



Public Service Commission
State of North Dakota

COMMISSIONERS

Julie Fedorchak
Randy Christmann
Brian P. Kalk

Executive Secretary
Darrell Nitschke

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5 May 2016

Timothy Dawson, Director
Office of Administrative Hearings
2911 North 14th Street – Suite 303
Bismarck, ND 58503

Re: Falkirk Mining Company
Revision No. 27 for Permit NAFK-9503
Approval

Case No. RC-15-755

Dear Mr. Dawson:

Enclosed is a request for an Administrative Law Judge in the captioned case. The hearing is scheduled to begin at 8:00 a.m. CDT, 25 May 2016, in the Public Service Commission's Hearing Room, 12th Floor, State Capitol, Bismarck, North Dakota. A copy of the request for a hearing and the Notice of Formal Hearing are attached.

The Administrative Law Judge will serve as a procedural law judge and the hearing will be electronically recorded.

If you have any questions, please contact me. Thank you.

Best regards,

Illona A. Jeffcoat-Sacco
General Counsel

enclosure
c: w/encl. Kyra Hill
Jason Frye
Brian Bjella



REQUEST FOR ADMINISTRATIVE LAW JUDGE--APPEAL, APPLICATION, OR PETITION
 NORTH DAKOTA OFFICE OF ADMINISTRATIVE HEARINGS
 SFN 17819 (Rev. 06-2007)

Name of Agency, Board, or Commission
 North Dakota Public Service Commission

The above named agency, board, or commission requests designation of an administrative law judge from the Office of Administrative Hearings for the Requested hearing on the Commission's approval of
Falkirk Mining Company's, Revision No. 27 for Permit NAFK-9503 PSC Case No. RC-15-755

(e.g., application of [name], appeal of [name], petition of [name]). Authority for the administrative action is found in North Dakota Century Code Section 38-14.1-30 (North Dakota Century Code and/or North Dakota Administrative Code).

Please attach related documents and correspondence.

The administrative action is more fully described as follows:
 On 4 May 2016 we received a request for hearing on Permit No. NAFK-9503

It requests designation of an administrative law judge (please check one):

- To conduct the hearing and issue **recommended findings of fact, conclusions of law, and order.**
- To serve as a **procedural administrative law judge only (no recommended decision). The agency head will be present at the hearing as required by NDCC 28-32-31(5). See NDCC 54-57-04.**
- To conduct the hearing, issue findings of fact, conclusions of law, and a **final** order.

PLEASE MAKE A REQUEST FOR AN ADMINISTRATIVE LAW JUDGE AT LEAST ONE MONTH BEFORE THE HEARING.

Please list parties, including the agency if it is a Party, and Representation [attorney (or other)] if known, or Agency Contact: (Attach separate list if necessary.)

AGENCY See attached	Address	Telephone Number
Representation	Address	Telephone Number
PARTY	Address	Telephone Number
Representation	Address	Telephone Number
PARTY	Address	Telephone Number
Representation	Address	Telephone Number

Additional Comments
 A formal hearing has been scheduled to begin 8:00 a.m., CST, 25 May 2016, in the Public Service Commission Hearing Room, 12th Floor, State Capitol, Bismarck, North Dakota. The Notice is enclosed.

(For agencies required to use OAH, notice of hearing will be issued by the administrative law judge, unless a procedural administrative law judge is requested. Other requesting agencies and agencies requesting a procedural administrative law judge should first contact OAH about scheduling a hearing. If notice has already been issued, attach a copy of the notice.)

