

PUBLIC SERVICE COMMISSION

Reclamation Division

Memorandum

TO: Commissioners Kroshus, Fedorchak and Christmann
Steve Kahl, Executive Secretary
Illona Jeffcoat-Sacco and John Schuh

FROM: Dean Moos, ^{ZAB}Zanna Brinkman and Randy Kowalski

DATE: May 8, 2019

SUBJECT: Application for Revision No. 15 to Permit No. BNCR-9401 held by BNI Coal, Ltd., Case No. RC-17-470

The initial application for Revision 15 to BNCR-9401 was received on November 28, 2017 and proposed a land use change for Section 8. After completing the public comment period and following our technical review of the application, BNI decided to add acreage to the permit area and the application review process started over.

On September 20, 2018, BNI Coal, Ltd. (BNI) submitted the application for Revision No. 15 to Surface Coal Mining Permit BNCR-9401 to add 12.95 acres to this permit at the Center Mine. The added acreage is located in the NE1/4 of Section 5, T141N, R83W and SE1/4 of Section 32, T142N, R83W. This revision also changes the post-mine land use from cropland and grassland to industrial and commercial land use for Minnkota Power Cooperative's solid waste landfill area located in the NE1/4 of Section 8, T141N, R83W. Minnkota Power Cooperative is the surface owner for both areas affected by this revision. The permit revision provides the required baseline data and updates mining related operation and reclamation plans for the acreage addition and the post-mine land use change. The Reclamation Division has completed its review of this revision application and respectfully recommends it be approved.

The 12.95 acre permit addition will be used by BNI to expand the active coal stockpile area at Minnkota's M.R. Young Station. The proposed stockpile expansion will ensure that a supply of coal will be available to meet the power plant's demand for coal during periods when coal cannot be delivered from the mine pits for an extended period due to weather conditions or equipment repairs. The expanded stockpile will eventually replace a field coal stockpile currently located approximately 3 miles northwest of the plant site within Permit BNCR-8106. The permit addition will include a 1.22 acre tract of previously bond released acreage. The re-permitted area is necessary to reroute an existing access road and to construct a haul road extension on the west side of the expanded coal stockpile. All of the land added to the permit with Revision 15 was being used for industrial purposes.

The post mine land use change from agricultural to industrial for the NE1/4 of Section 8 is being made at the request of the property owner (Minnkota Power Cooperative) to continue development and operation of their Flue Gas Desulfurization cells and solid waste disposal facility. The Oliver County Board of Commissioners granted a conditional land use permit to Minnkota Power on October 6, 2011, authorizing use for a Solid Waste Disposal Facility in the NE1/4 of Section 8, T141N, R83W. The solid waste facility is also subject to the Department of Health's solid waste landfill permitting, operation and closure requirements.

This revision was considered a significant revision to Permit BNCR-9401 and was subject to the public notice requirements. BNI submitted the affidavits of publication of the newspaper notices. We notified the appropriate agencies, affected landowners and the advisory committee members. We received responses from the Division of Water Quality, State Water Commission and the U.S. Fish and Wildlife Service indicating that they had no objections to this revision application. We received no other comments or objections to this revision application.

The worst-case reclamation cost calculations were reviewed as part of Revision 15 to Permit BNCR-9401. The worst case bond estimate was determined to be \$960,254.00. BNI replaced the current Surety Bond No. 400JR3522 with Surety Bond No. 800043898, underwritten by Atlantic Specialty Insurance Company. Atlantic Specialty Insurance Company is licensed to do business in North Dakota and has an A+ from AM Best Credit Rating Center. The company is also listed as a certified company to issue surety bonds for federal lands in Circular 570. The new surety bond for \$1,404,271.00 will cover the reclamation liability on the 381.88 acres in Permit BNCR-9401. The bond amount remained the same, but the acreage of the new bond was adjusted for the 15.24 acres deleted from the permit with Revision 14 and the 12.95 acres added to the permit with Revision 15. Surety Bond No. 800043898 was properly executed and accepted by the Reclamation Division. No Commission action is required.

BNI also submitted a rider to reduce Surety Bond No. 400JR3522 underwritten by St. Paul Fire & Marine Insurance Company to zero dollars and zero acres, effectively cancelling the bond. The rider does not require Commission action, but it does require the signature of Commissioner Christman. Please sign the attached rider on behalf of the Commission, have Steve Kahl attest your signature, and return to the Reclamation Division for distribution.

Attached for your consideration are the proposed motion and revision approval forms.

Minedata/Center/Permits/BNCR-9401/Revisions/No.14/Rev15_apprvl_memo_5-8-19

Permit BNCR-9401 showing the Revision 15 coal pile addition and post-mine land use change areas (2018 NAIP imagery)

