

PHONE (701) 355-5588



January 17, 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 November 22, 2019. 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 complete. Below is a listing of the deficiencies followed by our response:

Section 1.7 - Business Entity Information

1. Please update Section 1.7 (Business Entity Information) with any changes to the corporate officers and board members for BNI Coal, Ltd., BNI Energy, Inc. and Allete that may have occurred since approval of Revision No. 40 to Permit BNCR-9702. Please also update the BNI Coal, Ltd. organizational chart and list of corporate officers with any changes that may have occurred since approval of Revision No. 40 to Permit BNCR-9702. (WTG/PJR)

Section 1.7 Business Entity Information has been updated.

Section 1.9 - Surface and Coal Ownership

2. Please update the permit area surface and coal interests in Appendix 1.9-1 (Ownership Information) as required by NDCC 38-14.1-14(1)(c)(2), and complete the corresponding updates to Plate 1.9-1 (Surface and Coal Ownership), with any changes that have occurred since the most recent updates with Revision No. 40. (WTG/PJR)

Appendix 1.9-1 and Plate 1.9-1 have been updated as requested.

3. Please update the adjacent surface and coal interests in Appendix 1.9-2 (Adjacent Ownership Information) as required by NDAC 69-05.2-06-01(1)(a), and complete the corresponding updates to Plate 1.9-1 (Surface and Coal Ownership), with any changes that have occurred since the most recent updates with Revision No. 40. (WTG/PJR)

Created Appendix 1.9-2 and updated the adjacent ownerships. Plate 1.9-1 was also updated with the changes.

Section 1.12 - Other Licenses and Permits

4. Please update Section 1.12 (Other Licenses and Permits) as required by NDAC 69-05.2-06-04 with any renewed permits or name changes for the issuing agency. The ND Department of Health is the first agency listed in this section and the agency name can now be changed to the ND Department of Environmental Quality. Also, item a. (Air Pollution Permit to Operate #79004) is shown to have expired on October 19, 2019. (WTG/BEB/JSP)

Section 1.12 has been updated to change the name of the ND Department of Health and to also update the Air Pollution Permit with the renewed dates.

Appendix 1.14-1 - Proof of Liability Insurance

5. The Certificate of Liability Insurance in the permit will expire on 2/1/2020; please add next year's certificate and endorsement (effective 2/1/2020 - 2/1/2021) to Appendix 1.14-1. (WTG/PJR)

Updated with the current certificates. We will not receive a renewed certificate and endorsement policy until February 1, 2020.

Appendix 1-3 - Other Leaseholder Information

6. Please update the listing of easements and leasehold interests, other than coal, of record in Appendix 1-3 if necessary. (WTG/PJR)

No changes necessary.

Plate 2-1 - Extended Mine Plan

7. Please replace Plate 2-1 (Extended Mine Plan) with the most recent Center Mine Extended Mine Plan available when making the Revision No. 41 application as required by NDAC 69-05.2-07-03. (WTG/BEB)

Plate 2-1 has been updated to reflect the latest mine progress and plan.

Section 3.3 - Groundwater

8. 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. Please 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)

There is no new information to narrative or appendixes

9. 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)

There is no new information

10. 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 is no new information

Section 3.4.1 - Area Surface Water Resources

11. Narrative in the first paragraph of Section 3.4.1.1 (Surface Water Data Review) provides a statement regarding the 8 surface water monitoring sites at the mine; however, BNI currently has 9 active surface water monitoring sites that are depicted on Plate 3.4-1A. It is likely that the Section 20 surface water monitoring site was not accounted for in the narrative. Please review and update as necessary. (BEB)

The narrative was changed to reflect 9 SWS located in BNCR-9702.

Section 3.12 - Cultural Resources

12. Item 19 on page 3.12-3 (Cultural Resources) provides perplexing narrative regarding prehistoric cultural resource site 32OL510 located within the NE1/4 of Section 20, Permit BNCR-9702. Testing and evaluation of 32OL510 by Ethnoscience in 2012 determined that Features F2 and F3 of the site are eligible for inclusion into the NRHP and either avoidance or mitigation through data recovery was recommended. The 2012 Ethnoscience report is provided in Appendix 3.12-1 of the permit. Continuing narrative on page 19 states that Ethnoscience was contracted by BNI to conduct data recovery and analyses (mitigation) and that a final report was issued in June 2019. The narrative continues by stating that “*Likewise, on June 1, 2018 Paul Picha, NDSHPO responded that they found the data recovery report to be acceptable*”. Additional narrative states that Site 32OL510 has now been mitigated which allows for disturbance. According to the narrative, SHPO provided its concurrence with the data recovery report in 2018, one year prior to the data recovery project. It appears the June 1, 2018 SHPO correspondence was acceptance of the data recovery plan, not the report. Also, 2018 correspondence between SHPO and BLM is provided, but that correspondence is for an unrelated project. Although the data recovery report is not required to be placed in the permit, SHPO correspondence regarding the report is required. During our Revision No. 40 review and conversations with SHPO, it was determined that the proper procedures were followed

and clearances obtained for 32OL510, but that information needs to be accurately provided in the permit. (BEB)

Item 19 was revised clarifying Site 32OL0510 was mitigated and the SHPO concurrence letter was added to Appendix 3.12

Section 4.1 - Mining Operations and Waste Disposal

13. Please update the Coal Production and Affected Acres table on page 4.1-3 (Mining Operations and Waste Disposal) to provide the estimated annual coal production and land area affected for the next five-year permit term. (WTG/BEB/GAW)

The table has been updated to reflect the tons to be mined and effected acres in BNCR 9702.

