



Public Service Commission

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September 12, 2025

Mr. Jason Frye
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Dear Mr. Frye:

The Reclamation Division has conducted a technical review of the application for Revision No. 42 to Surface Coal Mining Permit NAFK-8705 submitted on July 23, 2025 by the Falkirk Mining Company. Revision No. 42 changes the timing of mining and revises the post-mining topography for a large portion of the unmined areas within the permit. The revision updates the introductory, legal, financial, compliance and surface and coal ownership information and monitoring plan, probable hydrological consequences, surface water management, ground water management plan, operation plans, extending mining plan, existing structures, blasting map, transportation facilities, reclamation plans and schedules, post-mining topography, post-mining land use and revegetation, and wetland sections. The stand-alone consolidated bonding plan and groundwater hydrology and reclamation bond/cost sections have also been updated. The following items must be addressed before the Commission can take further action on this application:

Section 1.1.3 - Revision Instruction Lists

1. Please correct item No. 24 on page 329 of Section 1.1.3 (Revision Instruction Lists) to list the Post-Mining PHC Map as Section 2.6.5b since it currently incorrectly states Section 2.5.6b. (PJR/BSM/JAR)

Section 1.5 – Identification of Interests and Rights of Entry

2. The surface and coal ownership address for Duane Mautz appears to be outdated in Section 1.5.1 (Permit Area Surface and Coal Interests) and Section 1.5.2 (Adjacent Surface and Coal Ownership and Leasehold Information). Please update the address to reflect the current mailing address for the Estate of Duane Mautz. (AAC/BSM)

Section 2.8 – Soil Resources

3. The last paragraph on page one of Section 2.8.1 (Soils Narrative) contains a sentence that states, "Prime farmland will have 48 inches of subsoil or subsoil quality material replaced." Please revise this sentence to state that the combined thickness of topsoil and subsoil must have a minimum thickness of 48 inches. (MLJ/TLD)
4. Please revise Section 2.8.2a (Soil Survey Map with Previously Reclaimed Respread Depths) to include topsoil and subsoil respread depths on associated disturbance that Falkirk is planning to re-

affect. If only topsoil has been respread, the pre-mine soils subsoil depth should be provided to show salvageable depths and available SPGM. (GAW)

5. Paragraph three on page 1 of Section 2.8.5a (Prime Farmland Statement) lists the areas where prime farmland provisions apply due to the legal right-to-mine being obtained after 1977. One of these areas, the SE¼ of Section 24, does not contain prime farmland according to Section 2.8.2 (Soil Survey Map) while all other referenced areas contain prime farmland. Please verify the status of prime farmland in the SE¼ of Section 24. (MLJ/TLD)
6. The blue hatched polygons depicting pre-mine prime farmland soils that need to be replaced in Section 2.8.5d (Prime Farmland Map) do not match the areas where prime farmland provisions apply as listed in paragraph three of Section 2.8.5a (Prime Farmland Statement). It is recognized that this is likely due to several prime farmland areas that will not be disturbed by mine pits and/or spoil placement. Please review/verify and revise Section 2.8.5a and/or Section 2.8.5d if necessary. (MLJ/TLD)
7. Please include a legend in Section 2.8.5d (Prime Farmland Map) to clarify that the blue hatched polygons depict pre-mine prime farmland soils that need to be replaced. Also, please denote if the polygons represent the actual location of the pre-mine prime farmland that needs to be reclaimed or if they represent the planned post-mine prime farmland landscapes. (GAW/MLJ/TLD)
8. After addressing Item No. 5 and Item No. 6 above, please revise Section 2.8.5a (Prime Farmland Statement) to include detailed prime farmland findings in a format that is consistent with Section 2.8.5a of Permit NAFK-8405 so it can be easier to recognize where Falkirk must reclaim prime farmland. Also, please consider adding a polyline to Section 2.8.2 (Soil Survey Map) and Section 2.8.2a (Soil Survey Map with Previously Reclaimed Respread Depths) that delineates Falkirk's planned mining disturbance boundary as it relates to the requirements of prime farmland reclamation. (MLJ/TLD)
9. If the blue hatched polygons in Section 2.8.5d (Prime Farmland Map) depict the actual location of the pre-mine prime farmland that needs to be reclaimed, as noted in Item No. 7 above, it appears that several errors and/or discrepancies exist. Section 2.8.5d depicts prime farmland in the NW¼ of Section 35; however, prime farmland provisions do not apply to this area as noted in Section 2.8.5a (Prime Farmland Statement). Also, the blue hatched polygons in Section 2.8.5d do not appear to uniformly match the shapes of the pre-mine prime farmland polygons depicted in Section 2.8.2 (Soil Survey Map) and Section 2.8.2a (Soil Survey Map with Previously Reclaimed Respread Depths). Please review and revise Section 2.8.5d as necessary. (MLJ/TLD)

Section 3.6 – Operations - Surface Water Management

10. The link to the Precipitation-Frequency Atlas of the United States (NOAA Atlas 14, Volume 8, Version 2.0) cited in the last sentence of the Hydrologic Parameters Discussion subsection in Section 3.6.2 (Hydrologic Parameters and Design Procedures) is outdated or inaccessible. Please revise as necessary the narrative in Section 3.6.2 to provide the current and correct publication link. (BSM)
11. Section 3.6.3a (Total Water Management Plan Map) depicts acreages for some watersheds but not all. For consistency, please update Section 3.6.3a to include acreages for all the watersheds depicted on the map. (JAR/BSM)

