



United States Department of the Interior
OFFICE OF SURFACE MINING
RECLAMATION AND ENFORCEMENT

Regions 5, 7-11
1 Denver Federal Center, Bldg #41
Lakewood, CO 80225



January 14, 2026

Mr. Jonathan Emmer
Director, Reclamation Division
600 East Boulevard, Dept 408
Bismarck, ND 58505-0480

Re: The Office of Surface Mining Reclamation and Enforcement's Mining Plan Modification Determination for Falkirk Mining Company, Falkirk Mine Permit NAFK-9503, Rev. 39, Renewal 6.

Mr. Emmer,

The Office of Surface Mining Reclamation and Enforcement (OSM) determines that Falkirk Mining Company's Falkirk Mine *does not* constitute a mining plan modification requiring approval from the Assistant Secretary for Land and Minerals Management (ASLM).

Proposed Action

Falkirk Mining Company has filed an application for Revision No. 39 and Renewal 6 to Surface Coal Mining Permit NAFK-9503 for the Falkirk Mine. Revision No. 6 updates various sections of the permit for the next five-year permit term, including the introductory, legal, compliance, surface and coal interest and ownership, ground water hydrology, fish and wildlife resources, surface water information and monitoring plan, operation plans, blasting plans, extended mining plans, transportation facilities and surface water management information in the permit.

Permit NAFK-9503 contains tracts of unleased federal coal which consist of privately owned surface. Associated disturbance is planned for portions of these tracts to accommodate mining of privately owned coal in adjacent areas, however no mining is proposed on the federal coal tracts. Prior revisions to Permit NAFK-9503 approved these associated disturbance areas; however, Revision 39 proposed the addition of an SPGM storage area above the federal coal tract in the NE ¼ of Section 12, T144N, R84W.

Determination Criteria and Decision

Based on OSM's review of the materials submitted by Falkirk Mining Company and PSC, OSM determines that the proposed NAFK-9503 *does not* constitute a mining plan modification requiring approval by the ASLM. The OSM has considered the criteria described in the Federal regulations at 30 CFR 746.18(d)(1) through (d)(6) defining when a

permit revision constitutes a mining plan modification:

1. Any change in the mining plan which would affect the conditions of its approval pursuant to Federal law or regulation other than SMCRA.

Permit NAFK-9503 at the Falkirk Mine, Rev. 39, Renewal 6 does not change the mining plan that would affect the conditions of its approval pursuant to Federal law or regulation other than SMCRA.

2. Any change which would adversely affect the level of protection afforded any land, facility or place designated unsuitable for mining.

Permit NAFK-9503 at the Falkirk Mine, Rev. 39 Renewal 6 does not include any land, facility, or place designated unsuitable for mining.

3. Any change in the location or amount of coal to be mined, except where such change is the result of: (i) A minor change in the amount of coal actually available for mining from the amount estimated; or (ii) An incidental boundary change¹.

Permit NAFK-9503 at the Falkirk Mine, Rev. 39, Renewal 6, does not propose any Federal coal to be mined.

4. Any change which would extend coal mining and reclamation operations onto leased Federal coal lands for the first time.

Permit NAFK-9503 at the Falkirk Mine, Rev. 39, Renewal 6, would not extend coal mining and reclamation operations onto leased Federal coal lands for the first time.

5. Any change which requires the preparation of an environmental impact statement under the National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq.

Permit NAFK-9503 at the Falkirk Mine, Rev. 39, Renewal 6, is not a major action² normally requiring the preparation of an Environmental Impact Statement.

6. Any change in the mining operations and reclamation plan that would result in a change in the postmining land use where the surface is federally-owned.

Permit NAFK-9503 at the Falkirk Mine, Rev. 39, Renewal 6, does not propose any change in the post-mining land use.

Consultation

The Federal Regulation at 30 CFR 740.13(d)(2) requires that the OSM “shall review each permit revision in consultation with the Bureau of Land Management and the appropriate Federal land management agency to determine whether the permit revision constitutes a mining plan modification requiring the Secretary’s approval under § 746.18 of this chapter.”

The Federal Regulation at 30 CFR 740.13(d)(3) requires that the “regulatory authority shall consult with the Federal land management agency to determine whether any permit revision will adversely affect Federal resources other than coal and whether the revision is consistent with that agency's land use plans for other Federal laws, regulations, and executive orders for which it is responsible.”

On January 7, 2026, OSM consulted with BLM about the proposed action. On January 8, 2026,

BLM responded via email that they concur with OSM's determination that Falkirk Revision 39, Renewal 6 does not constitute a mining plan modification requiring approval by the ASLM.

Please contact Federal Lands Coordinator Erica Trent at etrent@osmre.gov for any questions.

Sincerely,

Erica Trent
Natural Resource Specialist

¹ OSM Directive REG-19 establishes the agency-wide policy for determining when an extension of the area covered by a Federal permit constitutes an incidental boundary revision.

² Major actions requiring the preparation of an EIS are described in the DOI Department Manual, Managing the NEPA Process – Office of Surface Mining (516 DM 13).