



**APPLICATION FOR PERMIT TO ENGAGE IN SURFACE COAL MINING AND RECLAMATION OPERATIONS**  
 PUBLIC SERVICE COMMISSION  
 RECLAMATION DIVISION  
 SFN 10552 (1-2004)

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Name of Company, Corporation, Partnership, or Individual <b>BNI Coal, Ltd.</b>		Permit Number <b>BNCR-1101</b>	
Address <b>2360 35th Avenue SW</b>	City <b>Center</b>	State <b>ND</b>	Zip Code <b>58530</b>

The above named hereby makes application for the above listed permit number to engage in surface coal mining and reclamation operations in the State of North Dakota during the period from January 1, 2012 (date) to January 1, 2017 (date) on the following area (attach a copy of metes and bounds description):


NAME OF MINE	ACRES	LOCATION			
		SEC.	TWP.	RANGE	COUNTY
Center Mine					
<b>ADDRESS</b>					
2360 35th Avenue SW		See	Attached	Sheet	Oliver
Center, ND 58530-9499					
<b>TOTAL ACRES</b>	<b>8,902.24</b>				

A bond, or its equivalent, duly executed in accordance with Section 38-14.1-16 of the North Dakota Century Code and Chapter 69-05.2-12 of the North Dakota Administrative Code will be delivered to the Public Service Commission prior to issuance of the surface coal mining and reclamation operations permit herein requested. A check for filing fees, pursuant to Section 38-14.1-13 of the North Dakota Century Code, in the amount of \$ 89,522.40, is included with the permit application.

Name of Official Authorized to Represent the Applicant <b>Karene M. Hall, Permit Coordinator</b>
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- I, the above named, certify that:
- All information and documents required by Sections 38-14.1-13, 38-14.1-14, and 38-14.1-15 of the North Dakota Century Code and Article 69-05.2 of the North Dakota Administrative Code, are submitted as part of this permit application;
  - Information and documentation contained in the permit application affirmatively demonstrate that:
    - The permit application is accurate and complete and all the requirements of Chapter 38-14.1 of the North Dakota Century Code and Article 69-05.2 of the North Dakota Administrative Code have been complied with;
    - Reclamation as required by Chapter 38-14.1 of the North Dakota Century Code and Article 69-05.2 of the North Dakota Administrative Code can be accomplished under the reclamation plan contained in this permit application;
    - An assessment of the probable cumulative impact of all anticipated mining in the general area on the hydrologic balance as specified in subdivision o of subsection 1 of Section 38-14.1-14 of the North Dakota Century Code has been made and the proposed operation has been designed to prevent material damage to the hydrologic balance both on and off the mine site;
    - The area proposed to be affected is not included within an area designated unsuitable for all or certain types of surface coal mining and is not within an area under study for such designation in an administrative proceeding;
    - The proposed surface coal mining operation will not interrupt, discontinue or preclude farming on alluvial valley floors that are irrigated or naturally subirrigated and will not materially damage the quantity or quality of water in surface or underground water systems that supply these alluvial valley floors; and
    - The permit applicant has the legal right to surface mine the land for which this permit application is made and all of the requirements of Chapter 38-18 of the North Dakota Century Code have been complied with.

- 3. The area proposed to be affected is not included within an area where mining is prohibited pursuant to Section 38-14.1-07 of the North Dakota Century Code, unless specifically allowed in accordance with the provisions of Section 69-05.2-04-01 of the North Dakota Administrative Code; and
- 4. The proposed method of surface coal mining and reclamation operations contained in this permit application will be carried out at all times in a manner which ensures that all of the requirements of Chapter 38-14.1 of the North Dakota Century Code, Article 69-05.2 of the North Dakota Administrative Code, and any permit conditions attached thereto are complied with.

Signature of Official 	Title Permit Coordinator
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**VERIFICATION**

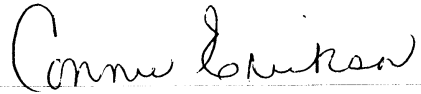
I, Karene M. Hall, being first and duly sworn, verify that the information contained in this Permit Application is true and correct to the best of my knowledge and belief.

