



Public Service Commission State of North Dakota

COMMISSIONERS

Randy Christmann
Sheri Haugen-Hoffart
Julie Fedorchak

sent via email only

January 25, 2024

600 East Boulevard, Dept. 408
Bismarck, North Dakota 58505-0480
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Mr. Jeff Fleischman, Chief
Denver Field Division
Office of Surface Mining
P.O. Box 11018
Casper, WY 82601

RE: Request for Authorization to Proceed for the 2024 Dakota Collieries AML Project in North Dakota.

Dear Mr. Fleischman:

Enclosed is the documentation to support our Request for Authorization to Proceed for the 2024 Dakota Collieries AML Project in North Dakota. The environmental assessment is attached for the proposed project.

We have requested concurrence for our proposed project from the State Historical Society of North Dakota, the U.S. Fish and Wildlife Service, the North Dakota Parks and Recreation Department, and the North Dakota Department of Environmental Quality. Copies of our letters and the responses we received are attached.

A public meeting was held at Beulah, ND, on January 8, 2024, regarding proposed work near Beulah. All affected property owners for this project have been contacted and consents for right-of-entry will be executed before any work begins.

The e-AMLIS Problem Area Description number for the proposed Beulah site is ND000014. The proposed grant for funding this project is S23AF00037-00 (FY2022 North Dakota BIL AML). We have posted updated priority documentation for this project in the documents section in e-AMLIS. If you need more information or have any questions, please call Matthew Fischer at 701-328-4779 or me at 701-328-4094.

Sincerely,

Jonathan Emmer
Director
Reclamation and AML Divisions

Enclosures

cc via email only: John Sieving

AML\2024\2024 Dakota Collieries\ATP\Requests sent to OSMRE\1 2024_Auth_to_Proceed_rqst_ltr_1-25-24

List of Attachments

A brief narrative about the proposed 2024 Dakota Collieries AML Project.

Standardized environmental assessment for the proposed 2024 Dakota Collieries AML Project.

Our requests for concurrence for the 2024 Dakota Collieries AML Project and the responses received from:

ND State Historical Society (response included).

ND Department of Environmental Quality (response included).

ND Parks & Recreation Department (response included).

U.S. Fish and Wildlife Service (response included).

Eligibility determination for the proposed 2024 Dakota Collieries AML Project.

Abandoned mines impact on water quality and quantity.

Reich Pond Water Analysis.

Bieber Pond Water Analysis.

AMLIS PAD Numbers for proposed 2024 Dakota Collieries AML Project:

PAD No.	PAD Name	Project Type
ND000014	Beulah	Highwall Backfilling/Backsloping and Subsidence Filling

Project Narrative

The 2024 Dakota Collieries AML Project: The 2024 Dakota Collieries AML Project involves backsloping and backfilling approximately 915 feet of dangerous highwall on an abandoned surface coal mine. The site is approximately 4 miles west of Beulah, North Dakota, in Mercer County. The proposed reclamation will disturb approximately 30 acres combined. The surface mine portion is characterized by steep eroding highwalls approximately 50 feet high. The proposed work is planned in two phases: a tree removal phase between January 2024 and March 2024 and a construction phase between May and November 2024. The proposed construction work involves backsloping and backfilling the highwalls with earthen material from adjacent spoil piles. Affected areas will be reseeded with locally adapted grass species native to western North Dakota. No off-site pit dewatering is planned, and erosion and sedimentation will be controlled. Additional work on adjacent properties will include reclaiming subsidence and erosional features from abandoned underground and surface mines. The estimated cost for this project is \$750,000.

AML\2024\2024 Dakota Collieries\ATP\Requests sent to OSMRE\2 Project Narrative

STANDARDIZED ENVIRONMENTAL ASSESSMENT

**Dakota Collieries AML Project
ND000014
Mercer County, North Dakota**

Prepared by

North Dakota Public Service Commission

In Cooperation With

**United States Department of Interior
Office of Surface Mining Reclamation and Enforcement
Casper Field Office**

January 2024

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Chapter 1

Purpose and Need for the Proposal

A. Need for the Action

The principal objective of the Abandoned Mine Lands (AML) Division of the North Dakota Public Service Commission (PSC) is to reclaim potentially hazardous portions of abandoned surface and underground coal mines in North Dakota.

The Beulah Problem Area is composed of numerous and extensive surface and underground coal mines on approximately 20,530 acres located in Mercer County. This AML site is characterized by dangerous highwalls and subsidence from underground mine collapse. The area is within four miles of the corporate limits of Beulah, North Dakota. Surface and underground mining was conducted from about 1910 to 1975. The proposed 2024 Dakota Collieries AML Project will eliminate approximately 915 feet of dangerous highwall and several subsidence features located in the following area:

Site	Legal Description	GPS Coordinates	Relative Location
Dakota Collieries	Sec. 31 and 32, T144N, R88W Sec. 36, T144N, R89W	47.249658N,101.884053W	4 Mi. W of Beulah ND

The mine area is approximately four miles west of Beulah, North Dakota, which has a population of about 3,044. Highwall and subsidence features are located near section line roads, local trails, and field borders with uncontrolled access. The 2024 Dakota Collieries AML Project includes approximately 30 acres.

To our knowledge, no instances of death or personal injury attributable to the abandoned mines at the 2024 Dakota Collieries AML Project have been reported; however, the potential for death or injury is inherent due to the location of the abandoned mines.