12. Section 3.6.3d (Pond Construction and Reclamation Schedule) incorrectly lists Wetland Basin B-W19-04 as being located in Range R83W instead of R82W. Please correct this error. (BSM)
13. Section 3.6.3d (Pond Construction and Reclamation Schedule) lists sedimentation ponds P-W30-04 and P-W25-02 as being constructed in 2026. However, no design details are provided, nor does the narrative in Section 3.6.1 (Surface Water Management Plan) address the mine's intent to submit them. Please revise as necessary to address these ponds. (BSM)

Section 4.1 – Post-Mining Land Use and Revegetation

14. Page 12 of Section 5.2.2a (Post-Mining Wetland Design) provides a design plan for wetland R-25-01, but it appears this wetland is being replaced with wetland W-NW25-01. Please revise the Section 25 narrative on page 12 of Section 4.1.1 (Post-Mining Land Use Narrative) to clarify this replacement if that is the case. Historical information may remain in Section 5.2.2a, but it should be explained. (GAW)
15. Page 24 of Section 5.2.2a (Post-Mining Wetland Design) provides a contingency design plan for wetland R-26-02. Please revise the Section 26 narrative on page 13 of Section 4.1.1 (Post-Mining Land Use Narrative) to clarify the circumstances or purpose of this Contingency Plan Wetland. (GAW)
16. Please add two distinct polygons to Section 4.1.2 (Post-Mining Land Use Map) that delineate potential prime farmland landscapes and actual prime farmland respread areas, respectively. (MLJ/TLD)
17. The legend of Section 4.1.2 (Post-Mining Land Use Map) states that identification labels and design plans are not provided for seasonal wetlands less than 0.5 acres. The Reclamation Division believes identification labels are needed for all seasonal and more permanent reclaimed wetlands for evaluation and bond release purposes. Please provide identification labels for the five unlabeled seasonal wetlands in the SE¼ of Section 24 and revise language in the legend of Section 4.1.2 accordingly. (GAW)
18. Please remove redundant labels “ASH DISPOSAL FACILITY” located in the SW¼ of Section 32 and along the section line between Section 31 and Section 32 in Section 4.1.2 (Post-Mining Land Use Map), as the duplicate labels make the map difficult to read. (BSM)
19. The Reclamation Division is concerned with Falkirk changing all shelterbelts to conservation plantings without any applicable standards. Currently, conservation shelterbelt plantings are not an approved postmining land use in this permit. Please provide justification for Falkirk to change the standards for these shelterbelts that have already been established. If Falkirk believes this postmine land use change is warranted, please clarify what standards will need to be achieved prior to bond release (Refer to Coteau's woodland flowchart in the Freedom Mine's CVSS as an example). Section 4.1.1 (Post-Mining Land Use Narrative) and Section 4.1.6 (Sampling Methods and Success Standards) will need to be updated to reflect these changes. NDAC 69-05.2-23-03 requires any alternative postmining land use to be approved by the Commission. (WWS/AAC)

Section 4.2.1 – Reclamation Procedures Narrative

20. Please revise Section 4.2.1a (SPGM Mixing Agreement Location Map) to include a legend that clarifies the meaning of the blue hatched polygons and the blue text. If greater explanation is needed to describe these areas, please consider adding it to the narrative regarding soil mixing agreements in the last paragraph on page 1 of Section 4.2.1 (Reclamation Procedures Narrative). (MLJ/TLD)

Section 4.2.6 – Post-Mining Topography Map Generation

21. Please add two distinct polygons to Section 4.2.6b (Post-Mining Topography Map) and Section 4.2.7b (Post-Mining Area Slope Map) that delineate potential prime farmland landscapes and actual prime farmland respread areas, respectively. (MLJ/TLD)

Section 5.1- Pre-Mining Wetlands

22. The table at the top of page 1 of Section 5.1.1c (Center Area II Addition and Revision 42 (New Temporary Wetlands) Pre-Mining Wetland Table) is titled “Center Area II Addition Pre-Mine Wetland Table.” Please update the title to “Center Area II Addition and Revision 42 Pre-Mine Wetland Table” for consistency with the table of contents. (GAW)
23. The table on page 2 of Section 5.1.1c (Center Area II Addition and Revision 42 (New Temporary Wetlands) Pre-Mining Wetland Table) for the N½ of Section 30, T146N, R82W lists duplicate wetland identification numbers for wetlands W-30-1, W-30-2, and W-30-3, and it omits wetlands W-30-6, W-30-7, and W-30-8, which are shown on Section 5.1.1a (Pre-Mine Wetland Location Map). Please revise the table for the N½ of Section 30, T146N, R82W on page 2 of Section 5.1.1c to correct these errors and incorporate the missing wetlands. (PJR/GAW)

Section 5.2- Post-Mining Wetlands

24. The last paragraph on page 2 of Section 5.2.2 (Post-Mining Wetland Design) states that details are presented in Section 5.2.2a (Wetland Design Details) for each reclaimed wetland and that annual runoff data has been tabulated. However, the legend of Section 4.1.2 (Post-Mining Land Use Map) indicates that identification labels and design plans are not provided for temporary wetlands and seasonal wetlands less than 0.5 acres in size. Please update the last paragraph on page 2 of Section 5.2.2 to clarify Falkirk’s plans for reclaiming temporary wetlands and seasonal wetlands less than 0.5 acres. It is not clear how these wetlands are being handled during the grade approval process or how the actual and cumulative surface ownership acreage amounts are tracked. (GAW/BSM)

Section 5.3 - Reclamation Success standards

25. Please review and revise as necessary Section 5.3 (Reclamation Success Standards) to accurately portray the correct number of disturbed wetland acres requiring reclamation. (PJR)

Mr. Jason Frye
September 12, 2025
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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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