Signature of Official 	Title Permit Coordinator
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STATE OF North Dakota )  
 )ss.  
 COUNTY OF Oliver )

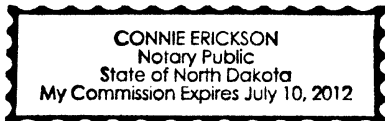
Subscribed and Sworn before me, this 12th day of December, 2011.

(SEAL)



Notary Public

My Commission Expires: July 10, 2012



## **METES & BOUNDS OF PERMIT 1101**

A Tract of Land Lying in Township 142 North, Range 83 West, Township 141 North, Range 84 West and Township 141 North, Range 83 West of The Fifth Principal Meridian, Oliver County, North Dakota; Described as Follows:

Beginning at the Southwest Corner of Section 31, Township 142, Range 83 West;  
(NAD 27-ND State Plane South Zone- US Foot- N: 511,883.3, E: 1,811,422.6);

Thence **North 00°25'02" East**, along the west line of said Section 31, **a distance of 2640.27 feet** to the west quarter corner of said Section 31 and the southerly line of Permit 8106;

Thence **North 89°59'14" East**, along said permit line and east-west quarter line of said Section 31, **a distance of 1728.33 feet**;

Thence **South 01°34'15" East**, continuing along said permit line, **a distance of 205.38 feet**;

Thence **North 80°22'30" East**, continuing along said permit line, **a distance of 1760.46 feet**;

Thence **South 49°02'16" East**, continuing along said permit line, **a distance of 30.79 feet**;

Thence **South 68°56'03" East**, **a distance of 2000.72 feet** to a point on the easterly 33.00 foot right-of-way line of the west line of Section 32, T. 142 N., R. 83 W.;

Thence **South 00°37'39" West**, along said easterly right-of-way line, **a distance of 1861.98 feet**;

Thence **South 15°46'16" West**, **a distance of 126.28 feet** to the northwest corner of Section 5, T. 141 N., R. 83 W.;

Thence **South 00°03'35" West**, along the west line of said Section 5, **a distance of 1313.70 feet**;

Thence **South 89°56'58" East**, **a distance of 1650.01 feet** to a point on the westerly line of Permit 9401;

Thence **South 30°03'36" West**, along said westerly permit line, **a distance of 1300.00 feet**;

Thence **South 00°03'36" West**, continuing along said permit line, **a distance of 1500.00 feet**;

Thence **South 29°31'37" East**, continuing along said permit line, **a distance of 1518.94 feet** to a point on the south line of said Section 5;

Thence **South 89°35'36" East**, continuing along said permit line and said south section line, **a distance of 524.43 feet**;

Thence **South 00°24'24" West**, continuing along said permit line, **a distance of 330.00 feet**;

Thence **South 89°38'03" East**, continuing along said permit line and parallel with said south section line, **a distance of 364.40 feet** to the north-south quarter line of Section 8, T. 141 N., R. 83 W.;

Thence **South 00°06'48" West**, along said north-south quarter line, **a distance of 2301.17 feet** to the center of said Section 8;

Thence **South 89°47'19" East**, along the east-west quarter line of said Section 8, **a distance of 2638.37 feet** to the east quarter corner of said Section 8;

Thence **North 00°05'21" East**, along the east line of said Section 8, **a distance of 2622.15 feet** to the northwest corner of Section 9, T. 141 N., R. 83 W.;

Thence **North 89°54'58" East**, along the north line of said Section 9, **a distance of 2618.64 feet** to the north quarter corner of said Section 9;

Thence **South 89°58'09" East**, continuing along said north line, **a distance of 2623.20 feet** to the northeast corner of said Section 9;

Thence **South 00°02'00" East**, along the east line of said Section 9, **a distance of 2634.04 feet** to the east quarter corner of said Section 9;

Thence **South 00°00'02" West**, continuing along said east line, **a distance of 2628.31 feet** to the northeast corner of Section 16, T. 141 N., R. 83 W.;

Thence **South 00°28'44" West**, along the east line of said Section 16, **a distance of 2629.06 feet** to the east quarter corner of said Section 16;

Thence **South 00°32'34" West**, continuing along said east line, a **distance of 2642.74 feet** to the northeast corner of Section 21, T. 141 N., R. 83 W.;

Thence **South 00°28'59" West**, along the east line of said Section 21, a **distance of 2633.76 feet** to the east quarter corner of said Section 21;