B. Project Background

The Dakota Collieries surface mine is located in the W 1/2 of Section 31, T144N, R88W and contains 915 feet of steep final pit highwalls ranging up to approximately 50 feet high. Slides, piping, and sloughing along the highwall are indications of its instability. Exact mining dates are unknown for this area, but historic aerial photos documented the mining occurred prior to 1958. Dakota Collieries subsidence and erosional features are located in Sections 31 and 32, T144N, R88W, and Section 36, T144N, R89W. Exact mining dates are unknown; however, historical aerial photos indicate all mining was conducted before 1975. The current land use of the area is designated as agricultural. Anticipated land use of the area will remain agricultural.

Chapter 2

Proposed Action and Appropriate Alternatives

A. No Action Alternative

The no action option does not solve the potentially hazardous AML conditions at the site.

B. Proposed Action

The proposed reclamation project for this site will be beneficial to the property owners and the general public and meets the requirements of federal and state law for reclamation. This project will eliminate the hazard of the highwall and subsidence features and will improve agricultural productivity, vegetation, wildlife habitat, and site access.

The plan of action for the proposed reclamation activity will be to backfill and backslope hazardous highwalls with material from adjacent spoil piles. Backfilling is the preferred option for reclamation of abandoned highwalls and sinkholes. The approved North Dakota Abandoned Mine Lands State Reclamation Plan identifies backfilling as an effective reclamation technique. Erosional gullies and washouts will be repaired and reestablished to non-erosive slopes.

To the degree possible, topsoil will be salvaged from the disturbed areas and respread once the earthwork has been completed. Approximately 915 feet of hazardous highwall will be eliminated through proposed reclamation operations in 2024. The reclaimed areas will be seeded with locally adapted grass species native to western North Dakota.

The proposed reclamation activities should have no long-term adverse effects on the environment. Any temporary disruption of wildlife habitat will be a short-term effect.

C. Other Reasonable Alternatives

Alternative reclamation methods include property buy-out or condemnation and fencing of hazardous areas. Property buy-out or condemnation does not solve the AML problems at the site. Fencing is not considered a long-term viable option.

Chapter 3

Environmental Impacts

A. Cultural or historic resource values (the Archaeological Resources Protection Act of 1979; the Archaeological and Historic Preservation Act of 1974; the National Historic Preservation Act of 1986, as amended; the Antiquities Act of 1906, Executive Order 11593, concerning the protection and enhancement of the cultural environment; the American Indian Religious Freedom Act of 1978; the Historic Sites Act of 1935; and OMB Circular A-102).

Reclamation activities will be conducted in a manner that should have no significant effect on cultural or historic resources.

B. Water Quality Values (Clean Water Act, as amended)

Reclamation will be conducted in a manner that should have no significant effect on surface or groundwater quality or quantity.

The Dakota Collieries site is located within the Engbrecht Cemetery Knife River subwatershed of the Lower Knife River watershed. Runoff flows through naturally established drainage channels in a southern direction entering the Knife River which discharges into the Missouri River. After reclamation, the runoff pattern will remain unchanged and the hydrologic impact should be negligible.

Drainage patterns in each subwatershed will remain unchanged after construction. All site runoff will flow into the natural drainages adjacent to the site. During construction, runoff will be controlled by the use of silt fences, mulching, erosion control blankets, and other erosion control measures as needed.

C. Wetlands values (Clean Water Act, Executive Order 11990, and Army/EPA Memorandum of Agreement (MOA) Concerning the Determination of Mitigation under Section 404(b) (1) Guidelines)

Reclamation activities within the 2024 Dakota Collieries AML Project sites will have no significant effect on wetlands.

D. Floodplain values (Executive Order 11988)

No reclamation activities are within an identified floodplain.

E. Wildlife (Endangered Species Act and Fish and Wildlife Coordination Act)

Reclamation activities will be conducted in a manner that should have no significant effect on fish or wildlife. Threatened, Endangered or Candidate species in Mercer County identified by the U.S. Fish and Wildlife Service include Monarch Butterfly (*Danaus plexippus*), Dakota Skipper (*Hesperia dacotae*), Whooping Crane (*Grus Americana*), Piping Plover (*Charadrius melodus*), and the Rufa Red Knot (*Calidris cantus rufa*). None of these species are likely to be found or disturbed by the 2024 Dakota Collieries AML Project.

F. Prime and unique farmland values (Farmland Protection Policy Act)

No prime farmland within the 2024 Dakota Collieries AML Project area has been identified.

G. Recreational resource values (Wild and Scenic Rivers Act, Clean Air Act)

No lands in the proposed project area are classified as wilderness areas or lands being studied for wilderness designation.

No lands in the proposed project area are identified as areas of critical environmental concern.

No lands in the proposed project area are included in the wild and scenic rivers category.

No parks or areas of critical ecological or aesthetic concern are found in the proposed project area.

H. Air quality (Clean Air Act)

The proposed project area is not in or near a Class I air quality region, and this project should not adversely affect air quality.

I. Socioeconomic factors

Factors such as noise, traffic control, and dust suppression will be addressed in the Invitation for Bid (IFB) package.

Reclamation will not affect socioeconomic factors related to farming and ranching.

