



March 25, 2025

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

RE: Revision 44 to Permit BNCR-9702

Dear Mr. Emmer,

This submittal contains a response to your pre-renewal review letter to us dated November 8, 2024. In this letter you listed completeness deficiencies that must be addressed before the Renewal 5 Revision 45 application to BNCR-9702 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. 43 to Permit BNCR-9702. 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. 43 to Permit BNCR-9702. (BSM/PJR/AAC)

*No changes necessary.*

**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 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. 43. (JAR/AAC/BSM/PJR)

*No changes 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. 43. (JAR/AAC/BSM/PJR)

*No changes 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. 43 to BNCR-9702. (BSM/AAC)

*All licenses and permits are current.*

### **Appendix 1.14-1 – Proof of Liability Insurance**

5. The current Certificate of Liability Insurance in Appendix 1.14-1 (Proof of Liability Insurance) is scheduled to expire November 15, 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)

*The current Certificate of Liability Insurance is included with this submittal.*

### **Section 2.1 – Extended Mine Plan**

6. Please replace Plate 2.1 (Extended Mine Plan) with the most recent Center Mine Extended Mine Plan available as required by NDAC 69-05.2-07-01. (JAR/AAC/BSM/PJR)

*This plate has been updated with the most recent version of mine sequence.*

### **Section 3.3 – Groundwater**

7. Please update, as necessary, the narrative in Section 3.3 (Groundwater), Plate 3.3-1 (Monitoring Well and Production Well Location Map), and appropriate Appendices to address any changes that have occurred since the last update, such as any newly installed monitoring wells and destroyed monitoring wells. (PJR)

*Plate 3.3-1 and Appendix 3.3-1 were edited to include the most recent information*

### **Section 4.1 – Operations Plan**

8. Please update Plate 4.1-1 (Pit Layout and Facilities Map) to indicate any pit sequence changes and to identify the five-year coal removal subarea for the next permit term as required by NDAC 69-05.2-09-02(3). (JAR/PJR/BSM)

*The following items were updated: yearly pit blocks, 2023 mineral removal, 2024 mineral removal, SPGM stockpiles, and dragline walkway was removed.*

9. Please review and update the mining disturbance boundary on Plate 4.1-1 (Pit Layout and Facilities Map) to ensure it is accurate for the next permit term and that it properly depicts disturbance on areas where mining has been completed as required by NDAC 69-05.2-09-02. (JAR/BSM)

*Mining Disturbance boundary was reviewed.*

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. 43 as required by NDAC 69-05.2-09-02. (JAR/AAC/PJR/BSM)

*Plate 4.1-1 was updated as suggested.*

11. Please update paragraph seven on page 4.1-2 of Section 4.1 (Mining Operations and Waste Disposal) since BNI received federal mine plan approval to mine federal coal in Section 20 on July 26, 2023 from the Office of Surface Mining Reclamation and Enforcement. (JAR)

*The paragraph was updated as suggested. Additional detail was added to that paragraph to discuss mining and final pits in that section.*

12. If necessary, please update the Coal Production and Affected Acres table on page 4.1-3 of Section 4.1 (Mining Operations and Waste Disposal) to provide the estimated annual coal production and land area affected for the next five-year permit term. (JAR/BSM)

*Coal production and affected acres tables were updated for the next permit term.*

13. The narrative in paragraph three on page 4.1-4 in the Waste Disposal subsection of Section 4.1 (Mining Operations and Waste Disposal) contains outdated references to the State Department of Health and the solid waste management rules found in NDAC Article 33-20. Please update the narrative to the North Dakota Department of Environmental Quality and the rule's reference to NDAC 33.1-20. (JAR)

*The narrative was updated as suggested. Additional modifications were made to better organize the language for inert solid waste disposal in accordance with NDAC 33.1-20.*

14. If necessary, please update the Equipment Listing beginning on page 4.1-6 of Section 4.1 (Mining Operations and Waste Disposal). NDCC 38-14.1-14(2)(g) and NDAC 69-05.2-09-01(1). (JAR/PJR/BSM)

