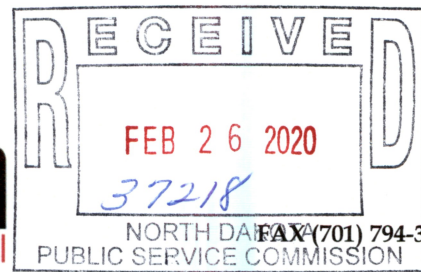


PHONE (701) 355-5588



A BNI ENERGY COMPANY



February 24, 2020

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

RE: Renewal 5 Revision 16 to Permit BNCR-9401

Dear Mr. Moos,

This submittal contains a response to your letter to us dated February 19, 2020. In this letter you listed completeness deficiencies that must be addressed before the Renewal No. 5 and Revision 16 permit applications for BNCR-9401 can be deemed complete. Below is a listing of the deficiencies followed by our response:

**Permit Revision Application (SFN 10562)**

1. Please revise the Revision No. 16 description on page 1 of SFN 10562 to be consistent with the revision descriptions presented in Appendix 1-1 (Revision Summary and List of Changes) and Appendix 1.5-1 (Notice of Publication). (WTG)

*The Revision 16 application has been updated to be consistent with the statements on the Notice of Publication and the List of Changes.*

**Permit Renewal Application (SFN 10566) and Renewal Request**

2. Please remove the statement "The revision depicts the next five year term." from the first paragraph of the Renewal No. 5 Request that is not applicable to NDAC 69-05.2-11-03(5). (WTG)

*The Renewal statement has been revised as suggested.*

**Appendix 1.5-1 Notice of Publication**

3. Please revise the first paragraph of Appendix 1.5-1 as follows: remove the word "an" from the phrase "has submitted an applications"; and, remove the redundant statement of "This permit area is located in Oliver County, North Dakota." (WTG/JAR/JSP)

*The Notice of Publication has been revised as suggested.*

### **Plate 1.5-2 Landowner Notification Map**

4. Please update the landowner notification map to reflect the current permit boundary. (PJR/JSP)

*The Landowner Notification Map is updated only when acreage is being added to the permit and sent out to landowners. No modifications are necessary at this time.*

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

5. Please review the coal ownership in the NW1/4 of Section 8 on page 1-24 that lists “Daryl & Loretta Tabor”, which is not consistent with the coal ownership of “Loretta Tabor” listed in both Appendix 1.5-1, Notice of Publication, and on Plate 1.9-1, Surface and Coal Ownership. Revise as appropriate. (JSP)

*The listing in the Legal and Financial section as Daryl & Loretta Tabor is correct. The coal lease for Daryl & Loretta Tabor has been added to Appendix 1-2, Appendix 1.5-1 Publication Notice has been updated with the change as well as Plate 1.9-1 Ownership Map.*

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

6. Please update the effective date of North Dakota Pollution Discharge Elimination System (NDPDES) Storm Water Permit #NDR32-0009 issued by the ND DEQ, expiration date 12/31/19. If the NDPDES storm water permit issuance is pending, please provide information on its status. (JAR/JSP)

*The expiration date for the NDPDES Storm Water Permit has been updated to 2024.*

7. In the fourth paragraph of the Solid Waste Permits Held by MPC, special waste landfill permit SP-040 is referenced. However, Permit SP-159 is referenced in the second sentence. Please clarify the reference to SP-159 in this paragraph. (JAR)

*The reference to Permit SP-159 has been changed to reference Permit SP-040.*

8. Please update the effective date of the ND Geological Survey, Coal Exploration Permit #OLV 79-18-516, expiration date 02/21/20, if a request for another NDGS permit has been filed. (JAR/JSP)

*No update at this time.*

9. The Bureau of Alcohol, Tobacco, Firearms and Explosives ATF-FEL License held by Specialized Blasting Services, Inc. is shown as expired on August 1, 2019. Please provide updated license information. (JSP)

*The expiration of the explosives license for SBS has been updated to 2022.*

### **Section 1.14 - Proof of Liability Insurance**

10. The liability insurance covering commercial general liability and automobile liability is shown as expired on February 1, 2020. Please provide an updated certificate of liability insurance. (PJR/JSP)

*The Certificate of Liability Insurance has been updated with the most recent certificate. The insurance company was unable to provide the Notice of Cancellation at this time and will forward it to us when they receive it.*

### **Section 3.4 – Surface Water**

11. Follow-up to pre-renewal review item No. 9: The stated changes to the Surface Water Sampling Site Location Map in Appendix 3.4-1 were not made. Surface water monitoring site Section 20 SWS was not added to the map and the BNCR-9702 permit boundary was neither revised nor removed. Please review and provide the requested updates. (BEB/JAR)

*There was a naming and linking discrepancy which has now been resolved. The link now opens the updated map.*

In addition, the following technical deficiencies were noted during our completeness review. They can be addressed with the review response or with the technical review.

