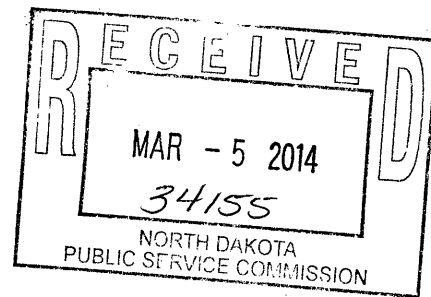


**NORTH AMERICAN**  
**COAL**  
CORPORATION  
**THE FALKIRK MINING COMPANY**



March 5, 2014

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

**RE: Pre-Renewal Review Responses (Revision 35, Renewal #5) to Permit NAFK-8705**

Dear Mr. <sup>Jim</sup> Deutsch:

Falkirk submits the following responses to the pre-renewal review items of Permit NAFK-8705 from your January 9, 2014 letter required to be updated or modified for the Fifth Renewal of this Permit.

**General**

- 1. Please update all appropriate maps to identify the tracts of land that were bond released with Final Bond Releases No. 4 and No. 5 to Permit NAFK-8705, which were approved by the Commission on December 4, 2013. This should be done in a manner that is similar to what has been done for other final bond releases (all reviewers).***

The following maps have been updated:

- Section 1.2.2g - Fourth Deletion to West Permit NAFK-8705 Metes and Bounds
- Section 1.2.2h - Fifth Deletion Map to West Permit NAFK-8705 Metes and Bounds
- Section 1.2.2 - Metes and Bounds Description Map
- Section 1.2.4q - Newspaper Publication Reference Map, Revision 35, Renewal #5
- Section 1.5.3 - Surface and Coal Ownership Map
- Section 3.1.5 - Pit Layout and Facilities Map
- Section 3.1.6 - Extended Mining Plan Topographic Map of Mine Phases
- Section 3.2.2 - Existing Structures Map
- Section 3.5.2 - Transportation Facilities Map
- Section 3.5.20 - Road Relocation and Closing Plan Map
- Section 3.6.3a - Total Water Management Plan Map
- Section 4.1.2 - Post-Mining Land Use Map
- Section 4.2.3 - Grading Sequence Map

**Section 1.0 - Introductory Information**

2. ***Please update Section 1.2.1, Legal Description of Permit Area, and Section 1.2.2, Metes and Bounds Description Map, to reflect the new permit boundary due to final bond releases as described above. Riders to Reduce Bond Area should be submitted so this acreage is no longer included in the consolidated bond area. (BEB/GAW)***

Please see updated Section 1.2.1, Legal Description of Permit Area, Section 1.2.2, Metes and Bounds Description Map, Section 1.2.2g, Fourth Deletion Map, and Section 1.2.2h, Fifth Deletion Map. Please note that the reason for the 0.10 acre difference from the Fifth Deletion and the Bond Release package is a result of a change in surveying methods from conventional survey to GPS.

The Rider to Reduce Bond Area will be submitted by our Land Department.

3. ***The Certificate of Liability Insurance form that is provided in Section 1.2.5 expired in February, 2013. Please incorporate the current insurance certificate into the permit. (BEB/ZAB)***

Section 1.2.5, Certification of Liability Insurance, was updated to include the current Certificate of Liability Insurance.

4. ***The short one-sentence narrative in Section 1.2.7, Filing With County Auditor, states that once the permit application is complete, a copy of the permit application will be filed with the County Auditor and this language can now be revised. Since the original permit application was deemed complete many years ago, please revise this narrative by stating that updated copies of the permit will be filed with the County Auditor as the permit is revised. (BEB/ZAB)***

Please see updated Section 1.2.7, Filing With County Auditor.

5. ***Please provide an updated Consolidated Legal Information Report covering Sections 1.3.1 - Names of Officers, Directors and Share Holders, and Organizational Structure; 1.3.3 - Current Permits and Permit Applications, and 1.1.6 - Schedule of Violations referenced in Permit NAFK-8705 with the approval of Revision No. 34 if there are 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 report dated November 12, 2013. (RLK/ZAB)***

The most recent Consolidated Legal Information Report, dated February 21, 2014, is on file at the Public Service Commission's office.

6. ***Please update Section 1.3.2, Names of Other Mines, if changes have occurred since approval of Revision No. 34 to Permit NAFK-8705 in 2012. (BEB/ZAB)***

No changes in Names of Other Mines, Section 1.3.2, have occurred since approval of Revision 34; however, the second paragraph was updated to reflect the Revision 35, Renewal #5 submittal.

