



Public Service Commission

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The Reclamation Division has conducted a technical review of the application for Revision 39 and corresponding Renewal 6 to Surface Coal Mining Permit NAFK-9503 at the Falkirk Mine. The following items must be adequately addressed before the revision and renewal applications can be approved:

Section 1.3.6 – Relationship to Areas Designated Unsuitable

1. Item No. 40 at the bottom of page 4 of Section 1.3.6 (Relationship to Areas Designated Unsuitable) states there will be no mining activities within 500 feet of the buildings associated with the R. Peterson farmstead in the SW $\frac{1}{4}$ of Section 12, T144N, R84W. Please clarify if the occupied dwelling built in 2016 is exempt from the prohibition of coal mining within 500 feet of an occupied dwelling (NDCC 38-14.1-07(5)) because of valid existing rights or if Falkirk requested a valid existing rights determination of the farmstead. (GAW)

Section 3.0 – Operations Plans

2. It appears that an additional “2026 (101)” pit label has been added in the NE $\frac{1}{4}$ of Section 12, T144N, R84W in Section 3.1.5 (Pit Layout and Facilities Map). Please review and revise accordingly. (BSM)
3. If the Peterson farmstead in the SW $\frac{1}{4}$ of Section 12, T144N, R84W is not exempt from the prohibition of coal mining within 500 feet of an occupied dwelling (NDCC 38-14.1-07(5)), please revise Section 3.1.5 (Pit Layout and Facilities Map), Section 3.5.2 (Transportation Facilities Map), and Section 3.6.1a (Total Water Management Map) as necessary to ensure the terrain modification boundary and all mining related features and facilities are at least 500 feet from the Peterson Farmstead in the SW $\frac{1}{4}$ of Section 12. (GAW)
4. Please depict the Peterson farmstead in the SW $\frac{1}{4}$ of Section 12, T144N, R84W in Section 3.1.5 (Pit Layout and Facilities Map) if it is not exempt from the prohibition of coal mining within 500 feet of an occupied dwelling, show a mining activities setback boundary at least 500 feet from the occupied dwelling. Section 3.2.2 (Existing Structures Map) depicts this farmstead, and narrative regarding this farmstead in Section 1.3.6 (Relationship to Areas Designated Unsuitable) states there will be no mining activities within 500 feet of the buildings in this farmstead. (GAW)

Section 3.5 – Transportation Facilities

5. Page 3 of Section 3.5.1 (Transportation Narrative) states that an at-grade crossing for coal haulage and dragline crossings will be located in the SE $\frac{1}{4}$ of Section 2, T144N, R84W. However, page 3 of Section 3.5.20 (Road Relocation and Closing Plan Narrative) states that the at-grade crossing will be located in the SW $\frac{1}{4}$ of Section 1 and the SE $\frac{1}{4}$ of Section 2, T144N, R84W. Furthermore, Section 3.5.2 (Transportation Facilities Map) appears to depict this at-grade crossing in the NW $\frac{1}{4}$ of Section 1, T144N, R84W. Please review and revise these discrepancies in Sections 3.5.1, 3.5.2, and 3.5.20 as necessary to provide an accurate and consistent location for the at-grade crossing. (AAC/MLJ)
6. Section 3.5.20 (Road Location and Closing Plan Narrative) and Section 3.5.21 (Road Relocation and Closing Plan Map) do not clearly outline how public access on County Road 17 will be maintained from 2026 to the opening of Phase 4, which is estimated for construction and completion between 2027 and 2029. Please review and revise Sections 3.5.20 and 3.5.21 as necessary to provide clarity on how public access will be maintained prior to the completion of Phase 4 relocation of County Road 17. (BSM)
7. It appears that Section 3.5.21 (Road Relocation and Closing Plan Map) has been revised but still depicts 09/11/25 as the most recent revision date. Please update the revision block table to reflect the current revision date for accurate tracking and documentation. (BSM)
8. Please review and verify that the schedules of Phase 3 and Phase 4 for the relocation of County Road 17 correspond with the pit layout years depicted in Section 3.5.21 (Road Relocation and Closing Plan Map). It appears that public access may be interrupted in 2026 due to the deletion of the previous relocation route (Phase 4) in the NW $\frac{1}{4}$ of Section 32 around the 2026 (101) mining area in the same quarter. (BSM)
9. Section 3.5.21 (Road Relocation and Closing Plan Map) depicts pits 2029 (101) and 2028 (101) located in Section 12, T144N, R84W within one hundred feet of the outside right-of-way for the Phase 3 relocation of County Road 17. Please review and revise the pit boundaries for these pits to ensure compliance with NDAC 69-05.2-04-01.1(3), or provide the necessary approval documentation from the McLean County Commission as required by special condition number 4 to Permit NAFK-9503. (BSM)
10. Please revise Section 3.5.21 (Road Relocation and Closing Plan Map) to remove the duplicate label of “AT-GRADE CROSSING” located along the north section line of Section 18, T145N, R82W. (BSM/PJR)

Section 4.0 – Reclamation Plans

11. For compliance with NDCC 38-14.1-07(5), please revise Section 4.1.2 (Post-Mining Land Use Map), Section 4.2.3 (Grading Sequence Map), Section 4.2.6b (Post-Mining Contour Map), and Section 4.2.7b (Post-Mining Area Slope Map) to ensure the terrain modification boundary is not within 500 feet of the Peterson farmstead in the SW $\frac{1}{4}$ of Section 12, T144N, R84W if it is not exempt from the prohibition of coal mining within 500 feet of an occupied dwelling. (GAW)

Mr. Jason Frye
December 16, 2025
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If you have any questions, please contact this office.

Sincerely,



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Director
Reclamation Division

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Falkirk Mine\Permits\NAFK - 9503\Revisions\Rev39_Ren6\Rev39_Tech1_rvw_ltr_12-16-25