

PUBLIC SERVICE COMMISSION
Reclamation Division

Memorandum

To: Commissioners - Christmann, Haugen-Hoffart, and Kringstad
John Schuh - General Counsel
Steve Kahl - Executive Director

From: ^{JE} Jonathan Emmer, ^{MT} Monty Johnson, and ^{JK} Jeff Roerick

Date: March 14, 2025

Subject: Approval for Revision No. 44 to Permit No. BNCR-9702 held by BNI Coal, Ltd.,
Case No. RC-24-350

On October 4, 2024, the Reclamation Division received BNI Coal, Ltd.'s (BNI) application for Revision No. 44 to Permit BNCR-9702. The revision updates the legal and financial sections, ownership and control sections, pre-mine topographic information, pre-mine and post-mine surface water sections, transportation plan, surface water management plan, reclamation schedule, post-mine backfilling and regrading sections, and adds two reclamation variance areas. The Reclamation Division has completed its review of this revision application and respectfully recommends that it be approved.

BNI is requesting two variance areas from the contemporaneous reclamation requirements as depicted in **Figure 1**. Variance Area 16 is within the S½ of Section 29 and SW¼ of Section 28, T142N, R84W, and Variance Area 17 is within Section 20, T142N, R84W. The variance areas encompass the final pit locations. 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. 44 also proposed minor post-mine topography changes in Sections 21 and 28, T142N, R84W to achieve a soil balance for the final pit reclamation.

Revision No. 44 was deemed a significant revision to Permit BNCR-9702 and was subject to the public notice requirements. BNI submitted affidavits of publication showing that the newspaper notice was published in the Center Republican and the Bismarck Tribune for four consecutive weeks in both newspapers. We notified the appropriate agencies and the permit area landowners of the revision application and received no comments or objections to this revision application.

Attached for your consideration are the proposed motion, revision approval form, and revision approval notice that will be published in the appropriate newspapers.

Revision 44 to Permit BNCR-9702, Case No. RC-24-350

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Attachments

Center Mine\Permits\BNCR - 9702\Revisions\No. 44\Rev44_Apprvl_memo_3-14-25

Figure 1
Revision No. 44 Newspaper Publication Reference Map

