

## **FALKIRK MINE**

January 8, 2026

Mr. Jonathan Emmer  
Reclamation Director  
ND State Public Service Commission  
600 East Boulevard, Dept. 408  
Bismarck, ND 58505

**RE: Revision 42, Technical Review Responses to Permit NAFK-8705**

Dear Mr. Emmer:

Falkirk submits the following responses to the technical review items noted in your September 12, 2025 letter to existing Permit NAFK-8705.

### **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)***

Please see updated typographical error for item No. 24 in Section 1.1.3, Revision Instruction Lists.

### **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 The surface and coal ownership address for Duane Mautz appears to be outdated in Section 1.5.1 (Permit Area Surface and Coal Interests) and Section 1.5.2 (Adjacent Surface and Coal Ownership and Leasehold Information).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)***

Please see updated Sections 1.5.1 and 1.5.2.

### **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)***

Please see the updated Soils Narrative in Section 2.8.1.

- 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)**

Please see updated respread topsoil depths in Section 2.8.2a for associated disturbance areas. The map shows pre-mine subsoil depths from the soil survey map for areas with only topsoil respread.

- 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)**

The SE¼ of Section 24 does not contain prime farmland according to the soil classifiers.

- 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)**

Please see updated Section 2.8.5a and Section 2.8.5d polygons depicting the prime farmland soils that need to be replaced.

- 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)**

Please see added legend to Section 2.8.5d.

- 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)**

Please see revised Section 2.8.5a to include detailed prime farmland findings in the areas that are yet to be mined. Also, see added terrain modification boundary added to Sections 2.8.2 and 2.8.2a.

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)***

Please see updated 2.8.5d polygon for prime soils removed in the NW¼ of Section 35. Also, see updated hatched polygons on areas yet to be mined revised to match the shapes of the pre-mine prime farmlands depicted in Section 2.8.2.

### **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)***

The referenced link has been updated.

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)***

In order to remain consistent with its other permits, Falkirk prefers to only depict acreages in watersheds which include water management structures, acreages have been added to the map. Section 3.6.3a, Total Water Management Plan Map has been updated to depict watershed data for sedimentation ponds B-W26-06, P-W30-4, P-W30-05, and P-W30-06.

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)***

The range for Wetland Basin B-19-04 has been corrected in Section 3.6.3d, Pond Construction and Reclamation Schedule. This section has also been updated with new pond data.

- 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)**

The design details for sedimentation ponds due for construction in 2026 have been included in the permit.

#### **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)**

Wetland R-25-01 is not being replaced with wetland W-NW25-01. Wetland R-25-01 will be disturbed and has been redesigned with Revision 42. Wetland W-NW25-01 is a new wetland in Section 25. Additional information was added to the Post-Mining Land Use Narrative in Section 4.1.1 to help clarify.

- 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)**

Please see the updated Post-Mining Land Use narrative in Section 4.1.1 that refers to the contingency plan in Sections 4.2.1d and 4.2.1e.

- 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)**

Please see the updated Post-Mining Land Use Map in Section 4.1.2.

- 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)**

Please see the updated Post-Mining Land Use Map in Section 4.1.2.

**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)**

Please see the updated Post-Mining Land Use Map in Section 4.1.2.

**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)**

Please see the updated language regarding conservation shelterbelts in Sections 4.1.1, 4.1.3, and 4.1.6.

#### **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)**

Falkirk removed the SPGM Mixing Agreement Location Map in Section 4.2.1a from the permit. This map is unnecessary because the areas delineated on this map have already been disturbed from mining and reclaimed and are owned by Falkirk. Any new lands that require future disturbance, mixing agreement documents are in Section 1.5.1. Please see the email on October 21, 2025 for PSC correspondence.

#### **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)**

Please see polygons added to Sections 4.2.6b and 4.2.7b.

#### **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)**

Please see the updated title in Section 5.1.1c. Also, temporary wetlands were added to the W½ of the E½ of Section 19 that were omitted from the previous submittal.

- 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)**

Please see the updated table in Section 5.1.1c.

#### **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 5.2.2, Post-Mining Wetlands Design narrative has been updated to include information on the construction of wetlands possessing less than 0.5 acres. Also included in the updates was information regarding the tracking of pre- to post-mining wetland acres. These updates were added to the first paragraph of page 6. Identification labels have been added to post-mining seasonal wetlands with less than 0.5 acres.

