

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

BNI Coal, Ltd.
Permit No. BNCR-1101
Application

Case No. RC-11-700

PERMIT TO ENGAGE IN
SURFACE COALMINING AND RECLAMATION OPERATIONS

May 28, 2014

Based on the application for **Surface Coal Mining Permit Number BNCR-1101** submitted by BNI Coal, Ltd. for the Center Mine on December 12, 2011, and as revised through May 21, 2014 and all information and documentation contained therein, the North Dakota Public Service Commission (Commission) finds that the application meets all applicable requirements of Chapter 38-14.1 of the North Dakota Century Code (NDCC) and Article 69-05.2 of the North Dakota Administrative Code (NDAC). On the basis of the information set forth in the application or from that otherwise available and known by the applicant, the Commission finds that:

Finding No. 1. The permit application is accurate and complete and complies with the requirements of NDCC Chapter 38-14.1 and NDAC Article 69-05.2 [NDCC 38-14.1-21(3)(a)].

The applicant verified that all information included in the application is true and correct to the best of its knowledge. Permit No. BNCR-1101 will allow mining activities on 8,359.72 acres located in Sections 5, 7, 8, 9, 16, 17, 18, 19, 20, 21, and 28 of T141N, R83W; Sections 12, 13, 24, and 25 of T141N, R84W; and Sections 31 and 32 of T142N, R83W. Commission staff conducted completeness and technical reviews to ensure that the required information was provided and the mining and reclamation plans meet all applicable requirements. The Reclamation Division sent completeness and technical review letters to the applicant on January 11, 2012, March 2, 2012, May 9, 2012, November 7, 2012, February 12, 2013, August 15, 2013, January 21, 2014, March 27, 2014, May 9, 2014, and May 19, 2014. Responses to each letter were received and appropriate changes were made to the application to address the concerns that were noted. The Commission concludes that the application is now accurate and complete.

The applicant published the required notices in the Center Republican and Bismarck Tribune and the Commission sent notices to all surface owners in the proposed permit area, as well as to numerous local, state and federal agencies. In addition, advisory committee members were provided copies of the application for their review and comment. No objections or requests for an informal conference were received on this application. Although many changes and corrections were made throughout the review process, no major issues were raised during the review of this application.

Some of the lands within the permit area contain federally owned coal and the applicant plans to mine some of the federal coal. While the applicant filed a federal coal lease application with Bureau of Land Management several years ago, it may be some time before the lease is issued. The applicant has the appropriate surface leases to conduct surface coal mining activities on these federal coal tracts. Therefore, BNI Coal, Ltd. has the legal right to disturb the surface of the federal coal tracts to the extent necessary for conducting mining operations on the adjoining tracts where the coal is privately owned.

However, before overburden and coal removal is allowed to begin on any of the federal coal tracts, the federal coal lease must be issued and the Department of the Interior needs to approve the mine plan covering federal coal tracts that will be mined as required by 30 CFR 746.11. This section of federal regulations states no person shall conduct surface coal mining and reclamation operations on lands containing leased federal coal until the Secretary has approved the mining plans. Special Condition No. 1 attached to the Commission's approval of Permit No. BNCR-1101 prohibits any overburden or coal removal from the federal coal tracts until BNI Coal, Ltd. receives the coal lease and the Secretary of the Interior approves the federal mine plan. Until the federal mining plan is approved, the condition also limits surface disturbances on the federal coal tracts to those activities that are needed for carrying out mining on the adjoining tracts where the coal interests are privately owned.

The coal rights in Section 7, T141N, R83W, are owned by Great Northern Properties Limited Partnership and the applicant has stated it has a coal lease with Great Northern for this tract. The surface of Section 7 is owned by others and the applicant has included copies of surface leases it has with these persons in the permit application. However, a copy of the coal lease with Great Northern is not included in the permit application for confidential reasons. North Dakota Century Code Section 38-14.1-14 (subdivision k of subsection 1) requires the applicant to include copies of the documents that the applicant bases its right to mine in the permit application. Since copies of the appropriate surface leases has been provided to conduct surface coal mining activities on Section 7, the applicant has the legal right to disturb the surface in Section 7 for mining related activities.

