

PUBLIC SERVICE COMMISSION
Reclamation Division

Memorandum

TO: Commissioners Cramer, Clark, and Kalk
Darrell Nitschke
Illona Jeffcoat-Sacco

FROM: Steve Schroeder, Dean Moos and Jim Deutsch

DATE: July 22, 2009

SUBJECT: Application for Renewal No. 5 to Surface Coal Mining Permit No. BNCR-8202, Case No. RC-09-142, held by BNI Coal, Ltd.

BNI Coal, Ltd. applied for Renewal No. 5 to Permit BNCR-8202 on March 31, 2009. This renewal will extend the permit term another five years until July 31, 2014. The Reclamation Division has reviewed this application and respectfully recommends its approval.

Permit BNCR-8202 contains 886.48 acres in portions of Sections 22 and 26, T142N, R84W, Oliver County, at the Center Mine. Approval of this renewal is necessary in order for BNI Coal, Ltd. to continue reclamation operations within the permit area until July 31, 2014. Coal removal from the permit area was completed several years ago and most of the permit area is in reclamation status. However, a few areas are still used in support of active mining operations making renewal of the permit necessary.

BNI also filed the application for Revision No. 33, an insignificant revision, to update the legal, property ownership, and other information and mining and reclamation plans in this permit. This insignificant revision was approved on July 17th. Also, the final bond release for the SW¼ of Section 26 that was approved on July 8, 2009 will reduce the acreage in the permit to 727.72 acres when the bond release becomes effective in August (assuming no informal hearing is requested).

BNI has submitted evidence of continued liability insurance and two bonds (Surety Bond No. 400JR4173 and Collateral Bond No. CB9702-2) that cover this permit and others at the Center Mine. The total bond amount for the consolidated bond area is \$26,661,439. This bond amount is sufficient to cover the updated worst-cost reclamation cost estimate for this and the other permits for the Center Mine.

BNI published notices of the renewal application in the Bismarck Tribune and the Center Republican. We also sent notices to the appropriate agencies and landowners. No objections to the renewal application were received.

Attached are a motion and the renewal award form for your consideration at the July 29, 2009 Commission meeting.

Attachments

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