NORTHAMERICAN COAL CORPORATION
FALKIRK MINE

THE FALKIRK MINING COMPANY
2801 1st St. SW
P.O. Box 1087
Underwood, ND 58576-1087
(701) 442-5751 • Fax (701) 250-2473

October 30, 2008

Mr. James R. Deutsch
Reclamation Director
ND State Public Service Commission
Bismarck, ND 58505

RE: REMEDIATION ACTION PLAN FOR NOTICE OF VIOLATION NO. 0803

Dear Mr. Deutsch:

This letter constitutes The Falkirk Mining Company's (Falkirk) remediation action plan for the above referenced Notice of Violation (NOV), pursuant to your verbal request on October 28th. The request was made during a telephone conference call, which was also attended by Bruce Johnson with the Public Service Commission and Josey Milbrandt from Falkirk. The details of the plan were discussed in detail with you and Mr. Johnson during the conference call. The plan is being submitted in response to portions of the formal NOV document entitled "Remedial Action Required" and "Time for Abatement", which was received by Falkirk via e-mail on October 29th.

The permit boundary in the vicinity of the existing Discharge Point No. 062 (pipe end and associated erosional feature) for Pitwater Pond P-E24-01 has been resurveyed and clearly marked with wooden lath and signs. The end point of the discharge point was determined to extend approximately ten feet beyond the permit boundary.

Attachment 1 to the remedial action plan depicts the location of the Pond and associated discharge point. As shown on the attachment, the discharge pipe is buried below the frost line along a ridge that ends abruptly just above Coal Lake, where steep slopes leading down to the shoreline are encountered. At this point, the discharge pipe runs along the surface of the slope down to the Lake.

Falkirk will remove the overland portion of the pipe by cutting it off near the end of the ridge and pulling the line up and off the slope with a backhoe parked at the top of the slope to minimize surface disturbance. The backhoe will also uncover a portion of the buried pipe along the ridge near the crest of the slope. The old overland portion of the pipe will be fused to the exposed end of the buried pipe and swung to the new discharge point location depicted on Attachment 1. The pipe will be buried to a depth that allows for adequate gravity flow to the plunge pool to prevent the line from freezing following cold weather discharges. The buried pipe will be exposed using techniques similar to those used by Falkirk to bury header lines. The topsoil will be pushed to one side with a rubber-tire dozer and the subsoil placed on the opposite

side of the trench. The subsoil and topsoil will be replaced after the excavation process is completed. The portion of the pipe leading to the new discharge point location will also be buried using similar techniques. The disturbed areas will be revegetated to native grassland using the seeding techniques described in Section 4.1.5 of the NAFK-8405 Permit.

The new discharge point location will be situated in a small, somewhat level bench or ledge-like feature located along the upper side-slopes of a small woody draw that dissects the uplands and forms the ridge containing the buried portion of the discharge pipe above the Lake. A plunge pool will be constructed in this feature by removing the topsoil and underlying subsoil and then lining and filling the pool with erosion fabric and riprap rock, respectively, as shown in Attachment 2. Excavation of the plunge pool will be accomplished using techniques similar in nature to those described above, except that the small amount of topsoil and subsoil removed to construct the pool will be placed in even layers over the respective SPGM material that is replaced or respread over the area that was disturbed to uncover and expose the buried discharge pipe.

The erosion feature will be filled with subsoil to a height appoximately one foot below grade using a small front-end loader. The remaining foot or so will be filled with wetland topsoil material skimmed from adjacent shoreline areas using the loader. Access to the erosional feature to make the necessary repairs will be made using the trail (shown on Attachment 1) leading into an adjacent Waterfowl Production Area (WPA) that is managed by U.S. Fish and Wildlife Service personnel headquartered at the Audubon National Wildlife Refuge located at nearby Coleharbor, North Dakota. A special use permit will be issued in the very near future to Falkirk by the refuge allowing Falkirk to traverse the trail with a small 8 cubic yard gravel truck and front-end loader. The refuge has informed Falkirk that the permit will contain a condition stipulating that the trail and adjacent WPA land not be traversed with equipment until frozen soil conditions are present to prevent damage to the ground surface. Subsoil for this project will be obtained from Pile No. 144, which is located about a half mile west of the Pond in the SE¼ of Section 23, T146N, R82W. Falkirk estimates that two to four truckloads of subsoil will be required to fill the feature. The truck will haul the subsoil to the end of the trail, which is situated next to the Lake's shoreline approximately 950 feet northeast of the feature. The front-end loader will tram the subsoil in from there. However, if conditions are favorable, the gravel truck may bring the loads all the way into the repair site.