Because the coal lease with Great Northern Properties Limited Partnership for Section 7, T141N, R83W, has not been included in the permit application, Special Condition No. 2 is attached to Permit No. BNCR-1101 prohibiting mining on this tract until BNI Coal, Ltd. submits documents showing that it has the legal right to mine the coal. Until a copy of this coal lease is submitted or other documents are filed showing that BNI Coal, Ltd. has the necessary rights to mine the coal, surface disturbances on Section 7 will be limited to those activities that are needed for carrying out mining on the adjoining tracts.

The third special condition applies to the mining of coal in the NE¼ of Section 20, T141N, R83W. Coal removal on this quarter section is not scheduled to begin until 2022. A district court judge recently issued an order with a decree listing the coal owners and the percentage that each own in this quarter section. Based on the court decree, the applicant does not currently have coal leases for at least 75 percent of the coal rights (BNI Coal, Ltd. currently has 70 percent of the coal rights leased). Mineral developers need to have control of at least 75 percent of the coal rights before mining may occur based on provisions of North Dakota Century Code Chapter 38-18. However,

the applicant has a coal lease from 100 percent of the surface owners for conducting surface coal mining activities on the NE¼ of Section 20. Until the necessary documents are obtained and added to the permit demonstrating the applicant has leased or purchased at least 75 percent of the coal rights, Special Condition No. 3 prohibits mining on this tract until these additional documents are submitted. Surface disturbances on the NE¼ of Section 20 will be limited to those activities that are needed for carrying out mining on the adjoining tracts where BNI has all of the rights necessary to mine the coal.

Finding No. 2. The applicant has demonstrated that reclamation as required by NDCC Chapter 38-14.1 and NDAC Article 69-05.2 can be accomplished under the reclamation plan contained in the application [NDCC 38-14.1-21(3)(b)].

Approximately two-thirds of the land in the permit will be mined over the nearly 30-year life of the permit, with other areas disturbed for support activities including soil and overburden stockpiles, access and haulroads, and water management structures. Overburden from the coal removal areas will be stripped using truck/shovel fleets, one large dragline, and one small dragline. Reclamation of disturbed areas will be carried out using reclamation procedures that have been successful in the past and satisfy the requirements of the North Dakota law and rules. The applicant's reclamation practices have been proven effective in the past.

Mining activities will begin in the north-northwest portion of the permit in the 2014 construction season with the construction of sedimentation ponds, haul roads, and a dragline walkway corridor. Topsoil and subsoil removal and stockpiling, and removing and stockpiling overburden from the initial truck/shovel and dragline pit areas will follow later in 2014. The applicant expects to start coal removal in 2015 with a projected production of 2.5 million tons for the first year of production. Detailed design plans were provided for sedimentation ponds that will be constructed within the first year of the permit term as required by NDAC 69-05.2-09-09(1)(e). Coal removal from this permit is expected to continue until 2042.

The applicant has demonstrated that sufficient soil materials are available to meet the soil redistribution requirements of NDAC 69-05.2-15 and the revegetation requirements of NDAC 69-05.2-22. The proposed postmining topography that is shown for the mining that will occur through 2042 meets the requirements of NDCC 38-14.1-24(3) and NDAC 69-05.2-21-02. The average postmining slope proposed for the mining disturbance area is slightly lower than the average pre-mine slope in this area. No thin overburden exists within this permit area. The reclaimed lands will be capable of supporting the premine uses, or higher or better uses, that existed prior to mining. The predominant premining land uses in the permit area are native grassland (4,108 acres) and cropland (3,221 acres). Lesser amounts are used for hayland, shelterbelts, fish and wildlife habitat (wetlands), woodlands, developed water resources, and roads. The acreage of each postmining land use will be somewhat similar to the premine conditions; however, the cropland acreage will increase by about six percent, while the native grassland acreage will decrease by about five percent. There are five occupied farmsteads located in the permit area. At this time the applicant proposes to eventually disturb four of these farmsteads.

