



# Public Service Commission

## State of North Dakota

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July 13, 2011

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 Falkirk's June 30, 2011 response to our June 10, 2011 technical deficiency letter regarding Revision No. 20 to Permit NAFK-9503. The following items were noted in the review that must be addressed or corrected before the Reclamation Division will recommend Commission approval:

### **Section 2.6 -- Surface Water Information and Monitoring Plan**

1. Follow up to June 10, 2011 item no. 16: New and revised data and information regarding stream flow classification has been incorporated into the permit with revised surface water narrative in Section 2.6.5 and the Surface Water Features and Monitoring Sites Map, Section 2.6.4 has been updated accordingly. These updates have been deemed adequate in identifying and describing stream classification within and adjacent to the 4<sup>th</sup> Addition area. However, the Reclamation Division's original March 3, 2011 deficiency item No. 62 describes narrative in Section 2.6.1 that required updating and that narrative still requires updating, particularly now in consideration of recent changes to the permit regarding stream flow classification. Currently, narrative in the third paragraph of Section 2.6.1 incorrectly describes that Missouri River Watersheds B, C, and D drain into the Missouri River via a series of ephemeral streams and the narrative needs to be updated to describe that lower reaches of those watershed drainages have now been classified as intermittent. Also, watershed description narrative on page 2 of the same section needs to be updated for Missouri River Watersheds C and D to describe the identified intermittent flow conditions. Additionally, even though the transition area is obvious, please depict the demarcation line separating Missouri River Watersheds C and E on the Surface Water Features and Monitoring Sites Map, Section 2.6.4. In summary,

please update the narratives in Section 2.6.1 and add the major watershed boundary to the Surface Water Map, Section 2.6.4. (BEB)

**Section 3.1 – Operations Plan - General**

2. In comparing the Extended Mining Plan Topographic Map of Mine Phases, Section 3.1.6 with the Surface Water Features and Monitoring Sites Map, Section 2.6.4, it appears that an approximate 1200-foot length of the intermittent stream located within the NE1/4 of Section 7, T144N, R83W is proposed to be mined through (2038-2040). Please identify this, and any other areas where mining related activities will occur within 100 feet of any intermittent stream. Mining related activities include pit disturbance, spoil placement areas, soil removal areas, roads, stream crossings, ponds, pond outfalls, stockpiles, etc. The operator may not disturb land within 100 feet of an intermittent stream unless the Commission, after consulting with the State Engineer and State Department of Health, specifically authorizes mining activities closer than 100 feet per NDAC 69-05.2-16-20. Areas of the permit within 100 feet of intermittent streams that will not be disturbed must be designated as buffer zones and marked according to NDAC 69-05.2-13-04. Please delineate all buffer zones on the Pit Layout and Facilities Map and provide a commitment to mark the buffer zones in the field upon revision application approval. At this point in time, the Reclamation Division recommends that all reaches of intermittent stream located within the proposed permit area be designated with a 100-foot setback buffer zone on the Pit Layout and Facilities Map, Section 3.1.5 with a commitment in the permit to field-locate the buffer zone areas. Should Falkirk wish to conduct mining operations within 100 feet of these intermittent streams, these plans can be addressed in a future revision application. (BEB)

Additionally, the Reclamation Division's July 12, 2011 letter to Falkirk Mining Company describes that a minimum bond amount of \$60,214,264 is required for the consolidated bond area at the Falkirk Mine. The necessary bonding instruments will need to be submitted prior to approval of Revision No. 20.

If you have any questions, please contact this office.

Sincerely,



for James R. Deutsch  
Director  
Reclamation Division