

**PUBLIC SERVICE COMMISSION**  
**Reclamation Division**

\*\*\*\*\*

**MEMORANDUM**

TO: Commissioners Christmann, Haugen-Hoffart, and Kringstad  
Steve Kahl, Executive Director  
Brian Johnson, Special Assistant Attorney General

FROM: JE MJ BM  
Jonathan Emmer, Monty Johnson, and Brandon Myran

DATE: July 7, 2025

SUBJECT: Application for Revision 19 to Permit BNCR-9401 held by BNI Coal, Ltd. for the Center Mine, Case No. RC-25-80

On February 26, 2025, the Reclamation Division received BNI Coal, Ltd.'s (BNI) application for Revision No. 19 to Surface Coal Mining Permit BNCR-9401 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 19 updates the legal and financial section, extended mine plan, environmental resources, and operations plans. Specific updates include coal removal and waste disposal cells, pit layout and facilities map, equipment list, blasting plan, surface water management, water monitoring and drill hole reclamation, post-mining land use, fish and wildlife resource protection and enhancement/monitoring plan, and the worst-case bond estimate 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 6 to this permit since mining and reclamation operations will continue in the existing permit area. Permit BNCR-9401 includes 338.28 acres located in Sections 5 and 8, T141N, R83W; and Section 32, T142N, R83W, Oliver County. Mining has been conducted in Permit BNCR-9401 solely to remove lignite prior to the construction of disposal cells for flue gas desulfurization sludge from Minnkota Power Cooperative Inc.'s Milton R. Young Station.

To date, five disposal cells have been constructed. Disposal cells 1 through 4 have been bond released as industrial areas and are now under the sole jurisdiction of the North Dakota Department of Environmental Quality. Disposal cell 5 was constructed in 2023, and coal removal operations are estimated to resume in Section 8 in 2030 when construction of disposal cell 6 is estimated to occur.

The existing haul road located in Sections 5 and 32 is projected to be used to haul coal from adjacent permit areas to the Milton R. Young Station until 2041. The haul road through Section 8 is expected to be used to haul coal until 2027.

Special Condition No. 1, attached to Revision 12, prohibited overburden and coal removal from the federal coal tract within the permit area until a lease is acquired and federal mine plan approval is granted. On May 11, 2023, the U.S. Department of the Interior granted mine plan approval for the federal coal lease NDM-105513 in the S½NE¼NE¼ of Section 8, T141N, R83W. Coal removal from the federal tract occurred in 2023, and disposal cell 5 was subsequently constructed and made available for Minnkota Power Cooperative Inc.'s use. Special Condition No. 1 has been satisfied and is no longer applicable, as all federal coal has been removed from Permit BNCR-9401.

Revision 19 was considered a significant revision application and was subject to the public notice requirements. BNI has submitted affidavits of publication showing that the notice was published in the Center Republican and the Bismarck Tribune for four consecutive weeks in both newspapers. 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 regarding this revision application.

Revision 19 updated the worst-case bond estimate for Permits BNCR-9401. BNI's existing surety bond in the amount of \$1,404,271 exceeds the minimum bond amount of \$1,026,271 proposed with Revision 19 and was therefore deemed adequate.

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