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PUBLIC SERVICE COMMISSION
FAX (701) 794-3125

PHONE (701) 794-8734



2360 35TH AVENUE SW CENTER, ND 58530-9499 FROM DIRECTOR - RECLAMATION DIV.
MINING LIGNITE AT THE CENTER MINE SINCE 1970

Date: _____

Action: _____

Info. Only: _____

Info & File: _____

November 4, 2008

Mr. Jim Deutsch, Director
Reclamation Division, NDPSC
Department 408
600 East Boulevard Avenue
Bismarck, ND 58505-0480

RE: Bond Release to Permits BNCR-8006, BNCR-8106, BNCR-8202 and Permit 37

Dear Mr. Deutsch,

Enclosed with this letter is a copy of the "Affidavit for Publication" notice from the Center Republican for Bond Releases to Permits BNCR-8006, BNCR-8106, BNCR-8202 and Permit 37.

If you have any questions, please contact me at the Center office.

Sincerely,

Karene M. Hall
Permit Coordinator

AFFIDAVIT OF PUBLICATION

STATE OF NORTH DAKOTA)
)
) SS
COUNTY OF Oliver)

I SHELLEY CHASE, being first duly sworn, on my own oath, say, that I am the bookkeeper of the Center Republican, a weekly newspaper of general circulation, published in the city of Center, that the advertisement headed:

BNI-CENTER MINE CR-NOTICE OF APPLICATION/LEGAL/PO #082469

a printed copy of which is here annexed, was published in the regular and entire issue of said newspaper during the period and time of publication, and that the notice was published in the newspaper proper, and not in a supplement,

for 4 consecutive week 10/09/2008 to wit:

| | | | |
|--------------------|--------|----------|------------|
| Column Inches 23.5 | \$5.25 | \$123.38 | 09/18/2008 |
| Column Inches 23.5 | \$5.25 | \$123.38 | 09/25/2008 |
| Column Inches 23.5 | \$5.25 | \$123.38 | 10/02/2008 |
| Column Inches 23.5 | \$5.25 | \$123.38 | 10/09/2008 |

Notary Fee \$1.00 Total Cost of Legal \$494.52

Shelley Chase

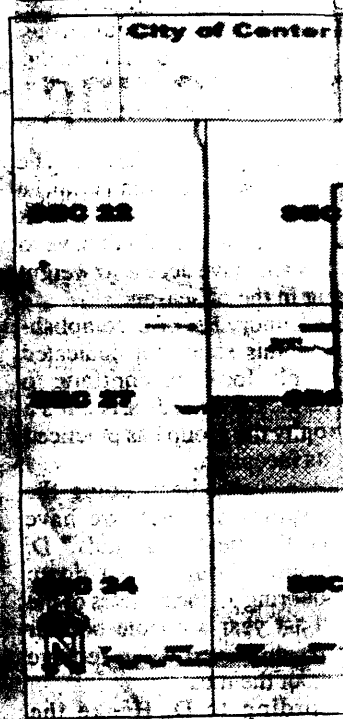
Subscribed and sworn to before me this 15th day of October A.D. 2008

(Seal) *Darla J. Mautz*

Notary Public, State of North Dakota

My Commission Expires

DARLA J MAUTZ
Notary Public
State of North Dakota
My commission expires July 22, 2010



LEGAL NOTICE
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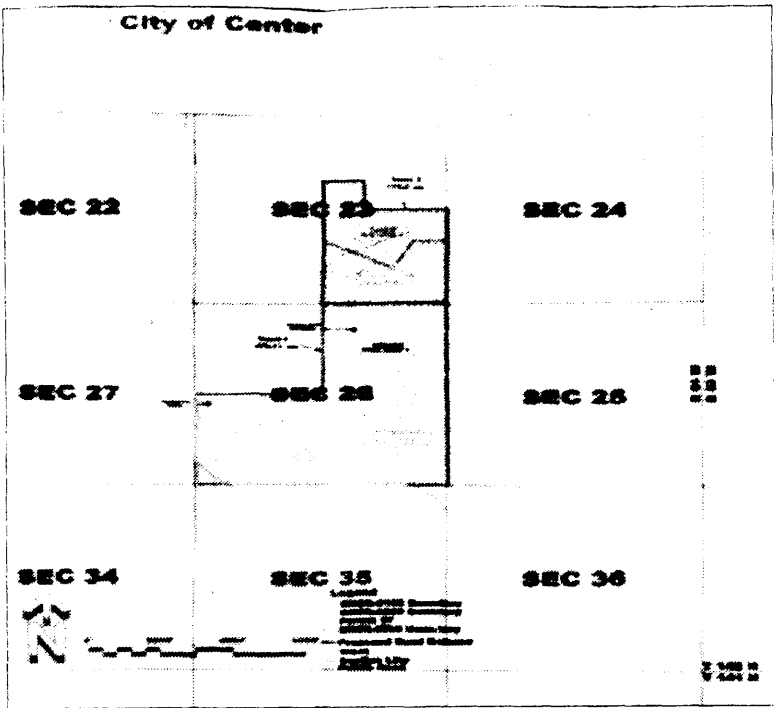
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his 15th day of