With regard to the reclamation schedule for the pit sequence in the first five year permit term, the applicant states that rough backfilling and grading will be completed within 180 days following coal removal and there will be no more than four spoil ridges behind the pit being worked, but a variance from the three-year reclamation requirement

(completion of all reclamation work through the initial seeding) was requested. The applicant indicated the need for such a variance in four areas. Two of the areas are long narrow strips along the interface of the first term mining blocks and future term mining blocks. The other two variance areas are for small pits that would otherwise be redisturbed in 2024 to accommodate adjacent mining. The variance request from the three-year reclamation requirement has been justified and the Commission is approving it as allowed by NDCC 38-14.1-24(14).

Finding No. 3. Based on the assessment of the probable cumulative impact of all anticipated mining in the area, the proposed operation has been designed to prevent material damage to the hydrologic balance outside the permit area [NDCC 38-14.1-21(3)(c)].

An assessment of the probable cumulative hydrologic impact of all anticipated mining in the area has been made as required by NDCC 38-14.1-14(1)(o). The Commission finds that the proposed operation has been designed to maintain the quantity, quality, and hydrologic regime of surface and ground water systems in the area. The cumulative effects of all existing and proposed mining operations should not damage the hydrologic balance outside the permit area. The detailed cumulative hydrologic impact assessment is on file as correspondence with Permit No. BNCR-1101 in the Commission's office.

Finding No. 4. Lands within the permit area are not within an area designated unsuitable for surface coal mining operations, nor within areas under study or administrative proceedings under a petition to have an area designated as unsuitable for surface coal mining operations [NDCC 38-14.1-21(3)(d)].

None of the lands in Permit No. BNCR-1101 have been designated unsuitable for surface coal mining operations pursuant to NDCC 38-14.1-05, nor are they within an area under study or administrative proceedings under a petition to have an area designated as unsuitable for surface coal mining operations.

Finding No. 5. The proposed mining operation will not interrupt, discontinue, or preclude farming on alluvial valley floors that are flood irrigated or naturally sub-irrigated or materially damage the quantity or quality of water in surface or underground water systems that supply these alluvial valley floors [NDCC 38-14.1-21(3)(e)].

Based on an examination of the geologic and geomorphic characteristics, soils, and the water quality and quantity of streams occurring within or adjacent to the permit area, it has been determined that no alluvial valley floors occur within or adjacent to the permit area. An alluvial valley floor study was completed in 2011 for BNI Coal, Ltd. prior to filing the application for Permit No. BNCR-1101. It has been determined from the 2011 study that those areas along Square Butte Creek, Hagel Creek, and the drainage of SCS Dam 5 Creek within or adjacent to the permit area do not constitute an alluvial valley floor. The detailed alluvial valley floor investigation report and determination are on file as correspondence with Permit No. BNCR-1101 in the Commission's office.

Finding No. 6. In cases where the mineral estate has been severed from the surface estate, the applicant complied with the requirements of NDCC 38-18 [NDCC 38-14.1-21(3)(f)].

The applicant included the necessary leases and other documents in the application demonstrating compliance with the North Dakota Surface Owners Protection Act, NDCC 38-18. This documentation included the notice that was given to all surface owners before the application was filed with the Commission.

Finding No. 7. Lands within the permit area are not subject to the prohibitions or limitations of NDCC 38-14.1-07 except for areas that receive specific approvals after complying the applicable review procedures of NDAC Chapter 69-05.2-04 [NDAC 69-05.2-10-03(6)(a)].

Lands within the permit area are:

