

NORTHAMERICAN
COAL
CORPORATION
THE FALKIRK MINING COMPANY



January 31, 2014

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

RE: Mid-Term Review Responses (Revision 33) to Permit NAFK-8405

Dear Mr. ~~Deutsch~~ ^{Deutsch}:

Falkirk submits the following responses to the mid-term review items of Permit NAFK-8405 from your September 5, 2013 letter required to be updated or modified in a Permit Revision by November 15, 2013.

1.0 - Introductory, Legal, Financial, Compliance, and Related Information

- 1. Please update the Consolidated Legal Information Report covering Sections 1.1.6, 1.3.1, and 1.3.2 referenced in Permit NAFK-8405 if there have been any changes to ownership and control information, the list of current or previous coal mining permits held during the past five years, or the schedule of violation notices in the past three years since the most recent Consolidated Legal Information Report dated May 29, 2013 was submitted. (BEB)*

The most recent update of the Consolidated Legal Information Report of November 12, 2013 is on file at the Commission office.

- 2. The certificate of liability insurance that is provided in the permit in Section 1.2.5 expired in February, 2013. Please incorporate a copy of an updated certificate in the permit to provide the required evidence of liability insurance. (BEB/ZAT)*

The updated Certificate of Liability Insurance for 02/01/2014 - 02/01/2015 has been added with this Revision. The Cancellation Endorsement is forthcoming.

- 3. Please update Section 1.2.7, Filing with County Auditor, to provide current information in the permit since Revision No. 22 was approved in 2006. (BEB)*

Please see updated Section 1.2.7, Filing with County Auditor; the same verbage as was requested with Revision 24 to NAFK-9503 has replaced the existing verbage in this revision.

4. Please update Section 1.3.2, Names of Other Mines, if changes have occurred since approval of Revision No. 27. (BEB)

Please see updated Section 1.3.2, Names of Other Mines.

5. If necessary, please update the surface and coal ownership interests listed in Sections 1.5.1 and 1.5.2. Any changes to either of these sections since the last update with Revision No. 30 should also be reflected on the ownership map in Section 1.5.3. NDAC 69-05.2-06-01(1)(a) and NDCC 38-14.1-14(c) and (d). (BEB/BAJ)

The Certificate of Authenticity of Documents in Section 1.5 has been updated to reflect the inclusion of additional documents to the Permit. The Tract Summary in Section 1.5.1 was updated and the following table identifies updates to individual tracts in Section 1.5.2:

Tract No.	Address change to surface and/or coal ownership	Corporate officers and/or registered agents change	Documentation added Leases, WD, AOE	Easement information updated	Leasehold status change	Note added	Ownership change to surface and/or coal	Tract added or tract description changed
6						X		
6A	X					X		
7A	X							
7A.1	X							X
7B	X							
23							X	
28							X	
29							X	
37	X		X					
38	X							
39	X							
40							X	
45	X							
46							X	
47	X							
48						X		
49								
50	X							
53	X		X					
54	X							
55	X		X					
56	X		X					
57	X		X					
58			X					
59	X							
64	X						X	
65						X		
66							X	
67	X							
68	X							
69							X	
70	X							
72	X				X			

Tract No.	Address change to surface and/or coal ownership	Corporate officers and/or registered agents change	Documentation added Leases, WD, AOE	Easement information updated	Leasehold status change	Note added	Ownership change to surface and/or coal	Tract added or tract description changed
73		X	X				X	
74	X							
77	X							
79			X					
80					X		X	
82	X		X					
83	X							

Section 1.5.2, Adjacent Surface and Coal Interests was updated to reflect current ownership and leasehold information.

Section 1.5.3, Surface and Coal Ownership Map was updated to reflect the changes noted in the sections above.

2.3 - Geology

6. *The first paragraph in the Overburden Characteristics Narrative in Section 2.3.5 provides a link to the geologic cross-sections map in Section 2.3.15 but doesn't work. Please repair the link. (BEB)*

The broken hyperlink has been repaired.

2.6 - Surface Water Information

7. *The first paragraph in the Surface Water Hydrologic Conditions narrative of Section 2.6.1 describes that the Tongue River Formation (Bullion Creek) overlies the permit area, and this should probably be changed to state that the Sentinel Butte Formation overlies the area which is the bedrock geologic unit from which, as you know, the Hagel coal seams are mined. Please revise. (BEB)*

Please see updated narrative in Section 2.6.1, Surface Water Hydrologic Conditions.