DARLA J MAUTZ
Notary Public
State of North Dakota
My commission expires July 22, 2010



**LEGAL NOTICE
NOTICE OF APPLICATION TO RE-
LEASE PERFORMANCE BOND**

BNI Coal, Ltd., 2360 35TH Avenue SW, Center, ND 58530-9499 has submitted an application to release two tracts consisting of 649.51 acres in portions of Sections 23 and 26, T142N, R84W in Oliver County from all remaining reclamation liabilities to the North Dakota Public Service Commission. The bond release tracts are currently in permit(s) BNCR-8006 (Approved April 28th, 1981), BNCR-8106 (Approved July 19th, 1983), BNCR-8202 (Approved July 31st, 1984), and Permit 37 (Approved September 20th, 1976). No monetary release is requested for lands within BNCR-8006, BNCR-8106, or BNCR-8202 since the bond amount is based on the worst-case reclamation condition that occurs in the consolidated bond area that covers these permits and others at the Center Mine. The total consolidated worst-case bond amount is \$25,008,439.00 for Permits BNCR-9702, 8006, 8106, 8202, and 8602. Lands currently under Permit 37 at the Center Mine are bonded for \$147,463.00 in which BNI Coal is requesting a bond release of \$71,261.90. The bond release tracts are depicted on the attached map.

The tracts were reclaimed in accordance with the North Dakota Public Service Commission approved reclamation plans:

Tract 1: 475.71 acres consisting of 437.36 acres of cropland, 9.9 acres of shelterbelt, 7.3 acres conservational field windbreaks, and 21.15 acres of public roads (including a rebuilt county road) which are located in the E 1/2 and SW 1/4 of Section 26, T142N, R84W, Oliver County, North Dakota. This tract was initially disturbed in 1980 and was mined in 1982 through 1992. Contemporaneous reclamation, backfilling, and grading began in 1985 and continued through 1997. Seeding of the reclaimed area was performed in 1986 through 1997. In 2001, 2002, and 2003 a haul road corridor was removed, reclaimed, and then seeded. A variance to the 10-Year Performance Bond Liability Period for these areas was approved on July 16th, 2008 by the PSC. Two water resources were present prior to mining on this tract

consisting of a well that was located in the NW 1/4 of the SW 1/4 and a stock dam that was located in the SW 1/4 of the NW 1/4. Replacement of the pre-mine water supplies are not needed to support the cropland post-mine landuse and hence will not be replaced. Management of this tract includes small grains and row crop and annual haying of alfalfa/grass.

Tract 2: 173.8 acres consisting of 112.02 acres of hayland, 33.70 acres of tame pasture, 22.81 acres of undisturbed native grassland, 4.02 acres of public roads, and 1.25 acres of developed water resource which are all located in the SE 1/4 and NE 1/4 of Section 23 T142N R84W, Oliver County, North Dakota. Partial bond release has been obtained for 78.8 acres in this tract. This tract was initially disturbed in late 1979 in preparation of mining. Mining began in 1980 and continued into 1985. Contemporaneous reclamation, backfilling, and grading began in 1980 and continued through 1989. Seeding followed closely behind soil respread and ranged from 198 through 2003. A haul road and portion was removed, reclaimed, and seeded ending in 2003, in which a variance to the 10-Year Performance Bond Liability Period has been approved by the PSC. No pre-mine wells or stock dams were present in this tract. As the landowner requested in the pre-mine preference statements, 1.25 acres of developed water resources were reclaimed in the E 1/2 of this tract.

A copy of the bond release request and supporting documents are on file at the Oliver County Auditors Office, Center, ND 58530, and the Office of the Director of the Reclamation Division, ND Public Service Commission, 600 East Boulevard Avenue, Bismarck, ND 58505-0499. Any person having a valid legal interest which is or may be adversely affected by release of the bond has the right to file written comments or objections, to request an informal conference or public hearing regarding the proposed release from bond with the North Dakota Public Service Commission, 600 East Boulevard Avenue, Bismarck, ND 58505-0499 within thirty (30) days after the last publication of this notice.

(9-18-08-9-25-08-10-02-08-10-09-0)