



December 1, 2010

FROM DIRECTOR - RECLAMATION DIV.

Date: _____

Action: _____

Info. Only: _____

Info & File: _____

Mr. James R. Deutsch
Reclamation Director
ND State Public Service Commission
600 East Boulevard, Dept. 408
Bismarck, North Dakota 58505

RE: Revision 20 Completeness Review Responses for Permit NAFK-9503

Dear Mr. ~~Deutsch~~ Deutsch:

Falkirk submits the following responses to the completeness review items from your November 19, 2010 letter required to be addressed before the revision can 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)***

See revised Section 1.2.4, Public Notice, which now includes all 100 foot right-of-way approvals and road closures anticipated during the permit. The only relocation being considered at this time is also included. Roads not located on statutory rights-of-way are described according to the section in which they are located.

Section 1.2.4h, Newspaper Publication Reference Map, has also been updated.

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(l)(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)***

The Agreement for Extension and Amendment of Coal Lease have been added for Tracts 89, 93, 96, 98, 104, 105, 106, 108, 109, 111, 112, and 149. All html links to the aforementioned leases have been re-established.

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)***

The html link has been re-established.

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)***

Please see revised Section 2.3.8.

Other:

5. Section 1.3.6, Relationship to Areas Designated Unsuitable, has been revised to reflect the following: Line Items 54 and 55 have been added to Page 10 and Items 32 and 33 have been added to Page 14.

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If you have any questions, please contact me at 250-2403 or at randy.crooke@falkirk.com.

Sincerely,

THE FALKIRK MINING COMPANY



D. Randall Crooke
Environmental Manager

DRC/dge
Enc.