

**APPROVED**

DATE: 7-30-08  
[Signature]

**MOTION**

**July 30, 2008**

**Falkirk Mining Company  
Liability Period Variance, Permit NAFK-8705  
Approval**

**Case No. RC-08-224**

I move the Commission approve a variance to the performance bond liability period for 12 acres of reclaimed land located in Section 1, T145N, R83W, within Surface Coal Mining Permit NAFK-8705 held by the Falkirk Mining Company.

SAS & JRD


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**PUBLIC SERVICE COMMISSION**  
**Reclamation Division**

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**Memorandum**

**TO:** Commissioners Wefald, Cramer and Clark  
Gloria Geiger

**FROM:** Dr. Stephan Schroeder and Jim Deutsch 

**DATE:** July 23, 2008

**SUBJECT:** Request for a Variance from the Ten-Year Performance Bond Liability Period for an area within Permit NAFK-8705 held by the Falkirk Mining Company, Case No. RC-08-224

On May 12, 2008, the Falkirk Mining Company filed a request for a Variance from the Performance Bond Liability Period for a former pond and diversion area in Section 1, T145N, R83W, within Permit NAFK-8705. Following some corrections made to the request, the Reclamation Division now respectfully recommends that it be approved.

The Falkirk Mining Company requests a variance from the Ten-Year Performance Bond Liability Period for 12 acres that include a former pond and diversion area that was reclaimed to cropland in 2001. The liability period for these reclaimed acres will be combined with 62 acres of cropland located in the far eastern part of Section 1 and western part of Section 6, T145N, R82W that were reclaimed from 1981 through 1986. The proposed variance area constitutes approximately 19% of the total acreage of the larger reclamation tract.

The proposed variance area was inspected on May 29, 2008, by Bruce Beechie of the Reclamation Division. Visual observations indicated no significant difference between the earlier reclaimed cropland areas and the proposed variance area since the spring wheat crop was of similar height, growth stage, and color.

Policy Memorandum No. 20 to Mine Operators sets out the procedure for the approval of variances to the performance bond responsibility period for sedimentation ponds and other disturbances prior to submitting an application for final bond release. This policy states that the Commission, in its discretion, will grant specific variances to combine the responsibility period for sedimentation ponds and other areas with that of the surrounding reclamation tract. The facilities must be removed, the affected land must be reclaimed, and the applicable reclamation success standards must be met when final bond release is requested. The requested variance areas also should be small in size when compared to the entire reclamation tract and, generally, should not exceed 20% of the surrounding reclamation tract.

Reclamation procedures used on the variance areas need to provide the same protection to the environment and public health and safety as those used on the surrounding reclaimed tracts. The Reclamation Division believes that the reclaimed diversion area in this variance request has similar small grain growth as the older reclamation areas, is small in size (it constitutes about 19% of the surrounding reclamation tract), and therefore, is eligible for the requested variance.

Based on the information contained in Falkirk's request, the Reclamation Division recommends approval of the variance from the ten-year liability period on 12 acres of reclaimed land in Section 1, T145N, R83W, McLean County.

Attached for your consideration are a proposed motion for the July 30, 2008 Commission meeting and an approval form.

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