

FALKIRK MINE

February 3, 2023

Ms. Zanna A. Brinkman
Reclamation Director
ND State Public Service Commission
600 East Boulevard, Dept. 408
Bismarck, ND 58505-0480

RE: Request for Variance on the SW¹/₄ of Section 22, Permit NAFK-8405

Dear Ms. Brinkman:

The Falkirk Mining Company (Falkirk) is requesting a variance to the 10-year liability period for portions of the SW¹/₄ of Section 22, Township 146 North, Range 82 West. The proposed bond release area will include both the SW¹/₄ of Section 22 and the NW¹/₄ of Section 27, Township 146 North, Range 82 West (See attached maps). The cropland in both quarters are located in Falkirk's Permit NAFK-8405 and are owned by Chad Berg, subject to a contract deed to Michael Berg. A variance of 11.3 acres in the SW¹/₄ of Section 22 was approved on June 23, 2021. The proposed bond release boundary was adjusted after this variance was approved, reducing the variance to 10.4 acres. A new variance is being requested for 4.5 acres that is also located in the SW¹/₄ of Section 22. The variance areas were both mined and were associated with a topsoil stockpile and temporary haulroad. The 0.2 acres that were associated with the topsoil pile was respread and planted to Falkirk's pre-crop seed mixture in 2011 and a crop has been planted since 2014. The 4.3 acres that were associated with the temporary haulroad was respread in 2007 and a crop has been planted since 2008. The total area of disturbance is 144.1 acres in the SW¹/₄ of Section 22 and 142.8 acres in NW¹/₄ of Section 27. In the SW¹/₄ of Section 22, the remaining acres outside the approved and new variance areas were reclaimed in 1992, 1993, 1995 and 2012. The 0.2 acres reclaimed in 2012 is an approved post-mining land use of industrial/commercial and does not require a variance. The NW¹/₄ of Section 27 was reclaimed in 1990, 1991, 1992, 1993, 1994, and 1995. The approved variance areas (10.4 acres) and the new variance areas (4.5 acres) account for 10.3 percent of the disturbance area in the SW¹/₄ of Section 22 or 5.2 percent for the proposed bond release area in both the SW¹/₄ of Section 22 and the NW¹/₄ of Section 27.

Reclamation for the proposed bond release area in the SW¹/₄ of Section 22 and the NW¹/₄ of Section 27 are exceeding bond release standards for cropland and the two reclaimed seasonal wetlands. The cropland in both quarters are farmed as separate tracts. The SW¹/₄ of Section 22 is farmed by one operator and the NW¹/₄ of Section 27 was farmed by two operators prior to 2017. After 2017, both quarters have been farmed by the same farm operation. The approved variance areas were incorporated into the adjacent cropland in the NW¹/₄ of Section 22 in 2014 and the new variance areas were incorporated into the same adjacent cropland in 2008 and 2014. The adjusted standard for soybeans using the cropland conversion factor in SW¹/₄ of Section 22 for 2017 is 21.3 bu/ac and 32.9 bu/ac for 2013. The adjusted

1 RC-23-48 Filed 02/03/2023 Pages: 5

Variance from the 10-year liability period for 4.5 acres located in Permit NAFK-8405
Falkirk Mining Company
Jason Frye

Falkirk Mine
2801 1st Street SW
Underwood, ND 58576
P: 701.442.5751 F: 701.250.2473
NACoal.com

The Falkirk Mining Company, a subsidiary company of The North American Coal Corporation

Ms. Zanna A. Brinkman

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standard for wheat in the SW $\frac{1}{4}$ of Section 22 in 2013 is 46.4 bu/ac. The soybeans in the SW $\frac{1}{4}$ of Section 22 yielded 26.9 bu/ac in 2017 and 36.4 bu/ac in 2013. The wheat yielded 49.5 bu/ac using a combined field harvest in 2013.

The adjusted standard for wheat in the NW $\frac{1}{4}$ of Section 27 for 2017 is 28.5 bu/ac, 45.2 bu/ac for 2015, 44.2 bu/ac for 2013 and 26.9 bu/ac for 2011. The wheat in the NW $\frac{1}{4}$ of Section 27 yielded 33.2 bu/ac in 2017, 59.7 bu/ac in 2015, 54.8 bu/ac in 2013 and 46.4 bu/ac in 2011. The yields that are provided for the NW $\frac{1}{4}$ of Section 27 are from two farm operators. One operator made the required productivity standards in portions of the quarter in 2017 and 2015 and the other operator made the standards in the adjacent portion of the quarter in 2013 and 2011. Therefore, the cropland contained in the representative tracts of the revegetation class in the SW $\frac{1}{4}$ of Section 22 and the NW $\frac{1}{4}$ of Section 27 exceeded the required productivity standards.