*Equipment list was updated.*

#### **Section 4.4 – Blasting Plan**

15. 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. (BSM)

*The blasting schedule was updated with the latest published schedule. Plate 4.4-1 was updated with the current mining sequence and distances to residences were updated.*

#### **Section 4.6 – Surface Water Management Plan**

16. Please update the Supplementary Water Management Features subsection on the last page of Section 4.6 (Surface Water Management Plan) to accurately reflect the current supplementary water management features utilized by BNI in Permit BNCR-9702. (JAR)

*CB-20-4, CB-20-5, and CB 28-5 were added to the list of supplementary water features.*

17. 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)

*Updated status and presence of water management features and labels. Updated active pit location and yearly pit blocks. Updates to Section 4.6 were limited to the supplementary water management features section.*

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

18. Please update the narrative in Section 4.9 (Reclamation Schedule) for the next permit term and update the reclamation variance requests, if necessary, with the appropriate justification. If changes are made, please verify Plate 4.9-1 (Reclamation Variance Area Map) is updated regarding mineral removal areas and consistent with any changes. (BSM/JAR/PJR)

*The narrative was updated. Plate 4.9-1 was updated to depict the current mining sequence and hatching was added to depict areas within reclamation variances that has achieved grade approval.*

19. Section 4.9 describes the reclamation schedule in a narrative format for each year. The narrative format makes it difficult to determine when an area will be reclaimed through revegetation as required by NDAC 69-05.2-09-11(6). Please consider revising Section 4.9 to include a table outlining the reclamation schedule. The table should reference a specific area, such as a coal removal or a reclamation area, and indicate when the following activities will be completed: rough grading, finish grading, SPGM respread, and revegetation. The referenced reclamation area in the proposed table could be depicted in Plate 4.9-1 (Reclamation Variance Areas). If an example of a reclamation schedule table would be useful, we can supply an example. (JWE/MLJ)

*A contemporaneous reclamation table was added similar to our permit BNCR 1101. Additional description around reclamation estimates within the variance areas was added to the table as well.*

#### **Section 4.10 – Backfilling and Regrading**

20. Please update Plate 4.10-1 (Post Mining Topographic Contours) to ensure the map continues to accurately depict areas where prime farmland soils have been and are proposed to be respread. (GAW)

*Post Mining topography was updated in Section 20. These changes are made in preparation of the future final pit located in the west half of Section 20. Prime Farmland boundaries in Section 20 were slightly adjusted to different locations.*

#### **Section 4.12 - Revegetation and Post Mining Land Use**

21. Please update any applicable subsections within Section 4.12 (Revegetation and Post Mining Land Use) if changes have been made since the approval of Revision No. 43 to the permit. Any changes to this section should also be reflected on Plate 4.12-1 (Post Mining Land Use). (AAC)

*Tables updated*

22. The shelterbelt plantings table on page 4.12.3-6 of Section 4.12-3 (Reclamation Information) indicates that Planting 32E is in the NW¼ of Section 32 but the planting is depicted in the SW¼ of Section 32 on Plate 4.12-1 (Post Mining Land Use). Likewise, Planting 33A is depicted in the SW¼ of Section 33 on Plate 4.12-1 but the shelterbelt planting table in Section 4.12-3 indicates the planting is in the NW¼ of Section 33. Please review and revise as appropriate. (GAW)

*Table was revised to correct this error.*

23. Please revise Plate 4.12-1 (Post Mining Land Use) so that a label is provided for each planned woodland planting in Section 20. In addition, please provide an estimate of the size of each reclaimed woodland in the Woodland Plantings subsection of Section 4.12.-3 (Reclamation Information). (GAW)

*The narrative was added to for a description of the potential disturbance of trees in Section 20. The plate displays the discussed planting above as deciduous replanting.*