J. Political factors

Portions of the project area are under zoning jurisdictions of Mercer County, several township authorities, and the State of North Dakota, as well as private ownership. Meetings between the North Dakota Public Service Commission and all governing and private entities are ongoing and will continue throughout the project(s) completion. A public meeting will be held on January 8th, 2024, to discuss the 2024 Dakota Collieries AML Project. Notices were mailed to landowners, governmental authorities, and other interested parties; and public service announcements were made in local newspapers.

K. Existing vegetative cover

Existing vegetation varies with land use within the project area. It includes cropland, tame grass and legume pastures, native grasslands, road ditches, and roads. Cropland and tame grasses are predominant and include wheat, oats, barley, corn, sunflowers, alfalfa, crested wheatgrass, and smooth brome grass. Shelterbelts are commonly located within cropland and may contain several tree and shrub species including Siberian Elm, Russian Olive, Colorado Blue Spruce, Caragana, and others. Native grasslands may include species such as wheat grasses, green needlegrass, blue grama, and big bluestem as well as forbs such as western snowberry, buffaloberry, chokecherry and wild plum. Long term effects of the project on vegetation should be minimal.

L. Threatened and endangered plant species

To the best of our knowledge, no threatened or endangered plant species have been identified within the project area. The only federally-listed threatened or endangered plant in North Dakota is the Western Prairie Fringed Orchid (*Platanthera praeclara*). Known locations of this plant are within moist, tallgrass prairie and sedge meadows of the Sheyenne National Grasslands in the southeastern corner of the state. This plant is not likely to inhabit the proposed project areas.

M. Anticipated dates of reclamation

The reclamation performance period for the 2024 Dakota Collieries AML Project is expected to begin in May 2024 and be completed in November 2024.

N. Estimated construction cost

The engineer's estimate for the 2024 Dakota Collieries AML Project is \$750,000.

O. Off-site borrow and disposal Areas

If offsite borrow or disposal issues arise, applicable environmental regulations will be addressed through the North Dakota Department of Environmental Quality.

P. Noise pollution

Noise pollution problems are not anticipated; however, if problems arise, remedial action measures will be addressed through the North Dakota Department of Environmental Quality.

Q. Environmental justice policy

Construction work may result in a slight increase in employment and revenues, but no significant direct or indirect impact on minority or low-income populations is expected.

Chapter 4 Consultation and Coordination

A letter to the U.S. Fish and Wildlife Service was sent on December 4, 2023, requesting concurrence for the 2024 Dakota Collieries AML Project. A response dated December 7, 2023, indicated no significant impact on fish and wildlife resources, and no endangered or threatened species are known to occupy the project area as described.

A letter was sent to the State Historical Society of North Dakota on December 4, 2023, requesting concurrence for the 2024 Dakota Collieries AML Project. The response dated December 21, 2023, concurred with the “No Historic Properties Affected” determination for the project.

A letter was sent to the North Dakota Department of Environmental Quality on December 4, 2023, requesting concurrence for the 2024 Dakota Collieries AML Project. The response dated December 6, 2023, indicated that planned activities are not likely to adversely affect surface or groundwater resources.

A letter was sent to the Natural Heritage Program of the North Dakota Parks and Recreation Department on December 4, 2023, requesting concurrence for the 2024 Dakota Collieries AML Project. The response dated December 20, 2023, indicated that planned activities do not appear to affect any properties that NDPRD owns, leases, or manages. Planned activities do not affect properties protected under Section 6(f) of the Land and Water Conservation Fund.

