

January 25, 2019

Mr. Dean K. Moos
Reclamation Director
ND State Public Service Commission
600 East Boulevard, Dept. 408
Bismarck, ND 58505

RE: Pre-Renewal Review Responses for Revision 39, Renewal #6 to Permit NAFK-8705

Dear Mr. Moos:

Falkirk submits the following responses to the pre-renewal review of the applications for Revision No. 39 and Renewal No. 6 to Surface Coal Mining Permit NAFK-8705 for The Falkirk Mine in your letter dated November 30, 2018.

Section 1.0 – Introductory Information

- 1. Please provide an updated Consolidated Legal Information Report covering Sections 1.3.1 – Names of Officers, Directors and Share Holders, and Organizational Structure; 1.3.3 - Current Permits and Permit Applications, and 1.1.6 - Schedule of Violations referenced in Permit NAFK-8705 if any changes have occurred to the ownership and control information, the list of current or previous coal mining permits held during the past five years, or the schedule of violation notices in the past three years. (PJR/RLK)***

The most recent update of the Consolidated Legal Information Report of October 17, 2018 is on file at the Public Service Commission office.

- 2. Please update Section 1.3.2, Names of Other Mines, if necessary. (RLK)***

Please see updated Section 1.3.2, Names of Other Mines.

- 3. Please update Section 1.3.5, Other Licenses and Permits if necessary. NDAC 69-05.2-06-04. (PJR/RLK)***

Please see updated Section 1.3.5, Other Licenses and Permits.

4. If necessary, please update the surface and coal ownership interests listed in Sections 1.5.1 and 1.5.2. Any changes to either of these sections should be reflected on the Surface and Coal Ownership Map in Section 1.5.3. Also, please review Tract 58 and provide a certification that the lease is still valid and Falkirk has the right of entry. NDCC 38-14.1-14-1(c) and (d) and NDAC 69-05.2-06-01(1)(a) (PJR/RLK)

SECTION 1.5, IDENTIFICATION OF INTERESTS AND RIGHTS OF ENTRY

The introductory page (Page 1 of 1.5) and Certificate of Authenticity of Documents have been updated to reflect the current revision number, renewal number, and date.

SECTION 1.5.1, PERMIT AREA SURFACE AND COAL INTERESTS

The tract summary was updated to reflect the current revision number and date. Following is a table identifying updates to individual Tracts:

| Tract No. | Address change to surface and/or coal ownership | Corporate officers and/or registered agents change | Documentation added Leases, WD, AOE | Easement information updated | Leasehold status change | Note added or changed | Ownership change to surface and/or coal | Tract added or tract description changed |
|-----------|---|--|-------------------------------------|------------------------------|-------------------------|-----------------------|---|--|
| 3 | X | | | | | | X | |
| 4 | | | | | | | X | |
| 5 | X | | | | | | X | |
| 9 | | | | | | | X | |
| 18 | | | X | | | | X | |
| 18A | | | X | | | | X | |
| 19 | | | | | | | X | |
| 23 | X | | | | | | | |
| 28 | | | | | | | X | |
| 35 | | | X | | | | | |
| 36 | | | X | | | | | |
| 37 | | | X | | | | | |
| 38 | | | X | | | | | |
| 39 | X | | X | | | | | |
| 40A | | X | | | | | | |
| 42A | | X | | | | | | |
| 44A | | X | | | | | | |
| 45A | | X | | | | | | |
| 53 | | | | | | | X | |
| 55 | X | | | | | | | |
| 57 | | X | | | | | | |
| 58 | | | X | | | | | |
| 61A | | X | | | | | | |
| 62A | | X | | | | | | |
| 68 | | X | | | | | | |
| 69 | X | X | | | | | | |
| 70 | | X | | | | | | |
| 71 | | X | | | | | | |
| 73 | | | | | | X | | |
| 80 | | | X | | | | X | |

SECTION 1.5.2, ADJACENT SURFACE AND COAL INTERESTS

The surface and coal ownership information has been updated and red-lined to reflect the current ownership and leasehold information.

