

February 1, 2016

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

RE: Technical Review Responses for Revision 35, Renewal #6 to Permit NAFK-8405

Dear Mr. Deutsch:

Enclosed are three DVDs containing the technical review responses for Revision 35, Renewal #6 to Permit NAFK-8405 in regard to your letter dated January 11, 2016.

Revision 35 and Renewal #6 addresses the pre-renewal review items for NAFK-8405 noted in the NDPSC's letter dated September 23, 2015. Updated information includes surface and coal interest and ownership, fish and wildlife management plan, wildlife monitoring plan, operation and reclamation plans and surface water information. New information to the permit includes stream profiles and length comparisons for selected ephemeral drainages and calculated flow velocities in reclaimed drainage way channels.

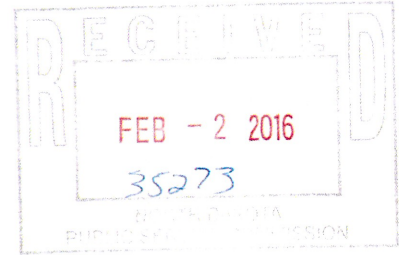
If you have any questions regarding the enclosed materials or require additional information, please advise.

Sincerely,

THE FALKIRK MINING COMPANY

Jason Frye
Environmental Specialist

JF/tv
Enc.



February 1, 2016

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

RE: Technical Review Responses for Revision 35, Renewal #6 to Permit NAFK-8405

Dear Mr. Deutsch:

Falkirk submits the following responses to the technical review of the application for Revision No. 35, Renewal #6 to Surface Coal Mining Permit NAFK-8405 for The Falkirk Mine in your letter dated January 11, 2016.

General

- 1. Falkirk has written "Revision 35, Renewal #6" at the bottom of every page in numerous sections of the permit where no changes have been made, for example every page in Sections 2.4.2, 2.4.3, 3.1.2 and 4.1.1. This Revision 35, Renewal#6 wording should only be listed at the bottom of pages where changes are being made with this revision. Please revise to provide clarity and accuracy. (GAW)***

Falkirk will incorporate page numbers on the technical responses for documents that are updated during a revision or renewal. The page numbers will be added during minor updates but will not be added if the entire document is updated. The change is being made in regards to a telephone conversation with Guy Welch on January 14 and an e-mail on the 15th.

Section 1.2 – Legal Information

- 2. The Certification of Liability Insurance as provided in Section 1.2.5 will expire on February 1, 2016. If an updated certificate is available, please incorporate that document into the permit at this time. (BEB)***

Please see the updated Certificate of Liability Insurance and Cancellation Endorsement in Section 1.2.5.

Section 2.1 – Cultural and Historic Resources

- 3. The last paragraph of the Cultural Resources Narrative on page 7 of Section 2.1.1 describes that pre-historic cultural resources site 32ML823 will be marked in the field and on the Pit Layout and Facilities Map as a “no disturbance” area; however, this feature is no longer required to be marked on the map since data recovery was completed for this site in 2012. Please update the narrative in this section for site 32ML823. (BEB)***

Please see the updated Cultural Resources Narrative on page 7 of Section 2.1.1.

Section 2.8 – Soils Resources

- 4. Please review the soils narrative in the third paragraph of page 3 of Section 2.8.1 because the narrative makes reference to the existing overburden stockpile location in the S1/2 of Section 1, T146N, R826W. Please correct the typographical error in this legal description. (BEB)***

Please see the updated Soils Narrative on page 3 of Section 2.8.1.

Section 2.4.2 – Fish and Wildlife Management Plan

- 5. Follow-up to Item No. 5: The Northern Long-Eared Bat discussion that has been added on page 5 of Section 2.4.2 is inadequate as a Protection and Enhancement Plan (PEP) for the species given that we must assume the species may be present in the absence of surveys. Please revise to include a detailed PEP that identifies and characterizes all suitable habitats in the permit area and include Species Specific Protection Measures (SSPM) that will ensure there are no adverse impacts or take of this species. The SSPM must, at a minimum, include language that states that there will be no disturbance of potential nesting habitat during the species maternity period. It is recommended that Falkirk prepare this species PEP for the entire mine. (GAW)***

Please see the updated Fish and Wildlife Management Plan on pages 6 & 7 of Section 2.4.2 regarding the Northern Long-Eared Bat. Please see the updated Wildlife Monitoring Plan on page 7 of Section 2.4.3 regarding the Northern Long-Eared Bat.

