



Public Service Commission

State of North Dakota

COMMISSIONERS

Randy Christmann
Sheri Haugen-Hoffart
Julie Fedorchak

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

October 23, 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 conducted a technical review of the application for Revision No. 35 to Surface Coal Mining Permit NAFK-9503 submitted on August 18, 2023, by the Falkirk Mining Company. Revision No. 35 revises the post-mining topography for some unmined areas in order to bring the permit area into a mass balance with the most current mine plan. The revision application also revises the permit's introductory, legal, financial, compliance and surface and coal ownership information, surface water hydrology, surface water management, operation plans, blasting map, transportation facilities, reclamation plans & schedules, post-mining land use and revegetation, and wetland sections. The revision also removes 159.6 acres of undisturbed land from the permit located in its entirety in the SW¼ of Section 32, T145N, R83W. The following items must be addressed before the Commission can take further action on this application:

Section 2.6 – Surface Water Information and Monitoring Plan

1. Page 12 within Section 2.6.5 (Surface Water Probable Hydrologic Consequences) states: “As part of Revision 35 to this permit, watersheds with control points R27, R28, R29, R30, R32, R37, and R38 were re-analyzed in their pre-mine conditions.” However, according to Table 1 in Section 2.6.5c (Surface Water Probable Hydrologic Consequences Data) several other control points (R1, R2, R12, R14, R15, and R16) were also updated in their post-mine conditions with Revision 35. Please update the narrative on page 12 within Section 2.6.5 (Surface Water Probable Hydrologic Consequences) to include all control points that were re-evaluated and updated as part of Revision 35. Furthermore, please include within the narrative the model that was used for the re-analyzing of the control points. (JAR)
2. Please update the narrative in the 2nd sentence of the 3rd paragraph on page 13 of Section 2.6.5 (Surface Water Probable Hydrologic Consequences) to include the two control points that were reduced from moderate to minor and removed from the narrative. (JAR)

3. Please update Section 2.6.5a (Pre-Mining Watershed Map Probable Hydrologic Consequences) to delineate the “Terrain Modification Boundary” linework to remain outside the 159.6 acres that is to be removed from Permit NAFK-9503 located in the SW¼ of Section 32. (BSM)
4. Section 2.6.5a (Pre-Mining PHC Map) displays the scale bar within the map portion in gray tones, which makes it difficult to distinguish. Please consider relocating the scale bar within the legend and using the color black to make the scale bar more legible. (BSM)
5. Section 2.6.5b (Post-Mining PHC Map) displays “Terrain Modification Boundary” within the map Legend but it is missing from the map. Please revise the map to delineate the “Terrain Modification Boundary”. (BSM)
6. Section 2.6.5b (Post-Mining PHC Map) displays the scale bar within the map portion and in gray tones, making it difficult to distinguish. Please consider relocating the scale bar within the legend and using the color black to make the scale bar more legible. (BSM)
7. Please add section numbers and section lines to Section 2.6.9a (Post Mining Drainage Map). (JAR, BSM, PJR)

Section 3.6 – Operations – Surface Water Management

8. Surface water discharges from sediment ponds P-R12-01 and P-R12-02 will pass through a drainageway south of the Glenda G Scholl farmstead in the N½NW¼ of Section 18. This drainageway is used to support livestock operations within 500 feet of the farmstead. Please clarify if discharges through this drainage might adversely affect Scholl farmstead agricultural operations. The last sentence on page 5 of Section 3.6.1 (Surface Water Management), states that downstream conditions and Falkirk’s procedures for discharge management to minimize downstream impacts is fully discussed in Section 2.6.5 as probable hydrologic consequences but potential adverse impacts to the Scholl farmstead operations are not discussed in Section 2.6.5. Please clarify if the drainageway near the Scholl farmstead in Section 18 is being used to support agricultural operations and provide an assessment of any potential adverse effects from pond discharging operations and measures that will be taken to minimize adverse effects. (GAW)
9. Please update Section 3.6.1a (Total Water Management Plan Map) to delineate the “Terrain Modification Boundary” linework to remain outside the 159.6 acres that is to be removed from permit NAFK-9503 located in the SW¼ of Section 32. (BSM)
10. Ponds P-R12-03, P-R32-01, and P-RW36-03 were deleted from Section 3.6.1d (Pond and Diversion Construction and Reclamation Schedule) as part of Revision 35. However, these ponds are depicted as future ponds on the Total Water Management Plan Map (Section 3.6.1). Please update the map to remove ponds P-R12-03, P-R32-01, and P-RW36-03 if they are no longer scheduled to be constructed. (JAR)


Section 4.1 – Post-Mining Land Use and Revegetation

11. The updated narrative in the 4th paragraph on page 4 of Section 4.1.1 (Post-Mining Land Use Narrative) does not contain the section which will be removed as part of Revision 35 to NAFK-9503. Please add Section 32 that will be removed as part of Revision 35 to the narrative. (JAR)

12. The updated narrative in the 2nd paragraph on page 9 of Section 4.1.1 (Post-Mining Land Use Narrative) is missing the word “acre” following 1.1 in the first sentence. Furthermore, acres is misspelled in the last sentence of the same paragraph. Please correct these errors. (BSM)
13. Please consider providing an asterisk at the bottom of the Land Use Acreage Comparison Table, Section 4.1.3 (Land Use Acreage Comparison Table), to clarify that 3.4 acres of temporary wetlands are being replaced in Permit NAFK-9601 so that it is clear why there is a loss of wetland acreage in Permit NAFK-9503. (GAW)
14. Please review the locations of the replacement woodlands plantings in the SE¼ of Section 33 and NW¼ of Section 6 on the Post-Mining Land Use Map, Section 4.1.2, to ensure the sites continue to be the preferred locations. Falkirk might consider consolidating some of these plantings to aid management during the revegetation responsibility period. (GAW)
15. Please update Section 4.2.6b (Post-Mining Contour Map) to delineate the dark blue, continuous dashed boundary line shown on the map that is not depicted in the Legend. (BSM)

If you have any questions, please contact this office.

Sincerely,



Zanna Brinkman
Director
Reclamation Division

cc via email only: Steve Burke (steve.burke@nacoal.com)

Falkirk\Permits\NAFK-9503\Revisions\No. 35\Rev35_Tech1_rvw_ltr_10-23-23