SECTION 1.5.3, SURFACE AND COAL OWNERSHIP MAP

The surface and coal ownership map was updated to reflect the changes noted in the sections above.

Tract 58

Email correspondence was sent on January 23, 2019 to Mr. Dean Moos and Ms. Zana Brinkman in response to Tract 58 from NACoal Land Department.

Section 2.0 – Environmental Resource Information

- 5. Please update Section 2.4.2, Fish and Wildlife Management Plan, and Section 2.4.3, Wildlife Monitoring Plan, to address comments we received from USFWS on September 19, 2018 (copy attached). (PJR)***

Please see the updated Fish and Wildlife Management Plan in Section 2.4.2 and the updated Wildlife Monitoring Plan in Section 2.4.3. Also, the following is in response to the USFWS comments: Falkirk's Permit NAFK-8705 does not have suitable habitat for the Dakota skipper. Since there is no suitable habitat in this Permit, Falkirk will not conduct additional surveys or further define areas of critical habitat. Falkirk already records general observations of raptors for the Bi-Annual Wildlife Report and will continue to do this. Falkirk has considered the comment about pollinator awareness and enhanced reclamation efforts. Falkirk will evaluate future options for pollinator plots and enhanced reclamation efforts and may add something to a future permit revision.

Section 3.0 – Operation Plans

- 6. Please update Section 3.1, General Operations, for the next 5-year permit term. (PJR)***

Please see the General Operations Narrative in Section 3.1.

- 7. Please update the coal conveyor narrative on page 5 of Section 3.1.2, Mining Method Narrative. (PJR/GAW)***

Please see the updated Mining Method Narrative in Section 3.1.2.

8. Please update the Estimated Total Production in Section 3.1.3 for the next 5-year permit term. (PJR)

Please see the updated Estimated and Total Production in Section 3.1.3.

9. If necessary, please update the List of Equipment in Section 3.1.4. (PJR)

Please see the updated List of Major Equipment in Section 3.1.4.

10. Please update the Pit Layout and Facilities Map in Section 3.1.5 for the next permit term. (PJR/BAJ)

Please see the updated Pit Layout and Facilities Map in Section 3.1.5.

11. If necessary, please update the Extended Mining Plan Map, Section 3.1.6. (PJR/BAJ)

Please see the updated Extended Mining Plan Map in Section 3.1.6.

12. If necessary, update Section 3.2.1, Existing Structures Narrative and the Existing Structures Map in Section 3.2.2. (PJR)

Please see the updated Existing Structures Narrative in Section 3.2.1 and the Existing Structures Map in Section 3.2.2.

13. Please update the Cable Belt Conveyor Plan on page 3 in Section 3.5.1. (PJR)

Please see the updated Transportation Narrative in Section 3.5.1.

14. Please revise Section 3.6.1, Surface Water Management Plan, to explain how sediment pond P-W28-01 will be used as a "life-of-mine" water management feature prior to being converted to a developed water resource. Please also explain why sediment pond P-W22-01 and pit water pond P-W29-04 need to be retained for life of mine. (GAW)

Pond P-W28-01 is used to capture runoff upstream of recently reclaimed ponds, drainages, and wetlands to protect these areas from erosion. This water can then be pumped around these reclaimed areas through the 14 inch bypass line. Once areas downstream from this pond have been completely reclaimed and the vegetation established, the pond will be converted to a developed water resource. Pond P-W22-01 will be used in the future to control runoff and sediment from its watershed when 102 dragline returns to this mine area. Pitwater pond P-W29-04 will be in the future to contain groundwater pumped from pits when 102 dragline returns to this mine area.

