



Public Service Commission

State of North Dakota

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August 5, 2009

Mr. Brian R. Bjella
Crowley Fleck, PLLP
400 East Broadway, Suite 600
P.O. Box 2798
Bismarck, ND 58502-2798

Dear Mr. Bjella:

This is in response to your July 29th letter regarding the termination of Notice of Violation (NOV) 0903 that was issued to The Falkirk Mining Company, Case No. RC-09-316. The Reclamation Division terminated NOV-0903 on July 20th because we determined that the violation alleged in the NOV was 'abated' upon the Commission's June 24th approval of Revision 32 to Permit NAFK-8705 since this action provided Falkirk the necessary approval to re-disturb the reclaimed area for relocating a mine haul road. Subsection 3 of NDAC 69-05.2-28-05 states that "The commission or its authorized representative will terminate a notice of violation by written notice when all violations listed in the notice are abated." The Reclamation Division maintains that the alleged violation occurred on May 29th and it was not abated until the approval of Revision 32.

We understand that Falkirk's plans to proceed with the formal hearing scheduled for September 9th to challenge and fully contest NOV-0903, including the proposed penalty of \$350 that was assessed by the Commission last week.

If you have any questions, please contact me.

Sincerely,

James R. Deutsch
Director
Reclamation Division

cc: Allen Hoberg, OAH

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