- a. Not on any lands within the boundaries of units of the North Dakota Park System, the National Park System, the National Wildlife Refuge Systems, the National System of Trails, the National Wilderness Preservation System, the National Wild and Scenic Rivers System, including study rivers designated under Section 5(a) of the Wild and Scenic Rivers Act, and national recreation areas.
- b. Not on any federal lands within the boundaries of any national forest.
- c. Not within 300 feet of any publicly owned park or places included in the State Historic Sites Registry or the National Register of Historic Places. Cultural resource surveys and inventories of the entire permit area were conducted (Ethnoscience 1992, 2008, 2010, 2011, and 2012). A total of 95 sites were identified including 69 prehistoric sites and 26 historic sites. The State Historic Preservation Officer determined that 18 prehistoric sites were significant and eligible for listing on the National Register of Historic Places. Five of those sites have been mitigated and cleared for disturbance. The remaining 13 significant prehistoric sites will either be avoided from any mining related disturbances or mitigated prior to disturbance. The applicant will establish and properly mark a no disturbance area around these sites. The applicant also made a commitment to conduct further testing to determine if sites 32OL331 (historic), 32OL579 (prehistoric), and 32OL534 (historic) are significant in terms of National Register criteria prior to disturbance. Site 32OL354 has not been tested for significance, but it will be avoided. The remaining historic and prehistoric sites were determined to be insignificant and not eligible for listing on the National Register of Historic Places. No Traditional Cultural Properties were identified in the permit area. The applicant has committed to reporting, testing, and mitigating, if necessary, any previously unrecorded archeological, cultural, or historical materials that may be discovered as a result of mining related activities.
- d. Within 100 feet of the outside right-of-way line of public roads. However, no disturbances will occur within 100 feet of the outside right-of-way of any public road unless the road authority, Oliver County, has temporarily vacated the road right-of-way or granted permission to conduct mining operations within 100 feet of the road right-of-ways. The applicant has entered into a general agreement with Oliver County for closing some public roads and conducting mining operations within 100 feet of other road right-of-ways. While some of the approvals for public roads within or near Permit No. BNCR-1101 have been granted, the applicant will request others in the future. Special Condition No. 4 is attached to the permit requiring BNI Coal, Ltd. to provide the Commission with copies of the road authority's approval

documents within 30 days of the approval date and include the written findings made by the road authority. North Dakota Administrative Code Section 69-05.2-04-01.3 requires the Commission to make a written finding on protecting the interests of the public and affected landowners if this is not included in the road authority's approval process.

- e. Include several occupied dwellings that are part of farmsteads. However, no mining activities will be conducted within 500 feet of any these occupied dwellings unless the applicant exercises the option it has to purchase the dwelling before mining comes within 500 feet of each dwelling. The options are part of leases that the applicant has obtained from the dwelling owners. The purchase option also applies to other farm buildings and the applicant has stated no mining will occur within 500 feet of these buildings before providing the Commission with the appropriate written documentation.
- f. Not within 300 feet of any public building, school, church, community, or institutional building.
- g. Not within 100 feet of any cemetery. The St. Lucas Cemetery is within the exterior boundaries of the permit area but it is specifically excluded from the permit by an exception to the metes and bounds description of permit area. The excluded area includes a 100 foot setback from the cemetery.

Finding No. 8. With respect to prime farmland within the permit area, the postmining land use for the premining prime farmland will be cropland, the reclamation plan was reviewed by the Natural Resource Conservation Service and their suggestions were considered, operations will be conducted in compliance with NDAC 69-05.2-26 and NDCC 38-14.1, and the applicant has the technological capability to restore the productivity on reclaimed lands [NDAC 69-05.2-10-03(6)(c) and NDCC 38-14.1-21(6)].

The applicant provided a prime farmland reclamation plan for Permit No. BNCR-1101. The plan satisfies the requirements of NDAC 69-05.2-09-15 and the performance standards of NDAC Chapter 69-05.2-26. The Natural Resources Conservation Service has reviewed the prime farmland reclamation plan and has determined that it is adequate to restore the productivity of the prime farmland. The reclamation methods that will be used by the applicant have been proven to be successful in the past; therefore, the Commission finds that the applicant has the technological capability to restore the productivity of reclaimed land to a level that is equal to or greater than non-mined prime farmland in the surrounding area under equivalent management practices. Prime farmland performance standards apply to 118.03 acres of cropland that have been identified as prime farmland by the Natural Resources Conservation Service soil survey for Oliver County within the 5,105 acres that will be mined. The applicant will segregate prime and non-prime farmland topsoil for stockpiling or immediate redistribution but will mix prime and non-prime farmland subsoil as allowed by NDAC 69-05.2-09-15(5). Each landowner will receive the same acreage of reclaimed prime farmland as was present prior to mining and the postmine land use of the reclaimed prime farmland will be cropland.

Finding No. 9. The operations will not affect the continued existence of threatened or endangered species or result in the destruction or adverse modification of their critical habitats [NDAC 69-05.2-10-03(6)(d)].

