

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

BNI Coal, Ltd.
Variance, Permits BNCR-8202, BNCR-8106
& BNCR-8006
Approval

Case No. RC-08-390

VARIANCE TO THE PERFORMANCE BOND LIABILITY
PERIOD OF SURFACE COAL MINING PERMITS

July 16, 2008

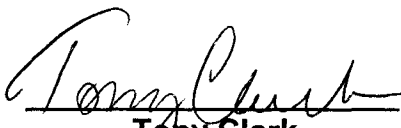
Based on the application received on June 24, 2008, a variance to the Performance Bond Liability Period is hereby granted to BNI Coal, Ltd. to combine the liability period for reclaimed haulroads in Permits BNCR-8202, BNCR-8106 and BNCR-8006 with that of the surrounding reclamation tracts on the following acreage:

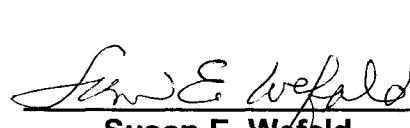
Approximately 31.88 acres in Section 26, T142N, R84W, Oliver County.

Based on the application for the variance for areas in Permits BNCR-8202, BNCR-8106 and BNCR-8006, and all information and documentation contained therein, the North Dakota Public Service Commission finds that:

1. BNI Coal, Ltd. has affirmatively demonstrated that reclamation of the facilities will provide equal or greater protection to the environment and to public health and safety;
2. The Commission has determined that all areas are reclaimed and vegetation is being established as required by the approved reclamation plan; and,
3. BNI Coal, Ltd. must satisfy all reclamation success standards described in NDAC Chapter 69-05.2-22 when final bond release is requested.

PUBLIC SERVICE COMMISSION


Tony Clark
Commissioner


Susan E. Wefald
President


Kevin Cramer
Commissioner