Thence **South 00°28'59" West**, continuing along said east line, a **distance of 2633.76 feet** to the northeast corner of Section 28, T. 141 N., R. 83 W.;

Thence **South 00°26'47" West**, along the east line of said Section 28, a **distance of 2636.16 feet** to the east quarter corner of said Section 28;

Thence **South 89°55'13" West**, along the east-west quarter line of said Section 28, a **distance of 5257.86 feet** to the east quarter corner of Section 29, T. 141 N., R. 83 W.;

Thence **North 00°16'01" East**, along the east line of said Section 29, a **distance of 2639.90 feet** to the northeast corner of said Section 29;

Thence **North 89°58'08" West**, along the north line of said Section 29, a **distance of 2642.27 feet** to the north quarter corner of said Section 29;

Thence **North 89°58'08" West**, continuing along said north line, a **distance of 2642.27 feet** to the northeast corner of Section 30, T. 141 N., R. 83 W.;

Thence **North 89°57'36" West**, along the north line of said Section 30, a **distance of 2631.74 feet** to the north quarter corner of said Section 30;

Thence **North 89°57'36" West**, continuing along said north line, a **distance of 2722.53 feet** to the northeast corner of Section 25, T. 141 N., R. 84 W.;

Thence **South 00°42'07" West**, along the east line of said Section 25, a **distance of 2635.53 feet** to the east quarter corner of said Section 25;

Thence **North 89°20'36" West**, along the east-west quarter line of said Section 25, a **distance of 5271.72 feet** to the west quarter corner of said Section 25;

Thence **North 00°24'57" East**, along the west line of said Section 25, a **distance of 2631.20 feet** to the southwest corner of Section 24, T. 141 N., R. 84 W.;

Thence **North 00°28'09" East**, along the west line of said Section 24, a **distance of 2632.36 feet** to the west quarter corner of said Section 24;

Thence **North 00°28'09" East**, continuing along said west line, a **distance of 2632.36 feet** to the southwest corner of Section 13, T. 141 N., R. 84 W.;

Thence **North 00°31'36" East**, along the west line of said Section 13, a **distance of 2632.36 feet** to the west quarter corner of said Section 13;

Thence **North 00°31'36" East**, continuing along said west line, a **distance of 2632.36 feet** to the southwest corner of Section 12, T. 141 N., R. 84 W.;

Thence **North 00°29'53" East**, along the west line of said Section 12, a **distance of 2632.36 feet** to the west quarter corner of said Section 12;

Thence **North 00°29'53" East**, continuing along said west line, a **distance of 2632.36 feet** to the northwest corner of said Section 12;

Thence **South 89°34'01" East**, along the north line of said Section 12, a **distance of 2635.02 feet** to the north quarter corner of said Section 12;

Thence **South 89°11'07" East**, continuing along said north line, a **distance of 2631.06 feet** to the southwest corner of Section 6, T. 141 N., R. 83 W.;

Thence **North 89°34'01" East**, along the south line of said Section 6, a **distance of 2717.86 feet** to the south quarter corner of said Section 6;

Thence **North 00°05'34" East**, along the north-south quarter line of said Section 6, a **distance of 5266.09 feet** to the north quarter corner of said Section 6;

Thence **South 89°55'33" West**, along the north line of said Section 6, a **distance of 2684.97 feet** to the point of beginning.

**The above described tract of land contains 8902.24 Acres, more or less.**

Notes:

1. The basis of this survey is the 1927 North Dakota State Plane System, South Zone, US Survey Feet, 1993 MSI control. Details are available upon request @ 701-794-8735 ext. 260.
2. Survey control was established in 2010 by Todd Marschall, using a Topcon Hyper GA GPS receiver and Carlson software.
3. For electronic drawings, this drawing was originally issued and sealed by Todd Marschall, R.L.S. 4431, and is stored at BNI Coal Inc., 2360 35th Ave. SW, Center, ND 58530-9499.

Certification:

I, Todd Marschall, hereby certify that this document is a reasonable representation and that I am a Registered Land Surveyor in the State of North Dakota. I hereby certify that the data shown on this sheet was prepared by me or under my direct supervision. Any alterations to this document will void my Certification.

  
\_\_\_\_\_  
Todd Marschall, R.L.S. 4431

12-12-11  
Date:

