

March 16, 2022

MAR 18 2022

NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Ms. Zanna Brinkman
Reclamation Director
ND State Public Service Commission
600 East Boulevard, Dept. 408
Bismarck, ND 58505

RE: Technical Review (2) Responses for Final Bond Release No. 3 to NAFK-8405

Dear Ms. Brinkman:

Falkirk submits the following responses to the technical review (2) of the application for Bond Release No. 3 for Permit NAFK-8405 in response to your letter dated February 3, 2022.

Attachment IX – Recreational Vegetation Cover Data

- 1. Follow-up to Item No. 7 of our technical review letter dated November 5, 2021: The Reclamation Division requested that Falkirk recalculate the percent cover values listed at the end of Tables 1 and 2, Section 23 and Section 24, basal cover sampling data, for compliance with NDAC 69-05.2-22-07(3)(a) which requires that all species used in determining ground cover be perennial species that are not detrimental to the post-mining land use. Falkirk had included Absinth wormwood, a state-listed noxious weed, and yellow sweet clover, a non-perennial species, live hits when calculating ground cover. Rather than simply updating the ground cover calculations, Falkirk instead revised the data to eliminate absinth wormwood, yellow sweet clover, and black medic from the data set. Please retain the species live-hit information provided with the original data in Tables 1 and 2, and then simply update the formula used to calculate percent cover values listed near the bottom of each table. In other words, only the formula used to calculate absolute percent cover should be changed and species detrimental to the post mine land use should be listed but not included as live or litter when calculating ground cover. (GAW)***

Please see updated Table 1 and Table 2 in Attachment IX.

- 2. Follow-up to Item No. 8 of our technical review letter dated November 5, 2021: Although it is acceptable to provide an average cover value for the recreation land, the cover sampling data really should be separated by the land use subcategory to demonstrate revegetation success since three different seed mixtures were planted in four different years. It is currently not clear if the temporary cover crop that was planted on the reclaimed cropland subcategory land use in 2018 has established sufficiently to control erosion. The Sample Location Map and Table 1 indicate that the reclaimed native grassland and the reclaimed orphan spoil in Section 23 had 94.5 percent and 96.2 percent ground cover, respectively. The cover data in***

Section 24, Table 2, although not separated by land-use subcategory or seeding date, appears to show that the reclaimed native grassland had 95.3 percent ground cover (frames 1-81) while the reclaimed cropland had 75.3 percent ground cover (frames 82 – 100). The Reclamation Division believes this information should be stated in the Revegetation Success Standards narrative on page 2 of Attachment IX. Falkirk's vegetation sampling contractor should be reminded that distinct vegetation communities should always be sampled separately. (GAW)

Please see the updated narrative in Attachment IX.

Sincerely,

THE FALKIRK MINING COMPANY



Jason Frye
Environmental Specialist

JF/tv
Enc.