

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

BNI Coal, Ltd.
Bond Release No. 6, Permit BNCR-8106
Approval

Case No. RC-06-523

RELEASE OF BOND
FOR SURFACE COAL MINING AND RECLAMATION OPERATIONS

November 24, 2010

Based on the application for **Bond Release Number 6 to Surface Mining Permit Number BNCR-8106**, received December 11, 2006, and as later modified, and all information and documentation contained therein, the North Dakota Public Service Commission finds that:

1. Attached to the Application for Release of Bond were copies of all letters sent by the Permittee as required by NDCC §38.14.1-17(1)(b). Affidavits of publication for the advertisement required by NDCC §38.14.1-17(1)(a) have now been filed and have been made part of the Application for Release of Bond. The last date of publication was January 22, 2009.
2. On July 8, 2008, the Commission conducted an inspection and evaluation of the reclamation work involved, as required by NDCC §38.14.1-17(3). The surface owner, agent, or lessee was given notice of the bond release inspection and had the opportunity to participate with the Commission in conducting the inspection.

In accordance with NDCC §38.14.1-17, Bond Release No. 6 for Surface Coal Mining Permit No. BNCR-8106 is hereby granted to BNI Coal, Ltd. effective December 27, 2010, unless a formal hearing is requested. The area is described by the attached metes and bounds descriptions and as follows:

Portions of the N½ of Section 25 and SW¼ of Section 36, T142N,
R84W, in Oliver County, releasing all reclamation liabilities on
193.66 acres.

This decision to release all of the bond on this acreage is made for the following reasons:

The post-mining land uses of hayland, native grassland, permanent impoundments and public roads have been implemented in accordance with the approved reclamation plan; the applicable grading, soil replacement, and revegetation success standards have been met; and all other applicable requirements of the reclamation laws and rules have been satisfied.

IMPORTANT – PLEASE READ

1. If bond release has been approved, actual release of bond shall not occur until the effective date of this decision. If a formal hearing is requested on this bond release decision by a person with a valid legal interest or by the head of any state or local government agency with appropriate jurisdiction, the actual release of bond may not occur until after a final decision is issued following the formal hearing. A request for formal hearing by any such person must be filed with the Public Service Commission within 30 days of this bond release decision.
2. If bond release has been disapproved or if you are unsatisfied with the amount of bond approved for release, you have the right to request a formal hearing regarding this decision by filing an application for a hearing with the Public Service Commission within 30 days of the date of this decision.

PUBLIC SERVICE COMMISSION



Tony Clark
Commissioner



Kevin Cramer
Chairman



Brian P. Kalk
Commissioner

METES AND BOUNDS DESCRIPTION
OF BOND RELEASE #6 FOR PERMIT BNCR-8106

Tract 1

Beginning at the West Quarter corner of Section 25, Township 142 North, Range 84 West of the Fifth Principal Meridian, Oliver County, North Dakota.

Thence N 00°16'15" E a distance of 2628.62 feet;
Thence S 89°38'12" E a distance of 2123.30 feet;
Thence S 29°14'36" E a distance of 195.76 feet;
Thence N 68°15'23" E a distance of 452.26 feet;
Thence S 89°39'53" E a distance of 785.65 feet;
Thence S 42°13'54" E a distance of 317.25 feet;
Thence S 23°59'03" W a distance of 140.00 feet;
Thence S 66°10'04" E a distance of 69.47 feet;
Thence S 26°24'40" W a distance of 196.97 feet;
Thence N 78°13'33" W a distance of 705.70 feet;
Thence N 28°34'22" W a distance of 276.66 feet;
Thence S 69°18'15" W a distance of 949.85 feet;
Thence S 01°04'27" W a distance of 1574.76 feet;
Thence S 89°39'16" E a distance of 699.89 feet;
Thence S 01°04'27" W a distance of 429.93 feet;
Thence N 89°39'16" W a distance of 529.92 feet;
Thence S 00°21'52" W a distance of 102.69 feet;
Thence N 89°30'58" W a distance of 1989.35 feet; Which is the point of beginning,
Said tract having an area of 133.42 acres, more or less.

Tract 2

Beginning at the West Quarter corner of said Section 36;
Thence S 89°24'12" E a distance of 615.52 feet;
Thence S 60°58'46" E a distance of 1893.21 feet;
Thence S 00°18'07" W a distance of 297.85 feet;
Thence S 77°02'33" W a distance of 2351.38 feet;
Thence N 00°23'43" E a distance of 1750.09; Which is the point of beginning,
Said tract having an area of 60.24 acres, more or less.