



July 14, 2011

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

RE: Revision 20 Technical Review Responses (3) for Permit NAFK-9503

Dear Mr. ^{JRM}Deutsch:

Falkirk submits the following responses to the technical review items from your July 13, 2011 letter required to 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 4th 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)***

Please see updated narrative in Section 2.6.1 - Surface Water Hydrologic Conditions with the changes requested above. Also, see updated map in Section 2.6.4 - Surface Water Features and Monitoring Sites Map for the updated watershed boundary.

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)*

Please see updated Section 3.1.5 - Pit Layout and Facilities Map and Section 3.1.6 - Extended Mine Plan Map. Also, please see updated narrative in Section 3.1.1 - Operations Description describing the signing of buffer zones.

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.