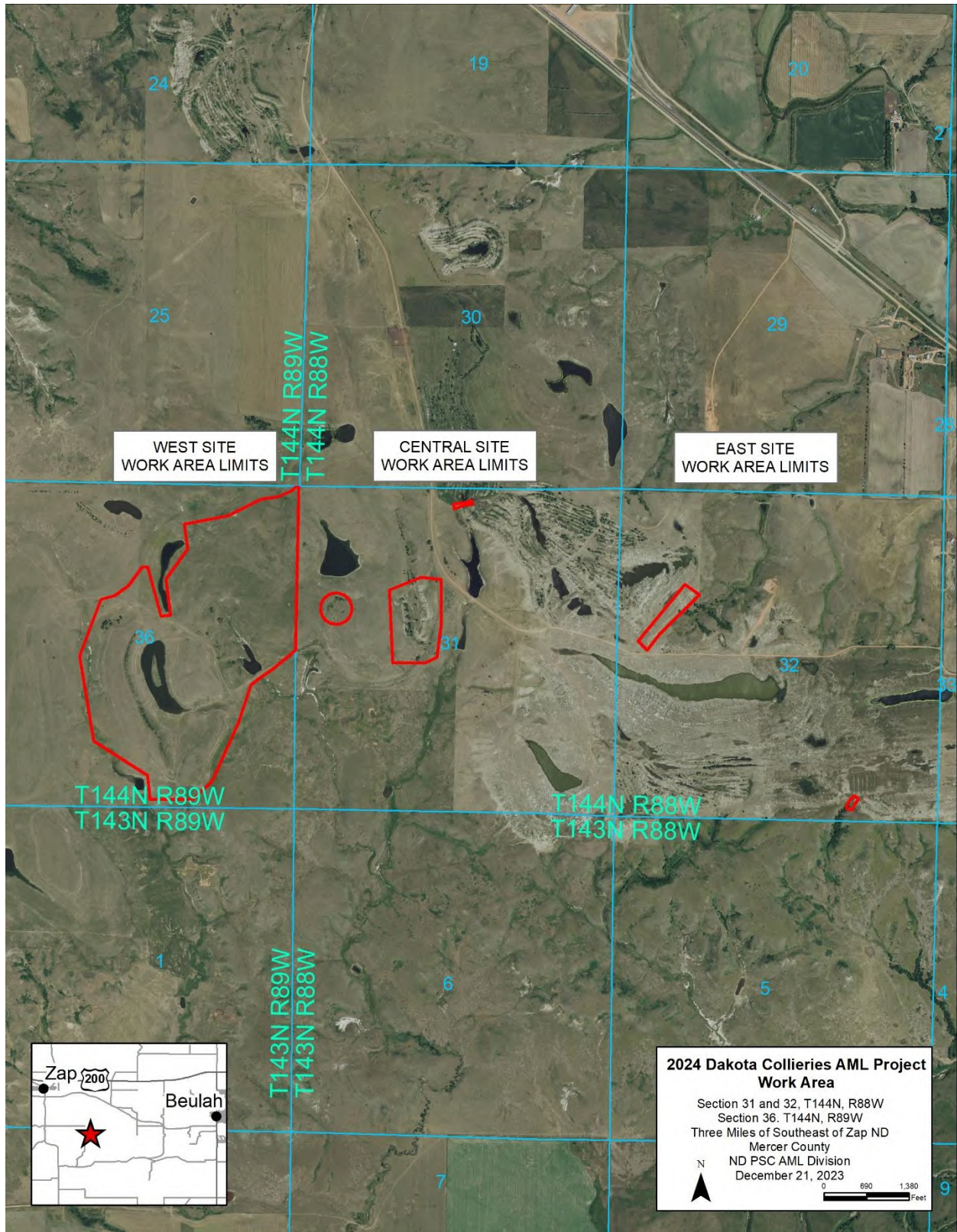
Preparers



Matt Fischer
Assistant Director - AML Division
ND Public Service Commission



Michael Howe
Environmental Engineer - AML
ND Public Service Commission





Public Service Commission

State of North Dakota

COMMISSIONERS

Randy Christmann
Sheri Haugen-Hoffart
Julie Fedorchak

sent via email only

December 4, 2023

600 East Boulevard, Dept. 408
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E-mail: ndpsc@nd.gov
Phone: 701-328-2400
ND Toll Free: 1-877-245-6685
Fax: 701-328-2410
TDD: 800-366-6888 or 711

William Peterson, Ph.D.
State Historic Preservation Officer
State Historical Society of North Dakota
612 East Boulevard Avenue
Bismarck, ND 58505-0830
billpeterson@nd.gov

Dear Dr. Peterson:

The Public Service Commission is planning reclamation activities in 2024 at Abandoned Mine Land (AML) Sites near Beulah. The contractor selected through competitive bidding will conduct the project.

As part of the project approval process, our office requests concurrence that the following proposed reclamation work will not adversely affect any historical or archaeological resources. Please reply regarding these proposed projects by **January 4, 2023**.

The 2024 Dakota Collieries AML Project: The Dakota Collieries abandoned surface coal mine contains 915 feet of steep highwall that is approximately 50 feet high. The proposed work is planned in two phases: a tree removal phase between January 2024 and March 2024 and a construction phase between May and November 2024. The proposed reclamation work involves backsloping and backfilling the highwall with on-site mine spoil to reduce the hazard. The property owners support the proposed reclamation project. Affected areas will be reseeded with locally adapted grass species native to western North Dakota. No off-site pit dewatering is planned, and erosion and sedimentation will be controlled. Additional work on adjacent properties will include reclaiming subsidence and erosional features from abandoned underground and surface mines. The total area affected is around 25 acres. Work is expected to be conducted between June and October 2024. The estimated cost for this project is \$750,000.

