

SCANNED

RECEIVED

Date 9.23.08

File CR-916-BR3-Submitted

SEP 23 2008

31059

PUBLIC SERVICE COMMISSION

FAX (701) 794-3125

PHONE (701) 794-8734



FROM DIRECTOR - RECLAMATION DIV.

Date: \_\_\_\_\_

Action: \_\_\_\_\_

Info. Only: \_\_\_\_\_

Info & File: \_\_\_\_\_

September 8, 2008

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

RE: Application for Bond Release #3 to Permit BNCR-9401.

Dear Mr. Deutsch:

BNI Coal, Ltd. is requesting final bond release for one tract (11.62 acres) which is located within Permit BNCR-9401 at the Center Mine. The proposed tract is located in Section 5 in T.141 N., R.83 W., in Oliver County.

All necessary materials are enclosed on the CD for your completeness review. Please let us know after you have completed your review of the public notice. Following your review, we will submit the notice to the newspapers to begin publication. In addition, letters to people, agencies, and governmental bodies that require notification will be sent following your review of the draft letter.

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

Sincerely,

Jay M. Volk, Ph.D  
BNI Coal

BNI COAL, LTD.  
2360 35<sup>th</sup> Ave SW  
Center, ND 58530-941

1

RC-08-788 Filed: 9/23/2008 Pages: 4  
Application for Final Bond Release on 11.62 Acres  
Filed

BNI Coal, Ltd.

Jay Volk



**APPLICATION FOR FINAL RELEASE OF BOND FOR SURFACE COAL MINING AND RECLAMATION OPERATIONS**  
**PUBLIC SERVICE COMMISSION**  
**RECLAMATION DIVISION**  
 SFN 19813 (1-2004)

**SCANNED**

Date 9.16.08  
 File BRS-application (31044)

Date	9-08-08
Permit Number	BNCR-9401
State	ND
Zip Code	58530

Name of Permittee BNI Coal	Bond Release Number BNCR-9401 BR#3	Permit Number BNCR-9401
Post Office Address 2360 35th Ave. SW	City Center	State ND
		Zip Code 58530

Pursuant to the provisions of NDCC 38-14.1-17, the above named Permittee hereby makes Application for Final Release of Bond for Surface Coal Mining and Reclamation Operations for the above Bond Release Number and Permit Number.

Final release of bond is requested for the tracts clearly delineated on the attached map, **Attachment I**, which are particularly described by the attached metes and bounds descriptions, **Attachment II**, and as follows:

TRACT NUMBER	ACRES	LOCATION				COUNTY
		SEC.	TWP.	RANGE		
Tract 1	11.62	5	141	83	Oliver	
<b>TOTAL ACRES</b>	<b>11.62</b>					

Final release of bond for the completion of all reclamation requirements set forth by NDCC Chapter 38-14.1 and NDAC Article 69-06.2 in the amount of \$ 0 for the above-described tracts is requested for the following reasons (identify each tract number and provide separate reasons and the amount for each tract):

The area representing Permit BNCR-9401 is under worst-case bonding, thus no monetary reduction is involved for the acres represented by this mining permit.

Attached to this final bond release application is the following information:

- Attachment III is a copy of the proposed advertisement required by NDCC 38-14.1-17(1)(a). (The affidavit of publication must be submitted within 30 days of this request.)
- Attachment IV consists of copies of all letters sent pursuant to NDCC 38-14.1-17(1)(b).
- Attachment V is an aerial photo based map (or other pre-approved map) that delineates and identifies each tract contained in the bond release application.
- Attachments VI through VI, which contain the detailed information for each tract as listed on the Addendum to this application form. (Include separate attachments for each tract contained in the bond release application.)

VERIFICATION

Name of Official <b>Jay M. Volk</b>
--

I, the above named official, am authorized to represent the Permittee for the foregoing bond release application, have read the complete application and certify that all applicable reclamation activities have been accomplished in accordance with North Dakota Administrative Code Article 69-05.2, North Dakota Century Code Chapter 38-14.1, and the approved reclamation plan. All statements contained in the bond release application and attachments are true and correct to the best of my knowledge and belief.

