

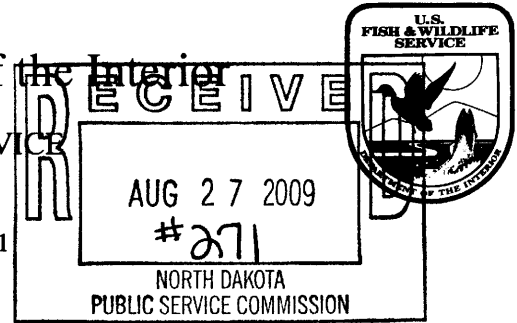


# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

Ecological Services  
3425 Miriam Avenue  
Bismarck, North Dakota 58501

AUG 26 2009



William E. Dodd, Assistant Director  
Abandoned Mine Lands Division  
Public Service Commission  
600 E. Boulevard Ave. Dept 408  
Bismarck, ND 58505-0480

Dear Mr. Dodd:

We are in receipt of your letter dated August 7, 2009, concerning reclamation activities on the Columbus Abandoned Mine Lands (AML) Site and a regional sinkhole filling project. The proposed projects would take place in Burke, Divide, Stark, Dunn, Burleigh and Mercer Counties in North Dakota.

We offer the following comments under the authority of and in accordance with the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.) (MBTA), the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d, 54 Stat. 250) (BGEPA), the Endangered Species Act (16 U.S.C. 1531 et seq.) (ESA), and the National Wildlife Refuge System Improvement Act of 1997 (Public Law 105-57).

### **Threatened and Endangered Species**

A list of federally endangered and threatened species that may be present within the proposed project's area of influence is enclosed. This list fulfills requirements of the Fish and Wildlife Service (Service) under Section 7 of the Endangered Species Act. This list remains valid for 90 days.

While the Public Service Commission should perform their own determination of the potential impacts of the proposed projects on federally listed species, from the information provided, the Service is not aware of federally listed species in the project areas.

### **High Value Habitat Avoidance**

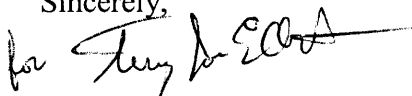
As part of the National Wildlife Refuge System, the Service administers fee title Refuge and Waterfowl Production Areas, as well as wetland and grassland easements, throughout North Dakota. A review of our county plat maps indicates there are no Service property interests located in the proposed work area.

Construction activities should be conducted in a manner that will avoid/minimize impacts to the existing habitat in the project area. The following recommendations are intended to reduce construction related impacts:

- Schedule construction for late summer or fall/early winter so as not to disrupt waterfowl or other wildlife during the breeding season (February 1 to July 15). If work is proposed to take place during the breeding season or at any other time which may result in the take of migratory birds or active nests, the Service recommends that the project proponent arrange to have a qualified biologist conduct a field survey of the affected habitats to determine the presence of nesting migratory birds. If nesting migratory birds are found, we request you contact this office, suspend construction, or take other measures, such as maintaining adequate buffers to protect the birds until the young have fledged. The Service further recommends that field surveys for nesting birds, along with information regarding the qualification of the biologist(s) performing the surveys, and any avoidance measures implemented at the project site, be thoroughly documented and that such documentation be shared with the Service and maintained on file by the project proponent at least until such time as construction on the proposed project has been completed.
- Make no stream channel alterations or changes in drainage patterns.
- Locate construction to avoid placement of fill in wetlands.
- Replace unavoidable loss of wetland habitat by restoring functionally-equivalent wetland habitat.
- Install and maintain appropriate erosion control measures to reduce sedimentation and water quality degradation of wetlands and streams near the project area.
- Reseed disturbed upland areas with native plant species immediately after construction to reduce erosion. The Service suggests that the Public Service Commission consider planting a diverse mix of native species to reclaim any grassland areas. Recent research indicates that a diverse native species mix, including numerous forb species, is not only ecologically beneficial, but is also more weed resistant. A diverse planting of native grasses and forbs allows for less intensive management and chemical use. The more species included in a mixture, the higher the probability of providing competition to resist invasion by non-native plants.

Thank you for the opportunity to comment on this project. If you require further information or the project plans change, please contact Heidi Kuska of my staff at (701) 250-4481, or at the letterhead address above.

Sincerely,



Jeffrey K. Towner  
Field Supervisor  
North Dakota Field Office

Enclosure

FEDERAL THREATENED, ENDANGERED, AND CANDIDATE SPECIES  
AND DESIGNATED CRITICAL HABITAT FOUND IN  
BURKE, DIVIDE, STARK, DUNN, BURLEIGH & MERCER COUNTIES, NORTH DAKOTA

**ENDANGERED SPECIES**

Birds

Interior least tern (*Sterna antillarum*): Nests along midstream sandbars of the Missouri and Yellowstone Rivers.

Whooping crane (*Grus Americana*): Migrates through North Dakota counties during spring and fall. Prefers to roost on wetlands and stockdams with good visibility. Current flock size of the Aransas - Wood Buffalo migratory population is estimated to be 266 birds.

Fish

Pallid sturgeon (*Scaphirhynchus albus*): Known only from the Missouri and Yellowstone Rivers. No reproduction has been documented in 15 years.

Mammals

Black-footed ferret (*Mustela nigripes*): Exclusively associated with prairie dog towns. No records of occurrence in recent years, although there is potential for reintroduction in the future.

Gray wolf (*Canis lupus*): Occasional visitor in North Dakota. Most frequently observed in the Turtle Mountains area.

**THREATENED SPECIES**

Birds

Piping plover (*Charadrius melodus*): Nests on midstream sandbars of the Missouri and Yellowstone Rivers and along shorelines of saline wetlands. More nest in North Dakota than any other state.

## **CANDIDATE SPECIES**

### Invertebrates

Dakota skipper (Hesperia dacotae): Found in native prairie containing a high diversity of wildflowers and grasses. Habitat includes two prairie types: 1) low (wet) prairie dominated by bluestem grasses, wood lily, harebell, and smooth camas; 2) upland (dry) prairie on ridges and hillsides dominated by bluestem grasses, needlegrass, pale purple and upright coneflowers and blanketflower.

## **DESIGNATED CRITICAL HABITAT**

### Birds

Piping Plover - Alkali Lakes and Wetlands - Critical habitat includes: (1) shallow, seasonally to permanently flooded, mixosaline to hypersaline wetlands with sandy to gravelly, sparsely vegetated beaches, salt-encrusted mud flats, and/or gravelly salt flats; (2) springs and fens along edges of alkali lakes and wetlands; and (3) adjacent uplands 200 feet (61 meters) above the high water mark of the alkali lake or wetland.

Piping Plover - Missouri River - Critical habitat includes sparsely vegetated channel sandbars, sand and gravel beaches on islands, temporary pools on sandbars and islands, and the interface with the river.

Piping Plover - Lake Sakakawea and Oahe - Critical habitat includes sparsely vegetated shoreline beaches, peninsulas, islands composed of sand, gravel, or shale, and their interface with the water bodies.