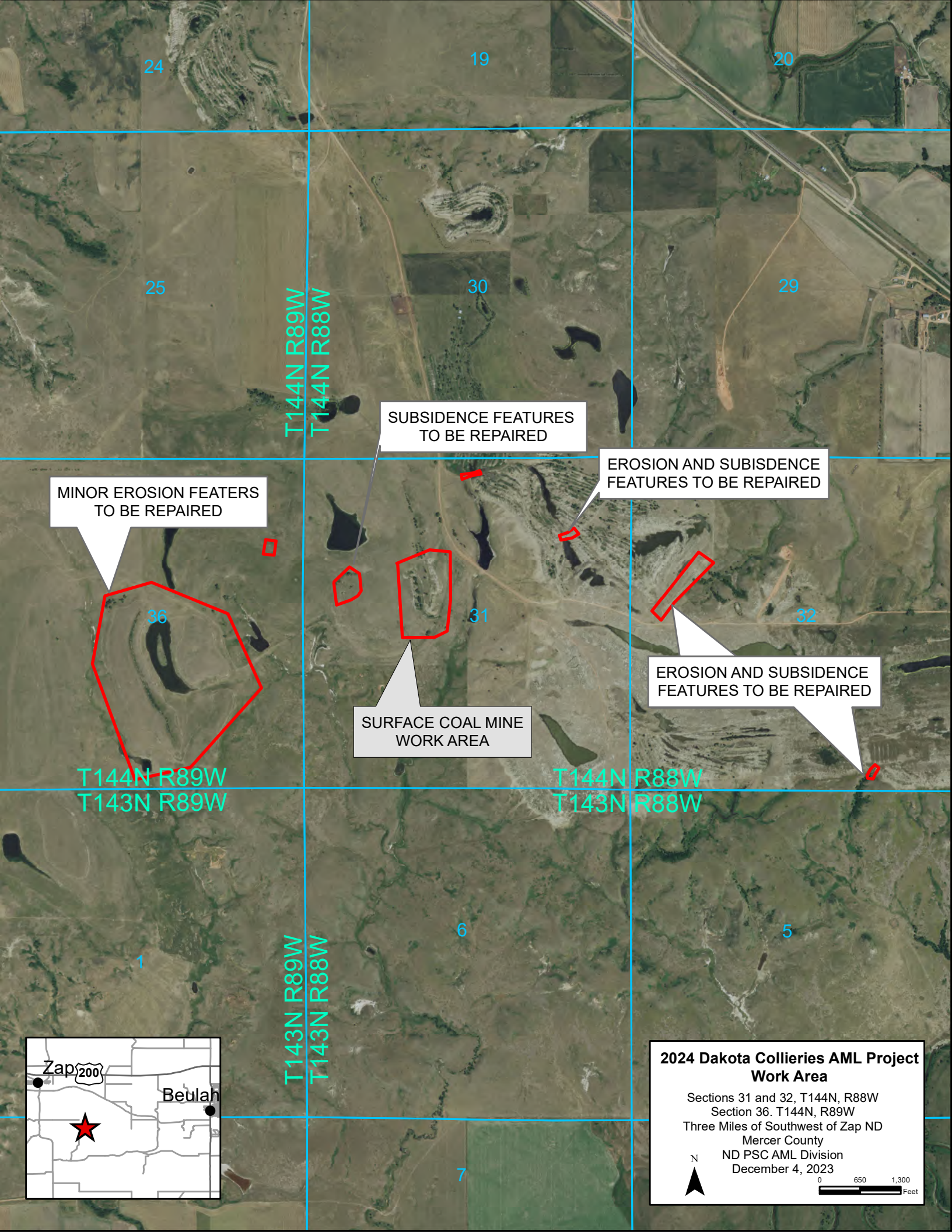
We expect this project to be completed during the 2024 construction season. The attached map provides more information and shows proposed project locations.

Thank you for your assistance in this matter. If you have any questions or need more information, please contact Matt Fischer at mjfischer@nd.gov or 701-328-4779.

Sincerely,

Jonathan Emmer
Director
Abandoned Mine Lands Division

Enclosure



24

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T144N R89W
T144N R88W

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SUBSIDENCE FEATURES
TO BE REPAIRED

EROSION AND SUBSIDENCE
FEATURES TO BE REPAIRED

MINOR EROSION FEATERS
TO BE REPAIRED

36

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EROSION AND SUBSIDENCE
FEATURES TO BE REPAIRED

SURFACE COAL MINE
WORK AREA

T144N R89W
T143N R89W

T144N R88W
T143N R88W

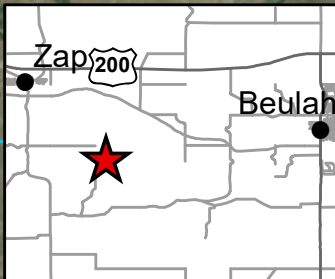
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T143N R89W
T143N R88W

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**2024 Dakota Collieries AML Project
Work Area**

Sections 31 and 32, T144N, R88W
Section 36, T144N, R89W
Three Miles of Southwest of Zap ND
Mercer County
ND PSC AML Division
December 4, 2023

N

0 650 1,300
Feet



STATE HISTORICAL SOCIETY
OF NORTH DAKOTA

HISTORY FOR *everyone.*

December 21, 2023

Jonathan Emmer
Abandoned Mine Lines Division, PSC
600 East Boulevard, Dept 408
Bismarck, ND 58505-0480

ND SHPO Ref: 24-0063 2024 Dakota Collieries AML Project in portions of [T144N R88W Sections 31 and 32; T144N R89W Section 36] Mercer County, North Dakota

Dear Jonathan,

We reviewed the project ND SHPO Ref 24-0063 2024 Dakota Collieries AML Project in portions of [T144N R88W Sections 31 and 32; T144N R89W Section 36] Mercer County, North Dakota as received by our office on December 4, 2023.

We concur with a determination of “No Historic Properties Affected” for the project provided it takes place in the manner described in the documentation.

Thank you for the opportunity to review this project. For future correspondence regarding this project, please include the ND SHPO Reference number indicated in this letter. If you have any questions, please contact Margie Patton, Research Archaeologist at 701-328-3576 or mmpatton@nd.gov.

Sincerely,

for William D. Peterson, PhD
State Historic Preservation Officer
(North Dakota)

24-0063



Public Service Commission

State of North Dakota

COMMISSIONERS

Randy Christmann
Sheri Haugen-Hoffart
Julie Fedorchak

sent via email only

December 4, 2023

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Phone: 701-328-2400
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TDD: 800-366-6888 or 711

Mr. Karl Rockeman, P.E.,
Director, Division of Water Quality
North Dakota Department of Environmental Quality
4201 Normandy Street
Bismarck, ND 58503
krockema@nd.gov

Dear Mr. Rockeman:

The Public Service Commission is planning reclamation activities in 2024 at Abandoned Mine Land (AML) Sites near Beulah. The contractor selected through competitive bidding will conduct the project.

