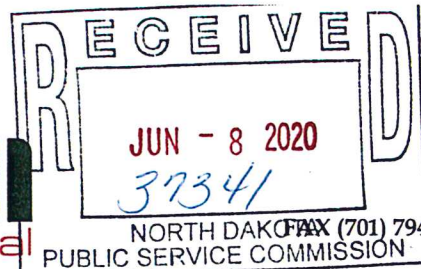


PHONE (701) 355-5588



A BNI ENERGY COMPANY

June 5, 2020

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

RE: Renewal 4 and Revision 41 to Permit BNCR-9702

Dear Mr. Moos,

This submittal contains a response to your pre-renewal review letter to us dated April 28, 2020. In this letter you listed completeness deficiencies that must be addressed before the Renewal 4 and Revision 41 applications to BNCR-9702 can be deemed approved. Below is a listing of the deficiencies followed by our response:

**Table of Contents - BNCR - 9702**

1. Please add a parenthetical descriptor to Appendix 4.1-1 (Minnkota Inert Waste Disposal Permits) indicating that the inert waste landfills have been closed. (WTG)

*Updated as requested.*

**Section 1 - Legal and Financial Information**

2. Please revise the BNI organizational chart in Section 1.7.2 for Jay Volk. Correspondence indicates that he is Manager of Health, Safety, and Environmental Services. (WTG)

*The job title for Jay Volk has been updated in Section 1.7.2.*

3. The bookmark to Revision 41 - Renewal 4 in Appendix 1-1 (Revision Summary and List of Changes) does not work. Please repair the link so that it connects with its intended location. (BEB)

*The bookmark has been corrected for Revision 41.*

8 RC-20-23 Filed 06/05/2020 Pages: 7  
Response to Technical Review Letter  
BNI Coal, Ltd.  
Karene Hall

## **Plate 2.1 - Extended Mine Plan**

4. The Permit BNCR-1101 C1 Addition area depicted on Plate 2.1 is labeled in the legend as "Permit Addition 2018." Furthermore, the C1 Addition area is depicted as bounded by a green line that is similar in color and line style to that of the Permit BNCR-8106 boundary. Please clearly label the C1 Addition area on the map, update the descriptive label in the legend, and choose a boundary line style and/or color for the C1 Addition area that is more easily distinguishable from other boundaries depicted. (JSP/BEB)

*The line has been changed to red with an anticipation date of approval to 2021 for the permit addition.*

5. Plate 2.1 depicts a 500 foot setback in the NE¼ of Section 18 of Permit BNCR-1101 surrounding the Larry and Virginia Schmidt farmstead. The farmstead was abandoned several years ago and BNI plans to mine through the farmstead area in 2022. We realize that a portion of the farmstead is currently being used for the ANFO storage area, which will likely be relocated in the near future. However, with plans in place to mine through the farmstead area, the 500 foot setback designation could probably be eliminated from the plate. Please review and update if deemed necessary. (BEB)

*The setback has been removed around the farmstead.*

6. Plate 2-1 color designations and mine plan years are not consistent between the map and the legend. Please revise the map and legend to ensure consistency between color designations and mine plan years. (JSP/PJR)

*The colors have been updated and match the legend for the next 5 year term.*

7. Please add a revision number and date to the Plate 2.1 title box to identify the most recent version. Please also verify that Plate 2.1 in the application is the most recent version. (PJR)

*The revision number and date specific to 9702 has been added.*

## **Section 3.1 - Topographic Information**

8. The Topographic Information narrative in Section 3.1 describes human-related surface disturbances within the permit area, including a plugged and abandoned oil well in the SW¼NW¼ of Section 34. Please update the narrative in this section with a short description of the CarbonSAFE plugged and abandoned well previously located in the SE¼SE¼ of Section 27, also within Permit BNCR-9702. (BEB)

*The narrative has been updated to include the CarbonSAFE well.*

## **Section 3.4 - Surface Water**

9. Please identify the change in the Section 3.4 narrative. It appears that a surface water sampling site was added, but there is no change to Plate 3.4-1A (Surface Water Sampling Site Location Map) or Appendix 3.4-1 (Surface Water Analyses). If the addition of a

surface water sampling site is a previous error being corrected, simply state that in Appendix 1-1 (Revision Summary and List of Changes), or provide some elaboration to the surface water sampling site. (PJR)

*The Appendix 1-1 was updated to just state sampling location*

#### **Section 4 - Operations**

10. Please add a parenthetical descriptor to Appendix 4.1-1 (Minnkota Inert Waste Disposal Permits) on the Section 4 - Operations permit home page indicating that the inert waste landfills have been closed. (WTG)

