



Public Service Commission

State of North Dakota

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February 19, 2016

Mr. Jason Frye
Environmental Specialist
Falkirk Mining Company
P.O. Box 1087
Underwood, ND 58576-1087

Dear Mr. Frye:

The Reclamation Division has conducted a technical review of Falkirk's application for Revision No. 27 and Renewal No. 4 to Surface Coal Mining Permit NAFK-9503. The following items must be satisfactorily addressed before the revision and renewal application can be approved:

Section 1.5.1 Permit Surface and Coal Interests

1. Follow-up to item No. 4: Please update addresses in all applicable tracts in Section 1.5.1 for Pauline Rosberg to 1431 N 16th St., Bismarck, ND 58501-2849 and for Kay Hegvik to 512 Wellington CT., West Fargo, ND 58078-4237. (ZAB)
2. Follow-up to item No. 4: The Reclamation Division sent notice of the permit revision and renewal by certified mail to Neoma J. Voegel, but the letter was returned to us marked "deceased." Please update the ownership for all tracts in Sections 1.5.1 and 1.5.3 as appropriate. (ZAB)

Section 1.5.2 Adjacent Surface and Coal Interests

3. Follow-up to item No. 4: Please review the new address listed for Linda Petroleum Co. and Murex Petroleum Corp. The same address was used for both businesses and only some of the tracts in Sections 8 and 9, T144N, R83W were updated. Please update all appropriate tracts. (ZAB)
4. Follow-up to item No. 4: Please review the addresses for Nokota Co., Red Crown Royalties, and Three Forks Oil Co. The addresses for these companies were updated for some tracts but not others in T145N, R82W and in T145N, R83W. (ZAB)
5. Follow-up to item No. 4: Please review and revise as appropriate the coal owners listed in the SE1/4NW1/4 of Section 30, T146N, R83W. Susan M. Alft and Daniel Alft are listed as coal owners in Section 1.5.2 but not on the map in Section 1.5.3. (ZAB)

Section 2.4.2 – Fish and Wildlife Management Plan

6. Follow-up to Item No. 12: Please revise the last sentence of the Dakota Skipper narrative to clarify that the management plan involves annual surveys to determine species presence rather than stating that “no management plans will be incorporated”. (GAW)
7. Follow-up to Item No. 12: Please revise the Northern Long Eared Bat (NLEB) discussion that has been added on page 7 of Section 2.4.2 to discuss how the Northern Long-Eared Bat final 4(d) rule applies to the Falkirk Mine. Please also provide a citation to support the claim that cottonwood groves along the Missouri River are considered “prime habitat” and quantify the types of suitable habitat and hibernacula within and adjacent the permit area. (GAW)

Section 2.4.3 – Wildlife Monitoring Plan

8. Follow-up to Item No. 13: A new paragraph on page 9 of Section 2.4.3, Wildlife Monitoring Plan, states that annual surveys will be conducted on areas with suitable Dakota Skipper habitat. Please include a map that identifies the areas within and adjacent to the permit that have been determined to have suitable habitat and identify where these surveys will be conducted annually. Please also discuss who will conduct these surveys and the procedures and protocol that will be followed. (GAW)

Section 3.6.1 – Surface Water Management Plan

9. During the time since this revision application was first submitted, ponds PW-R26-01, P-R06-01 and PW-R06-05 were completed and pond P-R25-03 was reclaimed. Please update the Surface Water Management Plan Map, Section 3.6.1a, and the Pit Layout and Facilities Map, Section 3.1.5, as appropriate. (RLK)
10. The design plan narrative in Section 3.6.35 for pond P-R06-04 should be updated to indicate construction is planned for 2016 and, that with the completion of MSHA pond P-R06-01, the impoundment will discharge to an ephemeral drainage that flows into pond P-R06-01. Also, Falkirk should reconsider the need for a NDPDES discharge point for pond P-R06-04 as stated in the narrative since it appears that the discharge will be managed through the downstream MSHA pond prior to leaving the mine area. (RLK)

Section 4.1 – Post Mining Land Use and Revegetation

11. Follow-up to Item No. 30: Please revise the narrative added on page 9 of Section 4.1.5 describing replacement shelterbelt plantings in Section 24, T145N, R83W. The narrative describes all the plantings as being located in the NW1/4 of Section 24 but two plantings are located in the SW1/4 of Section 24. Also, please review the paragraph preceding the added narrative that refers to windbreaks established in the in the E1/2 of Section 24 and revise as appropriate. (RLK)

Section 4.2 – Reclamation - General

12. Follow-up to item No. 31: The last sentence of the narrative describing “Area T” in Section 4.2.2 states that the Post-mining contours for Area O will be achieved as mining activities are completed. Please clarify or revise as appropriate. (RLK)

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13. Follow-up to item No. 31: The reclamation schedule narrative in Section 4.2.2 was revised to remove the paragraph describing "Area J" but the grading sequence map, Section 4.2.3, still depicts an area labeled Area J in the N1/2 of Section 35, T145, R83W. Please review and revise as appropriate. (RLK)
14. Follow-up to item No. 31: The narrative and Reclamation Schedules table in Section 4.2.2 and the Grading Sequence Map in Section 4.2.3 are not consistent with the Pit Layout and Facilities Map in the permit or the most current extended mine plan submitted to the Reclamation Division on January 21, 2016. Please update Sections 4.2.2 and 4.2.3 by adding details for all areas that will require a variance during the next 5 year permit term and removing variance areas where revegetation has been initiated as previously discussed with Zanna Brinkman. (ZAB)

If you have any questions, please contact this office.

Sincerely,



James R. Deutsch
Director
Reclamation Division

cc: Jeremy Eckroth
McLean County Auditor