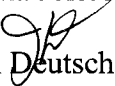


PUBLIC SERVICE COMMISSION
Reclamation Division

Memorandum

TO: Commissioners Cramer, Clark, and Kalk
Darrell Nitschke, Executive Secretary
Illona Jeffcoat-Sacco and Annette Bendish

FROM:  Jim Deutsch

DATE: May 5, 2010

SUBJECT: Request for a Formal Hearing on decision to approve Revision 13 to Permit NAFK-9601 held by the Falkirk Mining Co., Case No. RC-08-640

On August 1, 2008, the Falkirk Mining Company filed the application for Revision No. 13 to Permit No. NAFK-9601 to change the post-mining land use on 428 acres located in the W $\frac{1}{2}$ of Section 25, SE $\frac{1}{4}$ of Section 26, and N $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 35, T146N, R82W, McLean County, from primarily agricultural use to recreational use. Falkirk requested the post-mining land use change on this acreage because they are part of a transfer agreement whereby Falkirk and Great River Energy have agreed to transfer 729.4 acres of land to the North Dakota Department of Transportation (NDDOT). The NDDOT will use this acreage to eliminate all of the "No Mow" areas within the rights-of-way of the state highway system in McLean County. The NDDOT entered into an agreement with the North Dakota Game and Fish Department to manage these lands near Coal Lake for recreational purposes, including public access and use. The Commission approved this revision on March 10th, subject to the right of any interested party to request a formal hearing.

On April 9, 2010, we received a request for a Formal Hearing from the Dakota Resource Council on the decision to approve this revision. DRC is concerned about the 86 acres of land that previously had a post-mining land use of cropland that was converted to recreational use. They also raised this concern during the revision review period.

Normally, a formal hearing must be held within 30 days of receiving a request for a hearing. However, both parties waived this requirement and requested that the hearing be held at a later date. The hearing has been scheduled for July 1st beginning at 9:00 a.m. in the Commission Hearing Room. An administrative law judge from the Office of Administrative Hearings will serve as the procedural hearing officer.

Attached is a proposed Motion to issue a notice of formal hearing at the May 12th Commission meeting. Also attached is the hearing notice.

Attachments

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Memorandum

Public Service Commission Staff
Jim Deutsch