As part of the project approval process, our office requests concurrence that the following proposed reclamation work will not adversely affect any surface or groundwater resources. Please reply regarding these proposed projects by **January 4, 2023**.

The 2024 Dakota Collieries AML Project: The Dakota Collieries abandoned surface coal mine contains 915 feet of steep highwall that is approximately 50 feet high. The proposed work is planned in two phases: a tree removal phase between January 2024 and March 2024 and a construction phase between May and November 2024. The proposed reclamation work involves backsloping and backfilling the highwall with on-site mine spoil to reduce the hazard. The property owners support the proposed reclamation project. Affected areas will be reseeded with locally adapted grass species native to western North Dakota. No off-site pit dewatering is planned, and erosion and sedimentation will be controlled. Additional work on adjacent properties will include reclaiming subsidence and erosional features from abandoned underground and surface mines. The total area affected is around 25 acres. Work is expected to be conducted between June and October 2024. The estimated cost for this project is \$750,000.

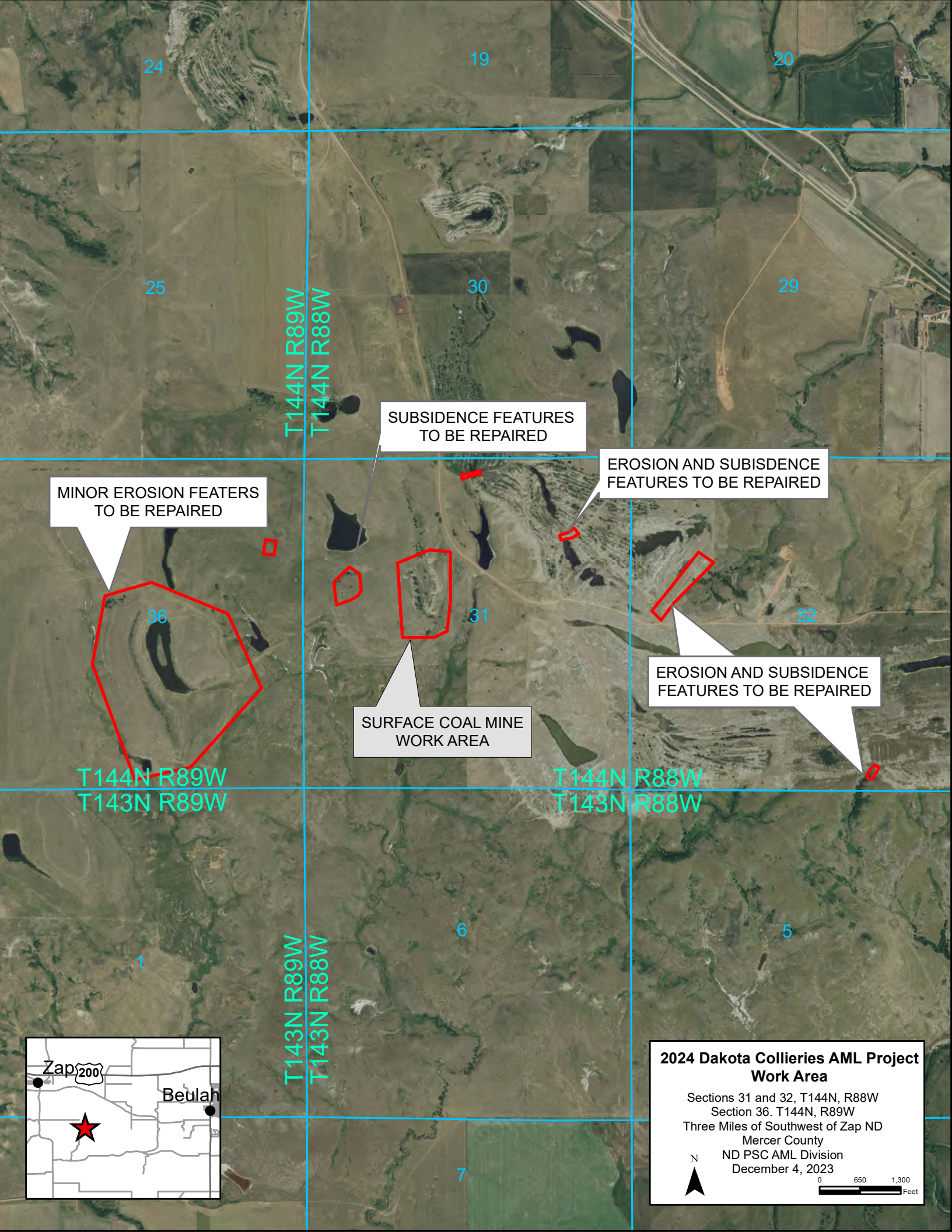
We expect this project to be completed during the 2024 construction season. The attached map provides more information and shows proposed project locations.

Thank you for your assistance in this matter. If you have any questions or need more information, please contact Matt Fischer at mjfischer@nd.gov or 701-328-4779.

