

Public Service Commission

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September 23, 2024

Mr. Jason Frye
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Dear Mr. Frye:

The Reclamation Division has conducted a technical review of the application for Revision No. 44 to Surface Coal Mining Permit NAFK-8405 submitted on July 2, 2024, by the Falkirk Mining Company. Revision No. 44 updates the mining plans for the N $\frac{1}{2}$ of Section 1 and the SW $\frac{1}{4}$ of Section 3 and adds mining plans for a pit cessation in the S $\frac{1}{2}$ of Section 2, T146N, R82W. The changes to this revision are due to the delay in leasing federal coal. 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. The revision also updates the introductory, legal, financial, compliance, surface and coal ownership information, surface water management, operation plans, transportation facilities, and reclamation plans and schedules. The stand-alone Reclamation Bond/Cost section has also been updated with this revision. The following items must be addressed before the Commission can take further action on this application:

Section 3.1.5 – Pit Layout and Facilities Map

1. Section 3.1.5 (Pit Layout and Facilities Map) shows mining in the SW $\frac{1}{4}$ of Section 35, T147N, R82W within 500 feet of an occupied dwelling. For compliance with NDCC 38-14.1-07(5), please either revise Section 3.1.5 to not show mining activities within 500 feet of an occupied dwelling or provide written approval from the dwelling owner. (GAW)

Section 4.2.3 – Grading Sequence Map

2. Section 4.2.3 (Grading Sequence Map) does not delineate Bond Release No. 4, which was approved on March 8, 2023, located in portions of Sections 22 and 27, T146N, R82W. Please update Section 4.2.3 to delineate Bond Release No. 4. (BSM)

Section 4.2.4 – Reclamation Costs


3. The second sentence of assumption No. 1 on Page 1 of Section 4.2.4 (Reclamation Costs - (Worst Case)) states "The projected operating cost per hour for each piece of equipment was based on October 30, 2023 variable cost values and the February 21, 2024 changes for computing equipment operating cost for Policy Memorandum No. 16 to Mine Operators – Reclamation Cost Estimating Guidelines." Although a proposed draft was provided to the mines on February 21,

- 2024, please update the date within assumption No. 1 on Page 1 of Section 4.2.4 from “February 21, 2024” to “March 27, 2024” which was the official date of Commission approval. (BSM)
4. The Associated Disturbance subsection on Pages 8 and 9 of Section 4.2.4 (Reclamation Costs - (Worst Case)) calculates the average push distance in feet for the D11 dozer, but the average push length for the miscellaneous projects and ponds do not appear to calculate correctly. Accordingly, please review and revise the average push lengths for the miscellaneous projects and ponds on Pages 8 and 9 of Section 4.2.4 or provide further details regarding the calculation. (BSM)
 5. The Associated Disturbance subsection on Page 10 of Section 4.2.4 (Reclamation Costs - (Worst Case)) lists diversions D-E34-02, D-E34-03, D-W22-03, and DW22-01 for D11 dozer reclamation, but Section 4-2-4b (Worst Case Bond Map) does not delineate these diversions. Please update Section 4-2-4b to delineate diversions D-E34-02, D-E34-03, D-W22-03, and DW22-01. (BSM)
 6. The Earthwork Calculations subsection on Page 11 of Section 4.2.4 (Reclamation Costs - (Worst Case)) appears to have a typographic error where it lists diversion D-W29-04 which is not known to be in Permit NAFK-8705, nor is delineated on Section 4-2-b (Worst Case Bond Map). Please review and update accordingly. (BSM)
 7. The Earthwork Calculations subsection on Page 12 of Section 4.2.4 (Reclamation Costs - (Worst Case)) depicts a quantity within the rows “TOTAL”, “TOTALS”, and “GRAND TOTAL SCRAPER” for the “Haul (ft.)” column, but it appears these numbers are not directly utilized or necessary. Please review and provide further details to the numbers calculated in rows “TOTAL”, “TOTALS”, and “GRAND TOTAL SCRAPER” for the “Haul (ft.)” column, or remove them completely if deemed not necessary. (BSM)
 8. The Seed Cost Summary subsection on Page 27 of Section 4.2.4 (Reclamation Costs - (Worst Case)) was updated, and it appears that the 2023 Variable Costs for seed have been incorrectly placed in the “lbs./acre” column instead of the “x \$/lb.” column. Please review and correct this error. (BSM)
 9. According to Section 3.6.1d (Pond Construction and Reclamation Schedule), pond P-E03-05 will be constructed in 2024 and reclaimed in 2035, but Section 4-2-4b (Worst Case Bond Map) does not delineate pond P-E03-05 at the worst-case bond time period. Please review and update Section 4-2-4b to include all active ponds that would require reclamation during the worst-case time period based on the most updated pond construction and reclamation schedules. (BSM)
 10. Please note that Page 2 of Section 4.2.4a (Worst Case Pit Cross-Section) is incorrectly labeled as “East Pits” instead of “Riverdale Pits.” Additionally, please review and update accordingly the letter designations for the cross-sections of the four pits depicted on Page 2 of Section 4.2.4a, verifying that they match the direction displayed on the plan view. For example, the plan view depicts pit E – E’ left to right, but the cross section view incorrectly depicts E’ – E left to right with the spoil piles still on the right side of the pit. Furthermore, please note that the bottom pit cross section was labeled H’ – I instead of H – H’. Please correct these errors on Page 2 of Section 4.2.4a. (BSM)

Mr. Jason Frye
September 23, 2024
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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)

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