



Public Service Commission
State of North Dakota

COMMISSIONERS

Julie Fedorchak
Randy Christmann
Brian Kroshus

Sent via regular mail

May 20, 2021

600 East Boulevard, Dept. 408
Bismarck, North Dakota 58505-0480
Web: www.psc.nd.gov
E-mail: ndpsc@nd.gov
Phone: 701-328-2400
ND Toll Free: 1-877-245-6685
Fax: 701-328-2410
TDD: 800-366-6888 or 711

Edward C. Murphy
State Geologist
North Dakota Geological Survey
600 East Boulevard Avenue
Bismarck, ND 58505-0840

Dear Mr. Murphy:

BNI Coal, Ltd. has filed an application for Revision No. 8 to Surface Coal Mining Permit No. BNCR-1101 at the Center Mine to add 2,661.04 acres to the permit in Sections 11, 14, 15, 16, 22, and 23 of Township 141N, Range 84W, in Oliver County. The additional acreage will expand the permit area to the west for coal mining and support activities. The revision application revises the surface and coal ownership information, right of entry documents, environmental resource information, cultural resource information, mining plans, surface water management plans, reclamation plans, and the reclamation cost estimate for the acreage being added to the permit. The revision also proposes to revise the postmining topography for 1,211 acres of the existing permit area.

A USB flash drive of the permit revision application is enclosed for your agency's evaluation as a state Advisory Committee member as required by NDAC 69-05.2-10-01(2). A permit Table of Contents is accessible from the web browser home page. Please refer to pages 30 through 34 of Appendix 1-1 (Revision Summary and List of Changes) for a list of Revision No. 8 proposed changes. Please review your agency's areas of responsibility and technical expertise for the revision application and reply with any comments by July 6, 2021.

Please contact us with any questions.

Sincerely,

Dean K. Moos
Director
Reclamation Division

Enclosure

Center Mine\Permits\BNCR - 1101\Revisions & Renewals\No. 8\Rev8_state_advstry_rvw_rqst_ltr_5-20-21



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John Paczkowski, P.E.
Interim State Engineer
North Dakota State Water Commission
900 East Boulevard Avenue Dept 770
Bismarck, ND 58505-0850

Dear Mr. Paczkowski:

BNI Coal, Ltd. (BNI) has filed an application for Revision No. 8 to Surface Coal Mining Permit No. BNCR-1101 at the Center Mine to add 2,661.04 acres to the permit in Sections 11, 14, 15, 16, 22, and 23 of Township 141N, Range 84W, in Oliver County. The additional acreage will expand the permit area to the west for coal mining and support activities. The revision application revises the surface and coal ownership information, right of entry documents, environmental resource information, cultural resource information, mining plans, surface water management plans, reclamation plans, and the reclamation cost estimate for the acreage being added to the permit. The revision also proposes to revise the postmining topography for 1,211 acres of the existing permit area.

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Please contact us with any questions.

Sincerely,

Dean K. Moos
Director
Reclamation Division

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David Glatt, P.E., Director
North Dakota Department of Environmental Quality
918 East Divide Avenue
Bismarck, ND 58501

Dear Mr. Glatt:

BNI Coal, Ltd. (BNI) has filed an application for Revision No. 8 to Surface Coal Mining Permit No. BNCR-1101 at the Center Mine to add 2,661.04 acres to the permit in Sections 11, 14, 15, 16, 22, and 23 of Township 141N, Range 84W, in Oliver County. The additional acreage will expand the permit area to the west for coal mining and support activities. The revision application revises the surface and coal ownership information, right of entry documents, environmental resource information, cultural resource information, mining plans, surface water management plans, reclamation plans, and the reclamation cost estimate for the acreage being added to the permit. The revision also proposes to revise the postmining topography for 1,211 acres of the existing permit area.

