



Public Service Commission
State of North Dakota

COMMISSIONERS

Kevin Cramer
Tony Clark
Brian P. Kalk **Sent via fax 328-3254**

Executive Secretary
Darrell Nitschke

Mr. Allen C. Hoberg
Office of Administrative Hearings
1707 North 9th Street, Lower Level
Bismarck, ND 58501

Re: Case No. RC-08-640
Falkirk Mining Company
Revision #13, Permit NAFK-9601

Dear Mr. Hoberg:

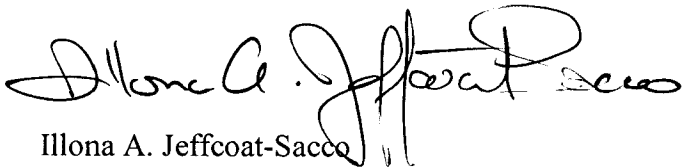
Enclosed is a request for an Administrative Law Judge in the captioned case. As of yet, no Notice has been issued but when a Notice is issued, a copy will be forwarded to your office. Attached is a copy of the Application for Formal Hearing filed by the Dakota Resource Council.

The Administrative Law Judge will serve as a procedural law judge and the hearing will be electronically recorded.

In order to meet statutory requirements, the hearing must be held no later than 10 May 2010. A special Commission meeting will be held early next week to schedule the hearing so the Commission can meet the hearing notice requirements in the reclamation law. Also, due to the notice requirements and the availability of Commissioners, it appears that the only options for holding the hearing are May 5, 6, 7, or 10.

Please let us know if there are any problems designating an ALJ on this short notice.

Thank you and best regards,



Ilona A. Jeffcoat-Sacco
General Counsel

enclosure
c/w enclosure: Derrick Braaten - derrick@svlawpartners.com



REQUEST FOR ADMINISTRATIVE LAW JUDGE--APPEAL, APPLICATION, OR PETITION
 NORTH DAKOTA OFFICE OF ADMINISTRATIVE HEARINGS
 SFN 17819 (Rev. 03-2001)

Name of Agency, Board, or Commission
 North Dakota Public Service Commission

The above named agency, board, or commission requests designation of an administrative law judge from the Office of Administrative Hearings for the PSC Case No. RC-08-640, Falkirk Mining Company, Revision #13, Permit NAFK-9601

(e.g., application of [name], appeal of [name], petition of [name]). Authority for the administrative action is found in North Dakota Century Code Chapter 38-14.1-30 _____ (North Dakota Century Code and/or North Dakota Administrative Code).

Please attach related documents and correspondence.

The administrative action is more fully described as follows:
 The permit revision changes the postmining land use to recreational for areas around Coal Lake east of Underwood. DRC previously filed comments objecting to the change on acres previously approved for cropland use. DRC is now asking for a hearing on this issue.

It requests designation of an administrative law judge (please check one):

- To conduct the hearing and issue recommended findings of fact, conclusions of law, and order.
- To serve as a procedural administrative law judge only (no recommended decision). The agency head will be present at the hearing as required by NDCC 54-57-04(6).
- To conduct the hearing, issue findings of fact, conclusions of law, and a final order.

PLEASE MAKE A REQUEST FOR AN ADMINISTRATIVE LAW JUDGE AT LEAST ONE MONTH BEFORE THE HEARING.

Please list parties, including the agency if it is a Party, and Representation [attorney (or other)] if known, or Agency Contact: (Attach separate list if necessary.)

AGENCY North Dakota Public Service Commission	Address 600 E. Blvd. Ave. Dept. 408 Bismarck, ND 58505	Telephone Number 701-328-2400
Representation Ilona A. Jeffcoat-Sacco, General Counsel	Address Same as above	Telephone Number 701-328-2407
PARTY Dakota Resource Council	Address 113 W. 1st St. P.O. Box 1095 Dickinson, ND 58602	Telephone Number 701-227-1851
Representation Derrick Braaten, Sarah Vogel Law Partners	Address 222 North 4th St. Bismarck, ND 58501-4004	Telephone Number 701-221-2911
PARTY	Address	Telephone Number
Representation	Address	Telephone Number

Additional Comments
 When the Notice of Hearing is issued it will be forwarded to your office.

(For agencies required to use OAH, notice of hearing will be issued by the administrative law judge, unless a procedural administrative law judge is requested. Other requesting agencies and agencies requesting a procedural administrative law judge should first contact OAH about scheduling a hearing. If notice has already been issued, attach a copy of the notice.)

Typed or Printed Name and Title of Requesting Person Ilona A. Jeffcoat-Sacco, General Counsel	Date 15 April 2010
Signature of Requesting Person 	Telephone Number 701-328-2407

**BEFORE THE PUBLIC SERVICE COMMISSION
OF NORTH DAKOTA**

Fallkirk Mining Company
Revision No. 13, Permit NAFK-9601

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Case No. RC-08-640

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PUBLIC SERVICE COMMISSION
APPLICATION FOR HEARING BY DAKOTA RESOURCE COUNCIL

Pursuant to N.D.C.C. § 38-14.1-30, Dakota Resource Council (“DRC”) hereby applies for a formal hearing in the above-captioned proceedings. In support of this application, DRC states and alleges as follows:


1. DRC is a grassroots, member-run organization. Its membership includes numerous persons who are directly affected by the surface mining of coal in North Dakota. DRC has a 31-year history of engagement in surface mining reclamation issues in the state.
2. DRC has members with farming operations directly affected by Fallkirk’s mining operations.
3. On August 1, 2008, Fallkirk Mining Company (“Fallkirk”) filed a “Revision [] to Change the Postmining Land use on 428 Acres” (“Revision”).
4. On August 3, 2009, DRC filed comments on the Revision, resisting the revision of post-mining land use on 86 acres of what was previously cropland. DRC, on behalf of its members and particularly those who farm near the Fallkirk mining operations and are or may be adversely affected by the Revision approval, asserted and maintains that the 86 acres should not be revised to a recreational post-mining land use, and should instead be reclaimed to agricultural land use.

5. DRC received notice of the Revision approval on March 16, 2010. Said notice states “[a]ny person with an interest that is adversely affected by this decision has 30 days to request a formal hearing with the Commission following publication of the revision approval notice.”
6. In accordance with the March 16, 2010 notice and N.D.C.C. § 38-14.1-30, DRC hereby requests that the PSC schedule a formal hearing on these matters.

Respectfully submitted,

SARAH VOGEL LAW PARTNERS

Dated this 9th day of April, 2010.


By: Derrick Braaten (ID 06394)
222 North 4th Street
Bismarck, ND 58501-4004
Telephone: 701-221-2911
Fax: 701-221-5842
Attorneys for Dakota Resource Council