



Public Service Commission

State of North Dakota

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June 16, 2013

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

Dear Mr. Crooke:

The Reclamation Division has completed a technical review of the application for Bond Release No. 5 to Permit NACT-8705. The following items must be addressed before the Reclamation Division recommends Commission action.

Attachment IV – Letters to Interested Parties

1. The surface ownership map included with the bond release application, Attachment ii, shows that the City of Underwood owns the southwest corner of Section 21. However, the Surface and Coal Ownership Map in Section 1.5.3 of the permit indicates that this tract is owned by two Trusts, Fuek et. al and Hennessy. Please review the adjacent surface ownership of this area and include additional adjacent surface ownership notification letters if necessary. NDCC 38-14.1-17(1)(b). (GAW)

Attachment V – Aerial Photo Base Map

2. Please include the label Attachment V in the title block of Attachment V so that the map is labeled and referenced in a consistent manner. (GAW)

Attachment VII – Reclamation History

3. Please include a discussion in Attachment VII, Reclamation History, to clarify where pre-mine wetlands were replaced. There should also be a discussion regarding temporary pre and post mine wetlands on the tract. (GAW)
4. Please include public roads as a land use on page 1 of Attachment VII, Reclamation History, and provide an explanation why only 127 acres were harvested in 2006 and 2010. The public notice states that the tract contains 130.7 acres of cropland and 6.9 acres of roads. Please include a discussion of the grassed waterway on the tract.

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5. The third page of the Adjusted Cropland Yield Standard includes a statement from the surface owner about leaving Subtract 3B as hayland. This tract is not in this bond release application. Please remove this statement to avoid confusion. (GAW)
6. Falkirk is using yield data from 2006 and 2010 to demonstrate revegetation success. Although data from these years is acceptable, please also include yield information from 2011 or 2012 to show that the tract is continuing to yield acceptably well. The Reclamation Division would prefer that actual yield data from all years be included in the application to help demonstrate revegetation success. We also noticed that the producer's signature for the 2006 data was signed in 2012. (GAW)

Attachment VIII – Crop and Data

7. Please remove the landowner statement pertaining to Subtract 3B of Bond Release Tract 3-2011 appearing on page 70 in Attachment VIII. (RLK)
8. The Adjusted Cropland Yield Standard and Adjusted Cropland Calculations appear on pages 68-69 and 72-73 in Attachment VIII. Please consider removing the duplicate copy of the information. (RLK)

Attachment X – Hydrologic Assessment

9. The last sentence on page 16 of Section 2.8 describes that lysimeters located on the bond release tract will be decommissioned by the Falkirk Mining Company; however, we are unaware of any lysimeters located within the bond release tract. If this description is an unintended carry-over from the PHA of FBR 3, please eliminate the text from the report. If lysimeters are located within the bond release tract, please depict their location on the Monitoring Wells Location Map and describe in the text what their intended function was and plans for removing them. (BEB)

Ponded water was noted on approximately a dozen spots on the reclaimed field during the final bond release inspection. We normally require such features be repaired prior to final bond release approval. However, during the inspection we understood the surface owner's son, Steven Heger, to say that he was not concerned with these features given that the area has received 14 inches of rain this spring. The Reclamation Division will attempt to obtain written documentation from Laurance and Nancy Heger that they do not want these features repaired prior to bond release. Otherwise, Falkirk will be required to repair these features prior to final bond release approval.

If you have any questions, please contact this office.

Sincerely,



James R. Deutsch
Director
Reclamation Division