

October 3, 2024

Mr. Jonathan Emmer
Public Service Commission
600 East Boulevard Ave Dept 408
Bismarck, North Dakota 58505-0480
ndpsc@nd.gov
701-328-2400

Dear Mr. Emmer

This is in response to your request for a review of the environmental impacts associated with the Falkirk Mining Company's application for Revision No. 44 to Surface Coal Mining Permit NAFK-8405 for the Falkirk Mine.

The proposed project has been reviewed by Department of Water Resources (DWR), and the following comments are provided:

- There are no FEMA National Flood Insurance Program (NFIP) floodplains identified or mapped where the proposed project is to take place. No permits relative to the NFIP are likely required based on the current Flood Insurance Rate Map and State minimum standards. However, flood risk has been identified through the North Dakota Risk Assessment Mapservice and Base Level Engineering (BLE) (ndram.dwr.nd.gov). In the absence of FEMA NFIP data, BLE is often considered best available data and is recommended to be considered in the design process. The State of North Dakota has no formal NFIP permitting authority as all NFIP permitting decisions are considered by impacted NFIP participating communities, the community with zoning authority for the area in question. Please work directly with the local floodplain administrators of the zoning authorities impacted.

- Per North Dakota Century Code § 61-16.1-38, any new construction of or construction modifications to dams, ponds, or other devices, which are capable of retaining, obstructing, or diverting more than 50 acre-feet, or 25 acre-feet with a high or medium hazard potential, requires a construction permit. Specifically, it appears Sedimentation Pond Nos. P-E03-05 and P-E04-02 will require a construction permit from the Department as their storage volumes exceed 50 acre-feet. Sedimentation Pond No. P-E08-02 may require a construction permit depending on its hazard classification. Please contact the DWR Regulatory Division at 701-328-4956 if you have any questions.

Thank you for the opportunity to provide review comments. Should you have further questions, please contact me at 701-328-4970 or kyrkoski@nd.gov.

Sincerely,



Kyle Yrkoski
Planner III

KY:mg/1570