

PUBLIC SERVICE COMMISSION
 Reclamation Division

MEMORANDUM

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

FROM: ^{DKM} Dean Moos, ^{ZAB} Zanna Brinkman, and Preston Ripplinger

DATE: September 22, 2021

SUBJECT: Approval of Revision No. 17 to Permit No. BNCR-9401 held by BNI Coal, Ltd. for the Center Mine, Case No. RC-21-81

On February 2, 2021 BNI Coal, Ltd. filed the application for Revision No. 17 to Permit BNCR-9401 to add the federal coal lease for the 20 acre tract in the S1/2NE1/4NE1/4 of Section 8, T141N, R83W, within the existing permit area, modify the operations plan to include the removal of private and federal coal for the construction of Ash Cell 5 that will be used for flue gas desulfurization sludge from Minnkota Power Cooperative's Milton R. Young Station, update the worst case reclamation cost estimate and other information in this permit. The Reclamation Division has completed its review of this application and respectfully recommends that the application be approved.

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, 3 and 4 have been bond released as industrial areas and are now under the sole jurisdiction of the Department of Environmental Quality. The Commission approved bond release of disposal cell 4 on August 18, 2021. There was federal coal within disposal cell 4; however, no federal coal was removed during the construction of disposal cell 4 because BNI had not obtained the federal coal lease for the NE1/4 of Section 8 yet.

Disposal cell 5 is proposed for construction in 2023 in the N1/2NE1/4 of Section 8. Federal coal and privately owned coal needs to be removed in 2022 prior to the construction of the disposal cell. BNI obtained Federal Coal Lease NDM 105513 for 20 acres in the S1/2NE1/4NE1/4 of Section 8 on January 1, 2021; however, mine plan approval from the Department of the Interior is still pending. Revision 17 is subject to Standard Condition No. 10 to Permit BNCR-9401 that states no overburden or coal removal may occur in the NE1/4NE1/4 of Section 8, T141N, R83W, where the coal interest is owned by the United States of America, until the U.S. Department of Interior approves the mining plan for this tract as required by 30 CFR 746.11. Until that mining plan is approved, surface disturbances on the federal coal tract must be limited to soil removal and other activities that are necessary to support of mining activities on adjacent nonfederal lands. Standard Condition No. 10 was added to Permit BNCR-9401 when the NE1/4 of Section 8 was added to the permit with Revision 12.

Revision No. 17 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 September 22, 2021 Commission meeting are the motion, revision approval form, and newspaper notice that we must publish following revision approval.

Figure 1. Permit BNCR-9401 (Federal coal tract shown as cross-hatch)