The two reclaimed seasonal wetlands in the NW $\frac{1}{4}$ Section 27 exhibits vegetation zones dominated by native, perennial, emergent and submergent hydrophytes appropriate for the abiotic characteristics of a seasonal wetland. The proposed bond release area also includes a post-mine industrial/commercial Basin Electrical Cooperative tower, portion of a county/township road and a two-row conservation shelterbelt planting. The ground cover that is present in the industrial/commercial land use and county/township road are adequate to control any potential soil erosion and the conservation shelterbelt is functioning as intended. Falkirk would like to release the proposed bond release area in the SW $\frac{1}{4}$ of Sections 22 and the NW $\frac{1}{4}$ of 27 from Falkirk's Permit area.

Regards,

THE FALKIRK MINING COMPANY



Jason Frye
Environmental Specialist

JF

Attachments

cc: Zanna Brinkman
Jonathan Emmer
Guy Welch
Preston Ripplinger
Steve Burke

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NACoal.com
The Falkirk Mining Company, a subsidiary company of The North American Coal Corporation

 A NACCO COMPANY

UNDERWOOD 0.25 MILES

State Highway 200

MINED OUT IN 2010

MINED OUT 2007

MINED OUT IN 1996

MINED OUT IN 1995

MINED OUT IN 1994

