



Public Service Commission

State of North Dakota

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May 3, 2023

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. 6 to Surface Coal Mining Permit NAFK-8705, submitted March 31, 2023. The following items must be addressed prior to publishing the public notice or notifying surface owners and governmental agencies. An inspection of the property as required by NDCC 38-14.1-17 will be delayed until the public notice has been published, notification letters have been mailed, and weather conditions allow for an adequate evaluation of the reclamation completed.

Application Form SFN 19813

1. Please review and revise the acreage on subtract 6C as it states 48.5 acres in the table and 48.6 acres in the description. (PJR)

Attachment ii – General Information

2. The Ownership Map on page 10 of Attachment ii – General Information incorrectly identifies this map as “Topographic and SPGM Thickness Map” in the map’s legend. Please correct the label in the legend to “Ownership Map”. (JAR)

Attachment III – Public Notice

3. The fourth sentence from the end of the second paragraph in the Public Notice should include the word “in” before 2011. Also, please correct this error the Attachment IV – Letters to Interested Parties. (JAR)
4. Please update the consolidated bond amount in the second paragraph of the Public Notice to \$114,736,325 since the bond amount was increased with Revision 42 to Permit NAFK-8405. Please also revise the bond amount in the letters to interested parties (Attachment IV). (JWE)
5. It appears notification letters should also be sent to Ronnie W. Landenberger, Cynthia A. (Landenberger) Olson, and Earl W. and Janice K. Cottingham as adjoining property owners in the NE¼ of Section 2, T145N, R83W. (JAR)

Attachment VII – Reclamation History

6. The acreage amounts provided for subtracts 6A and 6C are different in the application form and the table on page 72 of Attachment VII, Reclamation History. Please review and correct as necessary. (PJR/JAR)

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7. The disturbance boundary is not consistent between the Mined Out and Associated Disturbance Map on page 76 and the Revegetation Period Initiated Map on page 77. The Revegetation Period Initiated Map has areas in the NE¼ and SE¼ of Section 36 that appear to be areas of associated disturbance that do not contain initiation dates. Please review and update these maps as necessary and label all areas not disturbed by mining. (JAR/PJR)
8. Please identify the previous bond release application number in which backfilling, grading, and SPGM respread were approved on Subtract 6B and provide the date the application was approved. (GAW)

Attachment IX – Native Grassland

9. Undisturbed lands were included in the development of the 2020 and 2022 productivity standards, Step 2 on pages 84 and 89 of Attachment IX, Native Grassland Vegetation Data. Lands not affected by mining activities should not be included in the development of the native grassland revegetation performance standards when hand sampling techniques are used. Please revise the performance standards accordingly. (GAW)
10. An extremely large number of plots were clipped to determine productivity of the reclaimed grassland in 2020 and 2022. Narrative on page 83 of Attachment IX, Native Grassland, states that the sample plots were in close proximity to the areas indicated in the cage sampling locations map and that plots were clipped at each cage location. Please clarify if all the samples were taken from enclosures where no grazing had been allowed and if all of these samples were clipped and weighed, or if any double sampling techniques were used. Please also clarify why so many samples beyond the number required for sample adequacy were taken. (GAW)
11. Falkirk is proposing to demonstrate revegetation success using sampling data from three different years. The bond release application contains productivity data from 2020 and 2022 and ground cover data from 2021 and 2022. Although NDAC 69-05.2-22-07(4)(a) allows for the use of data from any two years after year six of the revegetation responsibility period, all of the revegetation success performance standards must be applied to the two years being used to demonstrate revegetation success. It is not appropriate to demonstrate productivity using sampling data from 2020 and 2022 and demonstrate the diversity, seasonality, and ground cover parameters using data from 2021 and 2022. (GAW)

If you have any questions, please contact this office.

Sincerely,



Zanna A. Brinkman
Director
Reclamation Division

cc via email only: Steve Burke (steve.burke@nacoal.com)
Tara Voigt (tara.voigt@nacoal.com)