



Public Service Commission

State of North Dakota

COMMISSIONERS

Julie Fedorchak
Randy Christmann
Sheri Haugen-Hoffart

600 East Boulevard, Dept. 408
Bismarck, North Dakota 58505-0480
Web: www.psc.nd.gov
E-mail: ndpsc@nd.gov
Phone: 701-328-2400
ND Toll Free: 1-877-245-6685
Fax: 701-328-2410
TDD: 800-366-6888 or 711

sent via email only

July 28, 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 completed an initial review of the application for Bond Release No. 4 to Permit NAFK-8405, submitted June 8, 2022. The following items must be adequately addressed prior to publishing the public advertisement or mailing the landowner and agency notification letters. An inspection of the property as required by NDCC 38-14.1-17 will be delayed until the public advertisement has been published, the notification letters have been mailed, and the issues listed below have been resolved.

General

1. Please consider revising the entire bond release application by removing references to Subtract 4, unless Falkirk intended to split Bond Release 4 into more than one subtract. If the intent was to include more than one subtract, please update the application appropriately. (PJR/JAR)

Attachment ii – General Information

2. Please include the coal removal dates to establish the law liability period for Final Bond Release 4 in the narrative of Attachment ii - General Information. (JAR)
3. Please revise the second sentence of the first paragraph under General Information to clarify how many acres are associated with each land use included in the bond release application. (GAW)
4. Please include a sentence in Attachment ii that indicates if coal ownership within the bond release tract was private, state, or federal. Identify any portions of the tract where coal was Federally owned. We would like you to include this information in all future bond release applications, so it is clear to OSMRE if the bond release application requires their concurrence. (ZAB)

Attachment III - Public Notice and Map

5. Please revise the second paragraph of the public notice by removing the following narrative from the third sentence: *which is currently under the North Dakota Public Service Commission review. Falkirk calculated a worst-case bond in pending Revision 42 to NAFK-9503 in the amount of \$103,320,515.* The current bond amount is approved and the pending review of the worst-case

2 RC-22-262 Filed 07/28/2022 Pages: 3
Bond Release 4 Initial Review Letter
Public Service Commission
Zanna Brinkman

bond with Revision 42 to Permit NAFK-8405 is not relevant to the bond release application. (PJR/GAW/MJF)

6. Please revise the statement *Falkirk is not requesting a bond reduction for Permit NAFK-8405*. The statement should read Falkirk is not requesting a bond reduction with Bond Release No. 4. (ZAB)
7. Please review the post mining land uses statement and clarify that the portion of reclaimed county road and Basin's electric tower are industrial. (ZAB)
8. Please revise the mining and reclamation narrative in the second paragraph of the public notice to be more specific. The current narrative is too general; it uses a combined narrative for mining and associated disturbances and does not clarify that only a small portion of the tract was reclaimed and initiated in 2014. Please identify the acreage of the associated disturbance or otherwise clarify that it is a very small portion of the tract and include the specific use of the associated disturbance. For areas mined or used for spoil placement, please clarify the dates of mining, final grading, SPGM respread, and seeding. Include a separate statement on the variance area final grading and seeding dates. In addition, please add a statement that reclamation was completed according to the requirements in the approved reclamation plan. (JAR/ZAB)

Attachment IV – Letters to Interested Parties

9. Please replace Mr. John Paczkowski of the North Dakota Department of Water Resources with Andrea Travnicek, PhD-Director. (MJF)
10. Please incorporate all of the public notice changes into the letters to interested parties. (GAW/PJR/ZAB)

Attachment VII – Reclamation History

11. In the Reclamation History narrative, or where appropriate, please revise to provide an assessment of the ground cover on those portions of the Industrial land uses that are established with perennial vegetation. This would include the county road ditches and areas associated with Basin Electric's tower. Information provided is needed to demonstrate the vegetation is adequate to control erosion. (GAW)
12. In the Reclamation History narrative, or where appropriate, please provide information about the reclamation history of the conservation shelterbelt and the wetland buffer zones. This should include details about what species were planted or seeded, and the narrative should provide an assessment of the species composition of what is currently established. Information provided should demonstrate that the vegetation established is adequate to protect the soil from erosion and that these conservation practices are functioning as intended. (GAW/PJR)
13. In the Reclamation History narrative, or where appropriate, please include information about the county road passing through the bond release tract. Please include correspondence from the County that the road has been designed and constructed to meet McLean County standards, if necessary, and that the County is satisfied with the road in its current condition. Please also clarify if the road right-of-way has been extended beyond the statutory right-of-way. (GAW)

Mr. Jason Frye
July 28, 2022
Page 3 of 3

14. In the Reclamation History information on page 76, under **Date Mined**, please review the reference to Subtract 5A and update as appropriate. (MJF/PJR/JAR)
15. The Revegetation Period Initiated Map contains a small triangular area under the wetland in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 27 that does not identify the year that the revegetation period was initiated. Also, the map's legend should include the NW $\frac{1}{4}$ of Section 27 in the title block and "variance request" should be replaced with Bond Release 4. (JAR)

Attachment IX – Cropland Data

16. The cropland data tables on pages 86 and 100 are titled "Final Bond Release 3 Cropland Data". Please review to ensure the table contains data for Final Bond Release 4 and correct the table titles. (JAR)

If you have any questions, please contact this office.

Sincerely,



Zanna Brinkman
Director
Reclamation Division

cc via email only: Tara Voigt (tara.voigt@nacoal.com)
Karen A. Mosbrucker (karen.mosbrucker@nacoal.com)

Falkirk Mine\Permits\NAFK - 8405\Bond Release\Bond Release 4\BR4_Initial_Rvw_Ltr_7-28-22