2.8 - Soil Resources

8. *Soils narrative at the bottom of page 2 in Section 2.8.1 describes that "After the spoil material has been regraded and the topography approved by the PSC, sampling will be conducted to evaluate the physical and chemical characteristics of the regraded spoil and the required soil replacement depth." Subsequent narrative in the paragraph describes that spoil properties analytical results will be submitted to the PSC with the grade approval request which accurately describes the grade approval and*

SPGM respread process at Falkirk. Please re-word the italicized narrative above to accurately state the regrade approval and spoil sampling protocol that is practiced. (BEB)

Please see updated narrative in Section 2.8.1, Soils Narrative.

3.0 - Operations Plans

9. *If necessary, please update the number of anticipated acres that will be disturbed on page 1 of Section 3.1.1. (BAJ)*

Please see updated Section 3.1.1, Operations Narrative.

10. *Narrative in the Figenskau portion of Section 3.1.1 that was added to the permit with Revision No. 30 states that "No subsoil will be salvaged for safety reasons", and that statement should be modified because some subsoil removal has been conducted and observed within the Figenskau Mine Area, and that material has been transported to other areas for construction of a future haulroad/haulroad realignment project. Please revise or modify the sentence. (BEB)*

Please see updated narrative in Section 3.1.1.

11. *Please review the Cable Belt Conveyor discussion on page 3.1.2, Mining Method Narrative, and update the permit with plans to remove and reclaim areas affected by this structure if it is not going to be refurbished and used in the foreseeable future. This structure has not been used for many years, and the contemporaneous reclamation requirements of NDCC 38-14.1-24(14) apply to the areas affected by it. Any request for a further delay in reclamation must be clearly explained and justified. (GAW/JRD)*

Please see updated narrative in Section 3.1.2.

12. *Please update, if necessary, page 1 of Section 3.1.3 to reflect the anticipated production from Permit NAFK-8405 and the total mine production. (BAJ)*

Please see updated Section 3.1.3, Estimated and Total Production.

13. *If necessary, please update Section 3.1.4, List of Major Equipment, as required by NDCC 38-14.1-14(1)(l). (BEB/BAJ)*

Please see updated Section 3.1.4, List of Major Equipment.

14. *There appears to be at least one farmstead/dwelling (Craig Siem in the SE¼ of Section 11) within the permit area north of Highway 200 that was occupied at the time of ap-*

plication for Revision No. 23 and is no longer occupied. Please review the Pit Layout and Facilities Map, Section 3.1.5, as well as the Existing Structures Map in Section 3.2.2 and the Blasting Map in Section 3.3.2, and if appropriate, you may remove the 500-foot setback buffer from around the former Siem residence and any other farmsteads or dwellings no longer occupied and change the status on the Pit Layout and Facilities Map by removing the "occupied dwelling" text next to any abandoned dwelling(s). However, please include a narrative discussion giving the approximate time when the residents left the farmsteads or dwellings. (BEB/RLK)

Please see the following updated maps; Section 3.1.5 - Pit Layout and Facilities Map, Section 3.2.2 - Existing Structures Map, and Section 3.3.2 - Blasting Map.

- 15. Reclaimed Sediment Ponds P-E26-02 and P-E26-03 have been removed from the Pit Layout and Facilities Map, Section 3.1.5. Information regarding these water management features and other features such as the dragline and shovel deadhead route and haulroad corridors should be retained on this map. Please update to review this historical information, but note they have been reclaimed. (GAW)*

As discussed on the phone with Mr. Dean Moos and Mr. Guy Welch, Falkirk added the reclaimed/mined through ponds to the Total Water Management Plan Map, Section 3.6.1a.

- 16. The Blasting Plan narrative in Section 3.3.1 describes Falkirk's blast warning signals as an intermittent signal for a pre-blast notification and a steady signal for the all clear notification, both of which are considered to be an industry standard for blast signals; however, an example of your Blasting Notice in Section 3.3.5 states that an intermittent signal will be used for the all clear signal and a steady signal will be used for the pre-blast notification, the opposite of what is described in the Blasting Plan. The most recent public notice of blasting schedule dated December, 2012 correctly provides the same wording as the Blasting Plan narrative and to eliminate the conflicting descriptions of blast signals used at Falkirk, we recommend incorporating a new/revised blasting notice in Section 3.3.5 that also includes Permit NAFK-8405 as an area of the mine where blasting may occur. (BEB)*

Please see revised Section 3.3.5, Example of Blasting Notice.

