

**Public Service Commission
Reclamation Division**

Memorandum

To: Commissioners Kroshus, Fedorchak, and Christmann
Steve Kahl - Executive Secretary
John Schuh - General Counsel

From: *DKM* *ZAB* *BC*
Dean Moos, Zanna Brinkman, and Bill Gunnerson

Date: June 19, 2019

Subject: Approval of Revision No. 40 to Permit No. BNCR-9702 held by BNI Coal, Ltd., Case No. RC-17-280

On July 6, 2017, BNI Coal, Ltd. (BNI) filed an application for Revision No. 40 to Surface Coal Mining Permit No. BNCR-9702 at the Center Mine to add 636.58 acres of land located in Section 20, Township 142N, Range 84W. The revision application revises the environmental resource information and the mining and reclamation plans for the acreage being added to the permit. The revision application also proposes to modify the postmine topography within the current permit area in Section 21, the W $\frac{1}{2}$ of Section 28, the S $\frac{1}{2}$ of Section 29, the N $\frac{1}{2}$ of Section 32 and the NW $\frac{1}{4}$ of Section 33 to reclaim final pits in Sections 28 and 29. The Reclamation Division has completed its revision review and respectfully recommends that it be conditionally approved.

Following Revision No. 40 approval, Permit BNCR-9702 will total 7,655.11 acres located southwest of Center. The land being added to the permit expands the current permit boundary's northwest corner along the south side of North Dakota Highway 25 as pictured in Figure 1. Mining privately owned coal in the W $\frac{1}{2}$ W $\frac{1}{2}$ of Section 21 of the current permit area is planned to resume in 2020 after a five-year temporary pit cessation, with westward mining progression into Section 20 planned to begin in 2021 and proceed through 2024 as depicted in Figure 1. Three quarters of the coal reserves in Section 20 added with Revision No. 40, however, are federally owned as depicted in Figure 1. BNI has a lease application pending with the Bureau of Land Management for about 290 acres of the federal coal in Section 20. BNI possesses the surface leases to disturb the federal coal tracts to the extent necessary for conducting mining operations on adjoining tracts where the coal is privately owned, but overburden and coal removal on the federal coal tracts is prohibited until the coal lease is issued and the Department of the Interior has approved the federal mine plan. Special Condition No. 1 attached to the Revision No. 40 approval prohibits any overburden or coal removal from the federal coal tracts until BNI receives the coal lease and the Secretary of the Interior approves the federal mine plan. Until the federal mining plan is approved, the condition also limits surface disturbances on the federal coal tracts to those activities that are needed for carrying out mining on the adjoining tracts where the coal interests are privately owned. A secondary postmine topography design for Sections 20 and 21 is presented in the revision application to reclaim a final pit along the west section line of Section 21 in the event that a federal coal lease for the N $\frac{1}{2}$ and the SW $\frac{1}{4}$ of Section 20 is not acquired.

Revision No. 40 was deemed a significant revision to Permit No. BNCR-9702 and was subject to the public notice requirements. BNI submitted affidavits of publication of the required newspaper notices. We notified the appropriate agencies, the permit area landowners, and advisory committee members of

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the revision application. We received no objections or requests for informal conferences on this revision application.

An updated worst-case reclamation cost estimate of \$35,067,865 for the Center Mine consolidated bond area that includes Permits BNCR-9702, BNCR-8106, BNCR-8202, and BNCR-8602 was submitted with the Revision No. 40 application. The existing surety bonds for the Center Mine consolidated bond area total \$35,067,865 and are sufficient to cover the worst case reclamation cost estimate.

Attached for your consideration at the June 26th Commission meeting are the proposed motion, revision approval findings, permit condition, and newspaper notice that we must publish following revision approval.

Attachments

Minedata/Center/Permits/BNCR-9702/Revisions/No.40/Rev40_apprvl_memo_6-19-19

