NORTH Dakota | Environmental Quality
Be Legendary.™

RECEIVED
OCT 28 2026
NORTH DAKOTA
PUBLIC SERVICE COMMISSION

October 20, 2026

Randy Christmann, Chair
Public Service Commission
600 East Boulevard Ave.
Bismarck, ND 58505

Re: Falkirk Mine Revision 42 NAFK 8705 Surface Coal Mine in McLean County

Dear Mr. Christmann:

The North Dakota Department of Environmental Quality (Department) has reviewed the information concerning the above-referenced project received at the Department on September 24, 2026, with respect to possible environmental impacts.

1. Care is to be taken during construction activity near any water of the state to minimize adverse effects on a waterbody. This includes minimal disturbance of stream beds and banks to prevent excess siltation, and the replacement and revegetation of any disturbed area as soon as possible after work has been completed. Caution must also be taken to prevent spills of oil and grease that may reach the receiving water from equipment maintenance and/or the handling of fuels on the site. Guidelines for minimizing degradation to waterways during construction are attached.

2. The construction project overlies un undefined aquifer. Care should be taken to avoid spills of any materials that may have an adverse effect on groundwater quality. Any spill or discharge of waste which causes or is likely to cause pollution of waters of the state must be reported immediately. The owner, operator, or person responsible for a spill or discharge must notify the Department as soon as possible by calling 1-833-99SPILL (1-833-997-7455) or on the website www.spill.nd.gov and provide all relevant information about the spill. The owner or operator is required to: (1) take immediate remedial measures appropriate for the severity of the spill; (2) determine the extent of pollution to waters of the state; (3) provide alternate water sources to water users impacted by the spill or accidental discharge; (4) provide on request any documents, reports, or other information relevant to the spill or discharge; and (5) any other actions necessary to comply with North Dakota Administrative Code 33.1-16-02.1-11.

The Department owns no land in or adjacent to the proposed improvements, nor does it have any projects scheduled in the area. In addition, we believe the proposed activities are consistent with the State Implementation Plan for the Control of Air Pollution for the State of North Dakota.

If you have any questions regarding our comments, please feel free to contact this office.

Sincerely,

Karl Rockeman, P.E., Deputy Director
North Dakota Department of Environmental Quality

KR:ll
Attach.

46 RC-25-184 Filed 10/28/2026 Pages: 2
Revision 42 Approval Notice Response
North Dakota Department of Environmental Quality (DEQ)
Karl Rockeman

Construction and Environmental Disturbance Requirements

The following are the minimum requirements of the North Dakota Department of Environmental Quality (Department) for projects that involve construction and environmental disturbance in or near waters of the State of North Dakota. They ensure that minimal environmental degradation occurs as a result of construction or related work which has the potential to affect waters of the state. All projects must be constructed to minimize the loss of soil, vegetative cover, and pollutants (chemical or biological) from a site.

Soils

Prevent the erosion and sediment loss using erosion and sediment controls. Fragile and sensitive areas such as wetlands, riparian zones, delicate flora, and land resources must be prohibited against compaction, vegetation loss and unnecessary damage.

Surface Waters

All construction must be managed to minimize impacts to aquatic systems. Follow safe storage and handling procedures to prevent the contamination of water from fuel spills, lubricants, and chemicals. Stream bank and stream bed disturbances must be contained to minimize silt movement, nutrient upsurges, plant dislocations, and any physical chemicals, or biological disruption. The use of pesticides or herbicides in or near surface waters is allowed under the Department's pesticide application permit with notification to the Department.

Fill Material

Any fill material placed below the ordinary high-water mark must be free of topsoil, decomposable materials, and persistent synthetic organic compounds, including, but not limited to, asphalt, tires, treated lumber, and construction debris. The Department may require testing of fill material. All temporary fills must be removed. Debris and solid waste must be properly disposed or recycled. Impacted areas must be restored to near original condition.