- 17. Please update, if necessary, Section 3.6.1d, Pond Construction and Reclamation Schedule. (BAJ)*

Section 3.6.1d, Pond Construction and Reclamation Schedule, has been updated with new ponds and adjusted construction/reclamation dates, as necessary.

- 18. Please update the Operations section of the permit if Falkirk anticipates any changes in the operations, transportation, or surface water management for this permit area. (BAJ)*

Sections 3.1.5, Pit Layout and Facilities Map, 3.5.2, Transportation Facilities Map, and 3.6.1a, Total Water Management Plan Map, have all been updated.

4.1 - Post-Mining Land Use and Revegetation

- 19. The third paragraph on page 2 of Section 4.1.1, Post-Mining Land Use Narrative, states that Falkirk is presently not showing any disturbance to Tracts 42 or 43. However, the Pit Layout and Facilities Map shows a portion of Tract 42 (SW¼ of Section 18) being affected by a SPGM storage area. Please review and revise as necessary. (GAW)*

Please see updated Pit Layout and Facilities Map, Section 3.1.5. The SPGM pile boundary was removed from Tract 42.

- 20. The last two sentences of the third paragraph on page 2 of Section 4.1.1 state that no mining activities will be conducted within 500 feet of any dwelling and the final sentence mentions that if mining activities are required within the setback area that Falkirk will enter into a variance agreement allowing mining activities within the setback. Please revise to clarify that disturbance is planned within 500 feet of the occupied dwelling(s) located in Tract 42 and disturbance can occur within 300 feet as allowed by the Waiver and Consent Agreement included in Section 1.5.1. (GAW)*

Please see updated narrative in Section 4.1.1

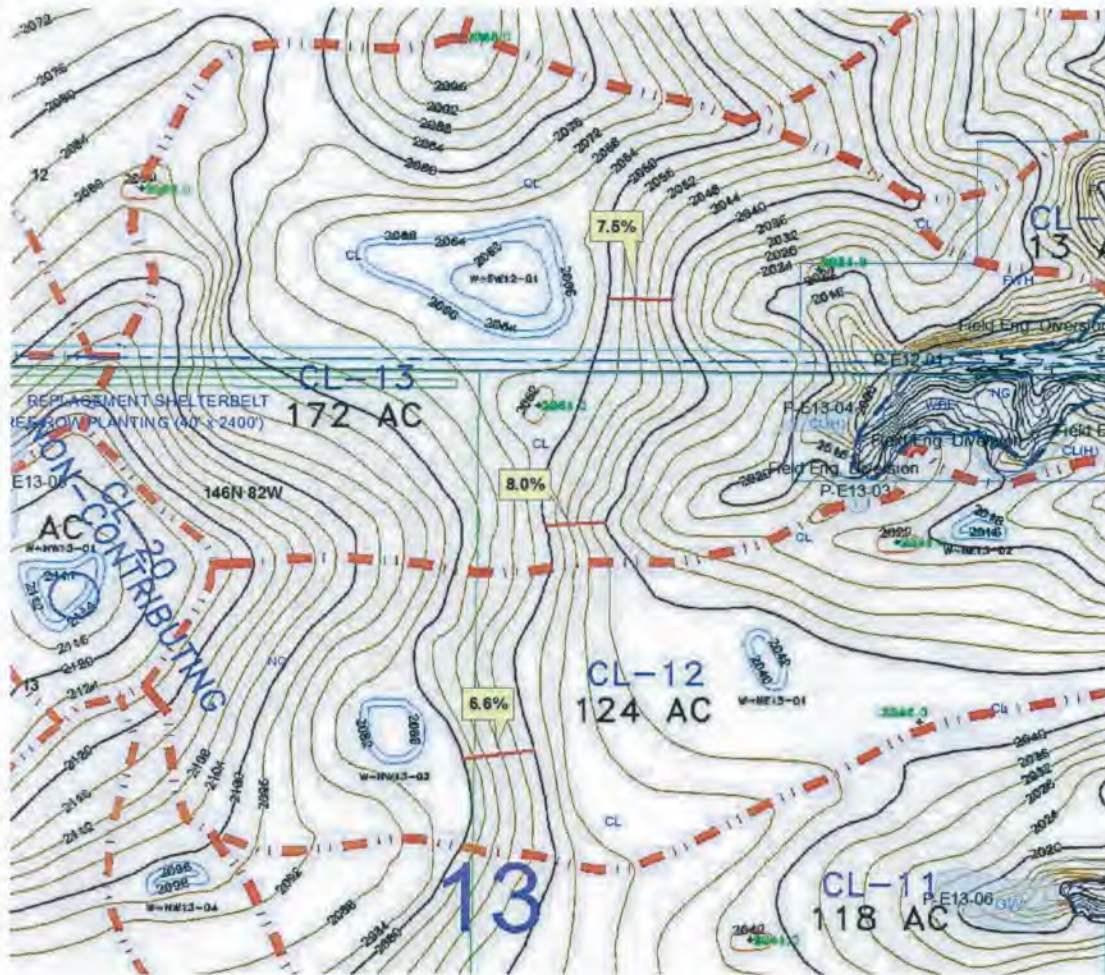
- 21. Please revise the last paragraph on page 2 of Section 4.1.1 to clarify if Falkirk has negotiated to relocate or purchase occupied dwellings located in Tracts 62, 66, and 68. The Pit Layout and Facilities Map shows a 500-foot setback around the farmstead located in Tract 68, but the Surface and Coal Ownership Map, Section 1.5.2, shows that Falkirk owns this property. The first paragraph on page 3 of Section 4.1.1 states that Falkirk has not entered into formal negotiations to purchase these lands. Please review and revise to clarify as necessary. (GAW)*

