

**Public Service Commission  
Reclamation Division**

**Memorandum**

To: Commissioners Kalk, Christmann, and Fedorchak  
Darrell Nitschke, Executive Secretary  
Illona Jeffcoat-Sacco, Ryan Norrell

From: *BG* Bill Gunnerson, *DM* Dean Moos, and *JJD* Jim Deutsch

Date: April 2, 2014

Subject: Application for Revision No. 12 to Permit No. BNCR-9401 held by BNI Coal, Ltd., Case No. RC-12-186

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On May 4, 2012 BNI Coal, Ltd. (BNI) submitted the application for Revision No. 12 to Surface Coal Mining Permit BNCR-9401 to add 181.54 acres to this permit at the Center Mine. The added acreage is located in the N $\frac{1}{2}$ N $\frac{1}{2}$  of Section 5 and the NE $\frac{1}{4}$  of Section 8 of T141N, R83W, and the S $\frac{1}{2}$ S $\frac{1}{2}$  of Section 32 of T142N, R83W of Oliver County as depicted on Figure 1. With the approval of Revision No. 12, the total acreage in Permit BNCR-9401 will increase to 384.17 acres. The added acreage includes 30 acres of unleased federal coal in the NE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 8, T141N, R83W. The permit revision provides the required baseline data and updates mining related operation and reclamation plans for the additional acreage. In addition, Revision No. 12 converts the permit document to an electronic format. The Reclamation Division has completed its review of this revision and respectfully recommends that it be conditionally approved.

The original permit area and the acreage being added to Permit BNCR-9401 with Revision No. 12 is contiguous to Permit BNCR-8106 in Section 32 of T142N, R84W, and contiguous to pending Permit BNCR-1101 in Sections 5, 8, and 9, T141N, R83W as depicted on Figure 1. Mining has been conducted in Permit BNCR-9401 solely to remove lignite prior to the construction of disposal cells for flue gas desulfurization sludge from Minnkota Power Cooperative (MPC) Inc.'s Milton R. Young Station as shown on Figure 1. Three disposal cells regulated by the North Dakota Department of Health have been constructed to date. MPC began operating disposal cell 3 in 2013 and cells 1 and 2 are undergoing closure and reclamation. Disposal cells 1, 2, and 3 have been bond released as industrial areas and are now under the sole jurisdiction of the Department of Health. Disposal cell 4 is proposed for construction in 2020-2021 in the N $\frac{1}{2}$ NE $\frac{1}{4}$  of Section 8 in acreage added with Revision No. 12 pending a future postmine land use change to industrial use and Department of the Interior approval to mine the federal coal. Special Condition No. 1 is being attached to the approval of Revision No. 12 to prohibit overburden and coal removal on the federal coal tract until a lease is acquired and federal mine plan approval is granted; however, the condition allows soil removal and other activities on this tract to the extent any surface disturbances are necessary to support mining operations on adjacent nonfederal lands.

With the 181.54 acres added to Permit BNCR-9401 with Revision No. 12 the permit will also support mining operations in pending Permit BNCR-1101 for a new haul road corridor through Sections 5 and 32 to the Milton R. Young Station as depicted on Figure 1. Permit Application BNCR-1101 encompasses 8,360 acres south of the Young Station with approval expected later this spring and mining commencing in 2015. Permit BNCR-1101 will be the source of much of the Center Mine's coal production over the next 30 years.

Postmine land uses for the 384.17 acres in Permit BNCR-9401 with approval of Revision No. 12 include approximately 144 acres of industrial, 120 acres of cropland, 83 acres of native grassland, 18 acres of tame pastureland, and small acreages of stock ponds, woodlands, wetlands and other land uses. Postmine industrial land use acreage will likely increase following a future postmine land use change to industrial use and approval to mine the federal coal prior to constructing disposal cell 4. Suitable plant growth material that has been or will be removed prior to mining in preparation of disposal cell construction is dedicated to disposal cell reclamation as required by the Department of Health.

Revision No. 12 was deemed a significant revision to Permit No. BNCR-9401 and was subject to the public notice requirements. BNI Coal, Ltd. published the required notices in the Center Republican and Bismarck Tribune and the Commission sent notices to all surface owners that will be affected by Revision No. 12, as well as to numerous local, state, and federal agencies. In addition, advisory committee members were provided copies of the application for their review and comment. No objections or requests for an informal conference were received on this revision application and no major issues were raised during the review of this revision.

A bond amount of \$1,017,422 is sufficient at this time to cover the required reclamation, restoration, and abatement work in the bond area of Permit BNCR-9401. BNI has filed a stipulation to increase surety bond number 400 JR 3522 to \$1,017,422 for this permit and increase the bond area by 181.54 acres to include the acreage being added to the permit with Revision No. 12. The stipulation has been reviewed and found to be properly executed.

