAC 69-05.2-06-04 if any changes have occurred since Revision No. 36. (WTG/RLK)

Section 1.12 has been updated as requested.

Section 1.13 – Past Violations

5. Please review and update Section 1.13 to reflect any changes that may have occurred since Revision No. 36. Notices of Violation NOV-1402 and NOV-1503 may be deleted from the violations list as the required 3-year reporting time period for these violations has elapsed. (RLK/BEB/WTG)

There are no recent NOV's to include in Section 1.13. NOV1402 and 1503 have been removed from Section 1.13 as requested.

6. Please also update the closing statement of Section 1.13 to add BNI Energy, Inc. to the corporate organization. (WTG)

BNI Energy, Inc. has been added to the listing of corporate organizations as requested.

Section 4.1 – Mining Operations and Waste Disposal

7. Please update the Mining Methods narrative on page 4.1- because current narrative in the permit states, “The 757 is presently working in Sections 27 and 34...” (BEB)

The narrative has been updated to reflect the plans for the 757 and 736 dragline. The dragline erection site narrative has been updated describing the current use of the parcel.

8. Please update subsection 4.1-4 Equipment List with any changes since the most recent update with Revision 36. (JSP)

The equipment list has been updated.

Section 4.6 – Surface Water Management

9. The reclamation schedule on page 4.6-2 states that Diversion D-22-5 was to be reclaimed in 2017. This water management feature was not removed in 2017 as planned. Please review and provide a commitment to remove this diversion in 2019 or provide justification why this feature is needed to support mining activities. A request for a variance from the 3-year seeding rule (NDCC 38-14.1-24 (14)) will be needed if BNI does not commit to reclaiming this feature in 2019. (GAW/PJR)

BNI will reclaim the diversion in 2019. The schedule has been changed to reflect the plan.

10. The reclamation schedule on page 4.6-2 states that sediment pond P-22-1 will be reclaimed in 2023. Please clarify how this pond is being used to support mining activities. If this pond is not being used to support mining activities, a request for a variance from the 3-year seeding rule (NDCC 38-14.1-24 (14)) will be needed to delay reclamation beyond 2019. (GAW)

The reclamation of P-22-1 has been moved ahead to either 2019 or 2020 following the development of a reclamation plan that BNI will finalize in 2019. The reclamation schedule has been updated to reflect the change.

Table 4.7-1 – Ground Water Monitoring Wells

11. Please update this table dated 2017 to provide current, updated information in the permit. For example, ground water monitoring wells 11-9-2A and 11-9-2B have now been incorporated into the list of monitoring wells requiring annual water quality sampling and that should be noted on the table. Please make this update and any other required updates to the table. (BEB)

The table was updated to show 2019 well status

Appendix 4.7.2-2 – Location of Monitoring Well Nests

12. Please review and update as necessary the monitoring well location map in Appendix 4.7.2-2 to provide current information in the permit regarding new or destroyed ground water monitoring wells. (BEB)

The map was updated with current information, while trying to add a photo, it overlapped numerous well outside of the permit boundary. Therefore no photo was added.

Section 4.9 – Reclamation Schedule

13. The third paragraph on page 4.9-2 states that mining will cease in Sections 19, 20 and 21 in 2033 but the current extended mine plan indicates that mining will cease in 2024 in Section 20 of Permit BNCR-9702. The last sentence in this paragraph indicates that the stockpiles in Section 22 will be used for final pit reclamation in Section 19, but there is no Section 19 in an adjacent permitted area and the extended mine plan does not indicate that mining will continue westward into Section 19 of T142N, R84W. Please review and revise this paragraph with the most current information available. (GAW/RLK/PJR)

The schedule in the paragraph has been revised to reflect the current mine plan.

14. Please revise the last paragraph on page 4.9-2 to clarify how sediment pond P-22-1 and diversion D-22-5 are being used to support current mining activities. Features and facilities not being used to support mining activities must be reclaimed contemporaneously. (GAW/PJR)

The last paragraph references Section 4.6 Surface Water Management Plan which states that BNI will develop a reclamation plan for P-22-1 in 2019 and complete reclamation in either 2019 or 2020.

Section 4.13 – Fish and Wildlife Resource... Plan

15. Please review the Fish and Wildlife Protection, Enhancement and Monitoring plans and revise accordingly if any changes are anticipated during the next term of the permit. (GAW)

Updated Section 4.13 to reflect monitoring changes

16. Please consider updating Section 4.13 to address recent comments we received from the U.S. Fish & Wildlife Service on September 19, 2018 (copy attached). Please make any other necessary changes and update the Wildlife Monitoring Map (Plate 31) if necessary. Please include a revision number and date at the bottom of revised pages. (PJR)

Updated Section 4.13 and Plate 31 to reflect monitoring changes.

Appendix 4.14 – Worst Case Bond Calculations

17. Please update the Worst Case Bond Estimate, Worst Case Bond Calculations Map and Worst Case Bond Pit Cross Sections Plate provided in Appendix 4.14 to be consistent with the information submitted for Revision No. 40 to Permit BNCR-9702. (NDAC 69-05.2-11-03(5)(e)) (RLK)

The Worst Case Bond Estimate, Worst Case Bond Calculations Map and Cross Sections have from BCNR 9702 been added to this submittal as requested.

Book II Map Plates

18. Please replace Plate 2-1 (Extended Mine Plan) with the most recent Center Mine Extended Mine Plan as required by NDAC 69-05.2-07-01. (WTG/JSP)

The latest version of Plate 2.1 from the Revision 40 of BNCR 9702 has been added.

19. It appears Plate 8A, Location Map of Active Piezometer Nests, can be replaced with updated Appendix 4.7.2-2. However, if your intention is to retain this map because of the aerial photo background, please update the map with current monitoring well information. (BEB)

The plate was updated with current well information. As with the photo, it cut off to much information outside of the permit boundary. So, no photo was added.

20. Please replace Map Plate 12 (Pit Layout and Facilities Map) with a copy of the most recent version of this map provided with Revision 40 to BNCR-9702 or update as appropriate to reflect any changes with the status or presence of SPGM stockpiles, overburden stockpiles, water management structures, haulroads, access roads, walkways, buildings, facilities, utilities, and structures that have occurred since the map was last updated with Revision No. 36. (RLK/WTG)

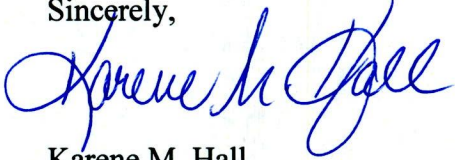
The Pit Layout and Facilities map from Revision 40 has been added to this permit.

21. Please consider updating Plate 39, Wildlife Monitoring Map (mine wide), to depict the permit boundary changes that have occurred since 2016. (GAW/PJR)

Updated Plate 31 as the Mine wide map for permit 8202.

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