Typed or Printed Name and Title of Requesting Person Illona A. Jeffcoat-Sacco, General Counsel	Date 5/5/2016
Signature of Requesting Person X	Telephone Number (701) 328-2407

Attachment
Request for ALJ
5 May 2016

Re: Falkirk Mining Company
Revision No. 27 for Permit NAFK-9503
Approval

Case No. RC-15-755

AGENCY	Address	Telephone Number
North Dakota Public Service Commission	600 E. Blvd. Ave. Dept. 408 Bismarck, ND 58505-0480	701-328-2400
Representation Illona A. Jeffcoat-Sacco General Counsel	Address Same as above	Telephone Number 701-328-2407
PARTY Falkirk Mining Company	Address PO Box 1087 Underwood, ND 58576-1087	Telephone Number 701-58-2200
Representation Brian Bjella (Pending Appearance)	Address CROWLEY FLECK 400 East Broadway, Suite 600 P.O. Box 2798 Bismarck, ND 58502-2798	Telephone Number 701-224-7532
PARTY Robert Nelson	Address 4021 Overlook Dr. Bismarck, ND 58503-8216 rpnelson@bis.midco.net	Telephone Number 701-425-7350
Representation Kyra Alexis Hill Baumstark Braaten Law Partners	Address Baumstark Braaten Law Partners 109 N. 4th St. Suite 100 Bismarck, ND 58501	Telephone Number 701-221-2911



Kyra Hill
Attorney

kyra@baumstarkbraaten.com

109 N. 4th Street, Suite 100
Bismarck, ND 58501
Phone: 701-221-2911
Fax: 701-221-5842
www.baumstarkbraaten.com

May 4, 2016

Public Service Commission
600 E. Boulevard Ave., Dept. 408
Bismarck, ND 58505-0480

Via U.S. Mail and email to jdeutsch@nd.gov and dnitschk@nd.gov

Dear Public Service Commission,

Mr. Robert Nelson requests a formal hearing pursuant to the Public Service Commission's April 5, 2016 Notice of Permit Revision concerning Revision No. 27 to Falkirk's Surface Coal Mining Permit No. NAFK-9503. Mr. Nelson is an interested party who owns the SE $\frac{1}{4}$ and NE $\frac{1}{4}$ of Section 21 and Lots 5 and 6 of Section 22, Township 144 North, Range 83 West in Mclean County, North Dakota.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kyra Hill", is written over a light blue circular stamp.

Kyra Hill
Attorney for Robert Nelson

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Falkirk Mining Company
Permit NAFK-9503
Approval**

Case No. RC-15-755

NOTICE OF FORMAL HEARING

May 5, 2016

Preliminary Statement

On December 2, 2015, the Falkirk Mining Company applied for Revision No. 27 to Surface Coal Mining Permit No. NAFK-9503 for its Riverdale mine area located southwest of Underwood, North Dakota. This revision identified the next five-year coal removal subareas and updated other sections of the permit that had been requested by the Reclamation Division for the next five-year permit term. Permit No. NAFK-9503 covers 29,310.4 acres of land in McLean County.

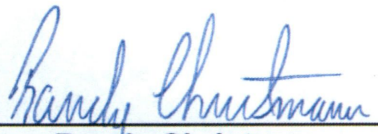
On April 5, 2016, the Public Service Commission approved Revision No. 27 to Permit No. NAFK-9503, subject to the right of any person with an interest that is or may be adversely affected to request a formal hearing. On May 4, 2016, the Commission received a request for a Formal Hearing in the matter from Mr. Robert Nelson, the owner of some land just south of the permit area. Mr. Nelson has concerns about water releases from mine impoundments located upstream of his property.

Notice of Formal Hearing

Notice is hereby given that the captioned matter is set for a Formal Hearing, commencing at 8:00 a.m. CDT, on May 25, 2016, in the Public Service Commission's Hearing Room, 12th Floor, State Capitol, Bismarck, North Dakota.

If you require any auxiliary aids, such as readers, signers, or Braille materials, please notify the Commission, at (701) 328-2400, or Relay North Dakota TTY: 1-800-366-6888 at least 24 hours prior to the hearing.

PUBLIC SERVICE COMMISSION



Randy Christmann
Commissioner



Julie Fedorchak
Chairman



Brian P. Kalk
Commissioner