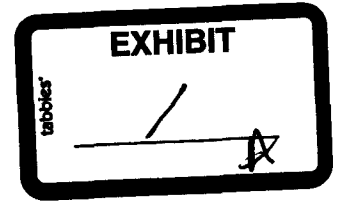


**BEFORE THE PUBLIC SERVICE COMMISSION
OF NORTH DAKOTA**



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

) Case No. RC-08-640
)
) AFFIDAVIT OF GENE WIRTZ
)
)
)
)

1. My name is Gene Wirtz, and I live at 3423 - 3rd Street NW, Underwood ND 58576-9615.
2. I have been a farmer since 1978.
3. I farm about 2300 acres at the present time, 440 of which I own, and 1860 of which I rent.
4. In my farming operation, I raise the following crops: HRS Wheat, Flax, Lentils, Peas, Switchgrass and Oil Sunflowers.
5. I have been a member of Dakota Resource Council since 1984.
6. I am aware that the North Dakota Public Service Commission is considering whether to revise the post-mining land use for 86 acres of cropland.
7. I oppose the revision to the extent that it changes the post-mining land use of this land from farming to recreational use because it is not a higher and better use of the land than farming, and under it, Falkirk Mining Company will not have to meet the agricultural productivity standards established by the State of North Dakota.
8. If the post-mining land used change for the aforementioned 86 acres were to remain cropland, and were the Falkirk Mining Company to apply for and receive final bond release for this acreage, having demonstrated the land's ability to meet the state's agricultural productivity standards, and were the company to offer the 86 acres for sale, I would consider making an offer to purchase the property in order to add it to my farming operation.
9. I believe that even if the 86 acres of cropland is donated to the State of North Dakota, Falkirk Mining Company should demonstrate that this cropland is capable of pre-mining productivity and return the land to such productivity.