Surface coal mining and reclamation activities will not adversely affect the continued existence of threatened or endangered species or result in the destruction or adverse modification of their critical habitats. No federal threatened or endangered species or designated critical habitats were observed within or contiguous to the permit area.

The permit area is located in the primary whooping crane (a listed species) migration corridor where mining and reclamation activities “may affect, but are not likely to adversely affect” this species. The likelihood of whooping cranes occurring in the permit area is very low because desirable habitat does not exist. The permit area contains about 136 acres of wetlands that are nearly all linear wetlands (133 acres) present in drainages, but these types of wetlands are not desirable whooping crane habitat. Temporary depressional wetlands make up the remaining 3 acres of the total wetland acreage. Since the acreage of potentially more desirable whooping crane habitat present as depressional wetlands is very small and dispersed among eight temporary wetlands, the Commission finds that there is no suitable stop-over habitat for whooping cranes within the permit area. The permit and adjacent area do not contain habitat for other listed species including the Black-footed ferret, Pallid Sturgeon, Least Tern, Piping Plover or Western Prairie Fringed Orchid. The Gray Wolf could conceivably be an occasional migrant visitor to North Dakota and the permit area.

The permit area does not contain high quality habitat for any of the six species listed as Candidate species to the threatened and endangered species act, of which four have been proposed to be officially added as Threatened and Endangered species. Suitable habitat does not exist in or adjacent the permit area for three of these species, Greater Sage Grouse, Rufa Red Knot and Powershiek Skipperling. The permit area was evaluated in 2009 to determine areas that had the greatest potential to support the Dakota Skipper butterfly and surveys were completed in these areas in 2010 and 2011. No Dakota skipper sighting were made during these surveys. Sprague’s Pipit surveys were completed from 2009 through 2011 and a total of 13 sightings were made over this three-year period. The size, fragmented nature, and ecological condition of the native grassland tracts in the area would not be considered desirable habitat for this species based on information contained in the U.S. Fish and Wildlife Service’s Sprague’s Pipit conservation plan. The permit and immediate adjacent area do not contain caves or underground abandoned mines that may function as suitable habitat for the Northern Long-Eared Bat.

The fish and wildlife monitoring plan in the permit includes continued surveys for threatened, endangered and candidate species. Also, NDAC 69-05.2-13-08(2) requires the permittee to promptly report to the Commission the presence of any threatened and endangered species and the Commission must then consult with the USFWS and the North Dakota Game and Fish Department to decide whether, and under what conditions, the operator may proceed. Therefore, issuing Permit BNCR-1101 will not likely adversely affect listed species or designated critical habitat.

Finding No. 10. The applicant has submitted proof that all reclamation fees required by 30 CFR subchapter R have been paid [NDAC 69-05.2-10-03(6)(e)].

The applicant has paid all reclamation fees required by 30 CFR subchapter R. The Office of Surface Mining's Applicant Violator System was queried to verify that all fees have been paid.

Finding No. 11. The applicant has satisfied requirements for approving cropland as a postmining land use [NDAC 69-05.2-10-03(6)(f)].

The applicant has satisfied the requirements for approval of a cropland postmining land use under NDAC 69-05.2-22-01. Areas reclaimed to cropland will either be seeded directly to crops commonly grown in the area or to a tame grass/legume pre-cropland mixture that may include soil improving root crops. The postmining topography and soils are suitable for cropland in the areas that will be cropped.

Finding No. 12. No existing structures will be used to support mining activities within the permit area and the requirements of NDAC 69-05.2-09-04 do not apply to the permit area [NDAC 69-05.2-10-04].

No existing structures in the permit area will be used to support mining activities.

Finding No. 13. No drill holes, boreholes or wells will be retained for other uses [NDAC 69-05.2-14-03].

The applicant has not proposed to retain any drill hole, borehole, or well for other uses.

Finding No. 14. No spoil in the permit area is known to cause toxic mine drainage [NDAC 69-05.2-16-11].

The chemical characteristics of the overburden materials in the permit area are such that they do not produce toxic mine drainage. The analysis of overburden samples included in the permit application do not reveal any substances that would cause any chemical reactions or physical effects that are likely to kill, injure, or impair biota commonly present in the area.