6. *Follow-up to Item No. 6: A new sentence at the end of the Dakota skipper paragraph on page 9 of Section 2.4.3, Wildlife Monitoring Plan, states that “Annual surveys will be conducted on areas with suitable habitat”. Please clarify where in the permit suitable habitat exists for this species and where annual surveys are planned. This sentence is buried at the end of Section 2.4.3 behind the Threatened and Endangered Species Table but there is no mention of monitoring for this species in the “Wildlife Monitoring” section of the Monitoring Plan. Please revise to clarify the potential presence of this species in the permit area and include a Protection and Enhancement Plan (PEP) and Species Specific Protection Measures (SSPM) if this species could be present in the permit area or clarify why a PEP is not necessary for this species at this time. The last sentence of the Dakota skipper narrative on page 5 of Section 2.4.2 incorrectly states that no observations have been made in McLean County since the USFWS Dakota Skipper guidance document dated February 2015 (Table 1, page 3) indicates that this species has been recorded in McLean County and may still be present even though no designated critical habitat is present in McLean County. Furthermore, the January 2015 USFWS Threatened and Endangered Species County occurrence table indicates that this species may be present in McLean County. (GAW)*

Please see the updated Fish and Wildlife Management Plan on pages 5 & 6 of Section 2.4.2 regarding the Dakota Skipper. Please see the updated Wildlife Monitoring Plan on page 6 & 7 of Section 2.4.3 regarding the Dakota Skipper.

Section 3.1 – Operations Plan – General

7. *Follow-up to Item No. 16: Please update the Pit Layout and Facilities map, Section 3.1.5, to not show any mining related features or activities within 500 feet of occupied dwellings where written waivers are not in place as required by NDAC 69-05.2-04-01.1(4). The Pit Layout and Facilities map shows a pit and a pond, PW-E16-04, within 500 feet of the Portras occupied building and pits are shown through occupied farmsteads in Sections 9, 10 and 15 where it appears waivers have not been executed. (GAW)*

Please see the updated Pit Layout and Facilities Map in Section 3.1.5 regarding mining related features or activities within 500 feet of an occupied dwelling. Also see the updated 2015 mined out pit boundaries.

- 8. Please update the operations description narrative in Section 3.1.1 because page 1 describes that Falkirk is currently dewatering the existing final pit in preparation for future mining activities in 2007 south of Highway 200, and continuing narrative describes that a bridge will be constructed under Highway 200 during 2007. Please review all other narrative in this section and update to provide current information in the permit as necessary. (BEB)**

Please see the updated Operations Narrative on pages 1-4 & 6 of Section 3.1.1.

- 9. The Extended Mine Plan Map in Section 3.1.6 depicts Highway 200 as being a U.S. Highway and it should be properly labeled as a State Highway. Please update this labeling if any other changes were made to the map. (BEB)**

Please see the updated Extended Mining Plan Map in Section 3.1.6 regarding Highway 200. Also see the updated 2015 mined out pit boundaries.

- 10. Please add to the legend of the Extended Mine Plan Map in Section 3.1.6 to indicate what the irregular dashed blue line represents on the map. It appears the line generally follows outside of the coal crop line and likely represents the terrain modification boundary, but is limited to only Permit NAFK-9503. (BEB)**

Please see the updated Extended Mining Plan Map in Section 3.1.6. The terrain modification boundary was removed from the map. The boundary can be viewed on the maps in Sections 3.1.5 and 4.1.2.

