



Public Service Commission

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sent via email only

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Mr. Jason Frye
Environmental Specialist
Falkirk Mining Company
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Dear Mr. Frye:

The Reclamation Division has conducted a completeness review of the application for Revision No. 44 to Surface Coal Mining Permit NAFK-8405 submitted on July 2, 2024. Revision No. 44 has been determined to be a significant revision and is therefore subject to the notice, hearing, and procedural requirements. A stand-alone Reclamation Bond/Cost section was updated and submitted with Revision No. 44, and the Reclamation Division will send a separate review letter regarding this. The following items must be addressed prior to the revision being deemed complete:

Section 1.1.2 – Revision Summary Pages

1. As required by NDAC 69-05.2-13-10, please revise Section 1.1.2 (Revision Summary Pages) to clearly state that two cessation pits are being proposed with Revision No. 44 where mining and reclamation operations will temporarily cease adjacent to unleased federal coal. (GAW)

Section 1.2.4 – Newspaper Publication Notice

2. Section 1.2.4 (The Newspaper Publication Notice) indicates that James Coutts and Jacqualen Coutts are surface and coal owners of Tract 99; however, Section 1.5.3 (Surface and Coal Ownership Map) states that James H. Coutts and Jacqualen Coutts are surface and coal owners. Please review and revise as necessary. (GAW)
3. Please revise the narrative in Section 1.2.4 (Newspaper Publication Notice) to state that Revision No. 44 proposes two cessation pits where mining and reclamation operations will be delayed until the federal coal is leased and federal mine plan approval is granted for the federal coal in the NW $\frac{1}{4}$ of Section 2 and the E $\frac{1}{2}$ of Section 3, T146N, R82W. (GAW)

Section 1.3 – Business Entity/Compliance Information

4. Section 1.3.5 (Other Licenses and Permits) identifies Item #21 - User of High Explosives – License #3-ND-055-33-4G-00045 as expired on July 1, 2024. Please update Falkirk's User of High Explosives License #3-ND-055-33-4G-00045 with the new expiration date. (BSM/JAR)

Section 1.5 – Identification of Interests and Rights of Entry

5. Tract 101 in Section 1.5.3 (Surface and Coal Ownership Map) states that "THIS TRACT IS PERMITTED FOR SURFACE DISTURBANCE ONLY", but Tract 101 in Section 1.5.1 (Permit

Area Surface and Coal Interests) does not include the same note. Please review and update the information for Tract 101 in Section 1.5.1 accordingly. (BSM)

Section 3.1 – Operations Plan - General

6. Please update Section 3.1.1 (Operations Narrative) to include a narrative describing the pending federal coal lease for the NW¼ of Section 2 and the E½ of Section 3, T146N, R82W and why a variance will be needed in this area. (JWE/BSM)
7. Section 3.1.5 (Pit Layout and Facilities Map) depicts mining features and facilities within 500 feet of an occupied dwelling in the NW¼ of Section 1, T146N, R82W. This includes a sediment pond (P-E36-02) and pits within 500 feet of the occupied dwelling on land owned by James and Jacqualen Coutts (Tract 100). Please update the Pit Layout and Facilities Map by removing all mining activities within 500 feet of occupied dwellings or provide a signed waiver from the landowner that authorizes Falkirk to conduct mining activities within 500 feet of any occupied dwelling. NDCC 38-14.1-07(5) prohibits disturbance within 500 of any occupied dwelling unless approved by the owner. These agreements need to be secured prior to depicting disturbances within 500 feet of an occupied dwelling on the Pit Layout and Facilities Map. (JAR)

Section 4.2- Reclamation General

8. As required by NDAC 69-05.2-13-10, please provide the duration and exact number of acres that will be affected by temporary cessation of mining, the extent and kind of reclamation of those areas which will have been accomplished, and identify the backfilling, regrading, revegetation, environmental monitoring, and water treatment activities that will continue during the cessation period. (GAW)

Section 4.2.2 – Reclamation Schedule

9. Please provide a contingency reclamation plan for the cessation pits proposed with Revision No. 44 that clarifies how reclamation will be accomplished if federal mine plan approval is **not** granted to mine unleased federal coal in the NW¼ of Section 2 and the E½ of Section 3, T146N, R82W. (GAW/BSM)

If you have any questions, please contact this office.

Sincerely,



Jonathan Emmer
Director
Reclamation Division

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