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June 19, 2025

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

RE: Revision 45 to Permit BNCR-9702

Dear Mr. Emmer,

This submittal contains a response to your technical review letter to us dated June 18, 2025. In this letter you listed technical deficiencies that must be addressed before the Renewal 5 Revision 45 application to BNCR-9702 can be approved. Below is a listing of the deficiencies followed by our response:

Section 3.7 – Prime Farmlands

1. The narrative on Plate 3.7-1 (Prime Farmland) states that "performance standards for prime farmland soils DO APPLY to 186.5 acres within Permit BNCR-9702." However, the narrative on page 2 of Section 3.7 (Prime Farmlands) states that "performance standards for prime farmland soils DO APPLY to 164.04 acres within Permit BNCR-9702." Please review the acreage where the performance standards do apply for prime farmland in Permit BNCR-9702 and update Section 3.7 and/or Plate 3.7-1 as necessary. If edits are made to either section, please update Appendix 1-1 (Revision Summary and List of Changes) accordingly. (JAR)

   BNI has reviewed Plate 3.7-1 and Section 3.7 and determined that the acreage on Plate 3.7-1 is accurate and acres added during Revision 40 (Section 20) were not corrected on page 2 of Section 3.7 during that revision. Acres on page 2 have now been updated and reflect the same as Plate 3.7-1.

Section 4.5 – Transportation Plan

2. Please update Plate 4.5-28-3 (Haul Road - Slope 6 Plan & Profile) as a result of discussions between the mine and Reclamation Division staff following the May 21, 2025 technical review letter. Possible discrepancies were discussed with Kate Kolden regarding the plan and profile elevations depicted on Plate 4.5-28-3 and the actual as-built conditions. (BSM)

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Discrepancies were corrected with the tie in point to plate 4.5-28-2.

An updated certification letter was provided for Section 4.5 to mirror the request for updated certification letter for Section 4.6.

Section 4.6 - Surface Water Management Plan

3. The current certification letter for Section 4.6 (Surface Water Management Plan) is dated December 1, 2020. Several updates to the permit have been made involving catch basins and diversions since the certification letter date. Please provide an updated engineering certification letter for Permit BNCR-9702 that reflects these updates in accordance with NDAC 69-05.2-09-09(1)(h). (BSM)

   An updated engineering certification letter has been included for Section 4.6.

Section 4.12 - Revegetation and Post Mining Land Use

4. The link for Plate 4.12-1 (Post Mining Land Use) is not functioning as intended due to the file not being located in the appropriate folder in Section 4.12 (Revegetation & Post Mining Land Use). Please ensure that Plate 4.12-1 is relocated to the correct location within the permit folder structure. (BSM/GAW)

   Corrected link with previously revised Plate.

5. Table 4.12-1 in Section 4.12-1 (Post Mine Land Use Acreages) has been updated to include areas designated "Conservation Grassed Waterway." However, unlike the other columns in the table, the total acreage for "Conservation Grassed Waterway" is not provided. Please update Table 4.12-1 to include the total acres for this land use category. Also, please provide narrative in Section 4.12 (Postmine Land Use and Revegetation) describing the purpose for the conservation grassed waterways. (JAR/BSM/WWS)

   Corrected Table 4.12-1 to include total acreage of "Conservation Grassed Waterway" within the permit area. Added a paragraph on page 1 of Section 4.12-2 describing the purpose and practice of the grassed waterways.

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