7. ***Please update Section 1.3.5, Other Licenses and Permits, as necessary as revised information was provided in other permits for the Falkirk Mine and is now available for placement into this section. (BEB/ZAB)***

Section 1.3.5, Other Licenses and Permits, has been updated.

8. ***If necessary, please update the surface and coal ownership interests listed in Section 1.5.1 and 1.5.2. Any changes to either of these sections should also be reflected on the Surface and Coal Ownership Map in Section 1.5.3. It appears that a number of coal leases in the northern portion of the permit area (e.g. Tracts 3, 4, 5) were scheduled to expire in 2012 and that the lease term provisions did not provide for successive renewal beyond the second lease term. In most cases, it appears that Falkirk based their right of entry on these coal leases. Please provide evidence that Falkirk still has the right to mine these tracts since the Extended Mine Plan shows future mining in these areas. NDAC 69-05.2-06-01(1) and NDCC 38-14.1-14(c) and (d) (BEB/RLK/ZAB/GAW)***

The introductory page, certificate of authenticity, and the tract summary have been updated in Section 1.5, Identification of Interests and Rights of Entry.

Section 1.5.1, Permit Area Surface and Coal Interests, has been updated as indicated in the following table.

Tract No.	Address change to surface and/or coal ownership	Corporate officers and/or registered agents change	Documentation added	Easement information updated	Leasehold status change	Note added	Ownership change to surface and/or coal	Tract added or tract description changed
1								X
2			X					
3	X		X					
4			X					
5	X		X				X	
6			X					
7			X					
9-9A			X				X	
11			X					
12			X					
13	X		X					
14								X
15								X
16					X	X		
17					X	X		
18			X					
19			X					

Tract No.	Address change to surface and/or coal ownership	Corporate officers and/or registered agents change	Documentation added	Easement information updated	Leasehold status change	Note added	Ownership change to surface and/or coal	Tract added or tract description changed
21			X					
22	X							
23			X					
24			X					
25			X					
30	X				X			
35	X							
36	X							
37	X							
38	X							
39			X					
40							X	
40A							X	
53							X	
55							X	
56					X			
57	X		X					
58	X							
67								X
68			X					
69	X						X	
73	X					X	X	
74	X							
75	X							

The surface and coal ownership was updated in Section 1.5.2, Adjacent Surface and Coal Interests, 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.

**Section 2.0 - Environmental Resource Information**

- Narrative in the third full paragraph on page 2 of 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 re-spread process at Falkirk. Please re-word the italicized narrative above to accurately state the regrade approval and spoil sampling protocol that is currently practiced. (BEB)*

Please see updated Section 2.8.1, Soils Narrative.

- 10. A sentence in the second paragraph on page 7 of Section 2.4.2 states that Piping Plover has been observed on an annual basis within Falkirk's active permit areas beginning in 1985. Please review past monitoring reports and update if necessary. (GAW)**

Please see the updated Fish and Wildlife Management Plan narrative for Section 2.4.2.

- 11. Please revise the Wildlife Monitoring Plan, Section 2.4.3, to specifically discuss the potential presence of each current Candidate species to the Endangered Species Act on or adjacent to the permit area, and consider revising the wildlife monitoring plan to include surveys for Sprague's Pipit on larger tracts of reclaimed native grassland in the permit. (GAW)**

Please see the updated Wildlife Monitoring Plan narrative for Section 2.4.3.

### **Section 3.0 - Operations Plans**

- 12. Please update the operations narrative on page 2 of Section 3.1.1 regarding the former heat enclosure/material storage area/dragline erection pad in the SE¼ of Section 22, T146N, R83W, in the permit area. Included in the discussion should be the disposal location(s) of the trees, fly ash and concrete that were removed from the site, as well as a proposed date of when Falkirk intends to resume mining in this area. (BEB/BAJ)**

Please see the updated narrative in Section 3.1.1.

- 13. If necessary, please update the anticipated acres of land that will be disturbed by mining activities during the next permit term within the permit that is provided in table format on page 2 of Section 3.1.1. (BEB)**

Mining is not planned in the Permit until 2037. Therefore, there is no disturbance planned during the next 5-year permit term.

