


**PUBLIC SERVICE COMMISSION**

Reclamation Division

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**MEMORANDUM**

TO: Commissioners Christmann, Haugen-Hoffart, and Fedorchak  
Steven Kahl, Executive Director  
John Schuh, General Counsel

FROM: <sup>JE</sup> Jonathan Emmer, <sup>MS</sup> Monty Johnson, <sup>BM</sup> Brandon Myran, and Preston Ripplinger 

DATE: May 13, 2024

SUBJECT: Approval for Revision No. 11 to Permit No. BNCR-1101 held by BNI Coal, Ltd.  
for the Center Mine, Case No. RC-23-349

On November 22, 2023, the Reclamation Division received BNI Coal, Ltd.'s (BNI) application for Revision No. 11 to Surface Coal Mining Permit No. BNCR-1101 at the Center Mine. This revision identifies the next five-year coal removal areas and addresses items that were identified as requiring updating or modification by the Reclamation Division during a pre-renewal review of the permit. Revision No. 11 updates the legal and financial section, operations and reclamation plans, ground water, surface water management, transportation, post-mining land uses, wildlife monitoring plan, and the worst-case bond estimate sections of the permit for the next permit term. The Reclamation Division has completed its review of this revision application and respectfully recommends it be approved.

BNI applied for this revision and the corresponding Renewal No. 2 to this permit since mining and reclamation operations will continue in the existing permit area until 2039 as shown on the extended mining plans in the permit. BNI is requesting a variance from the contemporaneous reclamation requirements for an area within the permit. The variance includes an area that encompasses the final pit location created by the dragline in 2023. This pit will remain open until the remaining coal can be blended with other coal. BNI's request for variances from the 3-year revegetation requirement and the 180 day rough grading requirements have been adequately justified and the Reclamation Division recommends that the variances be approved as allowed by NDCC 38-14.1-24(14) and NDAC 69-05.2-21-01(2).

Revision No. 11 was considered a significant revision application and was subject to the public notice requirements. BNI has submitted affidavits of publication of the newspaper notices. We notified the appropriate agencies, affected landowners, and the advisory committee members. We received only one comment from an advisory committee member and no objections or requests for informal conferences were received for this revision application. The performance bond was increased to cover the projected worst case mining disturbance that will occur during this permit term. The BNCR-1101 permit area is covered by a surety bond totaling \$48,860,773.

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Attached for your consideration are the proposed motion, revision approval form, and revision approval notice that we must publish following revision approval in the appropriate newspapers.

#### Attachments

Center Mine\Permits\BNCR - 1101\Revisions & Renewals\No. 11 Ren 2\Rev11\_apprvl\_memo\_5-13-24