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A BNI ENERGY COMPANY

February 26, 2025

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NORTH DAKOTA
PUBLIC SERVICE COMMISSION

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

RE: Renewal 6 Revision 19 to Permit BNCR-9401

Dear Mr. Emmer,

This submittal contains a response to your letter to us dated November 18, 2024. In this letter you listed completeness deficiencies that must be addressed before the Renewal No. 6 and Revision 19 permit applications for BNCR-9401 can be deemed complete. Below is a listing of the deficiencies followed by our response:

Section 1.7 - Business Entity Information

1. Please update Section 1.7 (Business Entity Information) with any changes to the corporate officers and board members for BNI Coal, Ltd., BNI Energy, Inc. and ALLETE that may have occurred since the approval of Revision No. 18 to Permit BNCR-9401. Also, please update the BNI Coal, Ltd. organizational chart and list of corporate officers with any changes that may have occurred since the approval of Revision No. 18 to Permit BNCR-9401. (JAR/PJR/BSM/AAC)

Section 1.7 Business Entity Information has been updated to remove Jeff Scissons from the list. He was never confirmed into the Treasurer position. Steven Morris is the current acting treasurer. Updated the Organization Chart for BNI to include Gregory Petrick and the Environmental Manager replacing Rylan Sundsbak.

Section 1.9 - Surface and Coal Ownership

2. Please update the permit area surface and coal interests in Appendix 1.9-1 (Ownership Information) as required by NDCC 38-14.1-14(1)(c)(2) and complete the corresponding updates to Plate 1.9-1 (Surface and Coal Ownership) and Appendix 1-2 (Certified Copies of Leases and Assignment Documents, Article of Amendment to Articles of Incorporation) with any changes that have occurred since the most recent updates with Revision No. 18. (JAR/PJR/BSM/AAC)

2 RC-25-81 Filed 02/26/2025 Pages: 5
Response Permit Pre-Renewal Review Letter
BNI Coal, Ltd.
Karene M. Hall

No changes are necessary.

3. Please update the adjacent surface and coal interests in Appendix 1.9-2 (Adjacent Ownership Information) as required by NDAC 69-05.2-06-01(1)(a) and make the corresponding updates to Plate 1.9-1 (Surface and Coal Ownership) and Appendix 1-2 (Certified Copies of Leases and Assignment Documents, Article of Amendment to Articles of Incorporation) with any changes that have occurred since the most recent updates with Revision No. 18. (JAR/PJR/BSM/AAC)

No changes are necessary.

Section 1.12 - Other Licenses and Permits

4. Please update the other licenses and permits in Section 1.12 (Other Licenses and Permits) as required by NDAC 69-05.2-06-04 if any changes have occurred since the most recent updates with Revision No. 18. Also, item 1a. (Air Pollution Permit to Operate #79004) is shown to have expired on October 19, 2024. (JAR/BSM/AAC)

Section 1.12 was revised to update the Air Pollution Control Permit expiration date, the Stormwater Permit effective/expiration dates, updated ND Department of Water Resources name and added the Coal Exploration Permit approval/expiration dates.

Appendix 1.14-1 - Proof of Liability Insurance

5. The Certificate of Liability Insurance in Appendix 1.14-1 (Proof of Liability Insurance) expired on February 1, 2024. Please update Appendix 1.14-1 with a current certificate of liability insurance and the correct endorsements. [NDCC 38-14.1-14(3)]. (JAR/PJR/BSM)

The Certificate of Liability Insurance and endorsement have been updated with this submittal.

Appendix 1-7 – Approval Documents

6. Please add the October 25, 2023 approval documents for Revision No. 18 to Permit BNCR-9401 to Appendix 1-7 (Approval Documents). (JAR/BSM)

The approval documents for Revision 18 have been added to Appendix 1-7.

Plate 2.1 - Extended Mine Plan

7. Please replace Plate 2.1 (Extended Mine Plan) with the most recent Center Mine Extended Mine Plan as required by NDAC 69-05.2-07-03. (JAR/PJR/BSM/AAC)

The most recent copy of Plate 2.1 was added.

Section 4.1 - Coal Removal and Waste Disposal Cell Construction

8. Please update the Construction Schedule in Table 4.1.1 in Section 4.1 (Coal Removal and Waste Disposal Cell Construction) to account for current future construction and/or bond release plans, if necessary. (JAR)

Table 4.1-1 was updated to reflect the current future construction schedule and bond release plans.

9. Please update the Coal Production by Year information provided in Table 4.1.2 in Section 4.1 (Coal Removal and Waste Disposal Cell Construction) if changes are required. (JAR/BSM)

The coal production in Table 4.1-2 was reviewed and updated as necessary.

Additional Updates: Narrative updates were added to the "Project Tundra Site Development" paragraph to remove decision and construction timelines. These are unknown at this time.

Plate 4.1-1 - Pit Layout and Facilities Map

10. Please update Plate 4.1-1 (Pit Layout and Facilities Map) to indicate any changes with the status or presence of SPGM stockpiles, overburden stockpiles, water management structures, haul roads, buildings, facilities, utilities, and structures that may have occurred since the map was last updated with Revision No. 18. (JAR/PJR/BSM)

Plate 4.1-1 was updated. Updates include current powerline locations, spgm stockpiles and haul roads, mineral removal locations for the ash cells.

