

FALKIRK MINE

December 5, 2023

Mr. Jonathan Emmer
Reclamation Director
ND State Public Service Commission
600 East Boulevard, Dept. 408
Bismarck, ND 58505

RE: Revision 41, Renewal #7 Pre-renewal Review Responses to Permit NAFK-8705

Dear Mr. Emmer:

Falkirk submits the following responses to the pre-renewal review items noted in your October 24, 2023 letter to existing Permit NAFK-8705.

Section 1.0 – Introductory, Legal, Financial, Compliance, and Related Information

1. ***Please update Section 1.2.5 (Certification of Liability Insurance) by including the current liability insurance and endorsement. The current Certificate of Liability Insurance expired on 2/1/2023. (BSM, MLJ, JAR)***

Please see updated Section 1.2.5, Certification of Liability Insurance.

2. ***Please provide an updated “Consolidated Legal Information Report” covering Section 1.3.1 (Names of Officers, Directors and Share Holders, and Organizational Structure), Section 1.3.2 (Names of Other Mines), Section 1.3.3 (Current Permits and Permit Applications), and Section 1.1.6 (Schedule of Violations) referenced in Permit NAFK-8705 if any changes have occurred to the ownership and control information, the list of current or previous coal mining permits held during the past five years, or the schedule of violation notices in the past three years. (BSM, JAR)***

The most recent update of the Consolidated Legal Information Report dated September 19, 2023 is on file at the Public Service Commission Office.

3. ***If necessary, please update Section 1.3.5 (Other Licenses and Permits) per NDAC 69-05.2-06-04. (MLJ, BSM, JAR)***

Please see the updated Other Licenses and Permits in Section 1.3.5.

4. ***If necessary, please update the surface and coal ownership interests listed in Sections 1.5.1 (Permit Area Surface and Coal Interests) and 1.5.2 (Adjacent Surface and Coal Ownership and Leasehold Information). Any changes to either of these sections following the most recent update with Revision No. 40 to the permit should be reflected in Section 1.5.3 (Surface and Coal***

Ownership Map). NDAC 69-05.2-06-01(1)(a) and NDCC 38-14.1-14(1)(c) and (d). (MLJ, BSM, JAR)

Please see the updated Estimated and Total Production in Section 3.1.3.

Section 3.0 – Operations Plans

- 5. Please make updates within Section 3.1 (Operations Plan – General), including Section 3.1.3 (Estimated and Total Production) and Section 3.1.5 (Pit Layout and Facilities Map), to reflect current mining operations and for the next 5-year permit term, anticipated acres of land that will be disturbed, and other relevant narratives in this section pertaining to operations in Permit NAFK-8705. Also, update any other maps, plans, time schedules, etc. that may be affected by these changes in the mining plan. (MLJ, BSM, PJR)**

Please see the updated Estimated and Total Production in Section 3.1.3 and the updated Pit Layout and Facilities Map in Section 3.1.5. No updates were necessary for the operations narrative in Section 3.1.1.

- 6. Section 3.1.5 (Pit Layout and Facilities Map) depicts SPGM storage areas on undisturbed and reclaimed areas in the SW¼ of Section 34, T145N, R82W. Please review and provide an explanation as to why undisturbed and reclaimed lands in this area may need to be disturbed and used for SPGM storage. NDAC 69-05.2-13-05 requires Falkirk to minimize disturbance to where coal is not removed. (GAW)**

The SPGM storage areas in Section 34 is not needed and have been removed from Section 3.1.5, Pit Layout and Facilities Map.

- 7. If any changes have occurred, please update Section 3.1.4 (List of Major Equipment), as required by NDCC 38-14.1-14(1)(I). (MLJ, BSM, JAR, PJR)**

Please see the updated List of Major Equipment in Section 3.1.4.

- 8. If any changes have occurred, please update Section 3.1.6 (Extended Mining Plan Map), to depict and label any changes in planned mining updates. (BSM, JAR, PJR)**

Please see the updated Extended Mining Plan Map in Section 3.1.6.

- 9. If any changes have occurred, please update Section 3.2.1 (Existing Structures Narrative) and Section 3.2.2 (Existing Structures Map). (BSM)**

No updates were required in Sections 3.2.1 or 3.2.2.

Section 3.6 – Operations - Surface Water Management

10. ***Please review Table 1, Pond Construction and Reclamation Schedule, on Page 2 within Section 3.6.1 (Surface Water Management Plan) and provide any reclamation date updates if there are changes from what is provided in the table. (JAR)***

Table 1 in Section 3.6.1 Surface Water Management Plan has been updated. Previously reclaimed ponds have been removed from the list. And the Pond Designation for P-W28-01 was modified to prevent confusion as this pond is designated as DWR-W28-01 in Section 3.6.3a Total Water Management Plan Map.

11. ***Please update Section 3.6.3a (Total Water Management Plan Map) to include any changes since Revision No. 40 such as SPGM piles, depleted SPGM piles, constructed or reclaimed surface water management structures, haul roads, and any other updates that have occurred. (BSM, JWE)***

No updates were made to Section 3.6.3a Total Water Management Plan Map as no changes have been made since Revision 40.

Section 4.0 – Reclamation Plans

12. ***Please revise Section 4.1.2 (Post-Mining Land Use Map) to depict the reclaimed seasonal wetlands R-03-01, R-31-01, and R-31-04 with light blue coloring to remain consistent with other wetland features on the map. Furthermore, please update reclaimed seasonal wetland R-31-02 so that the light blue coloring matches the wetland contours. (JAR, BSM)***

Please see the updated Post-Mining Land Use Map in Section 4.1.2. The colors for the reclaimed wetlands were made consistent. Also, field fitted grass waterways were updated on the map in Section 35.

Section 5.0 – Wetlands

13. ***Wetland design details are provided for wetland R-03-01 as Figure 24 in Section 5.2.2a (Wetland Design Details), but this wetland is not listed on page 1 of this Section. Please list Wetland R-03-01 on page 1. (JAR)***

Mr. Jonathan Emmer
December 5, 2023
Page 4

The list of post-mining wetlands on Page 1 of Section 5.2.2a Wetland Design Details has been reordered by figure number so it aligns with the order of the wetlands detailed in the following pages of the section. Wetland R-03-01 was added to the list.

Additional Updates:

14. Please see the newspaper publication for Revision 41, Renewal #7 in Section 1.2.4.
15. Please see the Newspaper Publication Reference Map for Revision 41, Renewal #7 in Section 1.2.4t.

Sincerely,
THE FALKIRK MINING COMPANY



Jason Frye
Environmental Specialist

JF/tv