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April 25, 2012

Mr. Tony Clark  
Public Service Commission  
600 East Blvd. Dept. 408  
Bismarck, ND 58505-0480

RECEIVED

APR 27 2012

PUBLIC SERVICE COMMISSION

Re: Case No RR – 12-126 BNSF Railway 18.12 miles Grafton to Glasston, North Dakota

Dear Mr. Clark,

The North Dakota Parks and Recreation Department (the Department) has reviewed the above referenced proposal to abandon 18.12 miles of rail line in Walsh and Pembina Counties, North Dakota.

Our agency scope of authority and expertise covers recreation and biological resources (in particular rare plants and ecological communities). The project as defined does not affect state park lands that we manage but may affect state Land and Water Conservation Fund (LWCF) project sites that we manage.

A Land and Water Conservation Fund (LWCF) site is located near the project area. The St Thomas Recreation Improvement Project (#38-00377) received assistance from the federal Land and Water Conservation Fund and is under protection of section 6(f) of the LWCF Act. Any property taken from within the 6f boundary of this site for non-recreational use must be replaced with property of equal market value. Should any public or private utilities need to be added or relocated on LWCF recreational land, the NDPRD must be consulted prior to any action taken. Please contact Jessica Riepl (701-328-5364 or [jriep1@nd.gov](mailto:jriep1@nd.gov)) if additional LWCF information is needed.

The North Dakota Natural Heritage biological conservation database has been reviewed to determine if any current or historical plant or animal species of concern or other significant ecological communities are known to occur within an approximate one-mile radius of the project area. Based on this review, several plants, animal and significant ecological community occurrences have been identified within or adjacent to the project areas. Please see the attached spreadsheet and maps for more specific information on these species. 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.

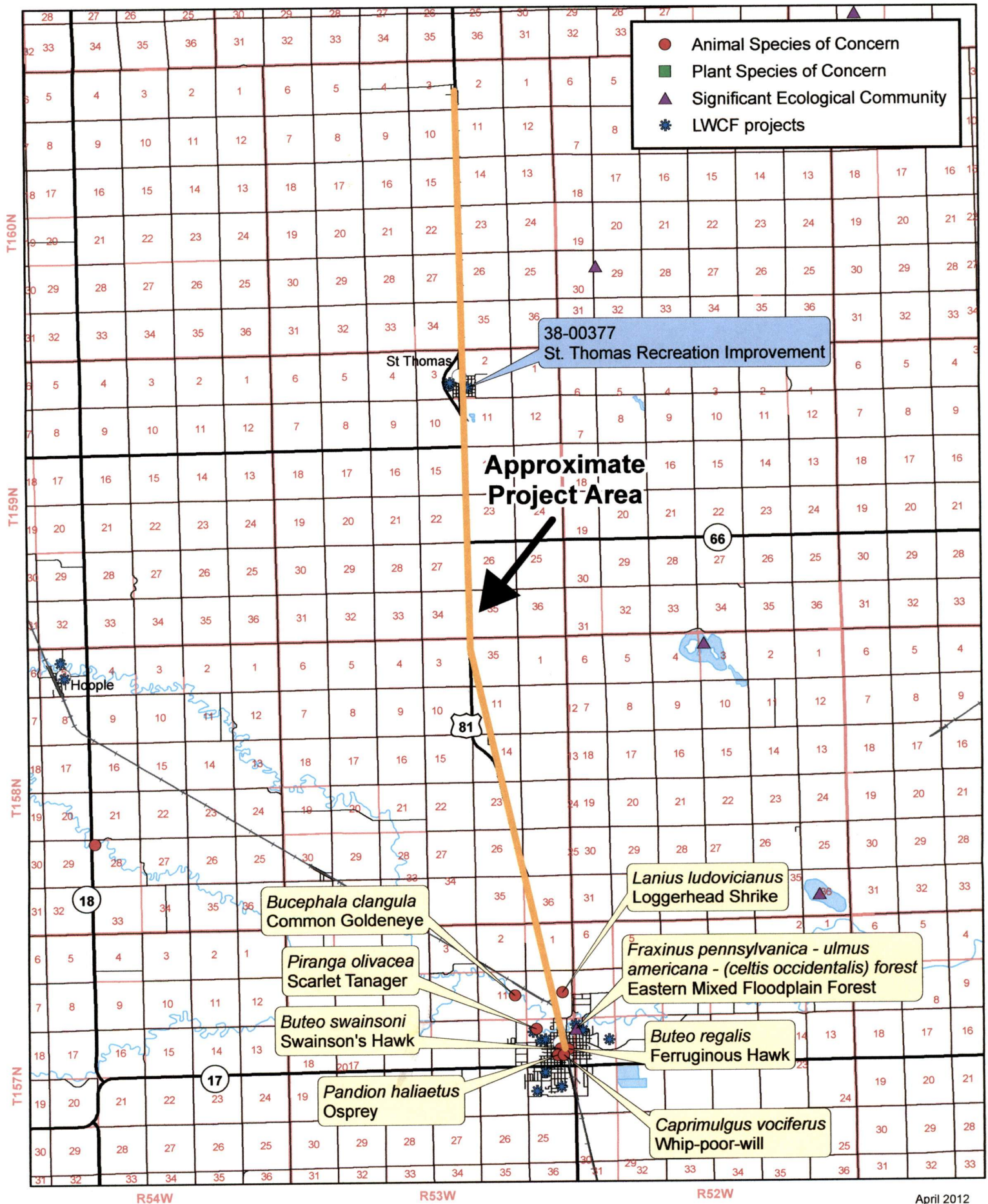
The Department recommends that the project be accomplished with minimal impacts and that all efforts be made to ensure that critical habitats not be disturbed in the project area to help secure rare species conservation in North Dakota. Regarding any reclamation efforts, we recommend that any impacted 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 Duttenehner (701-328-5370 or [kgduttenehner@nd.gov](mailto:kgduttenehner@nd.gov)) of our staff. Thank you for the opportunity to comment on this proposed project.