NAFK-8405
PERMIT BOUNDARY

21

22

MINED OUT IN 1993

MINED OUT IN 1992

BOND RELEASE No. 4
PERMIT NAFK-8405
286.9 Acres

U S Highway 83

MINED OUT IN 1991

RECLAIMED WETLAND
R-E27-01

MINED OUT IN 1990



RECLAIMED WETLAND
R-E27-02

28

27

MINED OUT IN 1989

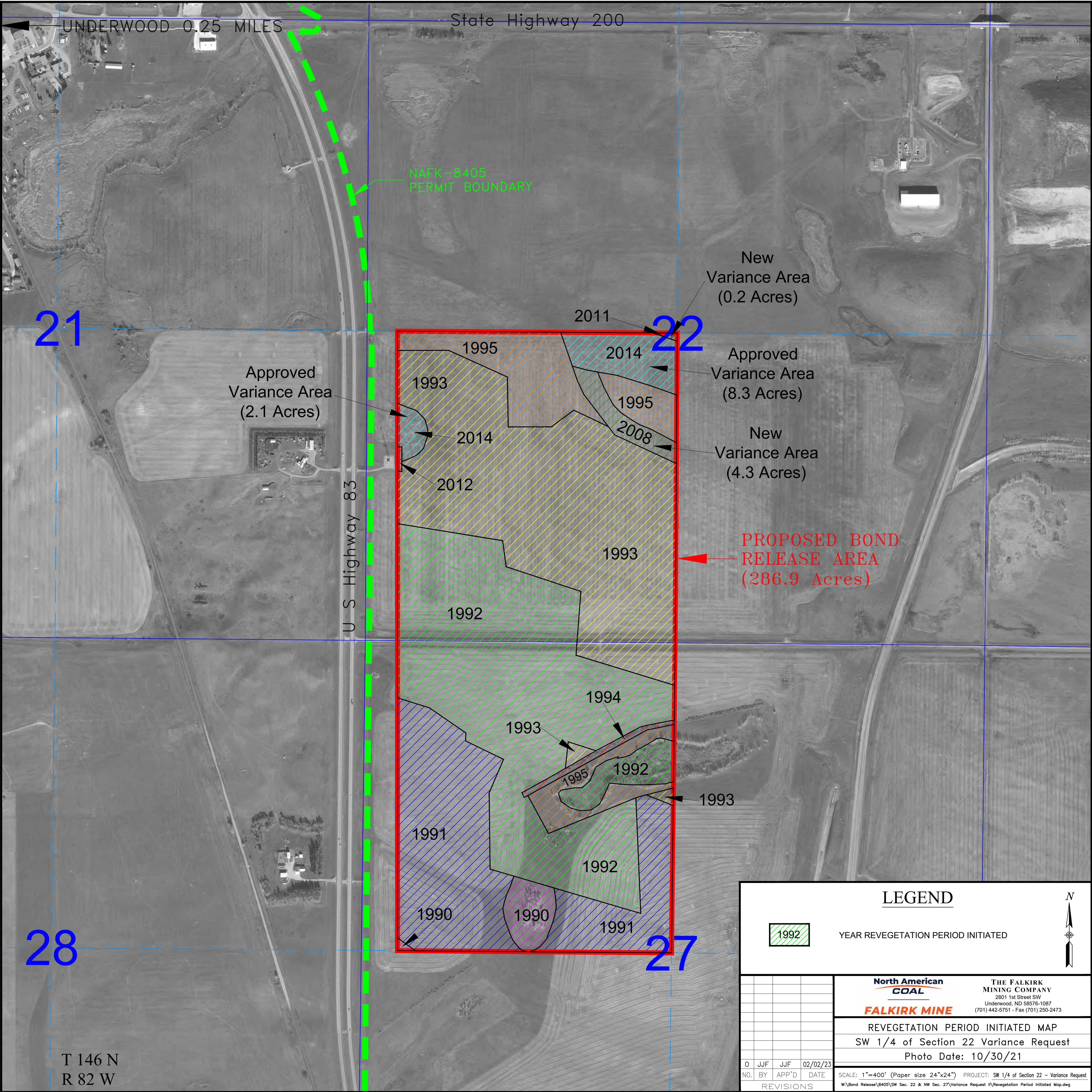
LEGEND

-  MINED OUT IN 1992
-  ASSOCIATED DISTURBANCE



T 146 N
R 82 W

| | | | | | |
|-----------|-----|---|--|---|--|
| | | North American COAL | | THE FALKIRK MINING COMPANY | |
| | | FALKIRK MINE | | 2801 1st Street SW Underwood, ND 58576-1087 (701) 442-5751 - Fax (701) 250-2473 | |
| | | MINED OUT AND ASSOCIATED DISTURBANCE MAP | | | |
| | | SW 1/4 of Section 22 Variance Request | | | |
| | | Photo Date: 10/30/21 | | | |
| 0 | JJF | JJF | 02/02/23 | | |
| NO. | BY | APP'D | DATE | SCALE: 1"=400' (Paper size 24"x24") PROJECT: SW 1/4 of Section 22 - Variance Request | |
| REVISIONS | | | W:\Bond Release\8405\SW Sec. 22 & NW Sec. 27\Variance Request II\Mined Out and Disturbance Map.dwg | | |



UNDERWOOD 0.25 MILES

State Highway 200

NAFK-8405
PERMIT BOUNDARY

New
Variance Area
(0.2 Acres)

21

22

Approved
Variance Area
(2.1 Acres)

Approved
Variance Area
(8.3 Acres)

New
Variance Area
(4.3 Acres)

PROPOSED BOND
RELEASE AREA
(286.9 Acres)

