

PUBLIC SERVICE COMMISSION

Reclamation Division

Memorandum

To: Commissioners - Christmann, Haugen-Hoffart, and Fedorchak
John Schuh - General Counsel
Steve Kahl - Executive Director

From: ^{JE} Jonathan Emmer, ^{BM} Brandon Myran, and ^{PJR} Preston Ripplinger

Date: January 17, 2024

Subject: Application for Revision No. 35 to Permit No. NAFK-9503 held by Falkirk Mining Company, Case No. RC-23-217

On May 12, 2023, Falkirk Mining Company filed the application for Revision No. 35 to Permit NAFK-9503 to revise the mine plan and 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 introductory, legal, financial, compliance, surface and coal ownership information, surface water hydrology and management, operation plans, blasting map, transportation plan, reclamation plans and schedules, post-mining land use and revegetation, and wetland sections have been revised. This revision also includes the removal of 159.6 acres of undisturbed land from the permit located in the SW¼ of Section 32, T145N, R83W. The Reclamation Division has completed its review of this revision application and respectfully recommends that it be approved.

The 159.6 acres being deleted from the permit area in the SW¼ of Section 32, T145N, R83W, were not disturbed by any mining activities. An inspection of this area was conducted by Commission staff to verify that these lands were not disturbed by the Falkirk Mining Company. The revision also revised the mine plan, which changed the timing and sequence of mining, and revised post-mining topography for a large portion of unmined areas within the permit to reflect current mining conditions and demand.

Revision No. 35 was deemed a significant revision to Permit No. NAFK-9503. Revision No. 35 was subject to the public notice requirements. Falkirk submitted affidavits of publication showing that the newspaper notice was published in the McLean County Independent and the Bismarck Tribune for four consecutive weeks in both newspapers. We notified the appropriate agencies and the permit area landowners of the revision application. We received no objections or requests for informal conferences on this revision application.

Approval of Revision No. 35 to Permit No. NAFK-9503, Case No. RC-23-217

January 17, 2024

Page 2 of 3

No monetary bond adjustment is necessary due to this revision. Pursuant to NDAC 69-05.2-12-07, the Commission has determined that the performance bond in the amount of \$114,823,633, which was approved on April 27, 2023, that covers this permit and Permits NAFK-8705 and NAFK-8405 at the Falkirk Mine is sufficient for the proposed operations in Permit NAFK-9503 and for continuing operations within the other permit areas.

Attached for your consideration at the January 24th Commission meeting are the proposed motion, revision approval form, and newspaper notice that we must publish following revision approval.

Attachments

Falkirk Mine\Permits\NAFK - 9503\Revisions\No. 35\Rev35_apprvl_memo_1-17-24

Figure 1
Revision No. 35 Newspaper Publication Reference Map

