



May. 11, 2026

Mr. Jonathan Emmer

Public Service Commission  
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Dept 408  
Bismarck, ND 58505-0480  
ndpsc@nd.gov  
(701) 328-2400

RECEIVED

MAY 18 2026

NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

Dear Mr. Emmer,

This is in response to your request for a review of the environmental impacts associated with the Falkirk Mining Company, Application for Revision No 42, Surface Coal Mining Permit NAFK-8705 for Falkirk Mine.

The proposed project has been reviewed by Department of Water Resources (DWR), and the following comments are provided:

- Ponds P-W31-04 and P-W30-06 have storage capacities greater than 50 acre-feet. Under North Dakota Century Code §61-16.1-38, any new construction of or construction modifications to dams, ponds, or other devices, which are capable of retaining, obstructing, or diverting more than 50 acre-feet at the top of dam, or 25 acre-feet with a high or medium hazard potential, may require a construction permit. Please contact the DWR Regulatory Division at (701) 328-4956 if you have any questions.
- There are no FEMA National Flood Insurance Program (NFIP) floodplains identified or mapped where the proposed project is to take place. No permit relative to the NFIP are likely required based on the current effective Flood Insurance Rate Map and State minimum standards. However, flood risk has been identified through the North Dakota Risk Assessment Mapservice and Base Level Engineering (BLE) (ndram.dwr.nd.gov). In the absence of FEMA NFIP data, BLE is often considered best available data and is recommended to be considered in the design process. The State of North Dakota has no formal NFIP permitting authority as all NFIP permitting decisions are considered by impacted NFIP participating communities, the community with zoning authority for the area

in question. Please work directly with the local floodplain administrators of the zoning authorities impacted. Tyler Spomer, NFIP Coordinator, (701) 328-2452, [tlspomer@nd.gov](mailto:tlspomer@nd.gov).

- The DWR Regulatory Division's Engineering and Permitting Section reviewed the project revision updates and determined no drainage permits, or construction permits for dikes, diversions, or restorations are likely required so long as no watercourses, as defined under N.D.C.C. § 61-01-06, are modified (i.e., deepened, widened, rerouted, etc.). For more information, please visit the Regulation & Appropriation tab on the DWR website ([dwr.nd.gov](http://dwr.nd.gov)) or contact the Regulatory Division at (701) 328-2750 or [dwrregpermits@nd.gov](mailto:dwrregpermits@nd.gov).
- If surface water or groundwater will be diverted for construction or operation of the project, or water will be used for purposes other than sedimentation control, a water permit is required per North Dakota Century Code § 61-04-02.

Thank you for the opportunity to provide review comments. Should you have further questions, please contact me at (701) 328-4970 or [kyrkoski@nd.gov](mailto:kyrkoski@nd.gov).

Sincerely,

A handwritten signature in cursive script, appearing to read "Kyle Yrkoski".

Kyle Yrkoski  
Planner III

KY:mg/1570