

**Public Service Commission
Reclamation Division**

Memorandum

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

From: ^{SKM} Dean Moos, ^{ZB} Zanna Brinkman, and ^{BG} Bill Gunnerson

Date: July 16, 2020

Subject: Approval of Revision No. 41 to Permit No. BNCR-9702 held by BNI Coal, Ltd., Case No. RC-20-23

BNI Coal, Ltd. (BNI) filed the application for Revision No. 41 to Surface Coal Mining Permit No. BNCR-9702 on January 17, 2020 coincident with the application of Renewal No. 4 to the permit. Revision No. 41 identifies the next five-year coal removal subareas and updates the legal and financial, operation, and reclamation permit 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.

Permit No. BNCR-9702 contains 7,655.11 acres located south-southwest of Center as depicted in Figure 1. BNI plans to disturb about 450 acres during the next permit term to produce about 2 million tons of coal per year for Minnkota Power Cooperative's Milton R. Young Station. As indicated in Figure 1, the permit's lone dragline will complete mining in the Section 28 and 29 pit in the fall of 2020, and then it will walk north to resume mining in the W¹/₂W¹/₂ of Sections 21 and 28 following a five-year temporary pit cessation. Westward mining progression into Section 20 is planned to begin in 2021 and continue through 2025 as depicted in Figure 1; however, three quarters of the coal reserves in Section 20 added with Revision No. 40 (approved June 26, 2019) are federally owned. BNI has a lease application pending with the Bureau of Land Management for about 290 acres of the federal coal in Section 20. BNI has acquired 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 Special Condition No. 1 attached to Revision No. 40 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. Revision No. 40 added a secondary postmine topography design for Sections 20 and 21 to reclaim a final pit along the west section line of Section 21 in the event that a federal coal lease for the N¹/₂ and the SW¹/₄ of Section 20 is not acquired. The dragline will be moved to the C1 Addition of Permit No. BNCR-1101 after mining is completed in Permit No. BNCR-9702 in 2025. The C1 Addition to Permit No. BNCR-1101 will be submitted as Revision No. 8 in 2020 that will add 2,661 acres to the permit in Sections 11, 14, 15, 16, 22, and 23 of Township 141N, Range 84W. A segment of the permit boundary for the proposed addition is depicted in Figure 1. BNI plans to begin mining in the addition area in 2025.

Revision No. 41 was considered a significant alteration to the approved mining and reclamation plans and was therefore subject to the notice, hearing, and procedural requirements. BNI 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. Surface owners within the permit area, the appropriate agencies, and the state's advisory committee members were notified of the revision application and the

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opportunity to submit comments or objections, or to request an informal conference, on the revision application. No comments, objections, or requests for an informal conference were received on the revision application.

The existing surety bonds that total \$35,067,865 are sufficient to cover the worst case reclamation cost estimate for the Center Mine consolidated bond area that covers Permit No. BNCR-9702 and three other permits.

Attached for your consideration at the July 23rd Commission meeting are the proposed motion, revision approval form, and the revision approval notice that will be published in the appropriate newspapers.

Attachments

Minedata/Center/Permits/BNCR-9702/Revisions/No.41/Rev41_Apprvl_memo_7-16-20

