

**FALKIRK MINE**

May 11, 2022

RECEIVED

MAY 13 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: Revision 42, 8<sup>th</sup> Addition, Completeness Review Responses to Permit NAFK-8405**

Dear Ms. Brinkman:

Falkirk submits the following responses to the completeness review items noted in your May 5, 2022 letter to existing Permit NAFK-8405.

**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)***

Please see updated Section 1.1.3, List of Changes. Additional information has been added where needed.

- 2. Please change the reference in item No. 15 from Revision No. 41 to Revision No. 42. (MJF)***

Please see updated item No. 15 in Section 1.1.3, List of Changes.

**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)***

Please see the updated Newspaper Publication Notice in Section 1.2.4.

- 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)***

Please see the updated Newspaper Publication Notice in Section 1.2.4.

5. ***The proposed public notice states that the revision adds mining plans for the NE<sup>1</sup>/<sub>4</sub>, W<sup>1</sup>/<sub>2</sub> of Section 5, T146N, R82W, and the E<sup>1</sup>/<sub>2</sub> of Section 33, the S<sup>1</sup>/<sub>2</sub> 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)***

Please see the updated Newspaper Publication Notice in Section 1.2.4. Associated disturbances (SPGM pile locations and a sedimentation pond) were added to the Pit Layout and Facilities Map in Section 3.1.5 for portions of Section 5, Section 33 and Section 36.

6. ***Tract 113 in Section 1.2.4, Newspaper Publication Notice, states Tract 113 is in the NE<sup>1</sup>/<sub>4</sub>, SE<sup>1</sup>/<sub>4</sub> of Section 33. However, Section 1.5.3, Surface and Coal Ownership Map, identifies the location of Tract 113 in the SW<sup>1</sup>/<sub>4</sub> of Section 34. Please review and updated accordingly. (JAR/MJF)***

Please see the updated Newspaper Publication Notice in Section 1.2.4.

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<sup>1</sup>/<sub>4</sub> of Section 5 and the NW<sup>1</sup>/<sub>4</sub> 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.***

Please see the updated Newspaper Publication Notice in Section 1.2.4. All of the PSC recommended section lines were added to the notice regarding operations within 100 feet of the outside right-of-way. Some of the PSC recommended temporary closures of section lines and roads were added to the notice.

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)***

Please see the updated Newspaper Publication Notice in Section 1.2.4.

### **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)**

Please see the updated Other License and Permits in Section 1.3.5. The Solid Waste Permit for the previous item 30 is no longer needed and was removed from the list.

- 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)**

Please see the updated Other License and Permits in Section 1.3.5. The Temporary Water Permits for the previous items 28 and 29 have expired and have been removed from the list.

### **Section 1.5.1 – Identification of Interests and Rights of Entry**

- 11. It appears a surface and coal lease for the NE¼ of Section 33 is missing in Tract 111. Lease No. 03820 lists only the SE¼ of Section 33 while the ownership map and tract description show both the NE¼ and SE¼ as being 100% leased. (MJF)**

Lease Nos. 03826 and 03820 are attached to Tract 111. No updates were needed.

- 12. Please update the legal description of Tract 113 in the Identification of Interests and Rights of Entry Tract Summary to the SW¼ of Section 34 as shown in the ownership map. (MJF)**

Please see Tract 113, legal description was updated.

### **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 E½ of Section 3 and the NW¼ 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)**

Please see the updated potential 48" respreads area in the Projected Respread Depths Map in Section 2.8.7.

### **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)**

Please see the updated Pit Layout and Facilities Map in Section 3.1.5. Added an SPGM storage area and pond to Section 36 that would be needed to control surface water runoff from the active mining area. An SPGM and overburden storage area are shown in Section 5 and an SPGM storage area is shown in the NE of Section 33. Also, added additional text for the terrain modification boundary.

### **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)**

All of the preference statements that were received from land owners are in Section 4.1.4. All the land owners were mailed a preference statement and the preference statement and certified mail receipt are in Section 1.4.2. Some of the land owners did not return a preference statement. If Falkirk did not receive a preference statement back from the landowner, then the pre-mining land use will serve as a guide during the reclamation process.

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**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)**

Added the prime farmland respread areas to maps 4.2.6b and 4.2.7b.

**Additional Updates:**

1. Final Bond Release No. 3 was approved April 13, 2022 and effective May 13, 2022. To account for this, Falkirk updated the Legal Description of Permit Area in Section 1.2.1, Metes and Bounds Description Map in Section 1.2.1, Newspaper Publication Reference Map in Section 1.2.4q and Identification of Interests and Rights of Entry in Section 1.5.

Sincerely,

THE FALKIRK MINING COMPANY



Jason Frye  
Environmental Specialist

JF/tv