



# Public Service Commission

## State of North Dakota

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March 8, 2016

Mr. Elton Sayler  
405 North 17<sup>th</sup> St  
Bismarck, ND 58501

Dear Mr. Sayler:

This is in response to your letter that we received February 19<sup>th</sup> regarding the coal lease for lands that are included in Surface Coal Mining Permit NAFK-9503 held by the Falkirk Mining Company. We previously provided you with a notice of receipt of revision and renewal applications for this permit, PSC Cases RC-15-755 and RC-15-756. Your letter states there is no coal lease for land in this permit that you have an ownership interest in. The listing of surface and coal owners in Permit NAFK-9503 shows that you and other family members have ownership interests in the NE $\frac{1}{4}$ SE $\frac{1}{4}$  and NE $\frac{1}{4}$  of Section 31, T146N, R83W.

Surface coal mining permit applications must include copies of the documents that mining companies bases their right to enter and commence surface coal mining operations. Enclosed is a copy of the Exploration Contract and Coal Lease, Lease No. 03546, and other documents that pertain to the NE $\frac{1}{4}$ SE $\frac{1}{4}$  and NE $\frac{1}{4}$  of Section 31, T146N, R83W. These documents are included in Permit NAFK-9503 and are part of Section 1.5.1 that is titled "Permit Area Surface and Coal Interests". I assume this exploration contract and coal lease was executed by your parents. North Dakota Century Code Section 38-18-06(3) states that any previously executed mineral or surface lease in favor of the mineral developer runs with the land and is binding on subsequent mining or surface owners, as the case may be. Although copies of the lease documents must be included in permit applications, please be advised that the Public Service Commission has no authority to resolve disagreements or disputes over the terms of coal leases and other similar contractual agreements.

In addition to the copy of the coal lease for the NE $\frac{1}{4}$ SE $\frac{1}{4}$  and NE $\frac{1}{4}$  of Section 31, T146N, R83W, Falkirk provided an affidavit stating this lease "has been continued and remains in full force and effect as a result of coal being produced from neighboring land as part of a continuous or integrated mining or coal stripping operation." If you question the continuance of the coal lease covering these two parcels in Section 31, I recommend you discuss that with your attorney since we cannot resolve these contractual matters.

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13 RC-15-755 Filed 03/08/2016 Pages: 2  
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Also enclosed is a portion of the Pit Layout and Facilities Map, Section 3.1.5 of Permit NAFK-9503, which depicts the timing of mining for Section 31 as proposed by Falkirk at this time. This map shows that no mining will occur on this section of land until 2046.

Please contact our office if you have any questions.

Sincerely,



James R. Deutsch  
Director  
Reclamation Division

Enclosures

cc: Chris Friez  
Jeremy Eckroth