Please see revised narrative in Section 4.1.1.

- 22. The third paragraph on page 6 of Section 4.1.1 and the last paragraph of page 10 of Section 4.1.5 states that woodlands may be disturbed during the construction of sediment ponds and that disturbed woodlands will be replaced in approximately the same locations and areal extent as their pre-mine counterparts. Please review the actual woodland disturbance acreage in Sections 7, 12, 13, and 18 and revise the reclamation plans if it is not practical to replace all of the woodlands in their exact pre-mine locations. Planting woodlands outside of reclaimed sediment pond locations may expedite final bond release. (GAW)*

Please see updated narrative in Sections 4.1.1 and 4.1.5.

23. Please consider revising the Post-Mining and Topography Land Use Maps, Sections 4.1.2 and 4.2.6b, to reduce or break up the long fairly steep slopes, especially in drainageways, that are proposed for cropland in the N½ of Section 13 and S½ of Section 12 and/or show that grassed waterways are going to be constructed in these areas. See image below. We are concerned that the long moderately steep slopes in these areas and in Section 14 will be much more susceptible to erosion than the pre-mine conditions and measures need to be taken to break up or reduce the long slopes. (GAW/JRD)



Based on the phone conversation with Mr. Dean Moos and Mr. Guy Welch, please see the updated Post-Mine Land Use Map, Section 4.1.2. The post-mine slopes are actually gentler than what was cropped in the same area prior to mining. The drainage from W-NW13-02 reclaimed wetland is approximately a 5% slope and should withstand the water flow. Once reclaimed, if it appears that this drainage or any others may be susceptible to erosion, a small grass waterway will be field fitted. A grassed waterway was added to the Post-Mine Land Use Map, Section 4.1.2, in the drainage leaving W-SW12-01 reclaimed wetland.

4.2 - Reclamation - General

- 24. Please update Section 4.2 if Falkirk anticipates any changes in the reclamation procedures and schedules. (BAJ)**

Falkirk will update its reclamation procedures and schedules in the fall of 2014. We are flying the northwest portion of the Permit to obtain topographic mapping late this spring. This will affect reclamation plans. Therefore, we will update the schedules at that time.

- 25. Please review and update, if necessary, Section 4.2.6b, Post-Mining Contour Map and Section 4.2.7b, Post-Mining Area Slope Map. (BAJ)**

Falkirk will update its post-mining contours in the fall of 2014. We are flying the northwest portion of the Permit to obtain topographic mapping late this spring. This will affect reclamation plans. Therefore, we will update the topography and slopes at that time.

- 26. Also, please be reminded that the Worst Case Reclamation Cost Estimate for the Consolidated Bond Area must be updated using the July, 2013 appendix updates to Policy Memorandum No. 16 to Mine Operators. This may be done with the revision that addresses these mid-term items.**

The stand-alone Worst Case Reclamation Cost Estimate for the Consolidated Bond Area was updated with Revision 24 to NAFK-9503 submitted December 6, 2013.

Other:

27. Please see updated Sections containing information on the Coal Lake Transfer to the NDDOT. Sections updated include 1.1.5, 4.1.1, 4.1.2, 4.1.3, and 4.1.5.
28. Section 3.6.1a, Total Water Management Plan Map was updated to show overlaid contours that were changed from post-mining contours to pre-mining contours; pre-mining watershed boundaries are now depicted.

Sincerely,

THE FALKIRK MINING COMPANY



D. Randall Crooke
Environmental Manager