*Updated as requested.*

#### **Section 4.1 - Operations Plan**

11. If lands within Permit BNCR-9702 were drilled to accommodate seismograph testing associated with the CarbonSAFE project, please provide a short narrative regarding that in the operations narrative in Section 4.1, and describe the drillhole backfilling procedures that were utilized after the work was completed. (BEB)

*Section 4.1 was updated to include details about Subsurface Carbon Sequestration activities.*

12. The Waste Disposal narrative under item B on page 4.1-3 describes the various disposal areas within the Center Mine including Section 5, Section 34, and Section 3, and only one of those disposal areas is provided with a township-range designation and none of those includes the permit area location. Please add the township-range designation to the listed section numbers in this narrative, and include the various permit areas in which they are located. (BEB)

*Township-range designations were added as suggested and narrative to describe which mining permit the disposals sites fall within.*

13. Since Plate 4.1-1 (Pit Layout and Facilities Map) shows mining and reclamation features and facilities (including SPGM stockpiles) for all of BNI's permit areas except for BNCR-1101, please depict and label subsoil stockpile NW36S01 in the NW¼ of Section 36 in Permit BNCR-8106. (BEB)

*The Pit Layout Facilities Map was updated to show Subsoil Stockpile NW36S01.*

14. Please depict and label on Plate 4.1-1 (Pit Layout and Facilities Map) the recently completed CarbonSAFE well pad that is located in the NW¼NE¼ of Section 27 in Permit BNCR-9702, and include any SPGM stockpiles on the map that may be associated with the well pad construction. (BEB)

*The Pit Layout Facilities map was updated to show the CarbonSAFE well pad disturbance and associated TS Stockpile CS27T01*

15. Please depict and label the topsoil and subsoil stockpiles associated with Pond 29-1 and Diversion 29-1 on Plate 4.1-1 (Pit Layout and Facilities Map). (WTG)

*The Pit Layout Facilities map was updated to show the TS and SS Piles associated with Pond 29-1 and Diversion 29-1*

16. Please label topsoil stockpile B04T02 on Plate 4.1-1 (Pit Layout and Facilities Map). (WTG)

*The Pit Layout Facilities map was updated to show Topsoil Stockpile B04T02*

17. Please depict and label catch basins CB-5-1 and CB-33-1 on Plate 4.1-1 (Pit Layout and Facilities Map). (WTG)

*Pit Layout Facilities map was updated to show and label CB 5-1 and CB 33-1*

18. The five-year coal removal subarea for the next permit term depicted on Plate 4.1-1 (Pit Layout and Facilities Map) extends about 1,000 feet westward beyond the Revision No. 40 western pit boundary in the W½ of Section 20. The pit layout for the five-year coal removal subarea was revised on Plate 2-1 (Extended Mine Plan) and Plate 4.6-1 (Surface Water Management Plan), but the pit layout, or the mining disturbance boundary for the highwall backslope area, should be revised on additional plates in the Revision No. 41 application. Please revise the pit layout or mining disturbance boundary as applicable on the following plates: Plate 3.1-1 (Pre-Mining Topographic Contours); Plate 3.1-2 (Pre-Mining Slope Analysis); Plate 4.2-1 (Existing Structures); Plate 4.4-1 (Blasting Map); Plate 4.9-1 (Reclamation Variance Areas); Plate 4.10-1 (Post-Mining Topographic Contours); Plate 4.10-2 (Post-Mining Slope Analysis); Plate 4.12-1 (Post Mining Land Use); and, Plate 4.14-1 (Worst Case Bond Calculations). WTG

*The mining disturbance boundary has been updated in the Plates as requested. Subsequent tables and narratives within Sections 4.12.1, 4.12.2 and Appendix 4.12-2 have been updated as well.*

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

19. Please update Section 4.4 with the most recent “Notice of Blasting Schedule for BNI Coal Ltd., Center” published on December 12, 2019 that includes Section 20 added with Revision No. 40. (WTG)

*The most recent publication notice has been added.*

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

20. Although depicted on Plate 4.1-1 (Pit Layout and Facilities Map) and Plate 4.6-1 (Surface Water Management Plan), Diversion 20-4 is not included in the Section 4.6 narrative or Table 4.6-1. Please revise Section 4.6 to add information for Diversion 20-4. (JSP/GAW)

*Diversion 20-4 has been added to the table with an anticipated construction date and design details to be added to the appendix once the design is complete.*

21. Please include a bookmark for Diversion 20-4 in Section 4.6. (GAW)

*A bookmark has been added for Diversion 20-4.*

22. Design details for some ponds are provided as plates in Section 4.6, although others are provided as appendices. Please revise the Section 4.6 narrative to explain why some pond designs are provided as plates, while others are provided as appendices, or otherwise revise Section 4.6 to provide pond design information in a consistent manner. (GAW)

