

**PUBLIC SERVICE COMMISSION**

Reclamation Division

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**MEMORANDUM**

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

FROM: *Dkm* *ZAB*  
Dean Moos, Zanna Brinkman, and Julie Prescott

DATE: July 20, 2020

SUBJECT: Approval of Revision No. 16 to Permit No. BNCR-9401 held by BNI Coal, Ltd.  
for the Center Mine, Case No. RC-20-25

On January 21, 2020, BNI Coal, Ltd. (BNI) filed the application for Revision No. 16 to Surface Coal Mining Permit No. BNCR-9401 at the Center Mine. This revision identifies the next five year coal removal areas and also updates other information in the permit including the legal and financial section, the operations, reclamation, ground water, surface water management and post mining land use sections, and the worst case reclamation cost estimate. The Reclamation Division has completed its review of this revision application and respectfully recommends its approval.

Permit No. BNCR-9401 includes 381.88 acres located in Sections 5 and 8, T141N, R83W and Section 32, T142N, R83W. 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. Four disposal cells regulated by the North Dakota Department of Environmental Quality have been constructed to date. Disposal cells 1, 2, and 3 have been bond released as industrial areas and are now under the sole jurisdiction of the Department of Environmental Quality. In 2017, privately owned coal was removed from a portion of disposal cell 4, but the federally owned coal was not mined. After coal removal, disposal cell 4 was constructed and MPC began operating the cell in 2018. The application for bond release of disposal cell 4 is currently being reviewed by the Reclamation Division. Disposal cell 5 is proposed for construction in 2023 in the N<sup>1</sup>/<sub>2</sub>NE<sup>1</sup>/<sub>4</sub> of Section 8 and coal will be removed pending Department of the Interior approval of a lease and mine plan approval that will allow BNI to 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.

The 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.

Revision No. 16 was considered a significant alteration to the 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. We notified the appropriate agencies, affected landowners, and the advisory committee members. We received no comments or objections for this revision application.

The existing surety bond for \$1,404,271 is sufficient to cover the worst case reclamation cost estimate for Permit No. BNCR-9401.

Attached for your consideration at the July 23<sup>rd</sup> Commission meeting are the proposed motion, the revision approval form, and the revision approval notice for publication.

**Figure 1. Permit BNCR-9401**

