

**NORTH AMERICAN**  
**COAL**  
CORPORATION  
**OTTER CREEK MINE**

**OTTER CREEK**  
**MINING COMPANY, L.L.C.**  
2000 Schafer St. Suite D  
Bismarck, ND 58501-1204  
(701) 258-2200 - Fax (701) 222-7594

December 23, 2008

RECEIVED

DEC 23 2008

PUBLIC SERVICE COMMISSION

Mr. James R. Deutsch, Director  
North Dakota Public Service Commission  
Reclamation Division  
600 East Boulevard, Dept. 408  
Bismarck, ND

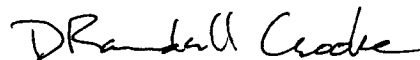
**RE: Submittal of Permit Application NAOC-0802, Otter Creek Mine**

Dear Mr. Deutsch:

Enclosed you will find three copies of the above referenced permit application on separate compact discs for your review. In the application document, you will see that the Otter Creek Mine is a merchant sale lignite mine which is currently planned on a 2 million ton per year schedule with mining commencing in 2010. The application is in electronic format utilizing the same format and conventions as submitted by The Falkirk Mining Company in its permits.

Please advise me of your completeness review comments and any questions you may have at your earliest convenience. Please continue to address all permit related correspondence to me at: PO Box 1087, Underwood, ND, 58576-1087, or by e-mail to: [randy.crooke@falkirk.com](mailto:randy.crooke@falkirk.com)

Sincerely,



D. Randall Crooke, Permit Manager  
Otter Creek Mining Co.



**APPLICATION FOR PERMIT TO ENGAGE IN SURFACE COAL MINING AND RECLAMATION OPERATIONS**

**PUBLIC SERVICE COMMISSION  
RECLAMATION DIVISION  
SFN 10552 (1-2004)**

Date December 23, 2008
Permit Number NAOC-0802
State ND
Zip Code 58501-1201

Name of Company, Corporation, Partnership, or Individual Otter Creek Mining Co., L.L.C.	
Address 2000 Schafer St., Suite D	City Bismarck

The above named hereby makes application for the above listed permit number to engage in surface coal mining and reclamation operations in the State of North Dakota during the period from September 1, 2009 (date) to September 1, 2014 (date) on the following area (attach a copy of metes and bounds description):

NAME OF MINE	ACRES	LOCATION			
		SEC.	TWP.	RANGE	COUNTY
Otter Creek Mine					
ADDRESS					
2000 Schafer St., Suite D		See attached description			Oliver
Bismarck, ND 58501-1204					
<b>TOTAL ACRES</b>	5,409.1				

A bond, or its equivalent, duly executed in accordance with Section 38-14.1-16 of the North Dakota Century Code and Chapter 69-05.2-12 of the North Dakota Administrative Code will be delivered to the Public Service Commission prior to issuance of the surface coal mining and reclamation operations permit herein requested. A check for filing fees, pursuant to Section 38-14.1-13 of the North Dakota Century Code, in the amount of \$ 55,401.00, is included with the permit application.

Name of Official Authorized to Represent the Applicant D. Randall Crooke, Permit Manager
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I, the above named, certify that:

1. All information and documents required by Sections 38-14.1-13, 38-14.1-14, and 38-14.1-15 of the North Dakota Century Code and Article 69-05.2 of the North Dakota Administrative Code, are submitted as part of this permit application;
2. Information and documentation contained in the permit application affirmatively demonstrate that:
  - a. The permit application is accurate and complete and all the requirements of Chapter 38-14.1 of the North Dakota Century Code and Article 69-05.2 of the North Dakota Administrative Code have been complied with;
  - b. Reclamation as required by Chapter 38-14.1 of the North Dakota Century Code and Article 69-05.2 of the North Dakota Administrative Code can be accomplished under the reclamation plan contained in this permit application;
  - c. An assessment of the probable cumulative impact of all anticipated mining in the general area on the hydrologic balance as specified in subdivision o of subsection 1 of Section 38-14.1-14 of the North Dakota Century Code has been made and the proposed operation has been designed to prevent material damage to the hydrologic balance both on and off the mine site;
  - d. The area proposed to be affected is not included within an area designated unsuitable for all or certain types of surface coal mining and is not within an area under study for such designation in an administrative proceeding;
  - e. The proposed surface coal mining operation will not interrupt, discontinue or preclude farming on alluvial valley floors that are irrigated or naturally subirrigated and will not materially damage the quantity or quality of water in surface or underground water systems that supply these alluvial valley floors; and
  - f. The permit applicant has the legal right to surface mine the land for which this permit application is made and all of the requirements of Chapter 38-18 of the North Dakota Century Code have been complied with.

- 3. The area proposed to be affected is not included within an area where mining is prohibited pursuant to Section 38-14.1-07 of the North Dakota Century Code, unless specifically allowed in accordance with the provisions of Section 69-05.2-04-01 of the North Dakota Administrative Code; and
- 4. The proposed method of surface coal mining and reclamation operations contained in this permit application will be carried out at all times in a manner which ensures that all of the requirements of Chapter 38-14.1 of the North Dakota Century Code, Article 69-05.2 of the North Dakota Administrative Code, and any permit conditions attached thereto are complied with.

Signature of Official <i>D Randall Cook</i>	Title Permit Manager
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**VERIFICATION**

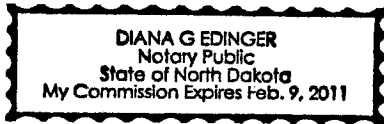
I, Dan W. Swetich, being first and duly sworn, verify that the information contained in this Permit Application is true and correct to the best of my knowledge and belief.

Signature of Official <i>D. W. Swetich</i>	Title President
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STATE OF North Dakota )  
 COUNTY OF McLean ) ss.

Subscribed and Sworn before me, this 23<sup>rd</sup> day of December, 2008.

(SEAL)



*Diana G. Edinger*  
 Notary Public

My Commission Expires: Feb. 9, 2011