Section 3.5 – Operations – Transportation Facilities

- 11. Please update the Cable Belt Conveyor Narrative in Section 3.5.40 to provide current information regarding the conveyor. Do not delete any of the historical data that is provided in the narrative, but rather update the narrative to describe the conveyor has not been operational for many years. Please discuss the feasibility and practicality of ever using the conveyor in the future considering the deterioration and rust that has occurred over the years it has not been used. If it is not feasible to use in the future, please add plans and a schedule to remove the conveyor within the next two years. (BEB/GAW/JRD)**

Please see the updated Cable Belt Conveyor Narrative on pages 1 & 2 in Section 3.5.40.

Section 3.6 – Operations – Surface Water Management

- 12. Please update the Total Water Management Plan Map in Section 3.6.1a to show (using gray-shading) that sediment pond P-E34-03 has been reclaimed. (BEB)***

Please see Section 3.6.1a, Total Water Management Plan Map, it has been updated to show that pond P-E34-03 and diversion D-E34-08 have been reclaimed.

Section 4.1.1 – Post-Mining Land Use Narrative

- 13. Follow-up to Item No. 16: The last paragraph on page 2 of Section 4.1.1 states that there are presently 500 foot set-backs around the business and farmsteads owned by the Portra and Weisz families, which are considered occupied dwellings. Page 3 of Section 4.1.1 states that operations can come within 300 feet of the Weisz farmstead. Please review and correct these inconsistencies. (GAW)***

Please see the updated Post-Mining Land Use Narrative on page 2 in Section 4.1.1.

- 14. Follow-up to Item No. 20: Please consider changing “2013” to “2015” in the woodland narrative on page 11 of Section 4.1.5, Revegetation Procedures and Establishment, if the disturbed woodland acreage listed is valid through the year 2015 as indicated in the response. (GAW)***

Please see the updated Revegetation Procedures and Establishment Narrative on page 11 in Section 4.1.5.

- 15. The Post-Mining Land Use Narrative in Section 4.1.1 discusses the replacement of Developed Water Resources in the post mine setting in the third and fourth paragraphs of page 9. However the narrative does not mention the replacement of stock pond SP-NE12-1 that was located in the current pool area of sedimentation pond P-E12-05. Please update the narrative regarding the developed water resources to include the replacement for SP-NE12-1. (RLK)***

Please see the updated Post-Mining Land Use Narrative on page 9 in Section 4.1.1.

- 16. Please repair the hyperlink to Section 1.5.3 that appears in the fourth paragraph of page 2 in the Post-Mining Land Use Narrative in Section 4.1.1. All other links in this section appear to be functional with the exception of this one. (BEB)***

Please see the updated hyperlink to Section 1.5.3 in the fourth paragraph of page 2 in the Post-Mining Land Use Narrative in Section 4.1.1. The hyperlink is now functional.

Mr. James R. Deutsch
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Section 4.2.3 – Grading Sequence Map

17. Please update the permit revision number in the title block on the Grading Sequence Map provided in Section 4.2.3. (RLK)

Please see the updated title block on the Grading Sequence Map in Section 4.2.3.

Section 4.2.7b – Post-Mining Area Slope Map

18. The list of changes for Revision 35 provided in Section 1.1 indicates that Section 4.2.7b – Post-Mining Area Slope Map was revised but the map version is still identified as Revision 34 and no other indication is provided for what was changed. Please describe the nature of the change to the map and update as appropriate. (RLK)

Please see the updated List of changes on page 287 in Section 1.1.3. Number 33 was removed from the list of changes because the Post-Mining Area Slope Map in Section 4.2.7b was not updated.

Section 5.2.2 – Wetland Design Details

19. New Item: Page 286 of Section 1.1.3, List of Revision Changes, indicates that Section 5.2.2, Wetland Design Details, was updated. Please let us know what changes occurred in this section of the permit and update the Revision Summary Page, Section 1.1.2, to describe the changes. (GAW).

Please see the updated List of changes on page 287 in Section 1.1.3. Number 34 was removed from the list of changes because the Wetland Design Details in Section 5.2.2 was not updated.

Sincerely,

THE FALKIRK MINING COMPANY



Jason Frye
Environmental Specialist

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