- 14. Please update pages 3 and 4 of Section 3.1.1 to describe any changes in the operations details for the fly ash disposal site in Sections 31 and 32, T146N, R82W; in particular, the expected operating lifespan of the ash disposal facility. Also update, if necessary, other portions of Section 3.1.1 that detail fly ash utilization at the Falkirk Mine, and operation/reclamation of other fly ash disposal facilities. (BAJ)**

Please see updated pages 3, 4, and 5 of Section 3.1.1, Operations Description.

- 15. If necessary, please update the Estimated and Total Production listing that is provided for Permit NAFK-8705 in Section 3.1.3. (BEB/BAJ)**

Mining is not planned in the Permit until 2037. Therefore, there is no production planned during the next 5-year permit term.

**16. If necessary, please update the List of Equipment that is provided in Section 3.1.4. (BEB/BAJ)**

Please see updated Section 3.1.4, List of Equipment.

**17. Since Sediment Pond P-W27-01 and others are no longer existing ponds, please remove the "existing pond" symbology on the Pit Layout and Facilities Map for any reclaimed sediment ponds. Similar to Permit NAFK-9601, please insert a unique symbol on the map and in the legend to denote "Reclaimed Pond" and include text on the map indicating the year that the pond was reclaimed. (BEB/BAJ)**

As in Permit 8405, reclaimed/mined-out ponds were added to the Total Water Management Plan Map, Section 3.6.3a.

**18. On the Pit Layout and Facilities Map, please show the location of the newly constructed topsoil and subsoil stockpiles directly north of Sediment Pond P-W27-02 and remove the section of relocated County Road 19 that was reclaimed in the E½ of the NE¼ of Section 27. (BEB)**

P-W27-01, D-W27-01, and the SPGM stockpile located southeast of these features were removed from Section 3.1.5, Pit Layout and Facilities Map, as they have been reclaimed. Newly constructed topsoil and subsoil piles north of P-W27-02 are now shown on the Pit Layout and Facilities Map.

**19. On the Pit Layout and Facilities Map, please show the equipment access road that is located directly north of and adjacent to the French Drain facilities in the N½ NW¼ of Section 28. (BEB)**

The equipment access route adjacent to the French Drain has been added to Section 3.1.5, Pit Layout and Facilities Map.

**20. Please update the Pit Layout and Facilities Map, Section 3.1.5, to reflect any additional changes made to the permit since the last update including updating the permit boundary to reflect Final Bond Releases No. 4 and 5. (RL/BAJ/ZAB/GAW)**

Proposed ramps, which we do not intend to construct, have been removed from Section 3.1.5, Pit Layout and Facilities Map. Pond symbology has been updated for newly constructed ponds to show that they are now existing ponds.

**21. Please update the Extended Mining Plan Topographic Map of Mine Phases in Section 3.1.6 to show the current or revised extended mining plans for the Falkirk Mine. (BEB/BAJ)**

Please see the updated Extended Mining Plan Topographic Map of Mine Phases, Section 3.1.6.

**22. Please update the Existing Structures Map, Section 3.2.2, to reflect the reclamation of portions of the HR1 haulroad. (BAJ)**

Reclaimed portions of HR1 haulroad have been removed From Section 3.2.2, Existing Structures Map. Annotation for fuel storage facilities were added. Section 3.2.1, Existing Structures Narrative, was also updated with current fuel storage data.

**23. Please update the Cable Belt Conveyor Plan narrative in Section 3.5.1 to clarify how this conveyor will be used during the next permit term or include removal plans for this structure as required by NDAC 69-05.2-09-06(1)(h). (GAW)**

Please see the updated narrative in Section 3.5.1, Transportation Narrative.

**24. Please update the Road Relocation and Closing Plan Map, Section 3.5.20, to show the re-opening of County Rd. 19 (32nd Ave NW) and any other updates that may be necessary. (BAJ)**

Please see the updated Road Relocation and Closing Plan Map, Section 3.5.20.

**25. Please update the pond construction and reclamation table on page 2 in the Surface Water Management Plan, Section 3.6.1, to provide accurate and current information in the permit. (BEB)**

The Pond Construction and Reclamation Schedule on Page 2 of Section 3.6.1, Surface Water Management Plan, has been updated.

**26. Please update the Total Water Management Plan Map, Section 3.6.3a, to indicate recently built ponds and reclaimed ponds, such as Ponds P-W28-03, P-W28-02R and P-W27-01. Also make any other updates as appropriate in Section 3.6, Surface Water Management. (RLK/BAJ)**

Reclaimed ponds along with the year they were reclaimed were added to Section 3.6.3a, Total Water Management Plan Map. Ponds which have been recently constructed are now shown.

