

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

BNI Coal, Ltd.
Bond Release No. 3, Permit BNCR-9401
Approval

Case No. RC-08-788

RELEASE OF BOND
FOR SURFACE COAL MINING AND RECLAMATION OPERATIONS

December 17, 2008

Based on the application for **Bond Release Number 3 for Surface Mining Permit Number BNCR-9401**, received September 23, 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 November 8, 2008.
2. On October 7, 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. 3 for Surface Mining Permit No. BNCR-9401 is hereby granted to BNI Coal, Ltd. effective January 20, 2009, unless a formal hearing is requested. No monetary release was requested by the permittee. The area is described by the attached metes and bounds description and as follows:

Portions of Section 5, T141N, R83W, in Oliver County, releasing
all reclamation liabilities on 11.62 acres.


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

The post-mining land use of industrial/commercial has been implemented as approved in the reclamation plan and all other requirements of the applicable laws and rules have been satisfied.

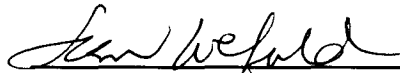
IMPORTANT – PLEASE READ

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



Susan E. Wefald
President



Kevin Cramer
Commissioner

Metes and Bounds Description for Bond Release #3, BNCR-9401

Beginning at the Northeast Corner of Section 5, T141N, R83W of the Fifth Principal Meridian, Oliver County, North Dakota

Thence South 00°02'46" East, a Distance of 1014.04 Feet;

Thence South 89°57'14" West, a Distance of 1451.34 Feet to the True Point of Beginning;

Thence South 00°03'02" West, a Distance of 749.43 Feet;

Thence North 89°06'53" East, a Distance of 19.23 Feet;

Thence South 00°14'11" East, a Distance of 656.49 Feet;

Thence along a 50.00 foot radius curve to the right, said curve having a chord bearing of South 53°02'45" West, an arc length of 92.99 Feet;

Thence North 73°40'20" West, a Distance of 109.44 Feet;

Thence along a 100.00 foot radius curve to the right, said curve having a chord bearing of North 64°49'28" West, an arc length of 30.88 Feet;

Thence North 55°58'36" West, a Distance of 247.29 Feet;

Thence along a 500.00 foot radius curve to the right, said curve having a chord bearing of North 34°28'12" West, an arc length of 375.36 Feet;

Thence North 12°57'48" West, a Distance of 91.92 Feet;

Thence along a 100.00 foot radius curve to the right, said curve having a chord bearing of North 38°02'31" East, an arc length of 178.16 Feet;

Thence North 89°06'50" East, a Distance of 442.63 Feet;

Thence North 44°56'58" West, a Distance of 481.53 Feet;

Thence North 45°03'02" East, a Distance of 579.92 Feet to the Point of Beginning.

The above described tract of land contains 11.62 acres, more or less.