Attached for your consideration is a motion for the April 9, 2014 Commission meeting to conditionally approve Revision No. 12 to Permit No. BNCR-9401. Also attached are the permit revision approval form that includes the required findings, the permit condition, and the newspaper notice that we must publish following revision approval.

#### Attachments

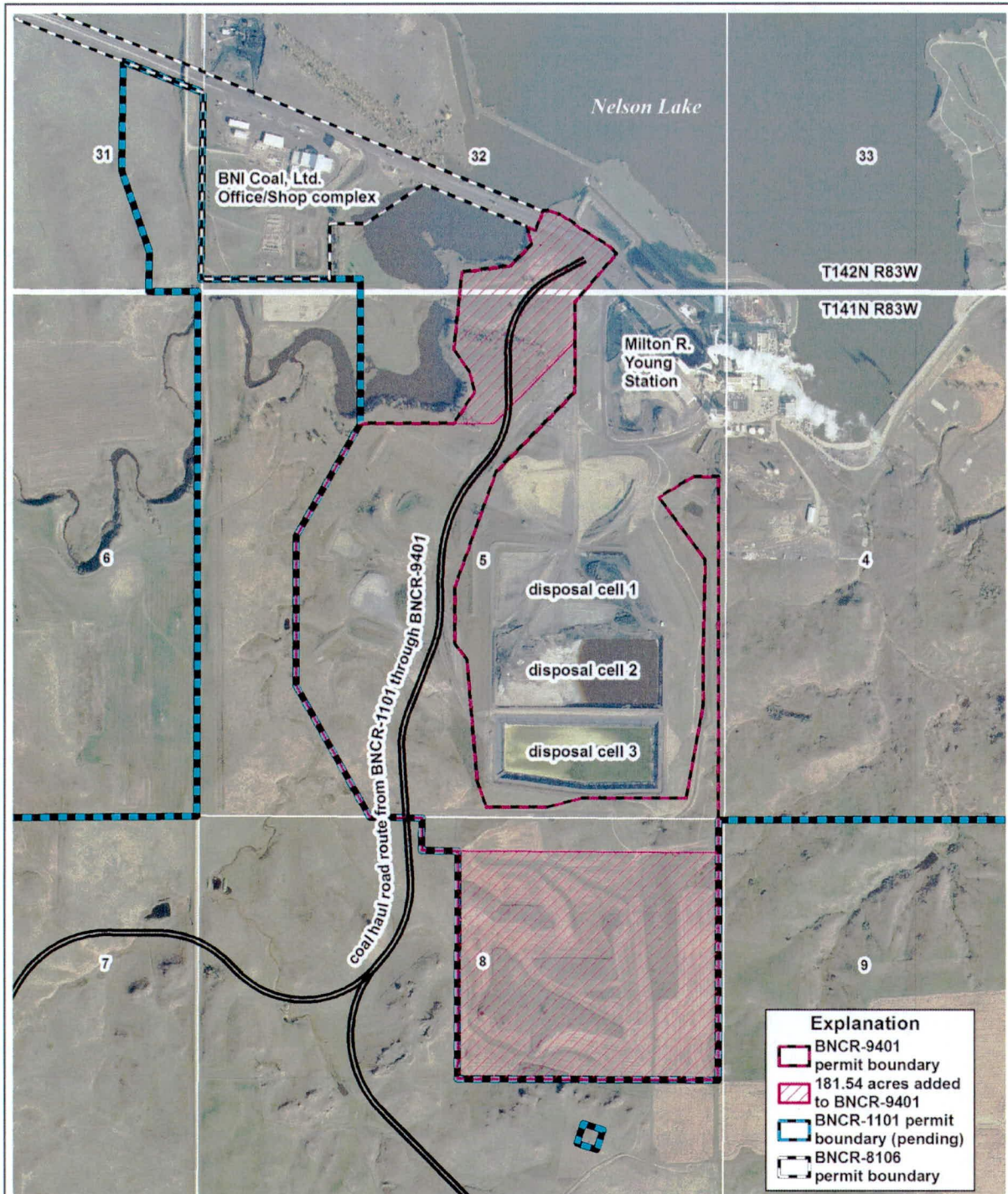


Figure 1. Permit BNCR-9401 Revision No. 12 permit boundary and location of the 181.54 acres added to Permit BNCR-9401 with Revision No. 12 in Sections 5, 8, and 32.

0 0.5 1 Miles

Aerial photography courtesy of BNI Coal, Ltd. dated November 2013  
 ND Public Service Commission April 2, 2014 wtg