

PUBLIC SERVICE COMMISSION

Reclamation Division

Memorandum

To: Commissioners - Christmann, Haugen-Hoffart, and Fedorchak
John Schuh - General Counsel
Steve Kahl - Executive Director

From: ^{JWE} Jonathan Emmer, ^{MS} Monty Johnson, and ^{FM} Brandon Myran

Date: December 6, 2024

Subject: Approval for Revision No. 44 to Permit No. NAFK-8405 held by Falkirk Mining Company, Case No. RC-24-261

On July 2, 2024, Falkirk Mining Company (Falkirk) filed the application for Revision No. 44 to Permit NAFK-8405. The revision 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 hydrology and 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 Reclamation Division has completed its review of this revision application and respectfully recommends that it be approved.

Figure 1 highlights the areas within the permit affected by the revision. The darker shaded regions on the map indicate updates to the mining plan in the N $\frac{1}{2}$ of Section 1 and the SW $\frac{1}{4}$ of Section 3, along with the addition of a pit cessation in the S $\frac{1}{2}$ of Section 2, T146N, R82W.

Revision No. 44 was deemed a significant revision to Permit NAFK-8405 and was subject to the public notice requirements. Falkirk submitted affidavits of publication showing that the newspaper notice was published in the McLean County Independent and the Bismarck Tribune for four consecutive weeks in both newspapers. We notified the appropriate agencies and the permit area landowners of the revision application, and we received no objections or requests for informal conferences on this revision application.

The revision updated the worst-case reclamation cost estimate for the consolidated bond area at Falkirk using the latest revised variable costs that include Permits NAFK-8405, NAFK-9503, and

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NAFK-8705. The updated worst-case reclamation cost estimate submitted with Revision No. 44 proposed a minimum bond amount of \$113,587,962 for the consolidated bond area. Falkirk's current bonding instruments for this consolidated bond area total \$114,823,633, and the Reclamation Division has determined under NDAC 69-05.2-12-07 that this amount is sufficient for the proposed operations in Permit NAFK-8405 and for continuing operations in the other permit areas.

Attached for your consideration at the December 18, 2024, Commission meeting are the proposed motion, revision approval form, and newspaper notice that we must publish following revision approval.

Attachments

Falkirk Mine\Permits\NAFK - 8405\Revisions\No. 44\Rev44_Apprvl_memo_12-6-24

Figure 1
Revision No. 44 Newspaper Publication Reference Map