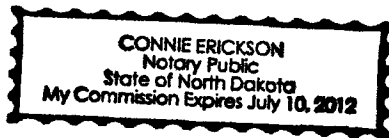
Dated and signed this 8 day of September, 20 08.


By 	Title <b>Environmental Supervisor</b>
---	--

STATE OF ND )  
 )ss.  
 COUNTY OF Oliver )

The foregoing instrument was acknowledged before me this 9-8-08 (date) by Jav M. Volk  
 known to me to be the Environmental Supervisor of BNZ Coal, LTD  
 \_\_\_\_\_ a corporation, on behalf of the corporation.

(SEAL)



  
 \_\_\_\_\_  
 Notary Public  
 My Commission Expires July 10, 2012

ADDENDUM TO FINAL BOND RELEASE APPLICATION

ATTACHMENT \_\_\_\_\_

Bond Release Number <b>#3</b>	Permit Number <b>BNCR-9401</b>	Tract Number <b>Section 5-141-83 - See attached</b>
----------------------------------	-----------------------------------	--

Attached is the following information for the above Bond Release Tract Number (check applicable types of information that is attached):

- A brief history of the approximate dates of: a) initial mining related disturbance, b) coal removal, c) grading within the tract, and d) law liability period. If more than one law liability period occurs in a tract, delineate the different reclamation law liability lines on a map and refer to the attachment.
- A postmining topographic map of the tract (**attach a separate map or refer to the attachment containing this information**).
- An aerial photo based map (or other pre-approved map) that delineates the tract, ownership boundaries, reclamation site types, topsoil and subsoil respread thicknesses, sampling locations for data collection, and any reference areas with soil mapping units identified (**attach a separate map or refer to the attachment containing this information**).
- Dates of all seedings within the tract, including identification of the date of the last augmented seeding.
- Species seeded and rates.
- Complete history of all management on the tract, including:
  - a) Fertilizer use - types, rates and date of application.
  - b) Herbicide and other pesticide use - types, rates and date of application.
  - c) Grazing history - number of head and dates grazed.
  - d) Breaking of pre-cropland grass/legume stand - date and type of equipment used.
  - e) Crops harvested - types of crops, dates harvested and yields.
- Soil test results from the reclaimed tract and any reference areas.
- Details of the procedures used to develop the revegetation success standards for the tract, including:
  - a) Soils map of the premine area used to derive the standard that also includes premine land use and property ownership boundaries.
  - b) Acreages of soil mapping units or range sites and calculations used to derive the standard.
- Establishment and management history of any reference areas.
- Methods (sampling or entire tract harvest) used to obtain vegetation data for the tract and any reference areas, including the following if sampling was done:
  - a) Location of samples and delineation of sample units (site types).
  - b) Method used for sampling (e.g., first hit, ten-point frame).
  - c) Number of samples taken.
  - d) Calculation of sample adequacy with supporting raw data.
- Required vegetation data (as appropriate for the postmining land use, yield, cover, seasonality, diversity, woody species density, etc.) and evaluations (statistical calculations) for demonstrating reclamation success for the postmining land use of the tract.
- For recreational, residential, and institutional and commercial land uses, a discussion that shows the land use has been implemented (refer to county land use zoning approvals, any other required permits, current construction and use, written commitments by the landowner, etc. that are included in the permit). If these documents have not been incorporated into the permit, copies must be included in the bond release application.
- If bond release for vegetation establishment (Stage 3) has not been previously obtained for a tract containing a permanent impoundment, a discussion of how plans for sound future management of the impoundment have been implemented by the landowner or permittee as required by NDAC 69-05.2-12-12(7)(c). Include a written commitment from the landowner to follow a sound management plan for the impoundment.
- If bond release for vegetation establishment (Stage 3) has not been previously obtained, documentation that suspended solids are not being contributed to stream flow or runoff outside the permit area in excess of that allowed by NDAC 69-05.2-16-04.
- If any premine developed water supplies (surface or ground water) existed on the tract, describe the premine water supply and provide evidence that the water supply has been replaced on this tract or on another, or refer to plans that show where it will be replaced in the future.
- If any permanent impoundments are located within the tract, a demonstration that the water quality is suitable for the intended use of the impoundment.