


PUBLIC SERVICE COMMISSION
Reclamation Division

Memorandum

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

From: Jim  Deutsch, Dean Moos, and Bill Gunnerson

Date: October 27, 2016

Subject: Application for Revision No. 39 to Permit No. BNCR-9702 held by BNI Coal, Ltd. for the Center Mine, Case No. RC-16-256

On June 3, 2016, BNI Coal, Ltd. filed the application for Revision No. 39 to Surface Coal Mining Permit No. BNCR-9702. Revision No. 39 proposes to revise the postmine topography around Minnkota Power Cooperative's (Minnkota) bottom ash inert waste landfill in Section 3 (T141N-R84W) where three parcels of reclaimed land totaling 87 acres will be redisturbed to use spoil as fill material for closing the landfill as depicted on Figure 1. The Reclamation Division has completed its review of this permit revision application and respectfully recommends its approval.

As the surface owner of Section 3, Minnkota developed the inert waste landfill for Milton R. Young station bottom ash disposal in a double final pit area that was mined in 2001. Oliver County approved a conditional use permit for a solid waste disposal area in July 2002. The Department of Health - Division of Waste Management (DWM) issued solid waste management facility permit IT-205 in November 2002 for the 68 acre inert waste disposal facility. The Commission then approved Final Bond Release No. 1 for 68 acres of industrial and commercial postmining land use for the inert waste landfill in October 2004. Following the effective date of Final Bond Release No. 1 the DWM has had sole regulatory jurisdiction of the inert waste landfill. Contemporaneous reclamation through initial planting in 2004-2006 proceeded for mined land around the bond released inert waste landfill location with one exception. Variance Area 8 was approved by the Commission to allow an 87 acre protective buffer area between reclaimed mine land and the active disposal operation as depicted on Figure 1.

Bottom ash and other approved inert waste landfill disposal began in 2004 but within several years Minnkota developed a market for bottom ash, primarily for use by the Department of Transportation for wintertime highway application to improve vehicle traction and hasten ice and snow melting. Through the ensuing years various beneficial uses that developed for bottom ash have negated the need for the permitted long term disposal landfill.

Initial landfill closure began in 2015 as spoil in excess of that required to achieve the postmining topography in nearby Sections 4 and 5 (T141N-R84W) and 33 (T142N-R84W) in Permit BNCR-9702 was hauled off-permit to the inert waste landfill as part of an approved plan to backfill the remaining pit. Revision No. 39 proposes to redisturb three parcels of reclaimed land totaling 87 acres adjoining Variance Area 8 to obtain 1.87 million cubic yards of spoil to accelerate landfill closure and complete reclamation of the 87 acre buffer area. The revision application includes appropriate designs and plans for postmining

topography revision of redisturbed reclaimed land and landfill closure topography; topsoil and subsoil removal from reclaimed land and its redistribution on redisturbed land (Variance Area 8) within the permit; sediment control and surface water management for disturbance within the permit and the inert waste landfill; off-permit use of spoil for landfill closure; and, topsoil and subsoil redistribution for landfill closure from the Permit BNCR-9702 stockpile volume previously identified and set aside for landfill closure. The DWM has stated its concurrence with the landfill spoil cover thickness, landfill closure topography, and the topsoil and subsoil redistribution depths (6 inches of topsoil and 24 inches of subsoil) specified in the revision application. Landfill post-closure land uses of cropland and native grassland consistent with surrounding Permit BNCR-9702 postmine land uses are being discussed between the DWM and Minnkota.

Revision No. 39 was considered a significant alteration to the approved 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 received no objections to this revision application from those agencies or advisory committee members that received notification or from the nearby landowners or general public in response to the public notice.