Section 4.0 Post-Mining Land Use and Revegetation

15. In the Post Mining Land Use Narrative, Section 4.1.1, please revise the Section 25 narrative to discuss if reclaimed wetlands R-25-01 and R-26-01 are having adverse effects to statutory right-of-ways on the east and west sides of Section 25, and how the pre-mine utility of these section line right-of-ways will be restored. Also review the Section 31 narrative and discuss if any temporary or more permanent wetlands that have formed on this property will be retained to replace pre-mine wetlands present elsewhere in the permit. (GAW)

Please see the updated Post Mining Land Use Narrative in Section 4.1.1 regarding reclaimed wetland R-25-01 and the wetland features in Section 31. Reclaimed wetland R-26-01 is not having any adverse effects on the section line trail on the east side of Section 25 because there was a pre-mine wetland that also crossed the section line trail.

16. The cropland field boundaries and wetland areas within Section 25, T146N, R83W, visible on recent aerial imagery and observed during regular inspections differs slightly from what is shown on the Post Mine Land Use Map (Section 4.1.2) and described in the Post-Mining Land Use Narrative (Section 4.1.1). Please update the map, narrative and tables in Section 4.1 as appropriate to clarify how the post mining land uses will be achieved in Section 25, T146N, R83W, in accordance with NDAC 69-5.2-09-13 and NDAC 69-5.2-23-03. (RLK)

Falkirk will reestablish the wetland buffer around reclaimed wetland R-25-01 to keep agricultural activities away from the wetland. This should allow the wetland to start functioning properly again and return the wetland to the post-mine design, as seen in previous years. No update to the permit will be required because this should achieve the correct post-mine land use acres.

17. In Section 4.1.6a, Revegetation Success Standards, the unadjusted productivity standard for Section 35 was calculated using the entire section of land, but the Surface Ownership map depicts Bradley and Carla Landenberger as the owners of the W½ of Section 35 and Leslie and Ruby Landenberger as the owners of the W½NE¼ of Section 35. Cropland productivity must be demonstrated by surface ownership unless otherwise approved by the Commission. Please review and revise as necessary for compliance with Section III-B-1, Delineation of Bond Release Tracts, of our Revegetation Success Standards Document. (GAW)

Please see the updated Revegetation Success Standards Map and Unadjusted Standards Tables in Section 4.1.6a.

18. Please revise Section 4.2.2, Reclamation Schedule, to include a discussion about delaying reclamation of all features and facilities no longer being used to support current mining activities. Table 1, Pond Construction and Reclamation Schedule, in Section 3.6.1 indicates that sediment ponds P-W06-01, P-W06-03, P-W06-07, P-W22-01, PW28-01 and P-W29-01 (PW) are life of mine features. The watersheds of each of these ponds have been reclaimed with the exception of an old haul road corridor in Section 6. It appears these ponds and an old haul road in Section 6 will be retained until Falkirk determines if mining will continue at the north end of this permit in 2031. A request for variance from the 3-year seeding rule [(NDCC 38-14.1-24(14))] should be included in the Reclamation Schedule for each feature that is not currently being used to support mining operations. In addition, a request for a variance from the 3-year rule should be requested for the coal cable belt conveyor since it is not being used to support mining. All requests for a variance from contemporaneous reclamation requirements must include proper justification. (GAW)

Please see updated sections 4.2.2. Also, please see updated sections 3.1.2 and 3.5.1 for updated cable belt conveyor plan.

19. In Section 5.2.2a, Wetland Design Details, please review the design of reclaimed wetland R-34-01 and revise if necessary. It appears the north arrow should be pointed to the left rather than upward based on the shape of the wetland on the Post Mine Land Use Map, Section 4.1.2. (GAW)


The north arrow has been corrected for reclaimed wetland R-34-01 in Section 5.2.2a Wetland Design Details.

Additional Updates:

Please see the updated Surface Water Features and Monitoring Sites Map in Section 2.6.4, the Surface Water Monitoring Plan in Section 2.6.7 and the Surface Water Monitoring Stations in Section 2.6.8 regarding surface water monitoring sites MS-5W, MS-6W and MS-7W.

Sincerely,

THE FALKIRK MINING COMPANY



Jason Frye
Environmental Specialist

JF/tv
Enc.