



Public Service Commission

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March 10, 2025

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. 38 to Surface Coal Mining Permit NAFK-9503 submitted on February 19, 2025. Revision No. 38 has been determined to be a significant revision and is therefore subject to the notice, hearing and procedural requirements. The following items must be addressed prior to the revision being deemed complete:

Section 1.2.4 – Newspaper Publication Notice

1. The title block for Section 1.2.4o (Newspaper Publication Reference Map, Revision 38) is incorrectly labeled as Section 1.2.4n, consistent with previous Revision 35. Please update the title block for the Newspaper Publication Reference Map for Revision 38 to reflect the correct designation “Section 1.2.4o”. (BSM)
2. As required by NDAC 69-05.2-10-01(1)(b)(1), please depict the relocated County Road No. 17 in Section 1.2.4o (Newspaper Publication Reference Map, Revision 38). (GAW/PJR)
3. A portion of relocated County Road No. 17 appears to be within the “AFFECTED AREA” depicted in Section 1.2.4o (Newspaper Publication Reference Map, Revision 38). However, Revision 38, including Section 1.2.4 (Newspaper Publication Notice), does not appear to mention plans for road relocation or plans to conduct operations within 100 feet of the outside right-of-way of relocated County Road No. 17 in the E½NW¼ of Section 32, T145N, R83W as required by NDAC 69-05.2-10-01(d). If Revision 38 does not propose operations within 100 feet of the relocated County Road No. 17, please update the “AFFECTED AREA” depiction in Section 1.2.4o to ensure it does not extend within this distance. Alternatively, if Falkirk intends to conduct operations within 100 feet but outside the right-of-way, please revise the newspaper publication notice to state that Falkirk intends to conduct operations within 100 feet outside of the right-of-way or relocated County Road No. 17, in accordance with NDAC 69-05.2-10-01(d). (BSM)

Section 1.3.5 – Other Licenses and Permits

4. The Air Pollution Control Permit to Operate (Item #4) and the Stormwater Permit (Item #9) listed in Section 1.3.5 (Other Licenses and Permits) are expired. Please update the expired permits in Section 1.3.5 with new effective dates for both permits that are issued by the ND DEQ. Any

changes to Section 1.3.5 should also be reflected in Section 1.1.3 (Revision Lists of Changes). (JAR)

Section 1.5 – Identification of Interests and Rights of Entry

5. Section 1.5 (Identification of Interests and Rights of Entry) states the “last change to ownership information” was for Revision 36 in December 2023. However, this information appears to be outdated and should be updated to reflect the changes with Revision 38 – February 2025. (JAR)

Section 3.1.5 – Pit Layout and Facilities Map

6. Section 3.1.5 (Pit Layout and Facilities Map) appears to delineate the 2026 (101) mining area within 100 feet of the outside right-of-way of relocated County Road No. 17 within the E½NW¼ of Section 32, T145N, R83W. Since no updates on the relocation of County Road No. 17 have been made with Section 3.5.20 (Road Relocation and Closing Plan Narrative), or Section 3.5.21 (Road Relocation and Closing Plan Map), please revise Section 3.1.5 to remove any mining in the E½NW¼ of Section 32, T145N, R83W that is within 100 feet of the outside right-of-way of County Road No. 17 per NDAC 69-05.2-10-01(d). (BSM)

Section 3.5.20 – Road Relocation and Closing Plan Narrative

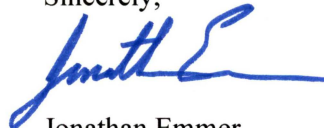
7. Please update Section 3.5.20 (Road Relocation and Closing Plan Narrative) to include the county approval to conduct mining operations within 100 feet of relocated County Road No. 17. (BSM/JWE)

Section 3.5.21 – Road Relocation and Closing Plan Map

8. Please revise Section 3.5.21 (Road Relocation and Closing Plan Map) to show mining in the E½NW¼ of Section 32, T145N, R83W in relation to relocated County Road No. 17. Any changes to Section 3.5.21 should also be reflected in Section 1.1.3 (Revision Lists of Changes). (GAW)

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)