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Bill Peterson, Director
State Historical Society of North Dakota
612 East Boulevard Avenue
Bismarck, ND 58505

Dear Mr. Peterson:

BNI Coal, Ltd. has filed an application for Revision No. 8 to Surface Coal Mining Permit No. BNCR-1101 at the Center Mine to add 2,661.04 acres to the permit in Sections 11, 14, 15, 16, 22, and 23 of Township 141N, Range 84W, in Oliver County. The additional acreage will expand the permit area to the west for coal mining and support activities. The revision application revises the surface and coal ownership information, right of entry documents, environmental resource information, cultural resource information, mining plans, surface water management plans, reclamation plans, and the reclamation cost estimate for the acreage being added to the permit. The revision also proposes to revise the postmining topography for 1,211 acres of the existing permit area.

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Tom Claeys, State Forester
North Dakota Forest Service
307 1st Street East
Bottineau, ND 58318-1100

Dear Mr. Claeys:

BNI Coal, Ltd. has filed an application for Revision No. 8 to Surface Coal Mining Permit No. BNCR-1101 at the Center Mine to add 2,661.04 acres to the permit in Sections 11, 14, 15, 16, 22, and 23 of Township 141N, Range 84W, in Oliver County. The additional acreage will expand the permit area to the west for coal mining and support activities. The revision application revises the surface and coal ownership information, right of entry documents, environmental resource information, cultural resource information, mining plans, surface water management plans, reclamation plans, and the reclamation cost estimate for the acreage being added to the permit. The revision also proposes to revise the postmining topography for 1,211 acres of the existing permit area.

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Aaron Field, Extension Program Coordinator
NDSU Extension Service
ND State Soil Conservation Committee
2718 Gateway Avenue - Suite 304
Bismarck, ND 58503

Dear Mr. Field:

BNI Coal, Ltd. has filed an application for Revision No. 8 to Surface Coal Mining Permit No. BNCR-1101 at the Center Mine to add 2,661.04 acres to the permit in Sections 11, 14, 15, 16, 22, and 23 of Township 141N, Range 84W, in Oliver County. The additional acreage will expand the permit area to the west for coal mining and support activities. The revision application revises the surface and coal ownership information, right of entry documents, environmental resource information, cultural resource information, mining plans, surface water management plans, reclamation plans, and the reclamation cost estimate for the acreage being added to the permit. The revision also proposes to revise the postmining topography for 1,211 acres of the existing permit area.

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Terry Steinwand, Director
North Dakota Game and Fish Department
100 North Bismarck Expressway
Bismarck, ND 58501-5095

Dear Mr. Steinwand:

BNI Coal, Ltd. (BNI) has filed an application for Revision No. 8 to Surface Coal Mining Permit No. BNCR-1101 at the Center Mine. The revision adds 2,661.04 acres of private and state-owned agricultural land to the permit in all or portions of Sections 11, 14, 15, 16, 22, and 23 of Township 141N, Range 84W, in Oliver County. The additional acreage will expand the permit area to the west for coal mining and support activities as depicted in attached Figure 1.

On May 10, 2017, the Reclamation Division provided your office with a copy of BNI's plans for acquiring baseline fish and wildlife resource information on this property and the adjacent area. A copy of the plan and the results of the fish and wildlife surveys begins on page 70 of Appendix 3.10-3 in the permit revision application. Attachment 3 (mistakenly titled as Attachment 2) on page 78 of Section 3.10 identifies the acreage of each land use within and adjacent the proposed permit addition area. In 2019 BNI conducted a detailed analysis of the native grassland acreage to determine if any suitable Dakota skipper habitat was present in the proposed permit area. The results of the 2019 study can be found beginning on page 89 of Appendix 3.10-3.

Based on the information provided, the Reclamation Division anticipates that it will be making a finding that BNI's proposed mining and reclamation activities in the Revision No. 8 addition area will not jeopardize the continued existence of any threatened, endangered, or proposed species, or result in the destruction or adverse modification of any proposed or designated critical habitat. The USFWS Information for Planning and Consultation (IPaC) site will be referenced prior to making a final effects determination.