24. The first sentence of the second paragraph on page 4.12.4-6 of Section 4.12.4 (Determining Reclamation Success) incorrectly states that “Sampling of reclaimed native rangeland in Section 20 was conducted.” This sentence likely refers to the sampling of the pre-mine native grassland to acquire baseline information since no native grassland has yet been reclaimed in Section 20. Please correct this error. (GAW)

*This was corrected as requested above.*

25. Maps for native grassland reference areas SO1 and B13-01 are provided as figures at the end of Section 4.12-4 (Determining Reclamation Success) whereas maps of the native grassland reference areas in Section 21 are provided in Appendix 4.12-3 (Reference Area). Please consider consolidating the native grassland reference area information in one section of the permit. (GAW)

*All appendix were moved to the end of 4.12-4, which is four pages in total. (2019 Soil Survey, section 21 reference area map, 2 pages of section 21 similarity index)*

26. Page 1 of Appendix 4.12-3 (Reference Area) provides a list of soil mapping units for a portion of the E½ of Section 20; however, it is not clear which soil mapping unit is being used for each reference area. The map on page 2 of Appendix 4.12-3 depicts Clayey and Shallow Loamy ecological sites but Rangeland Similarity Index information is provided for clayey and thin loamy ecological sites rather than clayey and shallow loamy ecological sites. Please include a detailed soil survey map that will allow one to determine which soil mapping units are included in the Reference Areas in Section 21. (GAW)

*An updated map with a more complete view of soil types replaced the old version and is now found at the end of 4.12-4.*

#### **Section 4.13 – Fish and Wildlife Resource Protection**

27. Please review and update Section 4.13 (Fish and Wildlife Resource Protection and Enhancement Plan & Fish and Wildlife Monitoring Plan) if monitoring plans have changed and ensure the survey work planned is accurately described. The Threatened and Endangered species narrative on page 4.13-7 should be updated to include all listed and proposed species potentially occurring in the monitoring area according to IPaC. The IPaC species list on Page 4.13-9 should be updated for the next term of the permit. The Western Regal Fritillary is proposed for listing so a Protection and Enhancement Plan (PEP) will need to be developed for this species. (GAW/AAC)

*Reviewed, reorganized, and updated narrative to changes BNI has made to T&E species PEP plans along with changes USFWS has made to determination of species listings.*

28. Please revise Plate 4.13 (Wildlife Monitoring Map) to extend the ½ mile buffer zone around the western portion of the Revision 8 Addition Area of Permit BNCR-1101 (Sections 16 and 22). (GAW)

*Plate revised with updated buffer on the permit boundary of BNCR-1101.*

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

29. Please review and update the entirety of Section 4.14 (Reclamation Cost Estimates for Bonding Purposes), including the worst-case bond maps (Plate 4.14-1 and 4.14-2) and Appendix 4.14-1 (Worst Case Bond Estimate), for the Center Mine's consolidated bond area for the next permit term. Additionally, please review and add the costs for dismantling and/or demolition of support facilities and structures unless they will remain as an approved industrial land use to Section 4.14. (BSM)

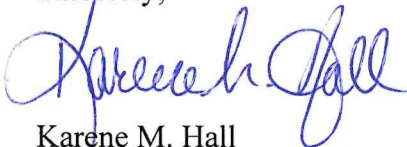
*Section 4.14 was updated to reflect the proposed worst case bond scenario. The discussion around reclamation of the Section 3 ash cell was removed since reclamation is complete in that area.*

*Plate 4.14-1 and Plate 4.14-2 were both updated to reflect the proposed worst case scenario.*

*Appendix 4.14-1 was updated to reflect the worst case scenario. The spgm corridor in Section 4 was updated to reflect the permitted haul road corridor. The bond estimate was updated to take into account the 2024 variable costs. We reviewed and added some line items for facilities/structure removal within the bond area.*

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

Sincerely,

A handwritten signature in blue ink, appearing to read "Karene M. Hall". The signature is fluid and cursive, with the first name being the most prominent.

Karene M. Hall  
Sr. Regulatory Compliance Specialist

cc: Greg Petrick  
Jonathan Rudnick  
PSCrecfilings@nd.gov