



United States Department of the Interior



FISH AND WILDLIFE SERVICE
North Dakota Ecological Services Field Office
3425 Miriam Avenue
Bismarck, North Dakota 58501
(701) 250-4481, ndfieldoffice@fws.gov

IN REPLY REFER TO: PSC-2022 Sinkhole
filling AML Projects

September 16, 2022

Ms. Joan Breiner, Ph.D.
Assistant Director, Abandoned Mines Lands Division
State of North Dakota Public Service Commission
600 East Boulevard, Department 408
Bismarck, ND 58505-0480

Dear Ms. Breiner:

This is in response to the State of North Dakota Public Service Commission's (NDPSC) request from the Abandoned Mines Division for an informal consultation for projects near Beulah, Bowman, Scranton, Dickinson, Richardton, New Salem, Washburn, Turtle Lake, Underwood, Noonan, Velva, Williston and Zap, North Dakota. The proposed Projects involve filling and reclamation of the above named locations concurrently. Your request for concurrence was received via email on September 2, 2022. Additional required information was forwarded to the North Dakota Field Office on September 12, 2022.

In accordance with section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) (Act), you requested U.S. Fish and Wildlife Service (FWS) evaluation of your "no effect" determinations for the endangered whooping crane (*Grus americana*) and the threatened Dakota skipper (*Hesperia dacotae*), northern long-eared bat (*Myotis septentrionalis*), piping plover and designated habitat (*Charadrius melodus*), and Rufa red knot (*Calidris cantus rufa*).

There is no requirement under the implementing regulations of the Act (50 CFR Part 402) for action agencies to receive FWS concurrence with "no effect" determinations, therefore the responsibility for "no effect" determinations remains with the NDPSC Abandoned Mine Lands Division. Accordingly, we recommend the NDPSC retain the documentation for these listed resources in your decisional record for this federal action.

Pursuant to the implementing regulations of the Act (50 CFR 402.13), this letter concludes informal consultation. This consultation should be re-initiated if: (1) new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not considered in this consultation; (2) the action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in this consultation; or (3) a new species is listed or critical habitat is designated that may be affected by this action.

We appreciate your efforts to ensure the conservation of listed and proposed species as part of our joint responsibilities under the Act. For further information, please have your staff contact Jerry Reinisch of my staff at (701) 226-7763 or me directly at (701) 355-8512 or at the letterhead address.

Sincerely,

Drew N. Becker
North Dakota Field Office Supervisor

cc: Mr. Greg Link, North Dakota Game and Fish Department, Bismarck, ND