Finding No. 15. The applicant will conduct mining activities within or near a perennial stream and several intermittent streams, but these activities will not violate applicable water quality standards or adversely affect the quantity and quality of the water and other environmental resources of the streams [NDAC 69-05.2-16-20].

Mining activities are proposed within or near streams that have been identified as intermittent and perennial streams. Associated disturbances will take place within one hundred feet of one perennial and several intermittent streams. The dragline walkway/access road will cross Hagel Creek, a perennial stream, in one location and be within one hundred feet of Hagel Creek at another; both areas are located in the NW $\frac{1}{4}$ of Section 5. Mining operations will take place within 100 feet of intermittent streams located in the W $\frac{1}{2}$ of Section 7, NE $\frac{1}{4}$ of Section 12, SW $\frac{1}{4}$ of Section 13, N $\frac{1}{2}$ and SW $\frac{1}{4}$ of Section 16, and the S $\frac{1}{2}$ of Section 21. These planned disturbances include sedimentation ponds, diversions, and haul roads. In several instances, sedimentation ponds will be built in the intermittent stream. No disturbances are planned for the remainder of the intermittent and perennial streams located within the proposed permit area.

As required by NDAC 69-05.2-16-20(1), the Commission sent a copy of the updated permit application to the State Engineer and North Dakota Department of Health on March 27, 2014 to specifically review and comment on the applicant's plan to conduct mining operations within one hundred feet of perennial and intermittent streams. Operation plans in the permit specifically discuss conducting mining operations within one hundred feet of the perennial and intermittent streams. The buffer zones and areas where mining will be conducted within one hundred feet of a perennial or intermittent stream are depicted on the pit layout and facilities map. The Commission finds that the proposed disturbances will not cause or contribute to the violation of applicable state and federal water quality standards and will not adversely affect the water quality of these intermittent and perennial streams. All runoff from disturbances planned within one hundred of that intermittent or perennial stream will be controlled through the use of water management structures and best management practices. The applicant has made a commitment to properly mark the designated stream buffer zones that will not be disturbed to exclude mining related disturbance as required by NDAC 69-05.2-16-20(2).

Finding No. 16. The applicant does not propose to use any experimental practices in the permit area [NDAC 69-05.2-27-02].

There are no plans included in the application to use any experimental practices that may be allowed under NDAC 69-05.2-27-02.

Finding No. 17. The applicant does not control and has not controlled surface coal mining and reclamation operations with a demonstrated pattern of willful violations [NDAC 69-05.2-10-03(4)].

Commission records, and those in the Office of Surface Mining's Applicant Violator System, do not indicate that the applicant controls and has controlled surface coal mining and reclamation operations with a demonstrated pattern of willful violations of NDCC 38-14.1 or of other states' laws that are based on P.L. 95-87 (the Federal Surface Mining Control and Reclamation Act), of such nature, duration, and with such resulting irreparable damage to the environment as to indicate an intent not to comply with the provisions of these laws.

Finding No. 18. Neither the applicant, nor any affiliated companies, have unabated violations or unpaid civil penalties [NDAC 69-05.2-10-03(1)].

Commission records, and those in the Office of Surface Mining's Applicant Violator System, do not indicate that the applicant, nor any affiliated companies, have any unpaid civil penalties or unabated violations of NDCC 38-14.1 or any other federal or state laws, rules, or regulations pertaining to air or water environmental protection. The North Dakota Department of Health also verified that the applicant has no unabated violations with regard to air or water environmental protection standards.

Finding No. 19. A performance bond in the amount of \$15,000,000 is sufficient for the proposed surface coal mining operations in the bond area of this permit [NDAC 69-05.2-12-07].

The Commission has determined that a performance bond in the amount of \$14,285,019 is sufficient at this time to cover the required reclamation, restoration, and abatement work for the disturbances proposed in Permit No. BNCR-1101. A surety bond in the amount of \$15,000,000 has been filed with the Commission for this permit.

