

**PUBLIC SERVICE COMMISSION**  
**Reclamation Division**

**Memorandum**

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

From: *JH* Jim Deutsch, *DKM* Dean Moos, and *BS* Bill Gunnerson

Date: July 23, 2015

Subject: Application for Revision No. 38 to Permit No. BNCR-9702 held by BNI Coal, Ltd. for the Center Mine, Case No. RC-15-138

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On April 2, 2015, BNI Coal, Ltd. filed the application for Revision No. 38 to Surface Coal Mining Permit No. BNCR-9702. Revision No. 38 identifies the next five-year coal removal subareas and updates the legal and financial, operation, and reclamation sections for the next five-year permit term. The Reclamation Division has completed its review of this permit revision application and respectfully recommends its approval.

Prior to 2015, all coal mined at the Center Mine came from Permit No. BNCR-9702 for many years. However, coal production from this permit will decrease during the next permit term because two of BNI's three draglines were moved into new Permit No. BNCR-1101 in early 2015. The new permit area is projected to produce between one-half to two-thirds of the Center Mine's 4.5 million tons of annual coal production in 2015 and beyond. Mining temporarily ceased in 2015 in the W $\frac{1}{2}$  of Section 21 and the NW $\frac{1}{4}$  of Section 28 of Permit No. BNCR-9702 while the remaining dragline operates in the Section 28, 29, 32, and 33 pit layout until 2018 (refer to Figure 1). The dragline is projected to resume mining in the W $\frac{1}{2}$  of Section 21 and the NW $\frac{1}{4}$  of Section 28 in 2019 and progress westward into Sections 20 and 29 in land to be added to the permit with a future revision.

A special condition is attached to the Revision No. 38 approval prohibiting overburden or coal removal in the S $\frac{1}{2}$  of Section 29, T142N, R84W, where 50 percent of the coal interest is owned by the North Dakota Department of Trust Lands until BNI submits a certified copy of the coal lease with the Department of Trust Lands. The Section 28, 29, 32, and 33 pit layout was revised with Revision No. 37 in 2014 to depict mining disturbance beginning in 2016 in the S $\frac{1}{2}$  of Section 29 that was previously planned to be affected by only associated disturbances (therefore a coal lease was not necessary). The February 9, 2015 pre-renewal review letter for Permit No. BNCR-9702 requested that BNI Coal, Ltd. provide a certified copy of the coal lease for the 50 percent coal interest owned by the Department of Trust Lands for the S $\frac{1}{2}$  of Section 29, but it has not been provided to date.

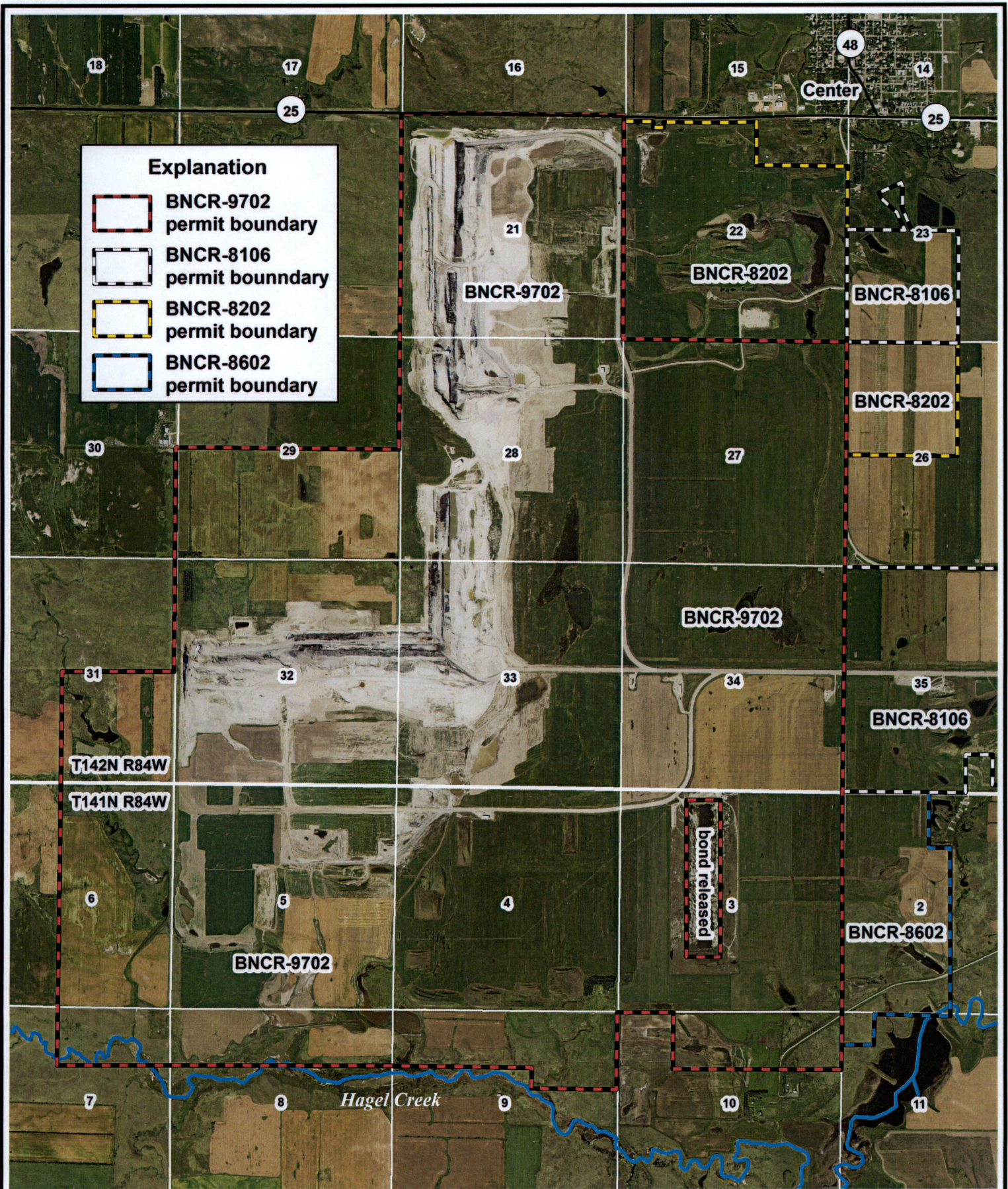
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Revision No. 38 was considered a significant alteration to the mining and reclamation plans and was therefore subject to the notice, hearing, and procedural requirements. BNI Coal, Ltd. submitted the affidavits of publication for the newspaper notice indicating that it was published in the Center Republican and the Bismarck Tribune for four consecutive weeks. We notified the appropriate agencies, affected landowners, and the advisory committee members. We received no comments or objections for this revision application.

The current bond amount of \$34,139,439 is sufficient to cover the updated estimated worst-case reclamation costs for the consolidated bond area that covers Permit No. BNCR-9702 and three other permits at the Center Mine.

Attached for your consideration are the proposed motion, revision approval form, special condition, and the revision approval notice that will be published in the appropriate newspapers.



**Figure 1. Permit No. BNCR-9702 boundary for Revision No. 38 and Renewal No. 3 and the adjacent BNI Coal, Ltd. Center Mine permits.**

Aerial photography courtesy of the USDA NAIP dated August 12 and September 3, 2014.  
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