



Public Service Commission

State of North Dakota

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May 5, 2022

Mr. Jason Frye
Environmental Specialist
Falkirk Mining Company
P.O. Box 1087
Underwood, ND 58576-1087
jason.frye@nacoal.com

Dear Mr. Frye:

The Reclamation Division has conducted a completeness review of the application for Revision No. 42 to Surface Coal Mining Permit NAFK-8405 submitted on March 4, 2022. Revision No. 42 has been determined to be a significant revision and is therefore subject to the notice, hearing, and procedural requirements. The following items must be addressed prior to the revision being deemed complete:

Section 1.1.3 – Revision List of Changes

1. Please update the Revision 42 List of Changes in Section 1.1.3. Some of the items need additional information on what was changed so reviewers do not need to review entire sections if only a few pages were updated. If applicable, list the page numbers where changes occurred. Please also identify any changes proposed within the current permit area. (PJR)
2. Please change the reference in item No. 15 from Revision No. 41 to Revision No. 42. (MJF)

Section 1.2.4 – Newspaper Publication Notice

3. The main purpose of the revision application is to add acreage to the permit, and this should be plainly stated in the notice. Please replace the main heading of the public notice to state the following: NOTICE OF FILING A REVISION TO ADD AREA TO AN EXISTING SURFACE COAL MINING PERMIT. (PJR/JAR/MJF)
4. Please specify Revision 42 in the first sentence of the public notice in Section 1.2.4. so the general public or other interested parties can reference the intended application when requesting information. (PJR/JAR/MJF)
5. The proposed public notice states that the revision adds mining plans for the NE $\frac{1}{4}$, W $\frac{1}{2}$ of Section 5, T146N, R82W, and the E $\frac{1}{2}$ of Section 33, the S $\frac{1}{2}$ Section 36, T147N, R82W, but the mining pit sequence is not depicted on these tracts on the Pit Layout and Facilities Map, Section

3.1.5, or the Extended Mine Plan Map, Section 3.1.6. Please revise the narrative in the public notice so that the information stated is correct or update the maps to show future mineral removal blocks where mining is planned or necessary, associated disturbance, and terrain modification. (GAW)

6. Tract 113 in Section 1.2.4, Newspaper Publication Notice, states Tract 113 is in the NE $\frac{1}{4}$, SE $\frac{1}{4}$ of Section 33. However, Section 1.5.3, Surface and Coal Ownership Map, identifies the location of Tract 113 in the SW $\frac{1}{4}$ of Section 34. Please review and updated accordingly. (JAR/MJF)
7. Please revise page 5 of the public notice, found on page 200 of Section 1.2.4, by changing the reference Revision 38 to Revision 42. Also, please review and ensure the accuracy of the section lines listed for temporary closure and where operations will occur within 100 feet. Specifically, please review the following section lines: (PJR/JAR/MJF)
 - North-south section line between the NE $\frac{1}{4}$ of Section 5 and the NW $\frac{1}{4}$ of Section 4, T146N, R82W.
 - North-south section line between Sections 5 and 6, T146N, R82W.
 - East-west section line between Section 5, T146N, R82W and Section 32, T147N, R82W.
8. The 2nd paragraph on page 5 of the public notice, found on page 200 of section 1.2.4 regarding section line closures in the notice, refers to the 8th Addition. This description of the revision addition area does not appear anywhere else in the public notice. Please change the reference from the 8th addition to Revision No. 42. (PJR/MJF)

Section 1.3.5 – Other Licenses and Permits

9. Please update the DEQ address in items 2, 4, 9, and 30 of Section 1.3.5, Other Licenses and Permits, to *4201 Normandy Street, Bismarck, ND 58503-1324*. (PJR/JAR/MJF)
10. Please update North Dakota State Water Commission to the North Dakota Department of Water Resources in items 3, 5, 27, 28, and 29 of Section 1.3.5, Other Licenses and Permits. (MJF)

Section 1.5.1 – Identification of Interests and Rights of Entry

11. It appears a surface and coal lease for the NE $\frac{1}{4}$ of Section 33 is missing in Tract 111. Lease No. 03820 lists only the SE $\frac{1}{4}$ of Section 33 while the ownership map and tract description show both the NE $\frac{1}{4}$ and SE $\frac{1}{4}$ as being 100% leased. (MJF)
12. Please update the legal description of Tract 113 in the Identification of Interests and Rights of Entry Tract Summary to the SW $\frac{1}{4}$ of Section 34 as shown in the ownership map. (MJF)

Section 2.8.7 – Drill Hole Location, Overburden Characteristics, and Projected Respread Depths

13. It appears that test borings and associated overburden samples were not completed in the E $\frac{1}{2}$ of Section 3 and the NW $\frac{1}{4}$ of Section 2, T146N, R82W as required by NDAC 69-05.2-08-05(2). These areas show projected SPGM respread depths of 24-inches, but those depths cannot be verified without the required overburden samples. Please update Section 2.8.7 with drill holes for the above areas to support the 24-inch SPGM respread determination or update the map to state *Potential 48" Respread Area*. (MLJ)

Section 3.0 – Operations Plan

14. NDAC 69-05.2-05-08(1) states that the "permit area shall be no larger than a logical pit sequence and include lands used for activities incidental to coal extraction". The NE¼ of Section 36, T147N, R82W is included for permitting but no mining or support activities are proposed on this tract. In addition, the extended mine plan map does not show mining in the NE¼ of Section 33, T147N, R82W or the N½ and SW¼ of Section 5, T146N, R82W. Please provide details for disturbances proposed in the NE¼ of Section 36 to justify permitting this tract and clearly depict the anticipated mineral removal boundary on the extended mine plan map, Section 3.1.6. The future mining plan would be easier to understand if the terrain modification boundary and mineral removal blocks were clearly depicted on the Pit Layout and Facilities Map, Section 3.1.5, as was done on the Pit Layout and Facilities Map in the northwest portion of Permit NAFK-9503. (GAW)

Section 4.1 – Post-Mining Land Use and Revegetation

15. Please review Section 4.1.4 and revise as necessary to include all landowner preference statements for future mining operations if they are in Falkirk's possession. It was noted that multiple tracts do not have landowner preference statements provided in this section. This is not necessarily a deficiency if the tract will be disturbed outside of the current permit term. However, if this was an oversight please correct, or provide some explanation for any discrepancies. (PJR)

Section 4.2 - Reclamation - General

16. Please show the proposed prime farmland respread areas on the Post-Mining Contour Map (Section 4.2.6b) and the Post-Mining Area Slope Map (Section 4.2.7b) as required by NDAC 69-05.2-09-15(4). (MLJ)

If you have any questions, please contact this office.

Sincerely,



Zanna Brinkman
Director
Reclamation Division