

July 19, 2022

Zanna Brinkman
Director
Public Service Commission
Inside Mail

Dear Ms. Brinkman:

This is in response to your request for a review of the environmental impacts associated the Revision No. 42 to Surface Coal Mining Permit No. NAFK-8405 at the Falkirk Mine.

The proposed project has been reviewed by Department of Water Resources, and the following comments are provided:

- There are no FEMA regulatory floodplains identified and/or mapped where this proposed project is to take place. No permits relative to the NFIP are required based on the current effective FIRM and State minimum standards.
- The Falkirk Mining Company proposes to add 3,359.7 acres to the existing surface coal mining permit area. The expansion area contains surface water resources. North Dakota Century Code § 61-32-03 requires that a drainage permit be secured from the Department of Water Resources (DWR) prior to draining a pond, slough, lake, or sheetwater, or any series thereof, which has a drainage area of 80 acres or more. However, subsection 2 of North Dakota Administrative Code § 89-02-01-05 allows an exemption to the drainage permitting requirement for surface mining projects under direct and comprehensive supervision of the public service commission. Therefore, a drainage permit will not be required, but the public service commission must notify the DWR of any proposed drainage projects during planning stages.
- In accordance with North Dakota Century Code §61-16.1-38, any new construction or construction modifications on water storage impoundments, including dams or ponds, may require a construction permit from the Department of Water Resources (DWR) based on the storage volume and hazard classification. Similarly, if any dams or ponds are to be removed, we request that the DWR Regulatory Division be notified. Please contact the DWR Regulatory Division at 701-328-4956 if you have any questions.

Thank you for the opportunity to provide review comments. Should you have further questions, please contact me at 701-328-4970 or stevebest@nd.gov.

Sincerely,



Steven Best
Planner III

SB:dm/1570

9 RC-22-144 Filed 07/20/2022 Pages: 1
Response to Advisory Request Letter
North Dakota Department of Water Resources (DWR)
Steven Best