

## Emmer, Jonathan W.

---

**From:** Trent, Erica L <etrent@osmre.gov>  
**Sent:** Wednesday, February 21, 2024 4:04 PM  
**To:** Emmer, Jonathan W.; Shaeffer, Elizabeth A  
**Cc:** Johnson, Monty L.; Welch, Guy A.  
**Subject:** Re: [EXTERNAL] Request for Mine Plan Approval Review

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

\*\*\*\*\* **CAUTION:** This email originated from an outside source. Do not click links or open attachments unless you know they are safe. \*\*\*\*\*

Good afternoon Jonathan,

Please find our determinations below. We concur, these actions do not require ASLM approval.

**Revision 41 to Permit NAFK-8705** – Falkirk Mine – Case No. RC-23-351 – submitted with Renewal 7; updates the permit for the next 5-year permit term. Updated information includes legal, business and compliance information, identification of interest and rights to entry, operation plans, surface water management, reclamation plans and wetland design details. No coal will be mined during the next permit term, but coal mining is planned in the future. There were no post-mining land use changes above the federal coal and the surface is privately owned. The revision does not appear to meet the criteria of CFR 746.18 and therefore not need mine plan approval. Do you concur? **The OSMRE concurs. This revision does not meet the criteria at 746.18(d) and therefore does not require ASLM approval.**

**Revision 48 to Permit NACT-9501** – Freedom Mine – updates the permit in response to our expired permit review. The revision updates various sections of the permit including introductory information, business entity/compliance information, identification of interests and rights of entry, legal information, surface water features, operations plans, post-mining land use and revegetation. The post-mine land use map was updated to remove conservation tree plantings that have failed to establish. All of the surface ownership is privately owned. The revision does not appear to meet the criteria of CFR 746.18 and therefore not need mine plan approval. Do you concur? **The OSMRE concurs. This revision does not meet the criteria at 746.18(d) and therefore does not require ASLM approval.**

**Revision 33 to Permit NACT-9001** – Freedom Mine - updates the permit in response to our expired permit review. The revision updates various sections of the permit including introductory information, business entity/compliance information, identification of interests and rights of entry, legal information, operations plan- general, and post-mining land use and revegetation. The changes to the post-mine land use did not occur above federal coal and all of the surface ownership is privately owned. The revision does not appear to meet the criteria of CFR 746.18 and therefore not need mine plan approval. Do you concur? **The OSMRE concurs. This revision does not meet the criteria at 746.18(d) and therefore does not require ASLM approval.**

**Revision 43 to Permit NAFK-8405** – Falkirk Mine - updates the permit in response to our midterm permit review. The revision updates various sections of the permit including legal information, financial information, compliance information, identification of interest and rights of entry, ground water hydrology, fish and wildlife resources, general operation plans, transportation facilities, surface water management, post-mining land use revegetation and reclamation schedule. This revision does not propose any changes to the mining of federal coal in E1/2 of Section 10, T146N, R82W. The only update to the post-mining land use map was to depict Final Bond Release No. 4. No post mine land uses were changed. The revision does not appear to meet the criteria of CFR 746.18 and therefore not need mine

plan approval. Do you concur? **The OSMRE concurs. This revision does not meet the criteria at 746.18(d) and therefore does not require ASLM approval.**

**Revision 2 to Permit NACT-1801** – Freedom Mine - updates the permit in response to our midterm permit review. The revision updates various sections of the permit including legal information, business entity/compliance information, identification of interests and rights of entry, operations – general, transportation facilities, surface water management, and updates to the post-mining land use and revegetation narrative and map. No post mine land uses were changed with this revision. All of the surface ownership is privately owned. The revision does not appear to meet the criteria of CFR 746.18 and therefore not need mine plan approval. Do you concur?

**The OSMRE concurs. This revision does not meet the criteria at 746.18(d) and therefore does not require ASLM approval.**

**Revision 39 to Permit BNCR-8202** – Center Mine - submitted with Renewal 8; updates the permit for the next 5-year permit term. Coal removal is complete in the permit. The revision updates various sections of the permit including legal and financial section and business entity information, the extended mine plan, the mining operations and waste disposal plan, the transportation plan, the surface water management plan, the water monitoring & drillhole reclamation plan, the post mining land use and the reclamation cost estimate. No post mining land uses were changed with the revision. The post mining land use narrative was updated to include the current correction method for determining reclamation success of cropland. All of the surface ownership is privately owned. The revision does not appear to meet the criteria of CFR 746.18 and therefore not need mine plan approval. Do you concur? **The OSMRE concurs. This revision does not meet the criteria at 746.18(d) and therefore does not require ASLM approval.**

**Revision 36 to Permit NAFK-9503** – Falkirk Mine - updates the permit in response to our midterm review. The revision updates various sections of the permit including legal, financial, compliance and related information, ground water hydrology, fish and wildlife resources, surface water information and monitoring plan, operation plans, transportation facilities, surface water management and reclamation plans. Currently there is no federally owned surface or leased federal coal within Permit NAFK-9503 and this revision does not add plans to mine any federal coal. **This revision does not meet the criteria at 746.18(d) and therefore does not require ASLM approval.**

*Erica Trent*

Erica Trent, Natural Resources Specialist  
Office of Surface Mining Reclamation and Enforcement  
Interior Regions 5 & 7-11  
P.O. Box 25065  
Lakewood, CO 80215  
C: (253) 380-3525

