

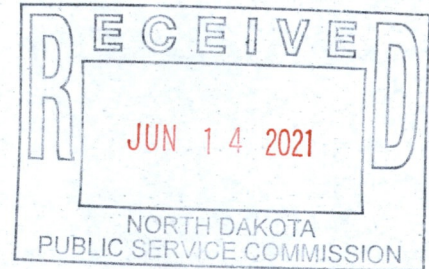
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June 14, 2021

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



RE: Revision 17 to Permit BNCR-9401

Dear Mr. Moos,

This submittal contains a response to your technical review letter to us dated June 1, 2021. In this letter you listed technical deficiencies that must be addressed before the Revision 17 application to BNCR-8106 can be approved. Below is a listing of the deficiencies followed by our response:

**Section 1 – Legal and Financial**

1. Blasting narrative under Item No. 5 in Section 1.12, Other Licenses and Permits, states that the Blasting Agent is stored in Section 18-141-83 and the Explosives are stored in Section 5-141-83, both in Permit BNCR-1101. Updates to Permit BNCR-1101 with Revision No. 8 now indicate the Blasting Agent is stored in the SW1/4 of Section 13 and is no longer stored in Section 18. Please review and update the narrative as necessary. (BEB)

*The Blasting Agent storage location has been changed in Section 1.12 to Section 13-141-84.*

2. Item No. 7 under Other Licenses and Permits in Section 1.12 states the coal exploration permit expires 3/4/2021. Since that date has come and gone the narrative can now be changed to state expired unless it has been renewed, in which case please provide a new expiration date. (BEB)

*The coal exploration permit dates have been updated.*

3. Please add a copy of the federal coal lease for Section 8 filed with the Oliver County Recorder to Appendix 1-2 (Certified Copies of Leases and Assignment Documents, Article of Amendment to Articles of Incorporation) as required by NDAC 69-05.2-06-03(1). (WTG)

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Applicant's response to first technical review letter  
BNI Coal, Ltd.  
Karene Hall

*A recorded copy of the Federal Coal Lease NDM 105513 has been added to Appendix 1-2.*

### **Appendix 1-1 – Revision Summary – List of Changes**

4. The internet browser tab is labeled as “Revision 8 Summary”. Please correct the internet browser tab label to “Revision 17 Summary”. (JAR)

*After a discussion with PSC staff, it was determined that these errors were occurring when the electronic permit was opened with another browser instead of Internet Explorer. When the PSC staff opened the permit in Internet Explorer it displayed the tab name correctly.*

### **Section 3.2 - Geology**

5. Geology narrative in the last paragraph on page 3.2-3 states that drill hole data from the federal coal tract located in the NE1/4NE1/4 of Section 8 will be provided once a lease is obtained. Now that the lease has been obtained and the drill hole data has been provided in the permit, please update the narrative accordingly. (PJR/BEB)

*The narrative was updated to notify about lease approval and compliance with geologic permitting requirements*

### **Appendix 3.2-1 – Lithologic and Geophysical Logs**

6. Follow-up to completeness item No. 8. Information regarding drillhole 21-M001 was correctly moved from Geophysical Logs to the Lithologic Logs subsection; however, the “Listing of Drillholes” on page 2 of Appendix 3.2-1 was not updated with drill hole 21-M001 as was indicated in your response. (BEB)

*The “Listing of Drillholes” was updated to include 21-M001*

### **Appendix 3.2-2 – Chemical and Physical Analyses of Overburden**

7. The hyperlink for drillhole #21-M001 takes the reader to a chemical analysis lab sheet; however, the lab sheet only provides a purchase order number, account number, reference number and lab number.; there is no identifying number on the lab sheet indicating this analyses is for drillhole 21-M001. It was also noted there are no depths provided for the two sample interval analyses on the report. At a minimum, please hand write the drill hole number on top of the lab sheet and indicate the depth intervals for which the chemical analyses were sampled and analyzed. (BEB)

*The lab sheet was updated with drillhole number along with sampling intervals for which the analysis corresponds with.*

### **Section 4.1 – Coal Removal**

8. Update Appendix 4.1-1 (Equipment List) with the most current data. (JWE)

*The list has been updated as suggested.*

#### **Section 4.1-1 – Pit Layout and Facilities Map**

9. The internet browser tab is labeled as “Revision 14 Delete Undisturbed Acres”. Please correct the internet browser tab label to “Revision 17 Pit Layout and Facilities Map” or similar as applicable. (JAR)

