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NORTH DAKOTA
PUBLIC SERVICE COMMISSION

March 10, 2023

Ms. Zanna Brinkman, Director
Reclamation Division, NDPSC
Department 408
600 East Boulevard Avenue
Bismarck, ND 58505-0480

RE: Renewal 8/Revision 59 to Permit BNCR-8106

Dear Ms. Brinkman,

This submittal contains a response to your technical review letter to us dated February 27, 2023. In this letter you listed deficiencies that must be addressed before the Renewal 8/Revision 59 application to BNCR-8106 can be approved. Below is a listing of the deficiencies followed by our response:

Certificate of Liability Insurance

1. Please replace the expired Certificate of Liability Insurance with the current version. (JAR)

The current version of the Certificates of Liability Insurance are included in the submittal.

Section 4.6 - Surface Water Management Plan

2. Follow-up to item No. 10 of our pre-renewal review letter dated October 31, 2022: BNI's response to item No. 10 proposes to delete two paragraphs of information pertaining to sediment pond P31-1, and to delete sediment ponds 23-6, 25-1, 25-2 lower cell, 25-3, 31-1, and 35-1 from the narrative stating which ponds landowners have requested to be retained as permanent structures. Please revise the narrative so that historical information regarding these ponds is retained in the permit and clarify if sediment pond 35-10 has been converted to a developed water resource. (GAW)

The paragraph has been changed to reflect which ponds have been bond released.

3. The last sentence on page 4.6-3 in Section 4.6 (Surface Water Management Plan) incorrectly cites the ND Department of Water Quality. Please correct this typographical error to the ND Department of Water Resources. (JAR)

The change has been made as suggested to ND Department of Water Resources.

Section 4.9 – Reclamation Schedule

4. Please add Ponds 25-1 and 31-1, reclamation dates, and bond release information to the table on page 4.9-2 in Section 4.9 (Reclamation Schedule). (JAR)

Pond 25-1 was bond released from Permit 37 in October of 1992 and has been added to the reclamation schedule. Pond 31-1 was bond released with BR No. 4 in 2002 and it has been added to the reclamation schedule.

Section 4.13 - Fish and Wildlife Resources Protection and Enhancement Plan and Fish and Wildlife Monitoring Plan

5. Follow-up to item No. 17, 18, and 19 of our pre-renewal review letter dated October 31, 2022: BNI proposes to add a paragraph to the Fish and Wildlife Monitoring Plan to address Items 17, 18, and 19 of our pre-renewal review letter rather than the Fish and Wildlife Resource Protection and Enhancement Plan. As previously requested, please update the Fish and Wildlife Resource Protection and Enhancement Plan with language stating that BNI will periodically utilize the USFWS IPaC site to reassess the proposed and listed species in Oliver County. Also, please update the narrative to clearly state that no surface mining activities will be conducted that may jeopardize the continued existence of any proposed, threatened, or endangered species; and that no mining activities will be conducted in a manner that would result in the unlawful taking of bald or golden eagles, their nests, or their eggs as required by NDAC 69-05.2-10-03(6)(d). (GAW)

Moved paragraph pertaining to iPAC and T&E species into the Protection and enhancement plan section. Added separate paragraph addressing take of raptors and nests.

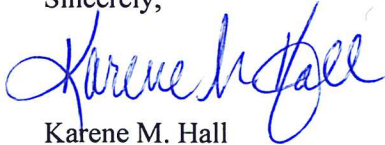
Section 4.14 – Reclamation Cost Estimate for Bonding Purposes

6. As stated in our February 21, 2023 email, the updated worst case bond estimate for the consolidated bond area (BNCR-9702, 8602, and 8106) can be addressed in response to the midterm review letter for BNCR-9702 so a separate revision is not required to update the worst case bond estimate.

The worst case bond will be updated in the midterm review of BNCR 9702 as suggested.

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