

September 16, 2026

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

Dear Mr. Emmer,

This submittal contains a response to your Technical review letter to us dated September 14, 2026. In this letter you listed deficiencies that must be addressed before the Revision 13 application to BNCR-1101 can be approved. Below is a listing of the deficiency followed by our response:

Section 1.7 – Business Entity Information

1. Please update Section 1.7 (Business Entity Information) with all current ownership and control information following the sale of ALLETE in December 2025. (AAC)

Board of Directors of Allete updated in Section 1.7.2. Additionally letter supplied to Jonathan Emmer on May 8, 2026 with ownership of parent companies of Allete.

Section 4.1 - Operations Plan

2. Plate 4.1-1 (Pit Layout and Facilities Map) appears to show an approach off reconstructed County Road 37th Ave. SW extending into the buffer zone surrounding an occupied dwelling in the SW¼ of Section 12, T141N, R84W. Please revise to ensure that no disturbance is depicted within the buffer zone surrounding the occupied dwelling in the SW¼ of Section 12 unless written consent has been obtained from the owners of the occupied dwelling authorizing such operations within the protected zone. (GAW)

Plate 4.1-1 Pit Layout and Facilities Map was updated to remove the depicted disturbance from within the buffer zone surrounding the occupied dwelling in the SW ¼ of Section 12. Plate 4.14-1 was also updated to remove the same depicted disturbance.

3. The Jesse and Darcy Lackman farmstead area in the E½ of Section 14, T141N, R84W is depicted with light-brown hatching on Plate 4.1-1 (Pit Layout and Facilities Map) to indicate the Lackman's have signed a waiver to allow coal mining operations within 500 feet of an occupied dwelling. However, the Lackman waiver in Appendix 4.2-1 (Supporting Documents) does not appear to authorize BNI to conduct mining operations in the hatched area. Please revise the hatching to depict the farmstead as an area unsuitable for mining. (GAW)

Plate 4.1-1 Pit Layout and Facilities Map was updated to change the color of the hatching from light brown to magenta which indicates the area within the boundary is unsuitable for mining. The agreement was to modify the boundary of the buffer to what is shown on the Plate.

Section 4.4 - Blasting Plan

4. A sentence in the fifth paragraph on page 1 of Section 4.4 (Blasting Plan) states that BNI will make “efforts to give advance notice to landowners, so they may have the option to be present when monitoring takes place.” Order No. 2 in Case No. RC 20-438 requires BNI to provide advance notice to occupied dwelling landowners within one mile from the nearest charged drill hole. Please revise the sentence in the fifth paragraph on page 1 of Section 4.4 to accurately reflect this requirement rather than stating BNI will merely “make efforts” to provide advance notice to landowners. (GAW)

Updated the sentence in the fifth paragraph to match Order No 2 in case No RC 20-438. Not longer uses “make efforts” but states “BNI will conduct seismic and air blast monitoring at or near all occupied dwellings within one mile from the nearest charged drill hole with advanced notice given to landowners, so they may have the option to be present when monitoring takes place.”

Section 4.5 - Transportation Plan

5. A sentence in the first paragraph on page 5 of Section 4.5 (Transportation Plan) states that Oliver County’s “approval grants BNI the ability to construct the overpass within the county right-of-way.” Please clarify the width of the county right-of-way and revise the narrative to state that Oliver County has approved BNI’s plans to construct the overpass within and 100 feet beyond the statutory right-of-way. The footprint of the reconstructed road extends well beyond the statutory right-of-way. (GAW)

The Section 4.5 Transportation Plan narrative was updated to include clarification of the width of county right-of-way along 37th Ave SW and construction easements for the footprint outside the current county right-of-way.

Section 4.6 – Surface Water Management Plan

6. Plate 4.6-43A (Sediment Pond P-13-9) does not provide invert design information for Culvert 40. To verify that Culvert 40 does not bypass the water management system for P-13-9, please review and revise Plate 4.6-43A to include the applicable culvert invert design information. (BSM)

Plate 4.6-43A Sediment Pond P-13-9 was updated to include designed culvert invert information for Culvert 40 as well as the other culverts near the project. Additionally, designed ditch block locations were added to the Plate within the Haul Road B ditches downstream of the inlet into Culvert 40. These ditch blocks are designed to maintain runoff into Pond P-13-9 and not allow for bypassing the water management system.