Sincerely,

Jonathan Emmer
Director
Abandoned Mine Lands Division

Enclosure



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T144N R89W
T144N R88W

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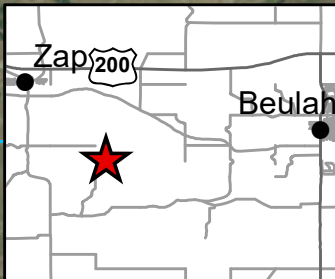
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Three Miles of Southwest of Zap ND
Mercer County
ND PSC AML Division
December 4, 2023

N

0 650 1,300
Feet

NORTH
Dakota | Environmental Quality
Be Legendary.™

December 6, 2023

Jonathan Emmer
Director
Abandoned Mine Lands Division
Public Service Commission
600 East Boulevard Ave.
Dept. 408
Bismarck, ND 58505-0408

RE: 2024 Proposed Abandoned Mine Land Reclamation Activities

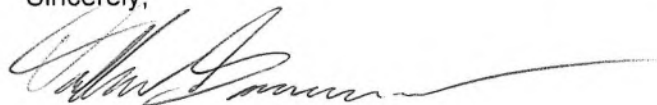
Dear Mr. Emmer,

The North Dakota Department of Environmental Quality, Division of Water Quality reviewed the proposed 2024 Abandoned Mine Land (AML) reclamation activities summarized in your December 4, 2023 letter. The 2024 Dakota Collieries AML Project involves backsloping and backfilling a highwall to reduce the hazard; no off-site pit dewatering is planned. The project also involves reclaiming subsidence and erosional features from abandoned underground and surface mines.

Coverage under the North Dakota Pollutant Discharge Elimination System (NDPDES) general construction permit will be required for the project if reclamation work disturbs one or more acres of land. Off-site dewatering of reclamation work would need coverage under the NDPDES temporary discharge permit if the overall project disturbs less than one acre of land. Contact the U.S. Army Corps of Engineers for permit information for projects that include work in a water of the United States.

We appreciate the opportunity to review the planned reclamation activity. Should you have any questions, please contact me at (701) 328-5242 or at dgrossma@nd.gov.

Sincerely,



Dallas Grossman
Environmental Engineer
Division of Water Quality



Public Service Commission State of North Dakota

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Kathy Duttonhefner
Natural Resources Management Coordinator
ND Parks & Recreation Department
1600 East Century Ave. Suite 3
Bismarck, ND 58503
kgduttonhefner@nd.gov

Dear Ms. Duttonhefner:

The Public Service Commission is planning reclamation activities in 2024 at Abandoned Mine Land (AML) sites near Beulah. The contractor selected through competitive bidding will conduct the project.

As part of the project approval process, our office requests concurrence that the proposed reclamation work, as described below, will not adversely affect any threatened, endangered, or rare plant species. Please reply regarding these proposed projects by **January 4, 2023**.

The 2024 Dakota Collieries AML Project: The Dakota Collieries abandoned surface coal mine contains 915 feet of steep highwall that is approximately 50 feet high. The proposed work is planned in two phases: a tree removal phase between January 2024 and March 2024 and a construction phase between May and November 2024. The proposed reclamation work involves backsloping and backfilling the highwall with on-site mine spoil to reduce the hazard. The property owners support the proposed reclamation project. Affected areas will be reseeded with locally adapted grass species native to western North Dakota. No off-site pit dewatering is planned, and erosion and sedimentation will be controlled. Additional work on adjacent properties will include reclaiming subsidence and erosional features from abandoned underground and surface mines. The total area affected is around 25 acres. Work is expected to be conducted between June and October 2024. The estimated cost for this project is \$750,000.

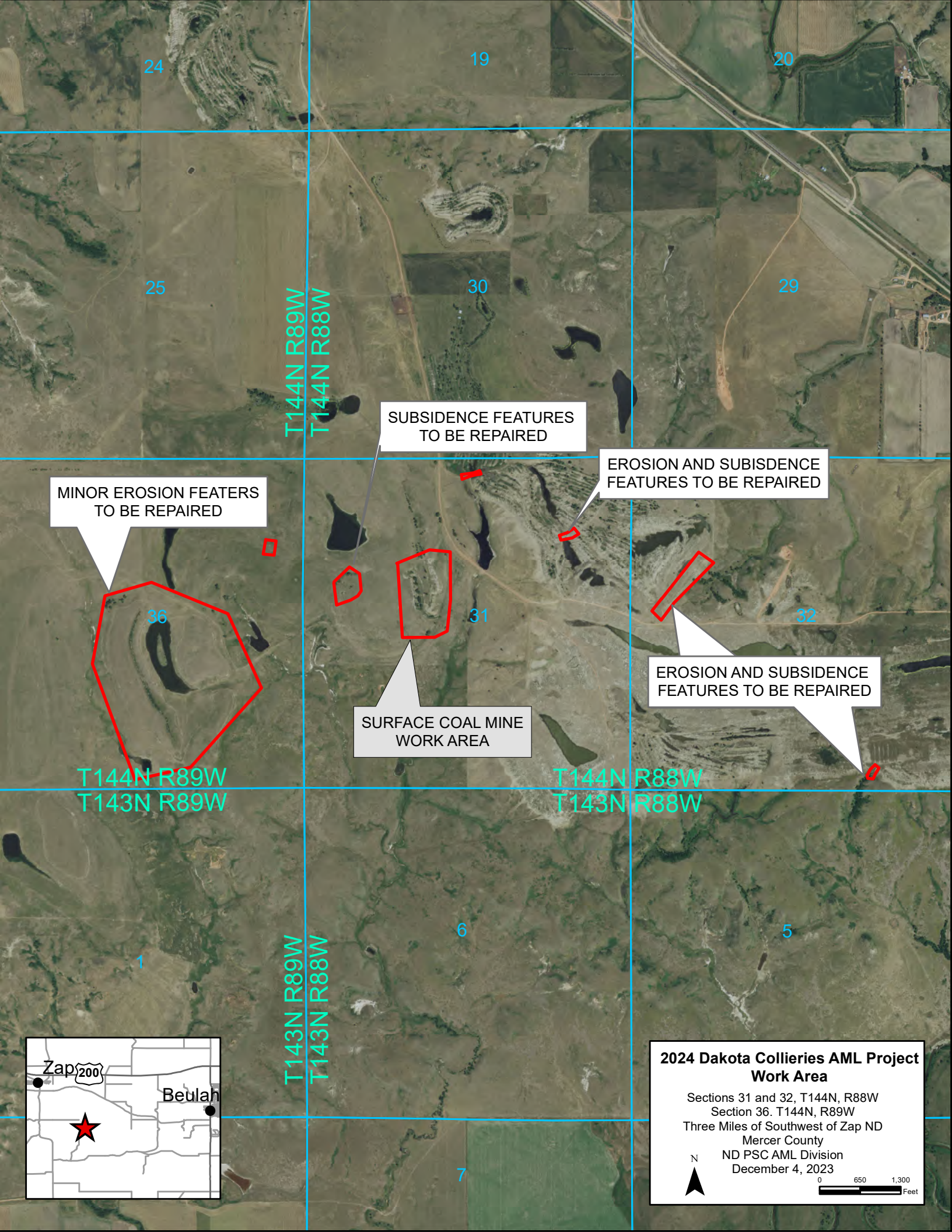
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Sincerely,