*A paragraph was added to page 1 stating that supporting design details for Plates can be found in Appendix 4.6-1 while the remaining appendices contain the complete design of their respective structures.*

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

23. Appendix 1-1 (Revision Summary and List of Changes) states that the monitoring and drill hole reclamation plans were updated. There are no changes identified in the actual plans; however, on page 2 the ND Health Department is changed to the Department of Environmental Quality. If that is the only change, please revise Appendix 1-1 for this section to clarify the change, or identify any changes that were made to the reclamation plans. (PJR)

*The Appendix 1-1 was updated to just state agency name change*

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

24. Although the narrative for 2019 on page 2 of Section 4.9 includes a statement regarding water control structure construction for that year, no similar statement is included in the narrative for years 2020 and 2021. Please review the narrative and revise if necessary. (JSP)

*Revised Section 4.9 Narrative to reflect the current mine plan in regards to construction of water control structures.*

#### **Section 4.10 - Backfilling and Regrading**

25. Please update the post-mine grade approved area boundary on Plate 4.10-1 (Post-Mining Topographic Contours) to indicate 2018 and 2019 grade approvals in Sections 32 and 33. (WTG)

*Updated the Post mine Grade approval boundary to include grade approvals received in 2018 and 2019 as requested*

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

26. Please update Section 4.12 to include BNI's revised tree planting plans in Section 32 as described in correspondence dated February 11, 2020. These updates may include Section 4.12-1 (Postmine Land Use Acreages), Section 4.12-2 (Premine and Postmine Land Use Discussions), Section 4.12-3 (Reclamation Information), and Plate 4.12-1 (Post Mining Land Use). (GAW)

*No changes to 4.12-1 or 4.12-2 as no changes to acres. Trees moved from within cropland acres to other area within cropland acres within same landowner. Section 4.12-3 updated tree planting details. Plate 4.12-1 updated to reflect new location of tree rows.*

27. Language on page 4.12.3-1 of Section 4.12-3 (Reclamation Information) stating that a minimum of three forbs will be included in the native grass seed mixture is being removed with Revision No. 41. Please revise Section 4.12-3 to further clarify BNI's plans for establishing forbs on reclaimed native grassland. (GAW)

*Added paragraph on page 3 of 4.12-3 pertaining to native forb plantings into established native grassland stands along with clarifying what species will be selected.*

28. Please revise Section 4.12-3 (Reclamation Information) to add the pollinator plot information contained in the fourth paragraph on page 2 of Section 4.12 (Re-vegetation Plans, Post Mining Land Use, and Determining Reclamation Success) in Permit BNCR-1101 if pollinator plot practices will be consistent across the Center Mine. (GAW/WTG)

*Paragraph added and current pollinator plot in 9702 added to post mine land use map as "wildlife enhancement feature"*

29. Appendix 1-1 (Revision Summary and List of Changes) states that Section 4.12-3 (Reclamation Information) was updated to include the replacement shelterbelt and woodland acres in Section 20, and shelterbelt planting information was added. The only changes noted in Section 4.12-3, however, were the addition of small tract cropland seeding for the first year, and changes to the stockpile and cover crop seeding mixtures. Please revise Appendix 1-1 as appropriate and highlight any changes to the shelterbelt and woodland reclamation information. (PJR)

*Revised Appendix 1-1 appropriately*

30. Please consider depicting installed pollinator plots on Plate 4.12-1 (Post Mine Land Use Map). (GAW)

*Added to post mine land use map as "wildlife enhancement feature"*

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

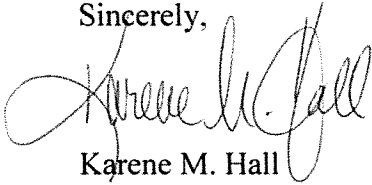
31. Please update Section 4.13 to address the recommendations listed in the U.S. Fish and Wildlife Service (USFWS) enclosed letter erroneously dated March 11, 2019 (received March 19, 2020) by clarifying what BNI has done, or is planning to do, to ensure for the

protection of the species identified in the USFWS letter during the next term of the permit. This would include clarifying if Dakota skipper habitat assessment surveys have been conducted on lands included in the permit area; if any potentially suitable Dakota skipper habitat exists in the permit or adjacent area; if occupancy surveys are being conducted for eagles; the measures that will be used to avoid/minimize impacts to nesting bald eagles; and, measures employed to ensure for the protection of the Northern Long-Eared Bat. (GAW)

*Added paragraph to 4.13 pertaining to Dakota Skipper critical habitat surveys and attached backup documentation of survey information in Appendix 4.13. Information about eagles updated and referenced in 2018-2019 Wildlife Monitoring Plan. Section pertaining to NLEB updated.*

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 a large initial "K" and "H".

Karene M. Hall  
Permit Coordinator