7. Plate 4.6-43A (Sediment Pond P-13-9) consists of two pages; however, the plate does not clearly identify that it contains two pages. Please update the title block to indicate “Page 1 of 2” and “Page 2 of 2,” as applicable. Additionally, please revise Page 2 to identify the three cross sections A-A’, B-B’, and C-C’ in order to correspond with Page 1 to Plate 4.6-43A. (BSM)

The title block was updated to add page number information to better indicate there are two pages within the Plate. Additionally, labels were added to the pond cross-sections for clear identification as requested.

Section 4.9 – Reclamation Schedule

8. The reclamation time schedule table in Section 4.9 (Reclamation Schedule) indicates that Variance Areas 5 and 9 will be reclaimed by 2028, but the narratives discussing these variances indicate that reclamation will be completed in 2027. Please review and revise the table and/or applicable narratives to provide consistency and clarity. (GAW)

Projected Reclamation Time Schedule table was updated to show Variance Area 9 reclamation will be completed in 2027 as stated in narrative. Additional narrative for Variance Area 5 was added to clarify reclamation will be completed in 2028 as shown in Projected Reclamation Time Schedule table.

Section 4.12 - Post Mining Land Use

9. Please revise Plate 4.12-1 (Post Mine Land Use) to ensure all section numbers are visible. (TLD)
Plate 4.12-1 updated to depict Section numbers in Revision 8 addition area.

Section 4.15 - Signs and Markers, Air Monitoring, Socioeconomic Information, Scenic and Aesthetic Impacts

10. Please update Section 4.15 (Signs and Markers...) to include a discussion about BNI's plans for marking buffer zones around intermittent and perennial streams in compliance with NDAC 69-05.2-13-04(5). Although not required, BNI should also consider placing signs along the north and west sides of the buffer zone associated with the Jesse and Darcy Lackman occupied dwelling in the E½ of Section 14 and along the Brian Dresser occupied dwelling buffer zone in the SE¼ of Section 11. (GAW)

Discussion about buffer zone signage for intermittent streams is included in 4.6 Surface Water Management narrative on page 2 paragraph 2 under Construction and Operations of Surface Water Management Structures. The Section 4.15 narrative was also updated to include this discussion.

Additional Responses not addressed in the June 10, 2026 Completeness Review 3 Letter

Section 4.5 – Transportation Plan

7. Page 28 of Appendix 4.5-2 (Culvert Information Sheets) indicates there will be 18 feet of head at the entrance of Culvert ID 32, but Appendix 4.5-4 (Haul Road Section B) does not support this claim, and the road profile drops east of Culvert 32. Please review and update if necessary. (GAW, BSM)

BNI reviewed and re-designed Culvert ID 32 to make sure the design matched the grade changes that were made to Haul Road Section B to minimize the disturbance within the intermittent stream crossing in Section 13, T141N, R84W. Page 28 of Appendix 4.5-2 (Culvert ID 32) was updated with the new design information. This re-design resulted in the need for an additional 48" culvert to be installed alongside the originally planned 84" corrugated metal pipe to pass the peak runoff from the design storm event. The narrative in Section 4.5 within the Phase 2 Extension - Intermittent Stream Crossing discussion under Haul Road Section B was updated to include the additional culvert. The narrative within the Haul Road Section B discussion in Section 4.6 Surface Water Management plan was updated to reflect this updated culvert design.

September 16, 2026

Page 4 of 4

Plates 4.5-1, 4.6-1, Appendix 4.5-4, and Appendix 4.5-10 were also updated to depict the revised Culvert ID 32.

8. BNI is proposing an 84-inch diameter culvert in the haul road in the NW¼ of Section 13 according to page 28 of Appendix 4.5-2 (Culvert Information Sheets). However, the minimum culvert opening width of a stream crossing shall not be less than the mean bank to bank width as measured from the ordinary high-water mark in the affected stream reach, according to Section B(2) of the USACE Nationwide Permit 14 (ND Required BMP's), page 26. Please provide the mean bank to bank width of the affected stream and factor peak runoff inflows and outflows in compliance with Section B(3) of the USACE Nationwide Permit 14, Culvert Countersink Depth, requirements. (GAW)

This comment was discussed with Mr. Welch prior to previous submittal of the responses to the Completeness Review 3 letter. That discussion determined that no changes were required.

If you have any questions, please contact me.

Sincerely,



Greg Petrick
BNI Coal
Manager Environmental and Technical Services