1. In section 4.15 the footer references “Revision 41 01-17-2020”. Please correct with Revision 16 and applicable date. (JAR)

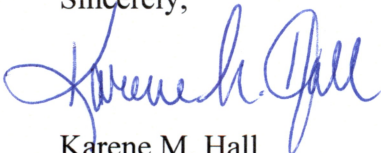
*The footer revision and date have been corrected.*

2. Under Socioeconomic Information in Section 4.15, the first sentence references BNCR-9702 permit area. Please correct with the BNCR-9401 permit area. (JAR)

*The permit area has been changed to reference BNCR-9401.*

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



# APPLICATION FOR REVISION OF PERMIT TO ENGAGE IN SURFACE COAL MINING AND RECLAMATION OPERATIONS

PUBLIC SERVICE COMMISSION  
RECLAMATION DIVISION  
SFN 10562 (1-2004)

February 20, 2020

Date	January 20, 2020
Revision Number	16
State	ND
Zip Code	58530-9499

Name of Company, Corporation, Partnership, or Individual BNI Coal, Ltd.	Permit Number BNCR-9401	Revision Number 16
Address 2360 35th Avenue SW	City Center	State ND
		Zip Code 58530-9499

The above named hereby makes application for the above Revision Number to: (include a brief description of the surface coal mining and reclamation operation being revised.)

Update the legal and financial, operations, reclamation, and surface water management sections, the extended mine plan, and the worst case bond estimate, all in response to a permit renewal.

Attached to this Permit Revision Application are a narrative describing the proposed permit revision, reasons for requesting the revision, and appropriate maps, cross-sections, graphs, construction details, revised reclamation plans and other data which demonstrate compliance with Chapter 38-14.1 of the North Dakota Century Code, Article 69-05.2 of the North Dakota Administrative Code, and the permit conditions of the approved permit. If an incidental boundary revision involving an acreage adjustment is being requested as part of the permit revision application, the following information shall be included (attach a copy of a metes and bounds description):

NAME OF MINE	ACRES	LOCATION			
		SEC.	TWP.	RANGE	COUNTY
ADDRESS					
<b>TOTAL ACRES</b>					

Based upon the proposed changes and any incidental boundary revisions to the permit as stated herein, a new or adjusted bond, or its equivalent, duly executed in accordance with Section 38-14.1-16 of the North Dakota Century Code and Chapter 69-05.2-12 of the North Dakota Administrative Code will be delivered to the Public Service Commission prior to issuance of the surface coal mining and reclamation operations permit herein requested. A check for filing fees, pursuant to Section 38-14.1-13 of the North Dakota Century Code, in the amount of \$ 0, is included with the revision application.

Name of Official Authorized to Represent the Applicant  
**Karene M. Hall**

I, the above named, certify that:

1. All information and documents required by Sections 38-14.1-13, 38-14.1-14, and 38-14.1-15 of the North Dakota Century Code and Article 69-05.2 of the North Dakota Administrative Code, are submitted as part of this permit application;
2. Information and documentation contained in the permit application affirmatively demonstrate that:
  - a. The permit revision application is accurate and complete and all the requirements of Chapter 38-14.1 of the North Dakota Century Code and Article 69-05.2 of the North Dakota Administrative Code have been complied with;
  - b. Reclamation as required by Chapter 38-14.1 of the North Dakota Century Code and Article 69-05.2 of the North Dakota Administrative Code can be accomplished under the reclamation plan contained in this permit revision application;

### **Renewal No. 5 Request**

This renewal is being requested because this permit is where some active topsoil and subsoil removal activity occurs and future mining will be conducted and is due to expire.

The bond for this area is sufficient and will continue for the renewal period. Liability insurance is provided and will be renewed on a yearly basis throughout the renewal period.