

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**BNI Coal, Ltd**  
**Bond Release No. 1, Permit BNCR-8202**  
**Approval**

**Case No. RC-08-696**

**RELEASE OF BOND**  
**FOR SURFACE COAL MINING AND RECLAMATION OPERATIONS**

**July 8, 2009**

Based on the application for **Bond Release Number 1 to Surface Coal Mining Permit Number BNCR-8202**, 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. 1 for Surface Coal Mining Permit No. BNCR-8202 is hereby granted to BNI Coal, Ltd. effective August 10, 2009, unless a formal hearing is requested. The area is described by the attached metes and bounds descriptions and as follows:

**The SW¼ of Section 26, T142N, R84W, Oliver County,**  
**releasing all reclamation liabilities on 158.76 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 and a public road right-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.

Prior to mining, a farmstead water well was located in the NW¼SW¼ of Section 26, which is now owned by BNI Coal, Ltd. BNI did not install a replacement well after mining since a water supply is not necessary to support the post-mining land use of cropland, a suitable alternative water source is available and it could be feasibly be developed, and the Commission did not receive any comments on this matter during the public comment period.

### 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**  
President

  
\_\_\_\_\_  
**Brian P. Kalk**  
Commissioner

**Metes and Bounds Description of Bond Release No. 1 for Permit BNCR-8202**

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

Thence North  $00^{\circ}29'53''$  East, A Distance of 2632.62 Feet;

Thence South  $89^{\circ}22'37''$  East, A Distance of 2625.10 Feet;

Thence South  $00^{\circ}26'44''$  West, A Distance of 2633.91 Feet;

Thence North  $89^{\circ}20'57''$  West, A Distance of 2627.51 Feet to the Point of Beginning.

The above described tract of land contains 158.76 acres, more or less.