Falkirk believes that the above described remediation action plan will result in the least amount of disturbance to the environment. Falkirk further believes that the energy of the discharge water will be dissipated sufficiently such that the water will naturally sheet flow down the side-slopes and bottom of the woody draw, across the shoreline and into the Lake without the fear of erosion; the path that the water will take is gently sloping and well vegetated.

Falkirk is confident that the abatement time of twenty-five (25) days is more than ample to do the work necessary to construct the energy dissipater at the new discharge point location and plans on beginning this work as soon as the plan is approved. However, Falkirk requests that the abatement time of twenty days (20) to repair the erosion feature be extended to ninety (90) days. An extension of the abatement period through the month of January will more likely result in the advent of a sufficiently long period of cold temperatures that will ensure favorable (frozen) soil conditions.

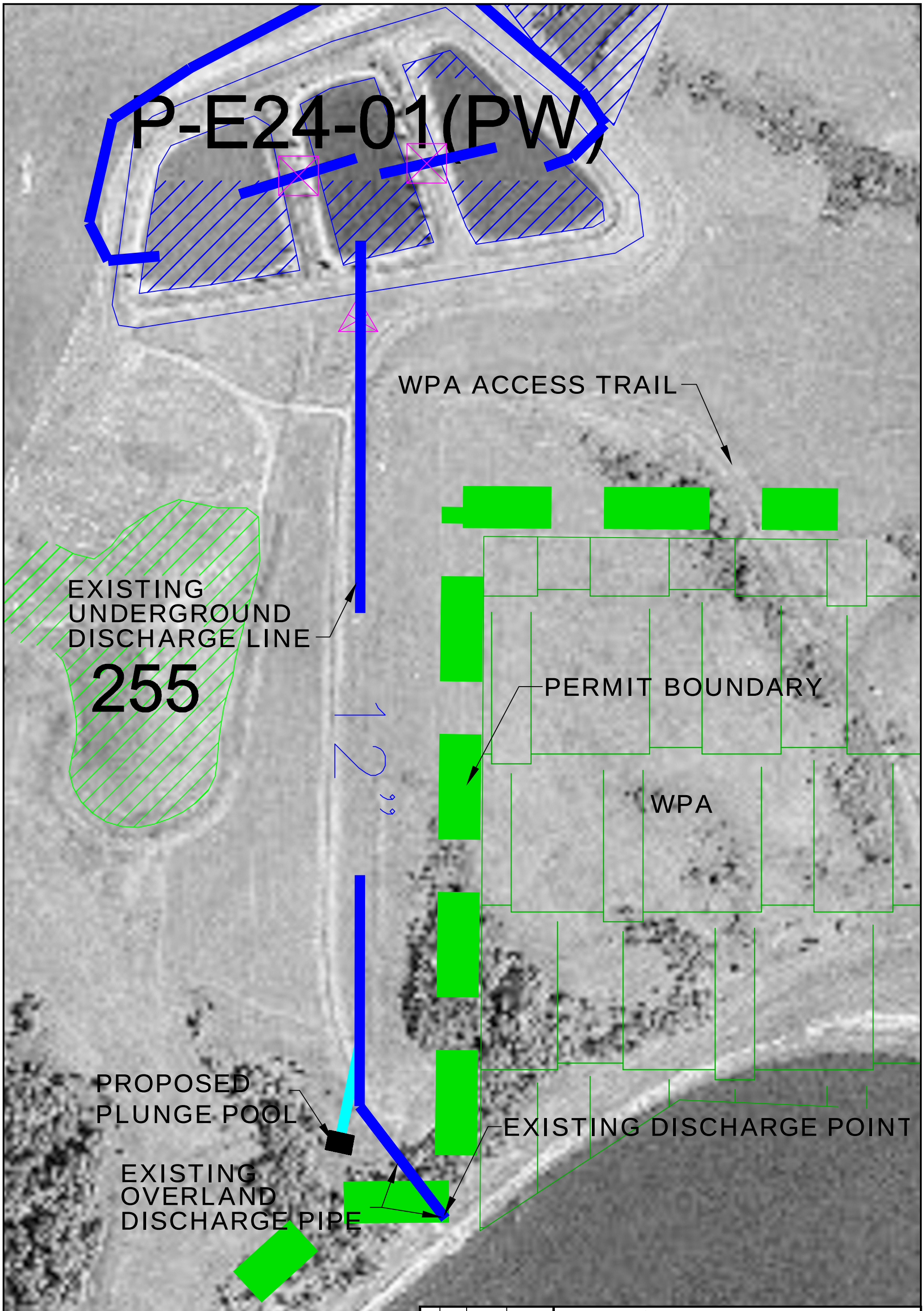
If you have any questions or require further information, please advise.

