

Jack Dalrymple, Governor
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March 3, 2011

Tony Clark
Public Service Commission
State Capitol
Bismarck, ND 58505-0480

FROM DIRECTOR - RECLAMATION DIV.

Date: _____

Action: _____

Info. Only: _____

Info & File: _____

RE: Falkirk Mining Company Renewal and Revision Permit No. NAFK-8405

Dear Mr. Clark:

North Dakota Parks and Recreation Department (the Department) has reviewed the above referenced proposal from the Falkirk Mining Company to revise and renew Surface Coal Mining Permit covering lands in Sections 3, T145N, R82W, Sections 6,7, and 18, T146N, R81W; and Section 1,2,8-16, 21-24,26, 27, 34 and 35, T146N, R82W, McLean County.

Our agency scope of authority and expertise covers recreation and biological resources (in particular rare plants and ecological communities). The project as defined does affect state park lands that we manage. For you information there are a couple Land and Water Conservation Fund (LWCF) sites near the project area: Underwood Playground (#38-00299) and Underwood Comfort station (#38-00299). The LWCF park areas all received assistance from the federal Land and Water Conservation Fund and are under protection of section 6(f) of the LWCF Act. Any property taken from within the 6f boundary of these sites must be replaced with property of equal market value. Should any public or private utilities need to be added or relocated on the LWCF recreational lands, the NDPRD must be consulted prior to any action taken. Please contact Jessica Riepl (701-328-5364 or jriep1@nd.gov) if additional LWCF information is needed.


The North Dakota Natural Heritage biological conservation database has reviewed the project to determine if any current or historical plant or animal species of concern or other significant ecological communities are known to occur within and within an approximate one-mile radius of the project area. Based on this review, we have records for an occurrence of *Charadrius melodus* (piping plover) in section within project area indicating that the habitat in the project area may be suited for this species or other rare, threatened, sensitive or endangered species. Avoid noise and disturbance during the nesting season. Seasonally restrict work that might disturb piping plovers during the nesting season. Please see the attached spreadsheet and map for more information on these occurrences. We defer further comments regarding animal species to the North Dakota Game and Fish Department and the United States Fish and Wildlife Service.

Because this information is not based on a comprehensive inventory, there may be species of concern or otherwise significant ecological communities in the area that are not represented in the database. The lack of data for any project area cannot be construed to mean that no significant features are present. The absence of data may indicate that the project area has not been surveyed, rather than confirm that the area lacks natural heritage resources.

The Department recommends that the project be accomplished with minimal impacts and that all efforts be made to ensure that critical habitats not be disturbed in the project area to help secure rare species conservation in North Dakota. Regarding any reclamation efforts, we recommend that any impacted areas be revegetated with species native to the project area.

We appreciate your commitment to rare plant, animal and ecological community conservation, management and inter-agency cooperation to date. For additional information please contact Kathy Duttonhefner (701-328-5370 or kgduttonhefner@nd.gov) of our staff. Thank you for the opportunity to comment on this proposed project.

Sincerely,


Jesse Hanson, Coordinator
Planning and Natural Resources Division
R.USNDNHI*2011-49 KD3/2/11DL3.28.11

.....
Play in our backyard!

North Dakota Natural Heritage Inventory
Rare Animal and Plant Species and Significant Ecological Communities

State Scientific Name	State Common Name	State Rank	Global Rank	Federal Status	Township Range Section	County	Last Observation	Estimated Representation Accuracy	Precision
Charadrius melodus	Piping Plover	S1S2	G3	LE, LT	146N082W - 23; 146N082W - 25; 146N082W - 26; 146N082W - 24	McLean	6/4/1996	Medium	S

North Dakota Natural Heritage Inventory Biological and Conservation Data Disclaimer

The quantity and quality of data collected by the North Dakota Natural Heritage Inventory are dependent on the research and observations of many individuals and organizations. In most cases, this information is not the result of comprehensive or site-specific field surveys; many natural areas in North Dakota have never been thoroughly surveyed, and new species are still being discovered. For these reasons, the Natural Heritage Inventory cannot provide a definite statement on the presence, absence, or condition of biological elements in any part of North Dakota. Natural Heritage data summarize the existing information known at the time of the request. Our data are continually upgraded and information is continually being added to the database. This data should never be regarded as final statements on the elements or areas that are being considered, nor should they be substituted for on-site surveys.

Estimated Representation Accuracy

Value that indicates the approximate percentage of the Element Occurrence Representation (EO Rep) that was observed to be occupied by the species or community (versus buffer area added for locational uncertainty). Use of estimated representation accuracy provides a common index for the consistent comparison of EO reps, thus helping to ensure that aggregated data are correctly analyzed and interpreted.

