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A BNI ENERGY COMPANY

December 18, 2023

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

Dear Mr. Emmer,

This submittal contains a response to your Technical Review 7 letter to us dated December 15, 2023. In this letter you listed technical deficiencies that must be addressed before the Revision 8 application to BNCR-1101 can be approved. Below is a listing of the deficiency followed by our response:

Section 4.1 – Operations Plan

1. Follow-up to Item No. 8: A mining setback waiver has been obtained for the Keith Ruether farmstead in the NW¼ of Section 19, T141N, R83W, but Plates 4.1-1 (Pit Layout and Facilities Map) and 4.2-1 (Existing Structures Map) still depict the 500-foot buffer around the farmstead as unsuitable for mining. Please depict the 500-foot buffer zones around all farmsteads differently if the landowner has waived the 500-foot setback. Currently, as described in the legend in Plate 4.1-1, the buffer zone around the Keith Ruether farmstead is *Unsuitable for Mining*. (JWE/JAR)

A new layer "Landowner Waiver" was created. Because each waiver may not be for the same buffer, a footage is not specified on this map and the legend instead directs to Section 4.2-1. The hatching around this property has been changed to reflect the acquisition of a landowner waiver.

2. Follow-up to Item No. 8: Please remove the 500-foot setback around Kent Ruether's previous farmstead in the NE¼ of Section 24, T141N, R84W on Plates 4.1-1 (Pit Layout and Facilities Map) and 4.2-1 (Existing Structures Map) since it has been purchased by BNI. (JWE/JAR)

Kent Reuther and Keith Reuther farmstead buildings are intermingled that 500' setback remains around the two comingled farmsteads but with the updated label of having a "Landowner Waiver".

3. Follow-up to Item No. 8: A mining setback waiver has been obtained for the David Porsborg farmstead in the NW¼ of Section 24, T141N, R84W, but Plates 4.1-1 (Pit

Layout and Facilities Map) and 4.2-1 (Existing Structures Map) still depict the 500-foot buffer around the farmstead as unsuitable for mining. Please depict the 500-foot buffer zones around all farmsteads differently if the landowner has waived the 500-foot setback. Currently, as described in the legend in Plate 4.1-1, the buffer zone around the David Porsborg farmstead is *Unsuitable for Mining*. (JWE/JAR)

The hatching around this property has been changed to reflect the acquisition of a landowner waiver.

4. Follow-up to Item No. 8: A mining setback waiver has been obtained for the Charles Kuether Farmstead in the SW $\frac{1}{4}$ of Section 19, T141N, R83W, but Plates 4.1-1 (Pit Layout and Facilities Map) and 4.2-1 (Existing Structures Map) still depict the 500-foot buffer around the farmstead as unsuitable for mining. Please depict the 500-foot buffer zones around all farmsteads differently if the landowner has waived the 500-foot setback. Currently, as described in the legend in Plate 4.1-1, the buffer zone around the Charles Kuether farmstead is *Unsuitable for Mining*. (JWE/JAR)

The hatching around this property has been changed to reflect the acquisition of a landowner waiver.

Section 4.2 – Existing Structures

5. Follow-up to Item No. 11: The county road numbers (i.e. 37th Avenue SW) are not correctly aligned with the corresponding roads on Plate 4.2-2 (Existing County Road Infrastructure Photos). Furthermore, it was noticed that 35th Ave SW and 37th Ave SW are incorrectly depicted as streets instead of avenues. Please revise Plate 4.2-2 (Existing County Road Infrastructure Photos) to correct these errors. (BSM)

Updated road names for the roads in Revision 8 addition area.

6. Follow-up to Item No 14: St. Lucas Cemetery is depicted on Plate 4.2-1 (Existing Structures Map). Please either remove the cemetery from Plate 4.2-1 or provide information on Plate 4.2-1 clarifying that St. Lucas Cemetery is the historical location but has been relocated. Also, the St. Lucas cemetery narrative on page 4.2-5 in Section 4.2 (Existing Structures) states that its location is in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 18, T141, R83W and currently has a 100- foot setback. Please update the St. Lucas Cemetery narrative to state its current status. (JAR)

Removed previous narrative regarding 100' setback as it has been purchased and site mitigated. Cemetery removed from Plate 4.2-1, in line with updates from Revision 11 to remove it from Plate 3.12-1.

Additionally, the powerline layer was thawed and a layer was added to the legend/map for farmsteads with setback waivers.

Section 4.11 – SPGM Removal and Replacement

7. Follow-up to Item 24: It appears that Table 4.11-1 (SPGM Respread Depths by Ownership within the Mining Disturbance Boundary) was not replaced with the correct version as stated in the technical review No. 7 response by BNI submitted on November 15, 2023. Please replace Table 4.11-1 (SPGM Respread Depths by Ownership within the

Mining Disturbance Boundary) with the correct version if no changes were intended.
(JAR/SMN)

In the response to the Tech 7 review of Revision 8 we reincorporated the version from the Tech 6 review. We also tried to call out that we did make an acreage change for the Residence in the NE ¼ of Section 14-141-84 because of a mining disturbance change because of a modified setback agreement made with the landowner. We tried to call out this change in the table by highlighting the Lackman ownership in yellow. Since we had to make changes to the mining disturbance boundary around that residence we thought we should get the table to reflect that. If you reverse the changes we highlighted in yellow it should show that the values matched the version that was in the tech 6 review response. The SPGM Surplus/Deficit in the tech 6 review had a value of -118,842, with a total surplus/deficit of 3,056,473 CY. The highlighted change we made in Tech 7 now has a value of 49,341, with a total of 3,224,656 CY. The difference between the values 168,183 and if you subtract that number from 3,224,656 you will get 3,056,473 CY which matches the Tech 6 version. We just wanted to provide you with verification of the version we reincorporated and worked off of to make the update to the Lackman ownership (the correct table is located on page 2 and page 4 of the Section 4.11 narrative). No changes were made this review to the narrative or table, just clarification on the submittal from Tech 7 review.

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