Subject to the right of any person with an interest that is or may be adversely affected to request a formal hearing under NDCC 38-14.1-30, **Permit Number BNCR-1101** is hereby granted to **BNI Coal, Ltd.** to engage in surface coal mining and reclamation operations, on the following described areas subject to the applicable requirements of the original permit and conditions, Chapter 38-14.1 of the North Dakota Century Code, and the rules promulgated there under. (Attached is a copy of the metes and bounds description of lands included within the permit area.)

LOCATION

MINE	ADDRESS	SECTIONS	TOWNSHIP	RANGE	COUNTY
Center	Center, ND	5, 7, 8, 9, 16, 17, 18 19, 20, 21, and 28	141N	83W	Oliver
Center	Center, ND	12, 13, 24, and 25	141N	84W	Oliver
Center	Center, ND	31 and 32	142N	83W	Oliver

Total – 8,359.72 Acres

PUBLIC SERVICE COMMISSION


 Randy Christmann
 Commissioner


 Brian P. Kalk
 Chairman


 Julie Fedorchak
 Commissioner

METES & BOUNDS OF PERMIT NO. BNCR-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 Northwest Corner of Section 12, Township 141 North, Range 84 West; (NAD 27-ND State Plane South Zone- US Foot- N: 506,657.5, E: 1,806,115.6);

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 89°34'01" East, continuing along said south line, a distance of 2642.54 feet to the southeast corner of said Section 6;

Thence North 00°03'36" East, along the east line of said Section 6, a distance of 2622.15 feet to the east quarter corner of said Section 6;

Thence North 00°03'35" East, continuing along said east line, a distance of 2627.39 feet to the northeast corner of said Section 6;

Thence South 89°55'32" West, along the north line of said Section 6, a distance of 494.51 feet;

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 North 89°55'32" East, along the north line of said Section 6, a distance of 2144.93 feet;

Thence North 00°37'39" East, a distance of 400.47 feet;

Thence North 19°01'04" West, a distance of 848.83 feet;

Thence North 00°37'39" East, a distance of 1092.95 feet to the south line of BNI Permit 8106;

Thence South 68°56'03" East, along said south permit line, a distance of 867.44 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, continuing along said south permit line and said easterly right-of-way line, a distance of 1861.98 feet;

Thence North 89°52'29" East, continuing along said south permit line and its extension, a distance of 1614.32 feet;

Thence South 00°00'00" West, a distance of 1440.21 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 Section 5, T. 141 N., R. 83 W.;

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°35'36" 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 2300.91 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 Point of Beginning.

The above described tract of land contains 8362.72 acres, more or less.

Exception 01

Commencing at the Northwest corner of the Northeast quarter of the Southeast quarter of Section 8, Township 141 North, Range 83 West of The Fifth Principal Meridian, Oliver County, North Dakota; Described as Follows:

(NAD 27-ND State Plane South Zone- US Foot- N: 503,986.2, E: 1,820,692.6);
Thence South 00°12'41" West, a distance of 459.78 feet to the Point of Beginning;

Thence South 72°34'54" East, a distance of 163.20 feet;
Thence South 17°25'06" West, a distance of 208.71 feet;
Thence North 72°34'54" West, a distance of 208.71 feet;
Thence North 17°25'06" East, a distance of 208.71;
Thence South 72°34'54" East, a distance of 45.51 feet to the Point of Beginning.

The above described tract of land contains 1.00 acres, more or less.

Exception 02

Beginning at the East Quarter Corner of Section 18, Township 141 North, Range 83 West of The Fifth Principal Meridian, Oliver County, North Dakota; Described as Follows:

(NAD 27-ND State Plane South Zone- US Foot- N: 498,718.4, E: 1,816,683.6);

Thence South 89°44'56" West, along the east-west quarter line of said Section 18, a distance of (20 Rods) 330.00 feet;
Thence North 00°58'32" East, a distance of (16 Rods) 264.00 feet;
Thence North 89°44'56" East, a distance of (20 Rods) 330.00 feet to the east line of said Section 18;
Thence South 00°58'32" West, along said east line, a distance of (16 Rods) 264.00 feet to the Point of Beginning.

The above described tract of land contains 2.00 acres, more or less.

Total of 8359.72 acres, more or less.