Sincerely,

THE FALKIRK MINING COMPANY

Joe Clarke
Environmental Manager

JWC
Enc.



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NO.	BY	APP'D	DATE
REVISIONS			

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PITWATER POND P-E24-01

ATTACHMENT 1

SCALE: AS SHOWN (Paper size 11"x17") PROJECT: EAST PERMIT NAFK-8405 REV. 28

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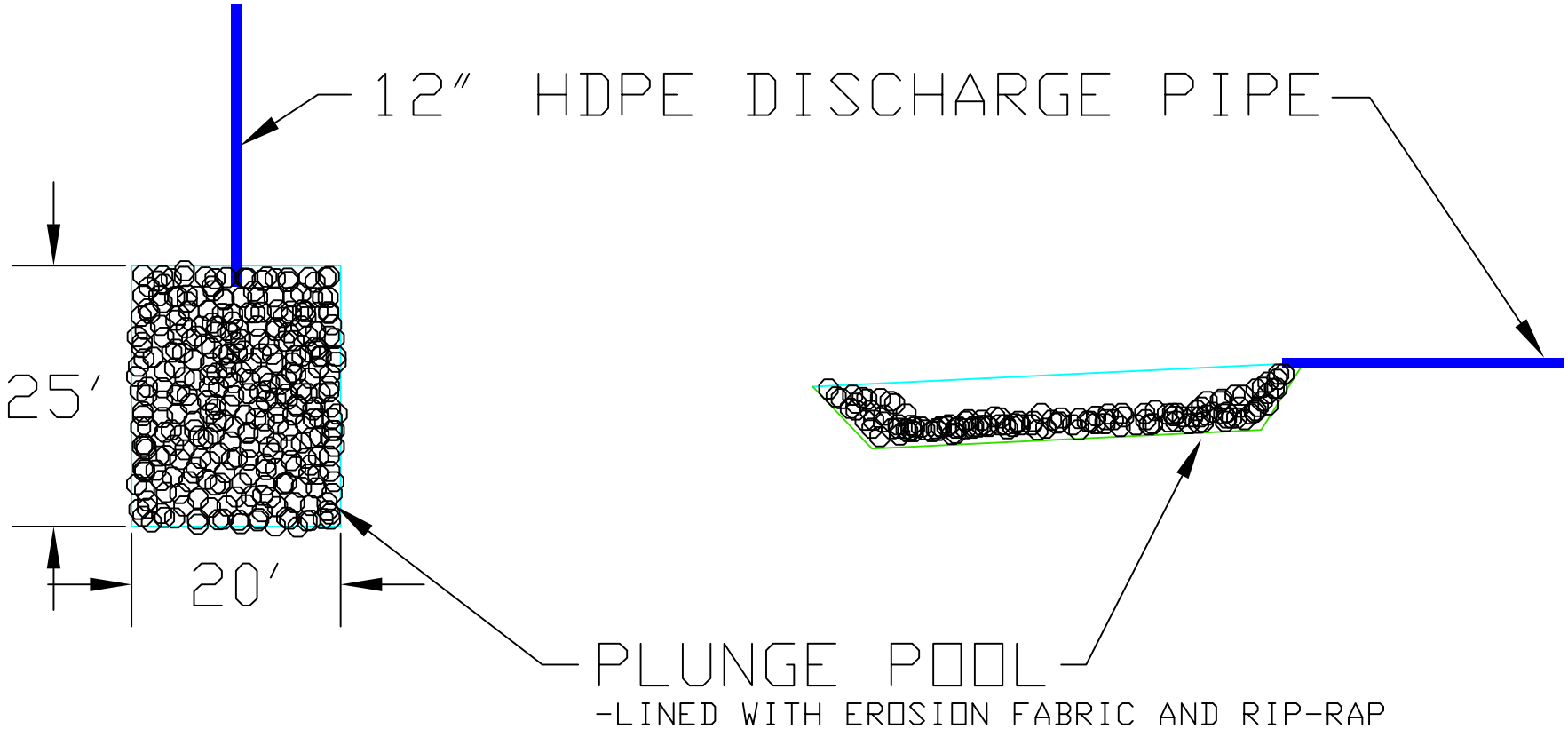

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PITWATER POND P-E24-01
PLUNGE POOL
ATTACHMENT 2

SCALE: AS SHOWN (Size 11x8.5") PROJECT: EAST PERMIT NAFK-8405 REV. 28
O:\Techwork\milbradt\East Permit\Ponds\P-E24-01(PW)\P-E24-01 Plunge Pool.dwg