*After a discussion with PSC staff, it was determined that these errors were occurring when the electronic permit was opened with another browser instead of Internet Explorer. When the PSC staff opened the permit in Internet Explorer it displayed the tab name correctly.*

10. The map legend identifies several pond types (Proposed MSHA Class Sedimentation Ponds, Proposed Sedimentation Ponds, and Future Sedimentation Ponds) being depicted on the map. Please add “Existing Ponds” to the map legend and update the depicted ponds on the map accordingly. (JAR)

*The legend has existing ponds/diversion, proposed ponds/diversion, and future ponds/diversion. BNI will be working to standardize the colors and legends of all permits.*

#### **Section 4.14 – Reclamation Cost Estimate for Bonding Purposes**

11. Subsoil stockpile MI5S09 is listed in Appendix 4.14-1 (Worst Case Bond Estimate) but it is not shown on Plate 4.14-1 (Worst Case Bond Map). According to the 2013 annual map, this stockpile was respread in 2013. Please remove this stockpile from Appendix 4.14-1 and make the necessary changes. (JWE)

*The stockpile has been removed from the appendix.*

12. The second paragraph on page 1 of Section 4.14 (Reclamation Cost Estimate for Bonding Purposes) states that the bond condition will be in 2020 at the close of the permit term. The permit term for BNCR-9401 expires on August 16, 2025. Please update Section 4.14 (Reclamation Cost Estimate for Bonding Purposes), Plate 4.14-1 (Worst Case Bond Map), and Appendix 4.14-1 (Worst Case Bond Estimate) if the worst case cost estimate changes at the close of the permit term. (JWE)

*The paragraph now reads that 2023 will be the worst case after construction of Ash Cell 5. Plate 4.14-1 has been update to show the anticipated disturbance areas remaining after construction and the ash cell cap work that was done on Ash Cell 2. Likely additional capping work will be done on the previous ash cells but the timing is unclear at this time, so the area shown is what is currently present.*

#### **Section 4.7 – Water Monitoring and Drill Hole Reclamation**

13. The internet browser tab is labeled as “4”. Please correct the internet browser tab label to “Section 4.7 Water Monitoring and Drill Hole Reclamation Plans”. (JAR)

*After a discussion with PSC staff, it was determined that these errors were occurring when the electronic permit was opened with another browser instead of Internet Explorer. When the PSC staff opened the permit in Internet Explorer it displayed the tab name correctly.*

14. Please revise the footer on page 4.7-2 with "Revision 17". (JAR)

*The section was not updated, therefore the only revision was to Table 4.7-1, so the last approved revision remains on the footer.*

#### **Table 4.7-1 – Ground Water Monitoring Well Information**

15. BNI indicates that updates to Table 4.7-1 were made; however, updates to the table are not apparent on the spreadsheet. Please highlight the specific updates on the table so that we can also revise our GIS ground water database accordingly. Additionally, please change the header date at the top of the table from (2020) to (2021). (PJR/BEB)

*The table was added with the C1 wells, and the header was changed as requested*

#### **Section 4.9 – Reclamation Schedule**

16. The internet browser tab is labeled as "4". Please correct the internet browser tab label to "Section 4.9 - Reclamation Schedule". (JAR)

*After a discussion with PSC staff, it was determined that these errors were occurring when the electronic permit was opened with another browser instead of Internet Explorer. When the PSC staff opened the permit in Internet Explorer it displayed the tab name correctly.*

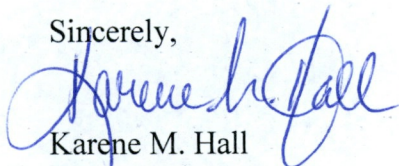
#### **Section 4.10 - Regrading Plan**

17. Please revise Plate 4.10-1 (Post-Mining Topography) to depict the postmine topography for the entire area of Ash Cell 5 as required by NDAC 69-05.2-05-02(1). The current postmine topography for Ash Cell 5 is essentially limited to federal coal ownership that constitutes only about one-half of the Ash Cell 5 area depicted on Plate 4.1-1 (Pit Layout and Facilities Map). (WTG/PJR)

*Plate 4.10-1 shows the post mine topography design having all the ash cells capped including Ash Cell 5 and 6.*

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