Very high (>95%)

High (>80%, <= 95%)

Medium (>20%, <= 80%)

Low (>0%, <= 20%)

Unknown

(null) - Not assessed

Precision

A single-letter code for the precision used to map the Element Occurrence (EO) on a U.S. Geological Survey (USGS) 7.5' (or 15') topographic quadrangle map, based on the previous Heritage methodology in which EOs were located on paper maps using dots.

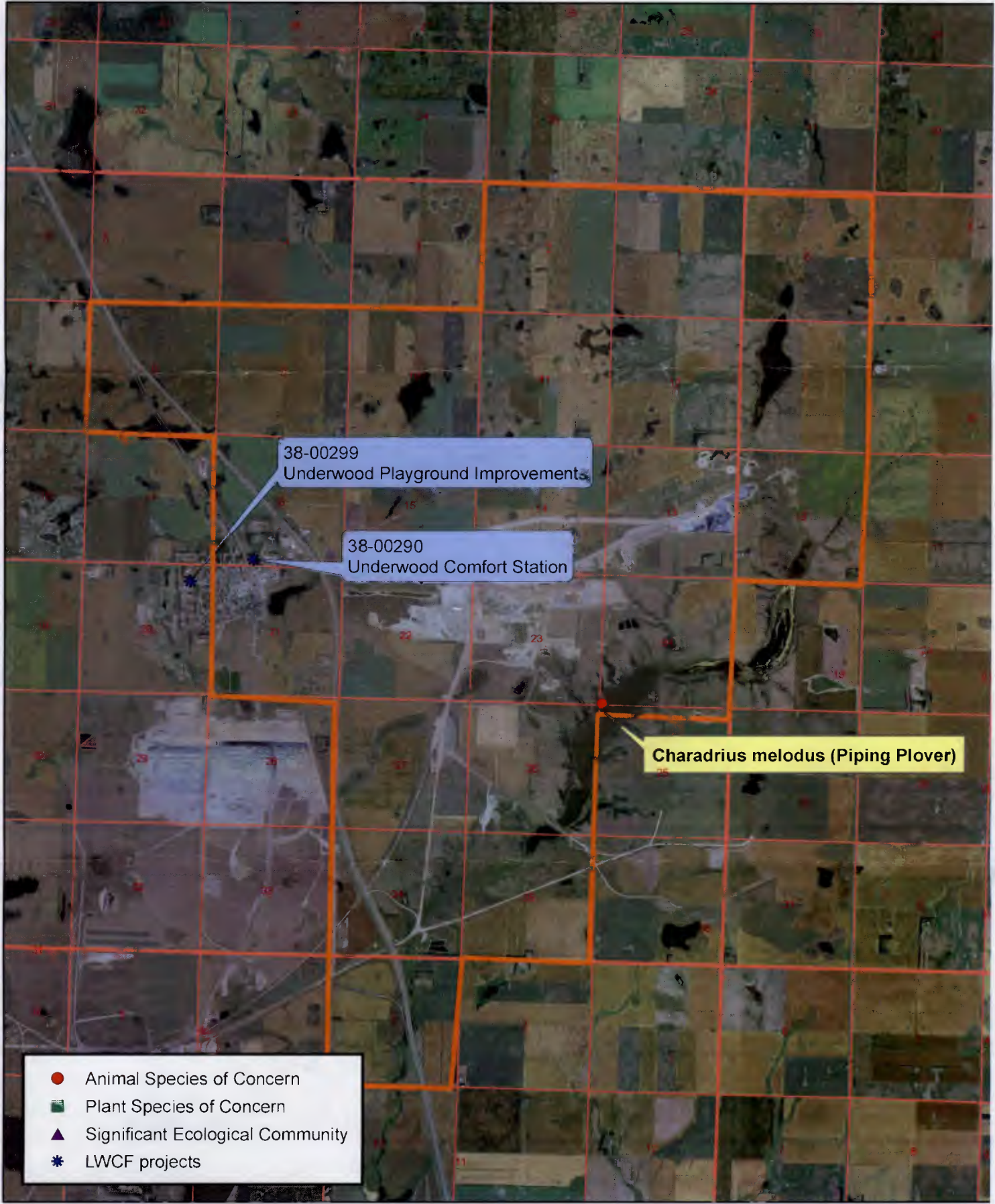
S - Seconds: accuracy of locality mappable within a three-second radius; 100 meters from the centerpoint

M - Minute: accuracy of locality mappable within a one-minute radius; 2 km from the centerpoint

G - General: accuracy of locality mappable to map or place name precision only; 8 km from centerpoint

U - Unmappable

North Dakota Parks and Recreation Department
North Dakota Natural Heritage Inventory



R82W

R81W

March 2011