

PUBLIC SERVICE COMMISSION

Reclamation Division

Memorandum

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

FROM: *JJD* Jim Deutsch, *DKM* Dean Moos, and *ZAB* Zanna Brinkman

DATE: August 6, 2015

SUBJECT: Application for Revision No. 13 to Permit No. BNCR-9401 held by BNI Coal, Ltd. for the Center Mine, Case No. RC-15-146

On April 9, 2015, BNI Coal, Ltd. filed the application for Revision No. 13 to Surface Coal Mining Permit No. BNCR-9401. Revision No. 13 updates the legal and financial section and surface water management, mining and reclamation plans for the next five-year permit term. The Reclamation Division has completed its review of this permit revision application and respectfully recommends its approval.

Mining has been conducted in Permit No. 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. 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 2021 in the N¹/₂NE¹/₄ of Section 8 pending a future postmine land use change to industrial use and Department of the Interior approval of a lease that BNI mine the federal coal. Special Condition No. 1 that was attached to Revision 12 prohibits 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. No coal removal is projected within the permit area during this permit term.

The new haul road through Sections 5 and 32 in Permit No. BNCR-9401 will be used to haul coal from Permit No. BNCR-1101 to the Milton R. Young Station for the next 30 years. This haul road was constructed in 2014.

Revision No. 13 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 worst-case reclamation cost estimate used to establish the minimum bond amount was determined to be \$1,404,271. This amount is sufficient to cover the required reclamation, restoration, and abatement work in the bond area of Permit No. BNCR-9401. BNI has filed a stipulation to increase surety bond number 400JR3522 to \$1,404,271. The stipulation has been reviewed and found to be properly executed.

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

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