

**PUBLIC SERVICE COMMISSION**  
**Reclamation Division**  
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**MEMORANDUM**

**TO:** Commissioners Christmann, Haugen-Hoffart, and Kringstad  
Brian Johnson, Executive Director  
Chris Martens, General Counsel

**FROM:** <sup>JE</sup> Jonathan Emmer, <sup>mtj</sup> Monty Johnson, <sup>BC</sup> Preston Ripplinger

**DATE:** March 24, 2026

**SUBJECT:** Application for Revision No. 39 to Permit No. NAFK-9503 held by the Falkirk Mining Company, Case No. RC-25-254

On September 18, 2025, the Falkirk Mining Company (Falkirk) filed the application for Revision No. 39 to Surface Coal Mining Permit NAFK-9503. Revision No. 39 identifies the next five-year coal removal areas and addresses items that were identified as requiring updating or modification by the Reclamation Division during a pre-renewal review of the permit. The revision also updates 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 for the next permit term. The Reclamation Division has completed its review of this revision application and respectfully recommends that it be approved.

Falkirk applied for Revision No. 39 and corresponding Renewal No. 6 to this permit since mining and reclamation operations will continue in the existing permit area for many years. The surface and coal ownership information for the permit and adjacent area, and related lease information was updated as necessary. The Pit Layout and Facilities Map was revised to show coal removal subareas through the next permit term, and the coal production schedule was updated accordingly.

Revision No. 39 was deemed a significant revision application and was subject to the public notice requirements. Falkirk submitted affidavits of publication of the required newspaper notices that were published for four consecutive weeks in the McLean County Independent and the Bismarck Tribune. We notified the appropriate agencies, affected landowners, and the advisory committee members. No technical deficiency comments from advisory committee members were received. Two written objections were received regarding the renewal and/or revision applications. On December 15, 2025, an anonymous landowner/farmer complaint was received alleging regulatory violations and environmental deficiencies; however, an informal conference was not scheduled due to the lack of required identifying information and evidence of noncompliance. A second objection was filed by landowner Jason Sauer on January 15, 2026, but Mr. Sauer withdrew the objection on January 31, 2026, after reaching an agreement with Falkirk, resulting in the cancellation of the scheduled February 11, 2026, informal conference. No other comments or objections to this renewal application were received.

Special Condition No. 1 is being added to Permit NAFK-9503 which states that The Falkirk Mining Company shall have a USFWS permitted surveyor evaluate the native grassland in Sections 1, 2 and 12 of T145N, R84W and Section 36, T146N, R84W to determine if suitable Dakota Skipper habitat is present and if occupancy surveys are warranted prior to surface disturbance. Special Condition No. 1 is warranted based upon comments received from the USFWS on November 24, 2025.

Approval of Revision No. 39 to Permit No. NAFK-9503, Case No. RC-25-254

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No monetary bond adjustment is necessary due to this revision; however, the consolidated worst-case reclamation bond for the Falkirk Mine is currently under review with pending Revision No. 42 to Permit NAFK-8705. Pursuant to NDAC 69-05.2-12-07, the Reclamation Division has determined that the total amount of existing bonds, \$114,823,633.00, which covers the consolidated bond area including Permits NAFK-8705, NAFK-8405, and NAFK-9503 at the Falkirk Mine, is sufficient for the proposed operations in Permit NAFK-9503 and for continuing operations within the other permit areas.

Attached for your consideration at the April 1<sup>st</sup> Commission meeting are the proposed motion, revision approval form, and newspaper notice that we must publish following revision approval.

Attachments

Falkirk Mine\Permits\NAFK - 9503\Revisions\Rev39\_Ren6\Rev39\_apprvl\_memo\_3-24-26