



September 6, 2013

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

**RE: Technical Review Responses for Bond Release Application No. 5
to Permit NAFK-8705**

Dear Mr. ^{Jim}Deutsch:

Falkirk submits the following responses to the review items listed in your July 16, 2013 letter required to be addressed prior to Reclamation Division recommendation for 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)*

Please see additional letters in the Adjoining Landowners section added to Attachment IV - Letters to Interested Parties. Letters were mailed out on July 31, 2013.

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)*

Please see updated title block for Attachment V.

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)*

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Response to the technical deficiency letter filed by the applicant
Falkirk Mining Company
Randy Crooke

Please see the added note in Attachment VII under the Land Uses section on page 72. The updates are based on our phone conversation with Mr. Guy Welch on July 24, 2013.

- 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.*

Please see added note in Attachment VII under the Land Uses section on page 72.

- 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)*

Please see updated Attachment VIII. The statement has been removed.

- 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)*

Falkirk is meeting the requirements of providing 2 years of data to prove the production standards.

The 2006 data was signed in 2012 because the area was included to support the bond release of wetland buffers/pre-cropland mix in a previous bond release tract (Tract 3-2011) in Section 20 at the request of the NDPSC. The tenant used GPS yield maps to demonstrate yield success. The original reclaimed cropland yield sheets contained a larger area than just the bond release tract. The tenant removed the unnecessary fields from the yield calculations. An updated yield sheet was filled out for only the E½ of Section 20. This yield sheet only accounted for the yields within that specific field for the bond release tract. This was done in 2012; therefore, it was signed in 2012.

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)*

Please see updated Attachment VIII. The statement has been removed.

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)*

Please see updated Attachment VIII. The duplicate has been removed.

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)*

Please see updated Attachment X. This was an unintended carryover from the PHA for Final Bond Release 3. There are no lysimeters on this bond release tract. Therefore, the text has been deleted.

The following are additional review items to be addressed from Zanna Ternes which were e-mailed to us by Guy Welch on July 22nd:

10. *On page 9/246 in Attachment ii - General Information, it appears the letter from McLean County concerning County Road 16 should be replaced with the two letters included in Bond Release 3-2011 that discuss the township road between Sections 20 and 29. (ZAT)*

Please see the updated County Road correspondence. The only reclaimed public road contained within the bond release tract is located on the southern boundary of the tract. Therefore, only the correspondence for the township road between Sections 20 and 29 has been included.

11. *Please add township road or right-of-way to the Land uses listed on page 63/246 of Attachment VII - Reclamation History, since roads/right-of-way was included as a land use in the General Information and Public Notice (ZAT).*

Please see updated Attachment VII - Reclamation History on page 72.

12. *Please review the 1982 date given for Date Mined on page 63/246 of Attachment VII - Reclamation History. This date is inconsistent with the 1981 date of initial mining*

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stated in the Public Notice, Letters to Interested Parties, and Attachment ii - General Information. (ZAT)

The Public Notice, Letters, and General Information states that mining and/or mining disturbance within the 137.6 acres was initiated in 1981. However, Attachment VII - Reclamation History, states that coal removal began in 1982. Both statements are correct in that initial disturbance (i.e., topsoil/subsoil removal) began in 1981 with actual removal of coal beginning in 1982.

Please review the Soil Respread information given on page 63/246 of Attachment VII for Subtract 3A. It appears the respread depths and dates are accurate, but the title needs to be changed to Tract 5. (ZAT)

Please see updated Attachment VII - Reclamation History, on page 72.

Sincerely,

THE FALKIRK MINING COMPANY



D. Randall Crooke
Environmental Manager

DRC/dge