



# Public Service Commission

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Sheri Haugen-Hoffart

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*sent via email and regular mail*

June 3, 2026

Mr. Luke Toso  
Ecological Services Supervisor  
U.S. Fish and Wildlife Service  
3425 Miriam Avenue  
Bismarck, ND 58501-7926  
Luke\_toso@fws.gov

Dear Mr. Toso:

The Reclamation Division is reviewing Falkirk Mining Company's Revision Application No. 40 to Surface Coal Mining Permit NAFK-9503 at the Falkirk Mine. Revision No. 40 adds plans to the permit for mining the federal coal located in the NW¼ of Section 12, T144N, R84W. The revision also includes updates to the permit for the introductory, legal, surface and coal interest ownership, geology, operations plans, transportation facilities, and reclamation plans.

Prior to approval of this significant permit revision, the Reclamation Division must make written findings regarding the impacts of mine plan changes to threatened, endangered, and proposed species and designated and proposed critical habitats. The USFWS Information for Planning and Consultation (IPaC) website indicates that eight listed or proposed species have the potential to exist in Permit NAFK-9503. No designated or proposed critical habitat is within or immediately adjacent to the permit. The listed species include the Northern Long-eared bat, Whooping Crane, Piping Plover, Rufa Red Knot, and Dakota Skipper. The proposed species are the Monarch Butterfly, Western Regal Fritillary, and Suckley's Cuckoo Bumble Bee.

Please review the attached findings and provide us your comments and/or concurrence that the proposed operations will not jeopardize the continued existence of listed species or destroy or adversely modify designated critical habitats. A USB flash drive containing Revision 40 is not enclosed with this request but can be sent to you upon request. Please provide your comments by **June 17, 2026**.

It is worth noting that the attached findings were most recently updated on April 1, 2026, with the approval of Revision 39 and Renewal 6 to Permit NAFK-9503. Your office responded to our draft findings for Revision 39 and Renewal 6 in a letter dated November 24, 2025.

If you have any questions, please contact this office.

Sincerely,

Jonathan Emmer

Digitally signed by Jonathan Emmer  
DN: c=US, E=jemmer@nd.gov,  
O=North Dakota Public Service  
Commission, CN=Jonathan Emmer  
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Jonathan Emmer  
Director  
Reclamation Division

Enclosure

cc via email only: Jerry Reinisch (jerry\_reinisch@fws.gov)

Falkirk Mine\Permits\NAFK - 9503\Revisions\No. 40\Rev40\_USFWS\_concurrence\_rqst\_ltr\_6-3-26