

PUBLIC SERVICE COMMISSION
Reclamation Division

Memorandum

TO: Commissioners Haugen-Hoffart, Christmann, and Fedorchak
Steven Kahl, Executive Secretary
Jack Schuh, General Counsel
 MAE *ZAB*

FROM: Matt Fischer, Zanna Brinkman

DATE: April 27, 2023

SUBJECT: Collateral bond for surface coal mining Permits NAFK-8405, 8705, 9503 held by the
Falkirk Mining Company, Case No. RC-23-160

Permits NAFK-8405, 8705, and 9503 are bonded as one consolidated bond area. The consolidated bond area is currently covered by Collateral Bond No. CB-9503-5 in the amount of \$103,350,000 that is backed by an Irrevocable Standby Letter of Credit issued by BNC National Bank on behalf of Rainbow Energy Center, LLC for the Falkirk Mining Company. Falkirk recently updated the worst-case reclamation cost estimate for the consolidated mine area with Revision 42 to Permit NAFK-8405 and the minimum bond amount increased to \$114,736,325 due to increases in the variable costs that are reviewed annually by the Reclamation Division. To meet the new minimum bond amount, Falkirk provided a check in the amount of \$11,473,633 for a new cash Collateral Bond No. CB-9503-6 that will be held in Escrow at the Bank of North Dakota. The collateral bond documents were properly executed, and the Reclamation Division recommends approval of Collateral Bond No. CB-9503-6.

The escrow agreement for the new collateral bond (CB-9503-6) will need to be executed by the Commission as well as the Bank of North Dakota following Commission approval of the new bond document.

The new collateral bond reflects the addition of 3,359.7 acres to Permit NAFK-8405 with pending Revision 42 that is expected to be approved at the next Commission meeting, and other acreages changes that occurred in the consolidated bond area during the last year, which includes Bond Releases 3 and 4 to NAFK-8405 and the deletion of 9.4 undisturbed acres with Revision 34 to Permit NAFK-9503.

Attached for your consideration at the April 27, 2023 Commission meeting are the proposed motion, and the letter to the Bank of North Dakota and escrow agreement for the new collateral bond that needs to be signed by all three Commissioners.

Falkirk Mine\Permits\NAFK - 9503\Bonding\2023\CB-9503-6_memo_4-27-23