

**APPROVED**

DATE: 8-13-08  
[Signature]

**MOTION**

**August 13, 2008**

**Falkirk Mining Company  
Self and Collateral Bonds  
Approval**

**Case No. RC-08-420**

I move the Commission approve Self-Bond No. SB-9503-1 and Collateral Bond No. CB-9503-1 filed by the Falkirk Mining Company to replace surety bonds for the consolidated bond area covering three mining permits at the Falkirk Mine.


JRD

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

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

**FROM:**  Jim Deutsch

**DATE:** August 6, 2008

**SUBJECT:** Self and collateral bonds filed by The Falkirk Mining Company to replace three surety bonds, Case No. RC-08-420

The Falkirk Mining Company has filed self and collateral bonds to replace surety bonds for the consolidated bond area at the Falkirk Mine that covers three surface coal mining permits. Falkirk decided to replace the surety bonds since Great River Energy now meets criteria in our rules for guaranteeing a self-bond as a third-party guarantor. The Commission has allowed mining companies to provide up to 90% of the required bond amount for a bond area in the form of a self-bond. The other 10% must be either a collateral or surety bond since funds from these types of bonds should be readily available to begin reclamation work in the unlikely event of bond forfeiture. The collateral bond provided by Falkirk is in the form of a cash deposit that will be placed in escrow at the Bank of North Dakota. The Reclamation Division recommends that the Commission approve the self and collateral bonds submitted by Falkirk.

Falkirk presently has three surety bonds in effect for a consolidated bond area that covers three of the four mining permits at the Falkirk Mine. The three permits in the consolidated bond area are Permits NAFK-8405, 8705 and 9503 (Permit NAFK-9601 remains separately bonded under a surety bond). The total amount of the three surety bonds is \$46,235,443. The amount of Self-Bond SB-9503-1 provided by Falkirk is \$41,611,898 and the amount of Collateral Bond is \$4,623,545. Therefore, the total bond amount for the consolidated bond area will remain the same.

We have reviewed Self-Bond SB-9503-1 and found it has been properly executed and that Falkirk and GRE meet the applicable self-bonding requirements. A company is allowed to guarantee self-bonds in an amount up to 25% of their tangible net worth. The self-bond being guaranteed by GRE is 18.7% of their tangible net worth. Certain financial criteria must be also met in order to guarantee a self-bond and GRE meets the criteria by having a bond rating of "A3" from Moody's Investors Service.

With regard to the collateral bond, Falkirk will be providing a check in the amount of \$4,623,545 that will be placed in escrow at the Bank of North Dakota. This check will be hand delivered by August 12<sup>th</sup>. An escrow agreement for the collateral bond will need to be executed by the Commission as well as the Bank of North Dakota following the Commission's approval of the new bond document. The check provided by Falkirk will

then be used to purchase a certificate of deposit at the Bank of North Dakota in accordance with the escrow agreement.

Falkirk has also submitted bond riders to reduce the amount and acreage of the three existing surety bonds to zero, effectively canceling them.

Attached for your consideration at the August 13<sup>th</sup> Commission meeting are the proposed motion and two copies of the escrow agreement for the collateral bond that need to be signed by all three Commissioners.

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