



Public Service Commission

State of North Dakota

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November 19, 2010

Mr. D. Randall Crooke
Environmental Manager
Falkirk Mining Company
P.O. Box 1087
Underwood, ND 58576-1087

Dear Mr. Crooke:

The Reclamation Division has reviewed the October 26, 2010, completeness responses submitted by The Falkirk Mining Company for the application for Revision No. 20 to Permit NAFK-9503. The following items must be corrected before the revision application will be deemed complete:

Section 1.2 – Legal Information

1. **Original Item No. 10:** The public notice has been revised to mention that Falkirk will be conducting mining operations within 100 feet of a number of section lines. However, the list of section line rights-of-way is not a complete list of all the section lines that will be affected by mining related operations according to plans shown on the Pit Layout and Facilities Map and the listing in Section 1.3.6 of the permit. Please revise the newspaper notice to list all section line rights-of-way and other public roads that will either be closed due to mining or where mining operations will be conducted within 100 feet of the road or right-of-way over the expected life of the mining operations in the acreage being added to the permit. We also noted that the list is limited to section lines and does not include portions of county roads located outside of the statutory rights-of-way. All affected public roads need to be described in the notice. In addition, if any of the listed public roads (including section line rights-of-way) will be relocated, the notice must describe the section of road to be relocated, where the relocation will occur, and its duration as required by NDAC 69-05.2-10-01(1)(d). (GAW)

Section 1.5 – Permit Area Surface and Coal Interests

2. **Original Deficiency No. 17:** Coal leases 03321, 03337, 03345, 03342, 03317, 03325, and 03340 were signed either in 1962 or 1964 with a 20-year lease term and "...as long as thereafter as coal...is produced". However, no mining occurred prior to the expiration

of the 20-year lease term and provisions in the original leases did not include an option for renewing the lease for an additional 20-year term. (Paragraph 2 in each of the leases, where the term of the lease is defined, does not contain language giving the lessee the option to lease an additional 20 years.) The response to the original deficiency was addressed by attaching Affidavits of Extension signed by Falkirk's Land Manager indicating that the leases were extended for an additional 20 years and that the second term has been continued. However, we need copies of documents that were executed by the original lessors (or his/her successors) showing that they agreed to an extension of the original lease for another 20 years with an option for further extensions. These documents are needed to satisfy the requirements of NDCC 38-14.1-14(1)(k). Until this documentation is provided, it does not appear that Falkirk has the right to conduct mining activities on these lands and they cannot be permitted. Also, it was noted that all the html links to these leases are broken and need to be reconnected. (SAS)

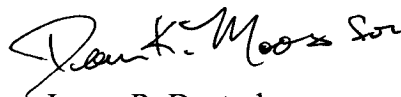
3. **Original Deficiency No. 18:** We noted that the lease has been added to the correct lease assignment but the html link to that assignment is broken. Please enable the link. (SAS)

Section 2.3 – Description of Geology

4. **Original deficiency No. 22:** Although your October 26, 2010 response states that the sample analysis for drill hole RD03310C was removed from the permit, it appears that it is still included in Section 2.3.8. Please review and correct as necessary. (WTG)

If you have any questions, please contact this office.

Sincerely,



James R. Deutsch
Director
Reclamation Division