

FALKIRK MINE

January 9, 2026

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

RE: Revision 39, Renewal #6, Technical Review Responses to Permit NAFK-9503

Dear Mr. Emmer:

Falkirk submits the following responses to the technical review items noted in your December 16, 2025 letter to existing Permit NAFK-9503.

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 SW¼ 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)***

Please see the updated Relationship to Areas Designated Unsuitable in Section 1.3.6. Falkirk believes they are exempt from the prohibition of coal mining within 500 feet of an occupied dwelling, because of valid existing rights. At this time, Falkirk does not have any plans to conduct mining related activities within 500 feet of the occupied buildings at the Peterson Farmstead.

Section 3.0 – Operations Plans

- 2. It appears that an additional “2026 (101)” pit label has been added in the NE¼ of Section 12, T144N, R84W in Section 3.1.5 (Pit Layout and Facilities Map). Please review and revise accordingly. (BSM)***

Please see the updated Pit Layout and Facilities Map in Section 3.1.5. The pit label was changed to 2027.

- 3. If the Peterson farmstead in the SW¼ 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)

The terrain modification boundary and all mining related features are at least 500 feet from the Peterson Farmstead in the SW $\frac{1}{4}$ of Section 12. A 500-foot offset boundary was added around the Peterson Farmstead on the Pit Layout and Facilities Map in Section 3.1.5. Falkirk believes they are exempt from the prohibition of coal mining within 500 feet of an occupied dwelling, because of valid existing rights. At this time, Falkirk does not have any plans to conduct mining related activities within 500 feet of the occupied buildings at Peterson Farmstead.

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)***

Please see the updated Pit Layout and Facilities Map in Section 3.1.5 and the Existing Structures Map in Section 3.2.2. The farmstead location and 500' setback was added in Section 3.1.5 and the farmstead and 500' setback was updated in Section 3.2.2. Falkirk believes they are exempt from the prohibition of coal mining within 500 feet of an occupied dwelling, because of valid existing rights. At this time, Falkirk does not have any plans to conduct mining related activities within 500 feet of the occupied buildings at Peterson Farmstead.

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)***

The crossing is located in a government correction plat section therefore the quarters are not divided equally. Stated quarters and section are correct. Please see the updated location of crossing in Section 3.5.1 (Transportation Narrative). Clarified section numbers with phone conversation Monty Johnson.

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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)**

Please see the updated Road Location and Closing Plan Narrative in Section 3.5.20 and the Road Relocation and Closing Plan Map in Section 3.5.21.

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)**

Please see the updated revision block on the Road Relocation and Closing Plan Map in Section 3.5.21.

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)**

Please see the updated Road Location and Closing Plan Narrative in Section 3.5.20 and the Road Relocation and Closing Plan Map in Section 3.5.21.

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)**

Per email from Brandon Myran on 12-19-25, mining will not be removed within 100 feet of the outside right-of-way in Section 12, T144N, R84W on the Road Relocation and Closing Plan Map in Section 3.5.21 or any other maps depicting pit boundaries. Falkirk will obtain the necessary approvals from McLean County before mining can be within one hundred feet of the outside right-of-way and/or proceed through roads in section 12. Pit boundaries were not removed within the 100 feet of the outside right-of-way of the proposed phase 4 (previously phase 3) on the Road Relocation and Closing Plan Map. The approximate proposed relocated road boundary was adjusted in the SW $\frac{1}{4}$ of Section 12, so the mining blocks don't overlap the road. Falkirk does not have plans to mine

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through the proposed phase 4 of relocated County Road 17 and will get the necessary approvals from McLean County before mining can be within one hundred feet of the outside right-of-way. If phase 4 is not approved, then Falkirk will mine up to the approximate pit boundary that is shown on the Road Relocation and Closing Plan Map.

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)

Please see the updated Road Relocation and Closing Plan Map in Section 3.5.21.

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 ¼ of Section 12, T144N, R84W if it is not exempt from the prohibition of coal mining within 500 feet of an occupied dwelling. (GAW)

The terrain modification boundary is not within the 500 feet of the Peterson Farmstead in the SW ¼ of Section 12. Please see the updated Pit Layout and Facilities Map in Section 3.1.5 for the location of the farmstead and the 500-foot setback. Maps 4.1.2, 4.2.3, 4.2.6b, 4.2.7b were not updated.

Additional Updates:

1. Please see the updated Blasting Map in Section 3.3.2. The farmstead, 500-foot setback and blasting distance was updated for Peterson Farmstead in the SW ¼ of Section 12.

Sincerely,
THE FALKIRK MINING COMPANY



Jason Frye
Environmental Specialist

JF/tv

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