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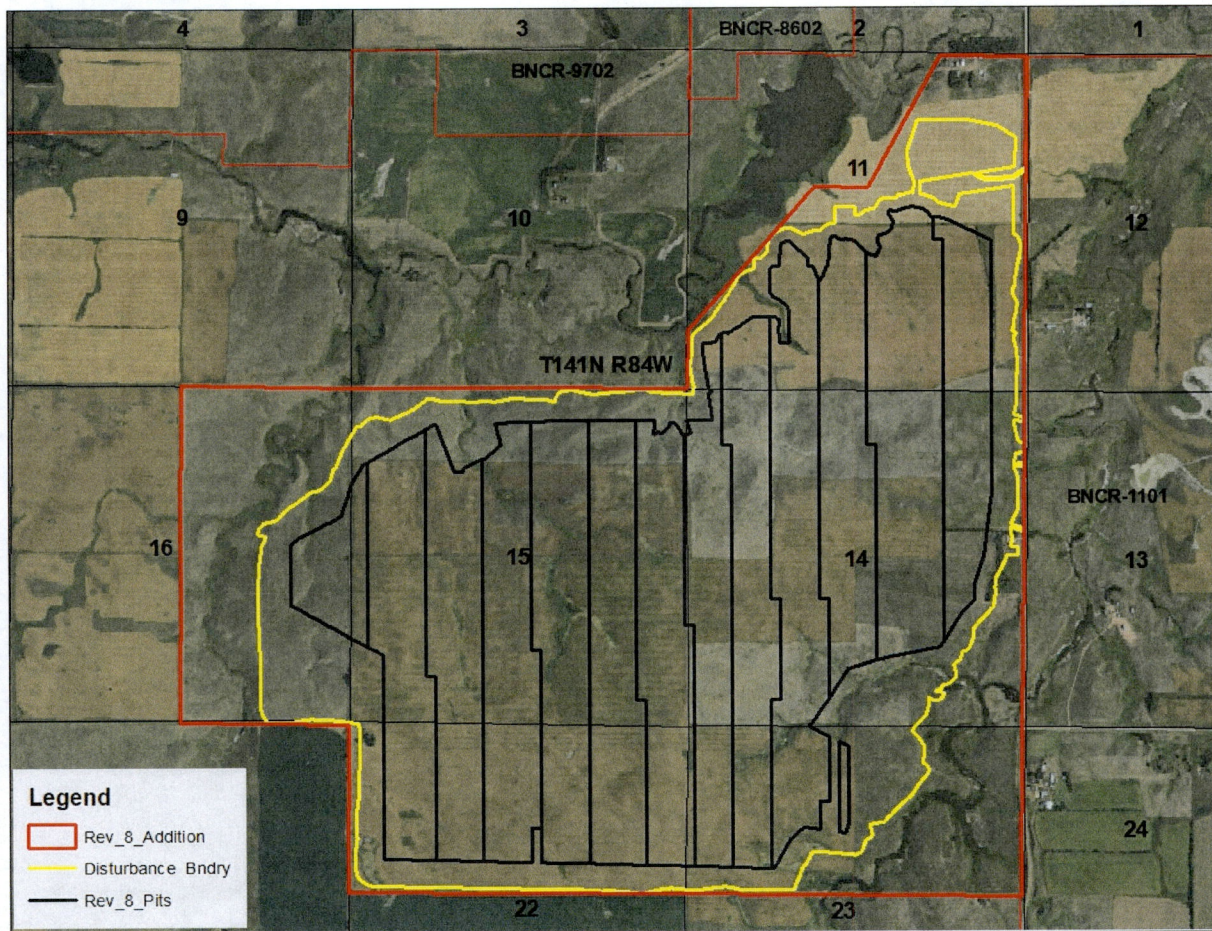


Figure 1. Location and areal extent of acreage proposed for addition to Permit BNCR-1101 with Revision No. 8. Aerial photography is courtesy of the USDA-NAIP acquired in early August 2020.