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

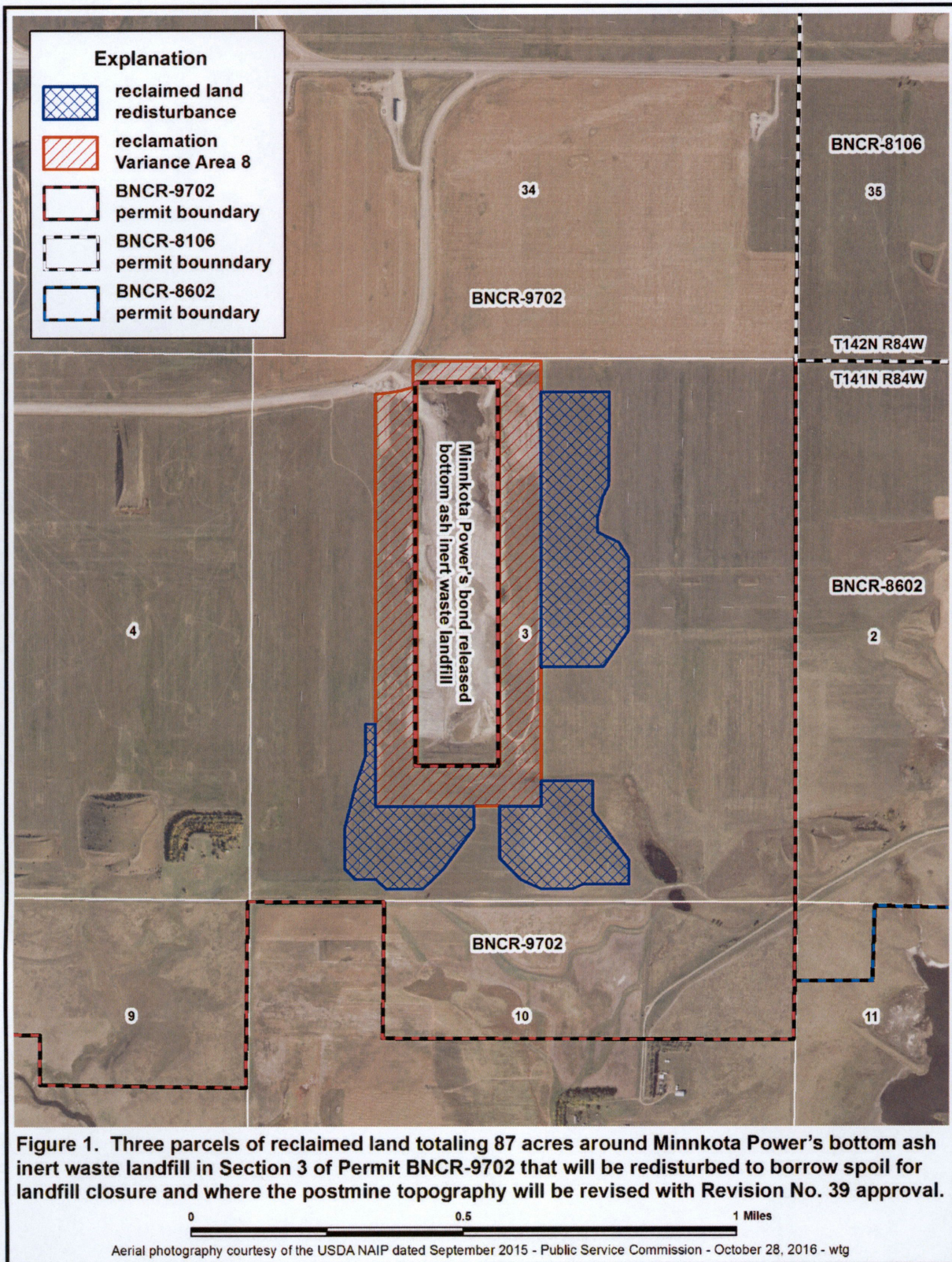


Figure 1. Three parcels of reclaimed land totaling 87 acres around Minnkota Power's bottom ash inert waste landfill in Section 3 of Permit BNCR-9702 that will be redisturbed to borrow spoil for landfill closure and where the postmine topography will be revised with Revision No. 39 approval.