---

**From:** Emmer, Jonathan W. <jemmer@nd.gov>  
**Sent:** Wednesday, January 31, 2024 11:32 AM  
**To:** Shaeffer, Elizabeth A <eshaeffer@osmre.gov>; Trent, Erica L <etrent@osmre.gov>  
**Cc:** Johnson, Monty L. <moljohnson@nd.gov>; Welch, Guy A. <gwelch@nd.gov>  
**Subject:** [EXTERNAL] Request for Mine Plan Approval Review

**This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.**

Good Afternoon Elizabeth and Erica,

If possible, could you please review the following seven revisions we have pending. I do not believe any of them meet the criteria in CFR 746.18 so none of them should require mine plan approval. There is no federally owned surface at our mines, but some have federal coal that is leased. None of these revisions add land to the permit, or propose new mining of federal coal, or modify existing approved mining plans for federal coal.

Hopefully, I have provided enough information to make your review as quick as possible and that you can answer “yes or no” after each revision. Let me know if you need additional information.

**Revision 41 to Permit NAFK-8705** – Falkirk Mine – Case No. RC-23-351 – submitted with Renewal 7; updates the permit for the next 5-year permit term. Updated information includes legal, business and compliance information, identification of interest and rights to entry, operation plans, surface water management, reclamation plans and wetland design details. No coal will be mined during the next permit term, but coal mining is planned in the future. There were no post-mining land use changes above the federal coal and the surface is privately owned. The revision does not appear to meet the criteria of CFR 746.18 and therefore not need mine plan approval. Do you concur?

**Revision 48 to Permit NACT-9501** – Freedom Mine – updates the permit in response to our expired permit review. The revision updates various sections of the permit including introductory information, business entity/compliance information, identification of interests and rights of entry, legal information, surface water features, operations plans, post-mining land use and revegetation. The post-mine land use map was updated to remove conservation tree plantings that have failed to establish. All of the surface ownership is privately owned. The revision does not appear to meet the criteria of CFR 746.18 and therefore not need mine plan approval. Do you concur?

**Revision 33 to Permit NACT-9001** – Freedom Mine - updates the permit in response to our expired permit review. The revision updates various sections of the permit including introductory information, business entity/compliance information, identification of interests and rights of entry, legal information, operations plan- general, and post-mining land use and revegetation. The changes to the post-mine land use did not occur above federal coal and all of the surface ownership is privately owned. The revision does not appear to meet the criteria of CFR 746.18 and therefore not need mine plan approval. Do you concur?

**Revision 43 to Permit NAFK-8405** – Falkirk Mine - updates the permit in response to our midterm permit review. The revision updates various sections of the permit including legal information, financial information, compliance information, identification of interest and rights of entry, ground water hydrology, fish and wildlife resources, general operation plans, transportation facilities, surface water management, post-mining land use revegetation and reclamation schedule. This revision does not propose any changes to the mining of federal coal in E1/2 of Section 10, T146N, R82W. The only update to the post-mining land use map was to depict Final Bond Release No. 4. No post mine land uses were changed. The revision does not appear to meet the criteria of CFR 746.18 and therefore not need mine plan approval. Do you concur?

**Revision 2 to Permit NACT-1801** – Freedom Mine - updates the permit in response to our midterm permit review. The revision updates various sections of the permit including legal information, business entity/compliance information, identification of interests and rights of entry, operations – general, transportation facilities, surface water management, and updates to the post-mining land use and revegetation narrative and map. No post mine land uses were changed with this revision. All of the surface ownership is privately owned. The revision does not appear to meet the criteria of CFR 746.18 and therefore not need mine plan approval. Do you concur?

**Revision 39 to Permit BNCR-8202** – Center Mine - submitted with Renewal 8; updates the permit for the next 5-year permit term. Coal removal is complete in the permit. The revision updates various sections of the permit including legal and financial section and business entity information, the extended mine plan, the mining operations and waste disposal plan, the transportation plan, the surface water management plan, the water monitoring & drillhole reclamation plan, the post mining land use and the reclamation cost estimate. No post mining land uses were changed with the

revision. The post mining land use narrative was updated to include the current correction method for determining reclamation success of cropland. All of the surface ownership is privately owned. The revision does not appear to meet the criteria of CFR 746.18 and therefore not need mine plan approval. Do you concur?

**Revision 36 to Permit NAFK-9503** – Falkirk Mine - updates the permit in response to our midterm review. The revision updates various sections of the permit including legal, financial, compliance and related information, ground water hydrology, fish and wildlife resources, surface water information and monitoring plan, operation plans, transportation facilities, surface water management and reclamation plans. Currently there is no federally owned surface or leased federal coal within Permit NAFK-9503 and this revision does not add plans to mine any federal coal.

**Jonathan Emmer**

Director Reclamation & AML Divisions  
North Dakota Public Service Commission  
600 E Boulevard Ave Dept 408  
Bismarck, ND 58505

[jemmer@nd.gov](mailto:jemmer@nd.gov) 701.328.4094

---

This transmission, email and any files transmitted with it, may be: (1) subject to the Attorney-Client Privilege, (2) an attorney work product, or (3) strictly confidential under federal or state law. If you are not the intended recipient of this message, you may not use, disclose, print, copy or disseminate this information. If you have received this transmission in error, notify the sender (only) and delete the message. This message may also be subject to disclosure under the North Dakota Open Records Laws.