

## Revision No. 42 to NAFK-8705 – Species Specific Effects Finding

**Finding No. 9. The operations will not affect the continued existence of threatened, endangered or proposed species or result in the destruction or adverse modification of proposed or designated critical habitats [NDAC 69-05.2-10-03(6)(d)].**

Permit NAFK-8705 for the Falkirk Mine consists of approximately 9,843.4 acres, most of which has previously been disturbed by mining and reclamation activities. Mining operations in this permit area ceased in 2010, leaving the northern portion undisturbed. Due to several factors including power plant coal demands, federal coal lease approval, and ongoing mining operations in the other permitted areas, mining activities in Permit NAFK-8705 are now scheduled to resume in 2025, significantly earlier than the previously projected date of 2040.

Given the extent of previous disturbance, most threatened and endangered species “**may be affected but are not likely to be adversely affected**” by renewed mining and reclamation activities proposed in Revision No. 42. More detailed species-specific information can be found below. **Figure 1** is also provided to assist in visualizing the location of the Permit NAFK-8705.

### Whooping Crane – Endangered

McLean County and the permit area are within the principal migration route of the Whooping Crane, and the Audubon National Wildlife Refuge. The Audubon Refuge is occasionally used by migrating Whooping Cranes, with the most recent sighting occurring in the spring of 1992. The area does contain temporary, seasonal, and semi-permanent wetlands throughout the permitted area, which may provide stopover habitat for the Whooping Crane; however, no Whooping Cranes have been observed within the direct vicinity of the Falkirk Mine since wildlife monitoring was initiated. The Reclamation Division concludes that mining and reclamation activities proposed with Revision No. 42 “**may affect but is not likely to adversely affect**” the continued existence of Whooping Cranes.

### Piping Plover – Threatened

The Piping Plover is a migratory bird that can occur in North Dakota from mid-April through August. Suitable habitat for the Northern Great Plains Population is generally characterized as sparsely vegetated shorelines usually associated with alkaline wetlands and sandbars and shorelines associated with major river systems. In McLean County, North Dakota, this species can be found along the Missouri River. Piping Plovers have been observed periodically within Falkirk’s active permitted areas; however, the possibility for them to be present is believed to be limited due to their restricted habitat preferences, nesting requirements, and the lack of suitable habitats within the area. However, suitable habitat may be created by mining activities as Piping Plovers have been found to nest on inactive areas of graded spoil in other permitted areas at the mine. Inactive barren spoil areas are not expected to exist during the current term of the permit. Falkirk will continue to monitor the permit area for piping plovers, and sightings will be reported to the Reclamation Division. The Reclamation Division concludes the permit area does not contain designated, suitable, or potential habitat for this species and the mining and reclamation activities proposed with Revision No. 42 “**may affect but is not likely to adversely affect**” the continued existence of the Piping Plover.

### Rufa Red Knot – Threatened

The Rufa Red Knot is a medium sized shorebird that migrates annually between its breeding grounds in the central Canadian Arctic and several wintering regions, including the Southeast United States and Northeast Gulf of Mexico. This species could potentially migrate over North Dakota. Available information indicates this species may use inland saline lakes as stopover habitat during its migration. There are no saline lakes in

the permit area or adjacent to the permit area. Therefore, the mining and reclamation activities proposed with Revision No. 42 will have “**no effect**” on the continued existence of the Rufa Red Knot.

### **Dakota Skipper – Threatened**

The USFWS listed the Dakota Skipper as threatened on October 26, 2014, and the final rule became effective on November 24, 2014. The Dakota Skipper is a small butterfly that requires high quality mixed or tallgrass prairie. According to the 2024 Dakota Skipper North Dakota Survey Protocol there are two habitat types, Type A Habitat and Type B Habitat. Type A Habitat consists of moist lowland mesic prairie habitat type with prairie lily, bluebell bellflower, and mountain deathcamas or smooth camas species. Type B Habitat consists of a relatively dry upland prairie habitat type found on ridges and hillsides dominated by bluestem grasses, needlegrasses, and desirable native forbs such as purple coneflower. In the Missouri Couteau region of North Dakota, on the western edge of the known ranges of the species, Dakota Skippers inhabit a variant of Type B habitats. These habitats typically contain an association of little bluestem, big bluestem, and needlegrasses that is often invaded by Kentucky bluegrass. These prairies also typically contain prairie lily, bluebell bellflower, coneflowers, and aster species.

There is no undisturbed native grassland within Permit NAFK-8705. Therefore, there is no suitable habitat for the Dakota Skipper. The Reclamation Division finds that the planned mining and reclamation activities proposed within Revision No. 42 will have “**no effect**” to the continued existence of the Dakota Skipper.

### **Monarch Butterfly – Proposed Threatened**

The Monarch Butterfly is a proposed threatened species. The Monarch requires habitat with Milkweed as a larval host plant and floral nectar sources for adults. Monarchs found in North Dakota are comprised of the eastern range Monarchs, found east of the Rocky Mountains. These Monarchs overwinter in central Mexico and then migrate and disperse throughout North America. No designated critical habitat is currently proposed for the eastern range Monarchs. The Monarch Butterfly could potentially be in and around Falkirk’s mining permits during the migration. Falkirk has planted a number of pollinator plots near reclaimed wetland buffer areas and may include milkweed in future pollinator plots.

The Reclamation Division finds the planned mining and reclamation activities proposed within Revision No. 42 “**may affect but is not likely to jeopardize**” the continued existence of the Monarch Butterfly provided that Falkirk follows future guidance from the USFWS as indicated in Section 2.4.3 (Wildlife Monitoring Plan) of Permit NAFK-8705.

### **Western Regal Fritillary – Proposed Threatened**

The Western Regal Fritillary is a proposed threatened species. The Western Regal Fritillary prefers tallgrass prairie and other sunny, open locations such as damp meadows, marshes, wet fields, and mountain pastures. Regal Fritillary butterflies depend on three main habitat components: violet hostplants for larvae, nectar plants for adults, and native warm-season bunch grasses that provide protective sites for all life stages. No designated critical habitat is currently proposed for the Western Regal Fritillary. Based on the habitat requirements of the Western Regal Fritillary, it appears unlikely that the species will be present in the permit area.

The Reclamation Division finds the planned mining and reclamation activities proposed within Revision No. 42 “**may affect but is not likely to jeopardize**” the continued existence of the Western Regal Fritillary provided that Falkirk follows future guidance from the USFWS as indicated in Section 2.4.3 (Wildlife

Monitoring Plan) of Permit NAFK-8705.

### **Suckley's Cuckoo Bumble Bee – Proposed Endangered**

The Suckley's Cuckoo Bumble Bee is a proposed endangered species. The Suckley's Cuckoo Bumble Bee is an obligate social parasite and is entirely dependent on social bumble bee hosts to collect pollen and rear their young. Since they are entirely dependent on host bumble bee colonies, host colony availability is critical for the species' survival and overall viability. The species has a broad historical range and has been found in various habitat types including prairies, grasslands, meadows, urban and agricultural areas, and woodlands. The last confirmed sighting in the United States of the Suckley's Cuckoo Bumble Bee was in 2016 in Oregon.

The Reclamation Division finds the planned mining and reclamation activities proposed within Revision No. 42 **“may affect but is not likely to jeopardize”** the continued existence of the Suckley's Cuckoo Bumble Bee.

**Figure 1:** Falkirk Mine Permit NAFK-8705

