

PUBLIC SERVICE COMMISSION

Reclamation Division

Memorandum

TO: Commissioners Christmann, Kroshus, and Fedorchak
Darrell Nitschke, Executive Secretary
Illona Jeffcoat-Sacco, General Counsel

FROM: *DKM* *ZAB* *RIK*
Dean Moos, Zanna Brinkman and Randy Kowalski

DATE: September 17, 2018

SUBJECT: Variance request to the performance bond responsibility period for areas in Permit NAFK-9601 held by the Falkirk Mining Company for the Falkirk Mine, Case No. RC-18-304

On August 10, 2018, the Falkirk Mining Company filed a request for a variance from the 10-year revegetation liability period for 26.3 acres of reclaimed land in Permit NAFK-9601 at the Falkirk Mine. This acreage is located in the E1/2SE1/4 of Section 30 and NE1/4 of Section 31, T146N, R81W, McLean County. A variance from the 10-year liability period will allow an area where a sedimentation pond was reclaimed in 2012 to be bond released with the adjacent lands that were reclaimed in 2003, 2005 and 2007. The Reclamation Division has completed its review of the request and respectfully recommends approval of a variance for the 26.3 acres as allowed by Policy Memorandum No. 20.

Policy Memorandum No. 20 allows the Commission to grant variances to the 10-year responsibility period for water management features such as sedimentation ponds that could not be reclaimed at the same time as the surrounding reclaimed tract and for reclamation repair work following the initial seeding of the reclaimed tract. Variance areas must be small in size when compared to the entire reclamation tract and the affected land must meet the reclamation success standards when final bond release is requested. The permittee must affirmatively demonstrate that reclamation of the area will provide equal or greater protection to the environment and to public health and safety. Reclamation procedures used on the variance areas need to provide the same protections as those used on the surrounding reclaimed tracts.

The 26.3 acre variance request area is part of a larger tract containing 227.2 acres within the E1/2SE1/4 of Section 30 and the NE1/4 of Section 31, T146N, R81W. The 26.3 acre variance request area (3.4 acres in Section 30 and 22.9 acres in Section 31) contained a sedimentation pond that was reclaimed in 2011. The reclaimed pond site has been farmed with the adjacent reclaimed cropland within the prospective future bond release tract since 2012. The minimum 10-year responsibility period for the land surrounding the variance request area ended in 2017. The variance area (26.3 acres) covers about 17 percent of the land disturbed by mining (154.8 acres) within the prospective bond release tract (227.2 acres). The variance area has been used

for annual crop production since being reclaimed and the cropping and conservation methods practiced on the tract have been typical for the region. The variance request included productivity information for 2013, 2014 and 2017 for the crop fields containing the variance area. The yield information indicates that the productivity has been restored and would meet the applicable performance standards.

A map showing the variance areas and the adjacent reclaimed lands still within the permit is attached. The proposed variance areas have been reviewed during several inspections. No issues were identified during the field inspections. Based on the field inspections and the information contained in the request, the Reclamation Division recommends approval of this request for a variance from the 10-year performance bond responsibility period for 26.3 acres of reclaimed land as requested.

A motion and an approval form are attached for your consideration.

Minedata/Falkirk/Permits/NAFK-9601/Variations/2018/Variance_memo_9-17-18.docx