**Section 4.0 - Reclamation Plans**

**27. Please update the Post-Mining Land Use Map, Section 4.1.2, to show Final Bond Releases No. 4 and 5 as being outside of the permit boundary and label these areas "Bond Released" as was done on other bond release tracts in the past. (GAW)**

Please see the updated Post-Mining Land Use Map, Section 4.1.2.

**28. Please update Section 4.1.3, Pre- and Post-Mining Land Use Acreage Comparisons Table to reflect the recent final bond released acres in the permit as previously done for other releases. (ZAB/GAW)**

Please see the updated Pre- and Post-Mining Land Use Comparison Table, Section 4.1.3.

- 29. Please update Section 4.1.6, Sampling Methods and Success Standards, to discuss the protocol used to ensure random samples are taken when hand sampling is used to demonstrate revegetation success and that the various reclamation ages and respread depths are properly represented. (GAW)**

Please see the updated narrative in Section 4.1.6, Sampling Methods and Success Standards.

- 30. Please update the native grassland reference area narrative that begins on page 1 of Section 4.1.6 to discuss if the native grassland reference area sites have been managed equivalent in effect to the reclaimed native grasslands in the permit area and include any recent sampling data showing that the reference areas have been maintained in acceptable ecological condition for use in demonstrating revegetation success. (GAW)**

Please see the updated narrative in Section 4.1.6, Sampling Methods and Success Standards.

- 31. Please revise Section 4.1.6a, Revegetation Success Standards Map, and Unadjusted Standards Tables, to include the unadjusted cropland standard for the cropland that has been reclaimed in the SW¼ of Section 23. (GAW)**

Current mine plans show the remaining area in Section 23 immediately adjacent to the reclaimed cropland as being mined from approximately 2045-2050. Therefore, this area currently has no immediate plans for bond release. The unadjusted standards will be calculated at a later date.

- 32. The Reclamation Variance discussions in Sections 4.2.1 and 4.2.2, Reclamation Schedule, and the map in Section 4.2.3, Grading Sequence Map, have been revised over time to remove old and outdated information and now includes only pertinent information to the existing mine plan. To the extent possible, please revise to retain the pertinent historical information regarding variances from the 180-day backfilling and grading requirement and the 3-year revegetation requirements since active mining operations are not scheduled to occur in this permit until 2064 according to the extended mine plan. In addition, please update Section 4.2.2, Reclamation Schedule, and Section 4.2.3, Grading Sequence Map, to reflect the current mining activity and plans. (GAW/ZAB)**

The Reclamation Schedule and the Grading Sequence Map are set up to show current and future reclamation plans for an area. To show historical information in these sections would make these maps and tables too complex and confusing to remain useful. An entirely separate historic variance map and schedule would have to be developed. Falkirk

believes the usefulness of this effort is not justified by the effort and time it would require to put it together, given its availability in the revisions on file. Falkirk and the PSC both keep these previous versions of the permits on file. Falkirk converted to electronic permits beginning in 2001 with Revision 22; therefore, obtaining any past variance information, if needed, can be obtained from these electronic files.

Please see the updated Reclamation Schedule in Section 4.2.2 and the updated Grading Sequence map in Section 4.2.3 that reflects current mining activities and plans.

***33. Please update Section 4.2.2, Reclamation Schedule, and Section 4.2.3, Grading Sequence Map, to reflect the current mining activity and plans. (ZAB)***

Please see the updated Reclamation Schedule in Section 4.2.2 and the updated Grading Sequence map in Section 4.2.3 that reflects current mining activities and plans.

**Section 5.2.2a - Wetland Design Details**

***34. The Post-Mine Land Use Map identifies Wetland R-31-03 on the section line between Sections 30 and 31 but this wetland is not listed in Section 5.2.2a. Please review and revise as necessary to provide clarity. (GAW)***

Please see updated narrative in Section 5.2.2, Post-Mining Wetlands Design.

**Other:**

**35. Also submitted with this revision is the stand-alone post-mining hydrologic assessment of the West Mine Area.**

Sincerely,

**THE FALKIRK MINING COMPANY**



D. Randall Crooke  
Environmental Manager

DRC/dge  
Enc.