



Public Service Commission

Sheri Haugen-Hoffart

Randy Christmann

Jill Kringstad

600 East Boulevard Ave
Dept. 408
Bismarck, ND 58505-0480
701-328-2400
ndpsc@nd.gov

sent via email only

October 7, 2026

Mr. Tanner Jochim
Environmental Specialist
Falkirk Mining Company
P.O. Box 1087
Underwood, ND 58576-1087
tannert.jochim@nacoal.com

Dear Mr. Jochim:

The Reclamation Division has completed an initial review of the application for Bond Release 5 to Surface Coal Mining Permit NAFK-8405, submitted on September 15, 2026. The following items must be adequately addressed prior to publishing the public advertisement or mailing the landowner and agency notification letters. An inspection of the property as required by NDCC 38-14.1-17 has been scheduled for November 4, 2026, to avoid weather delays.

Attachment ii – General Information

1. Please review and update the acreage totals for Subtract 5C-1 in the General Information narrative in Attachment ii (General Information). Currently, the 10.1 acres of recreation and 0.6 acres of road add up to 10.7 acres, but Attachment i (Application Form) has Subtract 5C-1 only containing 10.6 acres. (WWS, BSM)
2. Please revise the General Information narrative in Attachment ii (General Information) to provide more information regarding the request, and subsequent approval, of the variance in Subtract 5D-1, including when the initial request was submitted and revised. Please include a description of the information provided in the request and subsequent requirements of the bond release application now that a variance has been granted. (WWS)
3. On page 8 in Attachment ii (General Information), the last paragraph states, "The current owners Heith and Jaime Ponchant have requested DWR-E22-01 to be removed from the post mine pine." Please revise this typo. (AAC)
4. Throughout the General Information narrative under Attachment ii (General Information), Falkirk uses future-tense language for work that is complete. Please review this section and revise the writing to present or past tense. (WWS, AAC)
5. Please revise the Surface Ownership Map in Attachment ii (General Information) to include surface ownership information for the SW¼ of Section 22. (GAW)

Attachment III – Public Notice

6. Subtract 5D-2 is obscured by the permit boundary line on the Newspaper Publication Map in Attachment III (Public Notice). Please update the Newspaper Publication Map so Subtract 5D-2 is visible on the map. Also, please update the maps included in Attachment IV (Letter to Interested Parties). (JAR)

Attachment IV – Letters to Interested Parties

7. Please address the letter to the ND Geological Survey to State Geologist Clint Boyd rather than Ed Murphy. (GAW, WWS, PJR, BSM)
8. Please address the letter to the ND Department of Water Resources to Director Reice Haase not Andrea Travnicek. Furthermore, please update the address of the DWR to their current address of 1200 Memorial Hwy, Dept 770, Bismarck, ND 58504. (BSM, GAW, WWS, PJR)
9. Please address the letter to the ND Department of Environmental Quality to Director Jennifer Turnbow, not Beth Jacobson. (WWS, JAR, BSM)
10. The letter to Ms. Paula Comeau lists NDSU Dept. 4050 whereas the Reclamation Division has NDSU Dept. 7390 on file as the most up-to-date information. Please review and confirm the correct department. (BSM, WWS)

Attachment VII – Reclamation History

11. Please rewrite the Reclaimed Shelterbelt Planting narrative in Attachment VII (Reclamation History) to a present-tense format. Currently, the plantings are described in a future tense. (WWS)
12. The Reclamation Division has concerns regarding the accuracy of the reclamation history of Subtracts 5C-1, 5D-1, and 5D-2 in Attachment VII (Reclamation History). Aerial imagery indicates that these lands were grazed in some capacity. Please review the management history and update the attachment as needed. (WWS)

Attachment VIII – Bond Calculation

13. The narrative in Attachment VIII (Bond Calculation) states the consolidated bond is currently under PSC review. The bond has been approved for \$130,000,000; therefore, this section can be updated to reflect the new current bond amount of \$130,000,000. (BSM)

Attachment IX – Production Data

14. The native grassland unadjusted productivity standard, Subtract 5A - Step 2 - page 111 of Attachment IX (Production Data), is calculated using the pre-mine soils of the bond release tract (46.4 acres) – see soil map on page 147. However, the acreage in this tract was used to develop a Falkirk and Chad Berger combined cropland standard in Bond Release No. 4 to NAFK-8405. The BR5 native grassland unadjusted productivity standard should be developed using the same methodology used in BR4. In other words, the unadjusted standard table on page 2 of Section 4.1.6a in Permit NAFK-8405 should be used to establish the unadjusted standard for the native grassland in BR5, or Falkirk needs to demonstrate that the pre-mine soils of the bond

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release tract have a higher unadjusted native grassland yield standard than the 586.3 acres used to demonstrate revegetation success in BR4. (GAW)

15. Please review and update the sum of percentages on the Subtract 5A Warm Season Native Grass Species table on page 142 in Attachment IX (Production Data). The sum should be calculated to 67.4%, but is it currently listed at 67.5%. (AAC)

Attachment XII – Hydrologic Assessment

16. Please revise the Post-Mining Hydrologic Assessment (PHA) to include the N½ of Section 22. The current PHA evaluates only the S½ of Section 22. The revised PHA must evaluate the N½ of Section 22 and address the applicable hydrologic protection requirements and performance standards pursuant to NDCC 38-14.1-24, NDAC 69-05.2-14, and NDAC 69-05.2-16, as applicable. Please provide an updated PHA that incorporates the N½ of Section 22 and demonstrates that the applicable hydrologic protection requirements have been adequately evaluated. (PJR)

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
Date: 2026.10.07 13:16:48-0500'

Jonathan Emmer
Director
Reclamation Division

cc via email only: Steve Burke (steve.burke@nacoal.com)
Jason Frye (jason.frye@nacoal.com)
Tara Voigt (tara.voigt@nacoal.com)

Falkirk Mine\Permits\NAFK - 8405\Bond Release\Bond Release 5\BR5_Initial_rvw_ltr_10-7-26