Sincerely,

Kathy Duttenehner, Coordinator  
Natural Resources Division

# North Dakota Parks and Recreation Department North Dakota Natural Heritage Inventory



- Animal Species of Concern
- Plant Species of Concern
- ▲ Significant Ecological Community
- ★ LWCF projects

**38-00377**  
St. Thomas Recreation Improvement

**Approximate Project Area**

*Bucephala clangula*  
Common Goldeneye

*Piranga olivacea*  
Scarlet Tanager

*Buteo swainsoni*  
Swainson's Hawk

*Pandion haliaetus*  
Osprey

*Lanius ludovicianus*  
Loggerhead Shrike

*Fraxinus pennsylvanica - ulmus americana - (celtis occidentalis) forest*  
Eastern Mixed Floodplain Forest

*Buteo regalis*  
Ferruginous Hawk

*Caprimulgus vociferus*  
Whip-poor-will

R54W

R53W

R52W

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
<i>Bucephala clangula</i>	Common Goldeneye	S3	G5		157N053W - 11; 157N052W - 22; 156N053W - 01; 157N054W - 13; 158N053W - 30; 157N052W - 32; 157N053W - 26; 157N054W - 12; 157N053W - 13; 157N053W - 32; 157N052W - 05; 157N052W - 28; 157N053W - 14; 158N052W - 21; 157N052W - 04; 157N053W - 24; 158N052W - 31;	Walsh			G
<i>Buteo regalis</i>	Ferruginous Hawk	SU	G4		157N053W - 13; 157N052W - 17; 157N052W - 19; 157N053W - 11; 157N052W - 18; 157N052W - 20; 157N053W - 14; 157N052W - 07; 157N053W - 24; 157N053W - 23; 157N052W - 08; 157N053W - 12	Walsh	1920-10-25		M
<i>Buteo swainsoni</i>	Swainson's Hawk	SU	G5		157N053W - 13; 157N052W - 18; 157N052W - 07; 157N052W - 19; 157N053W - 24; 157N053W - 14; 157N053W - 23; 157N052W - 17; 157N053W - 11; 157N052W - 20; 157N053W - 12	Walsh	1929-08-23		M
<i>Caprimulgus vociferus</i>	Whip-poor-will	SU	G5		157N053W - 13; 157N052W - 17; 157N052W - 19; 157N053W - 25; 157N052W - 18; 157N052W - 20; 157N053W - 14; 157N052W - 07; 157N053W - 24; 157N053W - 23; 157N053W - 11; 157N053W - 12	Walsh	1923-06-30		M
<i>Fraxinus pennsylvanica</i> - <i>ulmus americana</i> - ( <i>celtis occidentalis</i> ) forest	Eastern Mixed Floodplain Forest	S1S2	GNR		157N052W - 18; 157N053W - 13	Walsh	1982		S
<i>Lanius ludovicianus</i>	Loggerhead Shrike	SU	G4		157N053W - 12; 157N053W - 11; 157N053W - 13; 157N053W - 01; 157N053W - 14; 157N053W - 02; 157N052W - 05; 157N052W - 07; 157N052W - 18; 157N052W - 08; 157N052W - 06; 157N052W - 17	Walsh	1918-05-15		M
<i>Pandion haliaetus</i>	Osprey	SU	G5		157N053W - 13; 157N052W - 17; 157N052W - 19; 157N053W - 25; 157N052W - 18; 157N052W - 20; 157N053W - 14; 157N052W - 07; 157N053W - 24; 157N053W - 23; 157N053W - 11; 157N053W - 12	Walsh	1958-10-05		M
<i>Piranga olivacea</i>	Scarlet Tanager	SU	G5		157N053W - 13; 157N052W - 33; 157N053W - 29; 157N053W - 12; 158N053W - 21; 157N053W - 22; 157N052W - 14; 157N053W - 32; 157N052W - 05; 157N052W - 28; 157N052W - 17; 158N052W - 21; 157N052W - 04; 157N053W - 24; 158N052W - 31; 157N052W - 16; 157N053W - 36;	Walsh	1915-06-11		G

### **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