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April 16, 2024

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

NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

Dear Mr. Emmer,

This submittal contains a response to your Technical Review 2 letter to us dated April 12, 2024. In this letter you listed technical deficiencies that must be addressed before the Renewal 2 and Revision 11 application to BNCR-1101 can be approved. Below is a listing of the deficiency followed by our response:

**Section 4.6 – Surface Water Management Plan**

1. Follow-up to Item No. 30a: Please review the horizontal scale for the diversion profile of Plate 4.6-58A within Appendix 4.6-58 (Design of Diversion D-16-4) as it appears it should depict 100' instead of 150'. Please correct this error. (BSM)

*Vertical scale label was corrected to 30'=1". Horizontal scale was correct.*

2. Follow-up to Item No. 30d: The diversion profile in Plate 4-6-58A within Appendix 4.6-58 (Design of Diversion D-16-4) depicts the last section that includes riprap having a longitudinal slope of 7.7%. However, the Diversion Design Information Sheet on Page 2 and the HydroCAD data sheets within Appendix 4.6-58 depicts this area with a slope of 7.42%. Please update accordingly so the design calculations and the map are consistent. (BSM)

*Slope label was corrected to show 7.42% on Plate 4.6-58A.*

**Section 4.10 – Regrading Plan**

3. Follow-up to Item No. 32: Please review the slope analysis comparison table in Plate 4.10-2 (Post Mining Area Slope Map) to ensure the post-mining acres reflect the topographic changes. (JWE)

*The slope analysis comparison table on Plate 4.10-2 was reviewed for accuracy. The slope analysis was run multiple times to verify. Minor updates were made to the table with a few of the slope ranges changing +/- one to three acres. We did also notice the*

*variance between the comparison tables between the completeness review and technical review 1 seemed larger than would have been expected with such minor topography changes. For that reason we went back and reviewed the table submitted in Plate 4.10-2 following the completeness review. When running the slope analysis again we ended up getting values as shown in the table below which differ from the completeness review version. When comparing this table with the version from technical review 1 & 2 the acreage changes appear more realistic to the minor topography changes made in the tech 1 response. These values also appear to better match values from Revision 8.*

	A	B	C
1	<b>SLOPE ANALYSIS COMPARISON</b>		
2	<b>SLOPE ZONE</b>	<b>PRE-MINING AREA (ACRES)</b>	<b>POST-MINING AREA (ACRES)</b>
3	0.0 – 3.0%	1,857	1,744
4	3.0 – 6.0%	2,641	3,337
5	6.0 – 9.0%	1,415	1,429
6	9.0 – 12.0%	621	332
7	12.0 – 15.0%	260	100
8	15.0 – 18.0%	117	39
9	> 18.0%	94	24
10	TOTAL	7,005	7,005
11	AVG. SLOPE	5.5%	4.9%

	A	B	C
1	<b>SLOPE ANALYSIS COMPARISON</b>		
2	<b>SLOPE ZONE</b>	<b>PRE-MINING AREA (ACRES)</b>	<b>POST-MINING AREA (ACRES)</b>
3	0.0 – 3.0%	1,857	1,734
4	3.0 – 6.0%	2,641	3,348
5	6.0 – 9.0%	1,415	1,453
6	9.0 – 12.0%	621	313
7	12.0 – 15.0%	260	97
8	15.0 – 18.0%	117	38
9	> 18.0%	94	22
10	TOTAL	7,005	7,005
11	AVG. SLOPE	5.5%	4.9%

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

The following deficiencies are in reference to the most updated version of Section 4.14 provided to the Reclamation Division via email on April 9, 2024:

4. Please review and verify the stockpile volumes on Pages 2 and 3 of Appendix 4.14-1 (Worst Case Bond Estimate – 2028) are depicted in the correct column for topsoil and subsoil. It appears the following stockpiles are not within their correct columns: NE07S01, NW17T01 PF, NW9S03, NE09T01, NE09S02, NE16S01, SE21S02, SE21S05, NW20S01. (BSM)

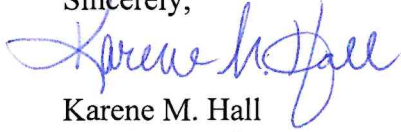
*The sections on pages 2 and 3 of Appendix 4.14-1 were reviewed for additional necessary corrections. The stockpiles noted in the deficiency above have been corrected. Some additional corrections were made regarding a few stockpile names, a few stockpile quantities, haul distances, and removal of some stockpiles that corresponded with areas where reclamation is projected to be completed. In addition, Plate-4.14-1, was updated. The changes consist of updating a few stockpile volumes on the map to match the worst case bond estimate replacing prime farmland respread boundaries to match Plate 4.10-1. The Revision Summary and list of changes was updated to identify the changes in more detail and are highlighted in cyan.*

5. The table on top of Page 5 of Appendix 4.14-1 (Worst Case Bond Estimate – 2028) refers to county road reconstruction estimates, but it only specifies fill volumes of “Overburden Vol. Fill.” Additionally, a note below the table explains that it calculates the rehandle necessary for constructing county road segments disturbed by mining, but it lacks further details on topsoil or subsoil volumes. Further clarification or inclusion of topsoil and subsoil volumes, either within the table or in the note, is suggested. (BSM)

*To provide clarity, BNI has separated out "roadway embankment fill volume" and "topsoil respread/stripping volumes" required for county road reconstruction. Previously, these were all accounted for as a factor of the "overburden vol. fill" which was an inaccurate term. Additional notes were added beneath this section to add detail as well.*

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