### **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)***

Please see the updated Reclamation Success Standards narrative in Section 5.3.

### **Additional Updates:**

1. Four temporary wetlands were added in the W½ of the E½ of Section 19 that were omitted from the previous permit submittal. Please see the updated sections that include those wetlands. 2.7.2, 2.7.2a, 4.1.1, 4.1.3, 5.1.1a, 5-1-1b, 5.1.1c.
2. Two seasonal wetlands were added in the SW ¼ of Section 26. These wetlands are functioning as seasonal wetlands on Falkirk owned lands. Wetland acres from Falkirk owned lands in Section SW ¼ 23 were reduced and added to Section 26. Please see the updated narrative, table and maps in sections 2.6.5b, 3.5.2, 4.1.1, 4.1.2, 4.1.3, 4.2.6b, 4.2.7b, and 5.2.2a.
3. The Extended Mine Plan Map in Section 3.1.6 was updated to correlate with the changes in pending Revision 40 to NAFK-9503.
4. Section 2.6.5b, Post-Mining PHC Map has been updated with updated post-mining contours. This consists of the addition of a temporary wetland in the NE4 19-146N-82W to match the pre-mine wetland acreage, and the addition of two seasonal wetlands in the SW4 26-146N-83W whose additional wetland acreage was offset by a reduction in size of wetland W-SW23-03 in the S2 23-146N-83W.
5. Section 3.1.5, Pit Layout and Facilities Map has been updated with water management features.
6. Section 3.5.2, Transportation Facilities Map has been updated with updated post-mining contours. This consists of the addition of a temporary wetland in the NE4 19-146N-82W to match the pre-mine wetland acreage, and the addition of two seasonal wetlands in the SW4 26-146N-83W whose additional wetland acreage was offset by a reduction in size of wetland W-SW23-03 in the S2 23-146N-83W.

7. Section 3.6.4.4d, Design of Sedimentation Pond P-W30-04 has been added to the permit.
8. Section 3.6.4.4e, Design of Sedimentation Pond P-W30-05 has been added to the permit.
9. Section 3.6.4.5c, Design of Sedimentation Pond P-W30-06 has been added to the permit.
10. Section 3.6.6.1d, Details of Wetland Basin B-E26-06 has been added to the permit.
11. Section 3.6.11, Groundwater Management Plan has been updated with references to Section 3.6.11.7, Pitwater Pond P-W29-04 and Section 3.6.11.8, Advanced Dewatering Plan.
12. Section 3.6.11.7, Pitwater Pond P-W29-04 has been added to the permit.
13. Section 3.6.11.8, Advanced Dewatering Plan has been added to the permit.
14. Section 4.1.2, Post-Mining Land Use Map has been updated with updated post-mining contours. This consists of the addition of a temporary wetland in the NE4 19-146N-82W to match the pre-mine wetland acreage, and the addition of two seasonal wetlands in the SW4 26-146N-83W whose additional wetland acreage was offset by a reduction in size of wetland W-SW23-03 in the S2 23-146N-83W.
15. Section 4.2.6b, Post-Mining Topography Map has been updated with updated post-mining contours. This consists of the addition of a temporary wetland in the NE4 19-146N-82W to match the pre-mine wetland acreage, and the addition of two seasonal wetlands in the SW4 26-146N-83W whose additional wetland acreage was offset by a reduction in size of wetland W-SW23-03 in the S2 23-146N-83W.
16. Section 4.2.7b, Post-Mining Area Slope Map has been updated with updated post-mining contours. This consists of the addition of a temporary wetland in the NE4 19-146N-82W to match the pre-mine wetland acreage, and the addition of two seasonal wetlands in the SW4 26-146N-83W whose additional wetland acreage was offset by a reduction in size of wetland W-SW23-03 in the S2 23-146N-83W.
17. Section 5.2.2a, Wetland Design Details has been updated to include new wetland W-SW26-01, as well as updated wetland W-SW23-03.

Mr. Jonathan Emmer  
January 8, 2026  
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Sincerely,  
THE FALKIRK MINING COMPANY



Jason Frye  
Environmental Specialist

JF/tv