

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

BNI Coal, Ltd.
Bond Release No. 7, Permit BNCR-8106
Approval

Case No. RC-08-694

RELEASE OF BOND
FOR SURFACE COAL MINING AND RECLAMATION OPERATIONS

November 24, 2010

Based on the application for **Bond Release Number 7 for Surface Mining Permit Number BNCR-8106**, received August 18, 2008, 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 October 9, 2008.
2. On September 18, 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. 7 to Surface Coal Mining Permit 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 SE¼ of Section 23 and SE¼ of Section 26, T142N,
R84W, in Oliver County, releasing all reclamation liabilities on
195.0 acres.

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

The post-mining land uses of cropland, hayland, tame pastureland, shelterbelts, permanent impoundments and portions of section line rights-of-way 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 #7 for Permit BNCR-8106

Beginning at the Southeast corner of Section 26, Township 142 North, Range 84 West of the Fifth Principal Meridian, Oliver County, North Dakota.

Thence North 89°20'58" West, A Distance of 1763.73 Feet;
Thence North 00°21'51" East, A Distance of 2635.18 Feet;
Thence South 89°20'58" East, A Distance of 1763.73 Feet;
Thence South 00°21'51" West, A Distance of 2635.18 Feet To The Point Of Beginning.

The Above Described Tract of Land Contains 106.70 Acres, More or Less.

Beginning at the Southeast corner of Section 23, Township 142 North, Range 84 West of the Fifth Principal Meridian, Oliver County, North Dakota.

Thence North 89°19'57" West, A Distance Of 2615.75 Feet;
Thence North 00°13'28" East, A Distance Of 1743.66 Feet;
Thence South 62°44'52" East, A Distance Of 1650.08 Feet;
Thence North 31°40'08" East, A Distance Of 843.27 Feet;
Thence South 89°17'06" East, A Distance Of 712.19 Feet;
Thence South 00°25'57" West, A Distance Of 1727.40 Feet To The Point Of Beginning.

The Above Described Tract of Land Contains 88.30 Acres, More or Less.

Total Proposed Bond Release Area in Sections 23 and 26 = 195.0 acres, More or Less.