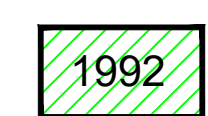
U S Highway 83

28

27

T 146 N
R 82 W

LEGEND



YEAR REVEGETATION PERIOD INITIATED



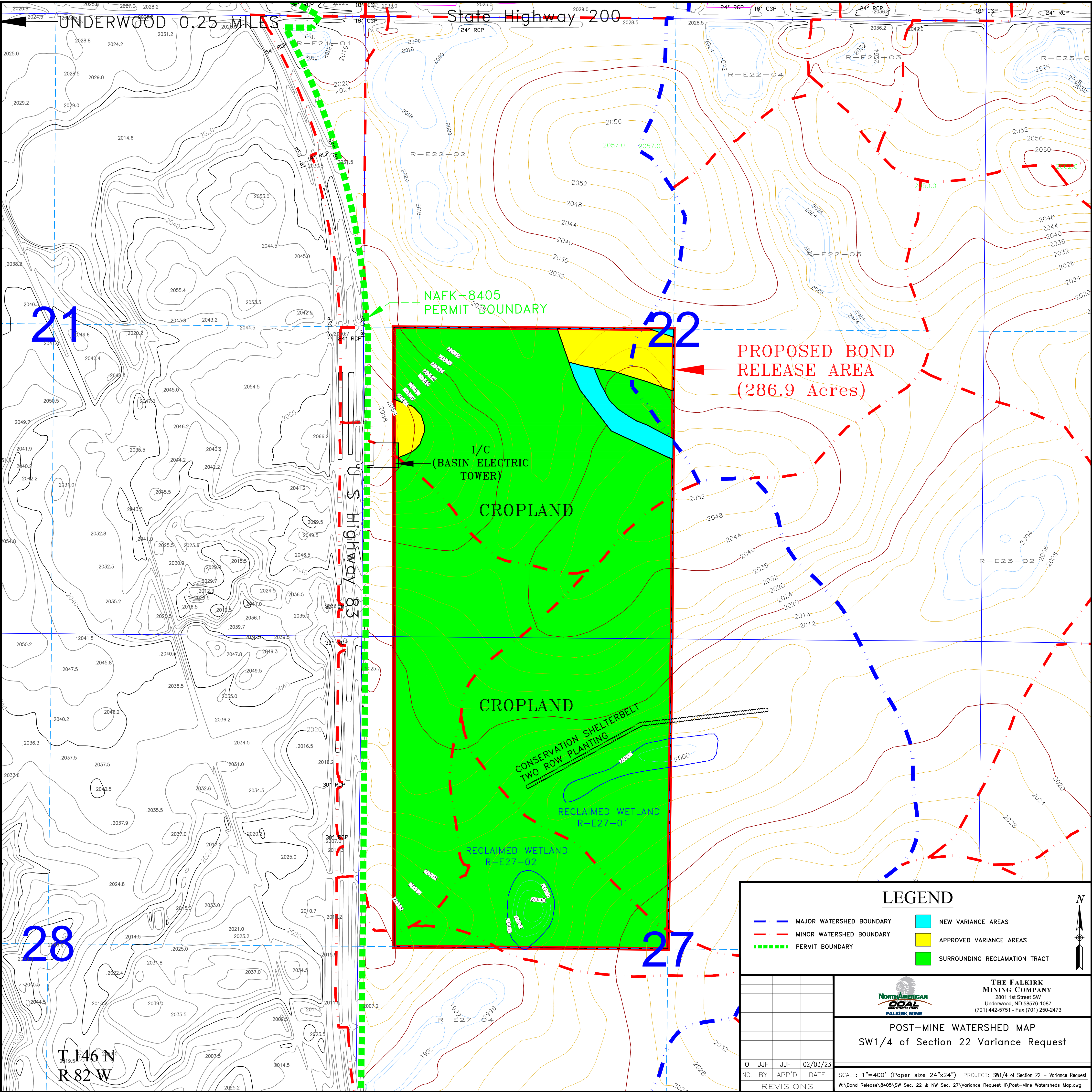
| NO. | BY | APP'D | DATE |
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| 0 | JJF | JJF | 02/02/23 |
| REVISIONS | | | |

**North American
COAL**
FALKIRK MINE

**THE FALKIRK
MINING COMPANY**
2801 1st Street SW
Underwood, ND 58576-1087
(701) 442-5751 - Fax (701) 250-2473

REVEGETATION PERIOD INITIATED MAP
SW 1/4 of Section 22 Variance Request
Photo Date: 10/30/21

SCALE: 1"=400' (Paper size 24"x24") PROJECT: SW 1/4 of Section 22 - Variance Request
W:\Bond Release\8405\SW Sec. 22 & NW Sec. 27\Variance Request II\Revegetation Period Initiated Map.dwg



UNDERWOOD 0.25 MILES

State Highway 200

NAFK-8405
PERMIT BOUNDARY

PROPOSED BOND
RELEASE AREA
(286.9 Acres)

I/C
(BASIN ELECTRIC
TOWER)

CROPLAND

CROPLAND

CONSERVATION SHELTERBELT
TWO ROW PLANTING

RECLAIMED WETLAND
R-E27-01

RECLAIMED WETLAND
R-E27-02


T 146 N
R 82 W

LEGEND

- MAJOR WATERSHED BOUNDARY
- MINOR WATERSHED BOUNDARY
- PERMIT BOUNDARY
- NEW VARIANCE AREAS
- APPROVED VARIANCE AREAS
- SURROUNDING RECLAMATION TRACT



| NO. | BY | APP'D | DATE |
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| 0 | JJF | JJF | 02/03/23 |
| REVISIONS | | | |



**THE FALKIRK
MINING COMPANY**
2801 1st Street SW
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(701) 442-5751 - Fax (701) 250-2473

POST-MINE WATERSHED MAP
SW1/4 of Section 22 Variance Request

SCALE: 1"=400' (Paper size 24"x24") PROJECT: SW1/4 of Section 22 - Variance Request
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