14. Please update the equipment listing in Section 4.1 (Mining Operations and Waste Disposal) if necessary as required by NDAC 69-05.2-09-01(1). (WTG/JSP)

The equipment list does not need to be updated at this time. However a new list will be put into the permit closer to the renewal as we have issued a Purchase Order for an additional D11 dozer which should be delivered late 1st quarter of 2020.

Plate 4.1-1 - Pit Layout and Facilities Map

15. Please update Plate 4.1-1 (Pit Layout and Facilities Map) to indicate 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 may have occurred since the plate was last updated with Revision No. 40. (WTG/GAW/JSP/PJR)

Haul roads, access roads, and SPGM stockpiles have been updated. No other changes necessary.

16. Please update Plate 4.1-1 (Pit Layout and Facilities Map) to accurately identify the five-year coal removal subarea that will be mined during the next permit term. (WTG/GAW/JSP/PJR)

The Plate has been updated showing the mine sequence for the next permit term.

Section 4.2 - Existing Structures

17. Please correct the reference to Pond 2-2 in Permit BNCR-8202 being used to support mining in Permit BNCR-9702 in the first paragraph of page 4.2-1. Page 4.6-8 (Surface Water Management Plan) indicates that Ponds 22-2 and 22-10 should be described as existing structures being used to support mining in Permit BNCR-9702. (WTG)

The correction has been made to now read that 22-2 and 22-10 in Permit BNCR 8202 will be used to support mining.

Section 4.6 - Surface Water Management Plan

18. Please update the **New Construction** subsection and **Table 4.6-1** of Section 4.6 (Surface Water Management Plan) to revise construction dates for Ponds 20-1 and 20-2, and Diversions 20-1 and 20-2, from 2019 to 2020. (WTG/JSP/GAW)

Construction dates have been updated in the new construction subsection and Table 4.6-1.

Plate 4.6-1 - Surface Water Management Plan

19. Please update Plate 4.6-1 (Surface Water Management Plan) to revise construction dates for Ponds 20-1 and 20-2, and Diversions 20-1 and 20-2, from 2019 to 2020. Please also update the elevation contour lines to depict the existing topography within the permit area. The elevation contours depicted on Plate 4.6-1 approved with Revision No. 40 date to 2014. (WTG/JSP/GAW)

Construction dates have been updated. BNI is no longer getting routine topographic flights of the entire permit area; as an alternative, we have included pre-mine and post-mine contours and have added current pit hatching.

Section 4.7 - Water Monitoring and Drill Hole Reclamation Plans

20. Narrative under Discharges from NDPDES Points on page 4.7-2 references the ND Health Department and this can now be changed to the ND Department of Environmental Quality. (BEB)

The narrative was changed to reflect the ND DEQ

Section 4.8 - Cultural Resource Protection Plan

21. Please update Section 4.8 (Cultural Resource Protection Plan) to be consistent with successive updates to Section 3.12 (Cultural Resources), or consider vacating Section 4.8 by incorporating the statement required by NDCC 38-14.1-14(1)(u)(6) into Section 3.12. (WTG)

Narrative from 4.8 incorporated into 3.12. Section 4.8 will be vacated.

Section 4.9 - Reclamation Schedule

22. Please review the reclamation schedule and update it if any mine plan changes are anticipated during the next term of the permit. (GAW)

Changes to the reclamation schedule have been made to reflect the latest mine plan sequence. The changes reflect that the 757 will be mining longer in Section 29 due to challenging digging conditions slowing the machine down and thus delaying the transition to the north pit. The 757 is now projected to move north in the 4th quarter of 2020 and continue mining in the north pit through 2025.

Section 4.12 - Revegetation and Post Mining Land Use

23. Please review Section 4.12-3 (Reclamation Information) and revise it if any seed mixtures or tree planting changes are anticipated during the next term of the permit, or if any species composition changes occurred on recent plantings because of species availability. (GAW)

Added stockpile and cover crop seed mixes, changed dates of shelterbelt plantings for 2020 and 2021

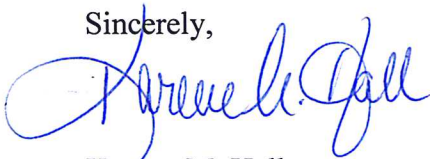
Section 4.14 Reclamation Cost Estimate for Bonding Purposes

24. Please review and update the worst-case reclamation cost estimate for the Center Mine consolidated bond area that includes Permits BNCR-9702, BNCR-8106, BNCR-8202, and BNCR-8602 for the next permit term. (JSP)

The worst case bond map and spreadsheet have been updated. The worst case remains in 2020.

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