11. If necessary, please update Plate 4.1-1 (Pit Layout and Facilities Map) to identify the five-year coal removal subarea that will be mined during the next permit term. (JAR/PJR/BSM/AAC)

No updates to Plate 4.1-1 were necessary regarding the five-year coal removal subarea for Ash Cell 6.

Appendix 4.1-1 - Equipment List

12. If necessary, please update Appendix 4.1-1 (Equipment List) as required by NDAC 69-05.2-09-01(1). (JAR)

Appendix 4.1-1 was updated.

Section 4.4 - Blasting Plan

13. Please update the narrative in Section 4.4 (Blasting Plan) to reflect any changes to the blasting schedule. Also, please update Plate 4.4-1 (Blasting Map) to reflect any change

to the status or location of occupied residences since the Blasting Plan was last updated, and include any other changes expected during the next five-year term of the permit. (JAR/BSM)

Section 4.4 was updated with minor edits to the first page. The first paragraph had contradicting language compared to the following paragraph. While there are no plans to perform and blasting in the BNCR 9401 permit area the contradicting language was removed. A more recent copy of the blasting schedule was added.

Plate 4.4-1 was updated by adjusting the blasting distance measurement from the southeast corner of ash cell 4 to the southeast corner of ash cell 5 which is the closest feature to any potential blasting that could occur in adjacent permit BNCR 1101.

Section 4.6 – Surface Water Management Plan

14. If necessary, please update Section 4.6 and Plate 4.6-1 (Surface Water Management Plan) to reflect any changes with the status or presence of water management structures for the next permit term. (BSM/JAR)

Plate 4.6-1 was updated to include up to date SPGM stockpile locations, recent topography changes following the construction of Ash Cell #5, and the corresponding watershed boundaries effected by those changes.

Section 4.7 - Water Monitoring and Drill Hole Reclamation Plans

15. If there are any required changes or updates (new or destroyed wells, measuring point elevations, status, etc.) to the Ground Water Monitoring Well Information in Table 4.7-1, please make those changes or updates at this time. Any updates to this table will need to be reflected on Plate 3.3-1 (Monitoring Well and Production Well Location Map) in the permit. (PJR)

Table 4.7-1 was updated to include new wells that have been installed and wells that have been plugged or destroyed. None of the wells that were changed were within BNCR 9401 permit boundary.

As a result of the changes to Table 4.7-1, Plate 3.3-1 was revised to reflect the updated information in Table 4.7-1.

Section 4.12 – Re-vegetation and Post Mining Land Use

16. The 4th sentence in the 3rd paragraph on page 1 of Section 4.12 (Re-vegetation and Post Mining Land Use) contains an outdated reference to the ND State Health Department. Please update this reference to the North Dakota Department of Environmental Quality. (JAR)

Two occasions “ND State Health Department” was used, now North Dakota Department of Environmental Quality (ND DEQ) is the corrected usage.

17. If necessary, please update Section 4.12 (Revegetation and Post Mining Land Use) if changes have been made since the approval of Revision No. 18 to the permit. Any changes to this section should also be reflected on Plate 4.12-1 (Post Mining Land Use). (AAC)

No changes were made.

Section 4.13 – Fish and Wildlife Resource Protection, Enhancement, and Monitoring Plan

18. If necessary, please update Section 4.13 (Fish and Wildlife Resource Protection, Enhancement, and Monitoring Plan) if monitoring plans have been altered or changed, or if the USFWS IPaC listed threatened and endangered species have changed. (AAC)

The Western Regal and Monarch were added to the list. The Dakota Skipper was also updated as a threatened species instead of a candidate species. Notes were added to the rusty patched bumble bee, the northern long eared bat and the spragues pipit to state they were no longer a result on BNIs yearly IPaC search.

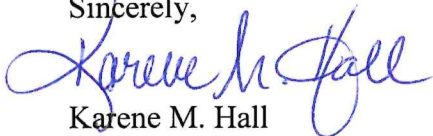
Section 4.14 - Reclamation Cost Estimate for Bonding Purposes

19. Please review and update as necessary the narrative in Section 4.14 (Reclamation Cost Estimate for Boning Purposes), Plate 4.14-1 (Worst Case Bond Map), and Appendix 4.14-1 (Worst Case Bond Estimate) for the next five-year permit term. (BSM)

Section 4.14 was updated to reflect known information for the next permit term. The current disturbance will remain the worst case scenario for the next permit term. The next planned ash cell construction is estimated to begin the summer of 2030 at the end of this next permit term. BNI will review construction timelines at the mid-term review and update as necessary. The worst-case bond scenario was updated to reflect the current conditions. This update accounts for the lates reclamation/closure of the next portion of Ash Cell 2 that occurred in conjunction with the construction of Ash Cell 5. During this update Plate 4.14 was reviewed and minor changes were made to the disturbance linework to better reflect current conditions. Stockpile volumes were updated and haul distances were updated. All these changes were updated in both Plate 4.14 and Appendix 4.14. Appendix 4.14 was updated to reflect the variable costs and procedures from most recent version of Policy Memo 16 dated 12/30/24.

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
Sr. Regulatory Compliance Specialist