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A BNI ENERGY COMPANY

May 22, 2025

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

RE: Revision 19/Renewal 6 to Permit BNCR-9401

Dear Mr. Emmer,

This submittal contains a response to your technical review letter to us dated May 8, 2025. In this letter you listed technical deficiencies that must be addressed before the Revision 19/Renewal 6 application to BNCR-9401 can be approved. Below is a listing of the deficiencies followed by our response:

Section 2.0 – Extended Mine Plan

1. Plate 2.1 (Extended Mine Plan) does not depict mining in Sections 29 and 30, T141N, R83W, whereas the February 28, 2025 version included with Revision 12 to Permit BNCR-1101 depicts mining in these areas. Please review and revise if necessary. (GAW, BSM)

Plate 2.1 has been updated to show intended mining in sections 29 and 30 which falls outside of the current permit boundary. This will depict the mining areas similar to how it is displayed in permit BNCR-1101. The version included in Revision 12 to Permit BNCR-1101 appears to still be from 2024 and not updated to the 2025 submittal.

Section 4 – Operations

2. The access road for Ash Cell 5 is delineated differently in Plate 4.1-1 (Pit Layout and Facilities Map) and Plate 4.5-1 (General Transportation Plan). If a portion of this access road is no longer applicable due to Ash Cell 5's construction, please review and revise Plate 4.1-1 and/or Plate 4.5-1 as necessary to ensure consistency and to mitigate potential confusion for the next permit term. (BSM)

Plate 4.5-1 displayed the correct access road alignment, so Plate 4.1-1 was corrected to depict the accurate alignment. Both Plates, 4.5-1 and Plate 4.1-1, were updated to remove the portions of the access road that no longer exist.

3. The second sentence of the second paragraph in Section 4.14 (Reclamation Cost Estimate for Bonding Purposes) references Ash Cell 2; however, neither Plate 4.1-1 (Pit Layout and Facilities Map) nor Plate 4.14-1 (Worst Case Bond Map) delineates Ash Cell 2 for reference. Please review

and revise the narrative and/or Plates 4.1-1 and 4.14-1 to ensure Ash Cell 2 is clearly identified. (BSM)

The reference to Ash Cell 2 has been removed as that reclamation has been completed. The boundaries of existing Ash Cells 3, 4, and 5 are included in both Plate 4.1-1 and Plate 4.14-1 for additional clarity.

Additional Item: Plate 4.1-1 also depicts D-5-1 following the construction of Ash Cell 4 as addressed in deficiency #4 under Section 4.6.

Section 4.6 – Surface Water Management Plan

4. Plate 4.6-1 (Surface Water Management Plan) depicts Diversion D-5-1 extended to the south along the east side of Ash Cell 5. However, no updates have been made to Appendix 4.6-2 (Design Details – Diversion 5-1) regarding this portion of D-5-1. Please review and verify that all updated information is included in the narrative and design information within Appendix 4.6-2 and make any necessary revisions. (BSM)

Plate 4.6-1 has been updated to show that Diversion 5-1 was shortened during the construction of Ash Cell 4. Runoff is controlled through BMPs managed by Minnkota Power Cooperative.

This update led to the update to Appendix 4.6-2 Diversion D-5-1. Plate 4.6-7 was updated to show existing contours of Ash Cell 4 and shows the beginning of D-5-1 at STA 8+00. The narrative was updated to explain the changes, however, the original design is still shown. This Diversion has been bond released.

Section 4.7 – Water Monitoring and Drill Hole Reclamation Plans

5. Appendix 1-1 (Revision Summary and Lists of Changes) states that the narrative was updated in Section 4.7 (Water Monitoring and Drill Hole Reclamation Plans); however, no updates to the narrative in Section 4.7 are apparent. Please review and make the necessary updates to Section 4.7 if revisions were intended as indicated in Appendix 1-1. (JAR)

The narrative updates to Section 4.7 as indicated in Appendix 1-1 were from a previous permit renewal and do not reflect changes made in Renewal 19 Revision 6. The statement indicating the narrative was updated have been removed.

Section 4.14 – Reclamation Cost Estimate for Bonding Purposes

6. Plate 4.14-1 (Worst Case Bond Map) delineates MSHA sediment pond P-5-6 without the emergency overflow, which is located within Permit BNCR-9401. Although reclamation of P-5-6 is addressed within Permit BNCR-1101, please update Plate 4.14-1 to delineate the emergency overflow. (BSM)

The spillway has been added to the plate.

7. The boundaries of permanent sedimentation ponds P-5-3, P-5-4, and P-5-5 are not delineated on Plate 4.14-1 (Worst Case Bond Map). Please revise Plate 4.14-1 to include the boundaries of these permanent sedimentation ponds. (BSM)

The pool areas for P-5-1, P-5-3, P-5-4 and P-5-5 have been added to the plate.

8. Section 4.14 (Reclamation Cost Estimate for Bonding Purposes) states that the worst-case bonding scenario is projected to occur in 2025. However, Plate 4.14-1 (Worst Case Bond Map) does not

delineate existing subsoil stockpile NE8S01 or existing topsoil stockpiles NE8T02 and NW8T01-PF within Permit BNCR-9401. Although these stockpiles are designated for reclamation under Permit BNCR-1101, please delineate them within Plate 4.14-1. Additionally, please include a reclamation note in Plate 4.14-1, similar to the one used for MSHA Pond 5-6, to clearly document the intended handling of these existing stockpiles. (BSM)

These stockpiles have been added to the plate and a note was included to specify their use in reclamation of BNCR 1101.

9. Appendix 4.14-1 (Worst Case Bond Estimate) includes a sub-note* referencing the “ND Dept. of Health” at the bottom of page one. Please update this reference to reflect the current name “ND Dept. of Environmental Quality.” (BSM)

The note has been updated to environmental quality.

Thank you for your consideration of this matter. If you have any questions regarding this submittal, please contact me at the Center office.

Sincerely,

Greg Petrick
Environmental Supervisor

cc: Jonathan Rudnick
PSCrecfilings@nd.gov