Jonathan Emmer
Director
Abandoned Mine Lands Division

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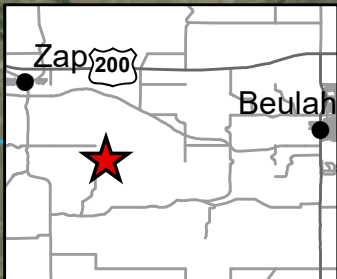
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Three Miles of Southwest of Zap ND
Mercer County
ND PSC AML Division
December 4, 2023

N

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Feet



December 20, 2023

Jonathan Emmer
NDPSC
600 East Boulevard Dept 408
Bismarck, ND 58505

Re: AML Site Near Beulah

Dear Jonathan,

The North Dakota Parks and Recreation Department (NDPRD) has reviewed the above-proposed Abandoned Mine Land sites near Beulah.

NDPRD's scope of authority and expertise covers properties that NDPRD owns, leases, or manages; properties protected under Section 6(f) of the Land and Water Conservation Fund (LWCF); rare plants; and ecological communities established through the Natural Heritage Program.

The project does not appear to affect properties NDPRD owns, leases, or manages.

The projects does not appear to affect properties protected under Section 6(f) of the LWCF.

A North Dakota Natural Heritage biological conservation database query determines 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, no known plant or animal species of concern or significant ecological communities are documented within or immediately adjacent to the project site.

We appreciate your commitment to rare plant, animal, and ecological community conservation, management, and inter-agency cooperation. For additional information, contact Natural Resources Division Chief Kathy Duttenhefner at 701-328-5370, 701-220-3377 (cell), or kgduttonhefner@nd.gov.

Thank you for the opportunity to comment on the proposed project.

Sincerely,

A handwritten signature in black ink that reads "Kathy Duttenhefner".

Kathy Duttenhefner, Chief Natural Resources Division

604 E Boulevard Ave Dept. 750 | Bismarck, ND 58505

PHONE: 701-328-5357 | FAX: 701-328-5363 | EMAIL: parkrec@nd.gov | WEBSITE: www.parkrec.nd.gov



Public Service Commission

State of North Dakota

COMMISSIONERS

Randy Christmann
Sheri Haugen-Hoffart
Julie Fedorchak

sent via email only

December 4, 2023

600 East Boulevard, Dept. 408
Bismarck, North Dakota 58505-0480
Web: www.psc.nd.gov
E-mail: ndpsc@nd.gov
Phone: 701-328-2400
ND Toll Free: 1-877-245-6685
Fax: 701-328-2410
TDD: 800-366-6888 or 711

Luke Toso
U.S. Fish and Wildlife Service
Ecological Services
3425 Miriam Avenue
Bismarck, ND 58501-7926
luke_toso@fws.gov

Dear Mr. Toso:

The Public Service Commission is planning reclamation activities in 2024 at Abandoned Mine Land (AML) sites near Beulah. The contractor selected through competitive bidding will conduct the project. As part of the project approval process, our office requests concurrence that the following proposed reclamation work will not adversely affect any threatened, endangered, or rare animal or plant species. Please reply regarding these proposed projects by **January 4, 2023**.

The 2024 Dakota Collieries AML Project: The Dakota Collieries abandoned surface coal mine contains 915 feet of steep highwall that is approximately 50 feet high. The proposed work is planned in two phases: a tree removal phase between January 2024 and March 2024 and a construction phase between May and November 2024. The proposed reclamation work involves backsloping and backfilling the highwall with on-site mine spoil to reduce the hazard. The property owners support the proposed reclamation project. Affected areas will be reseeded with locally adapted grass species native to western North Dakota. No off-site pit dewatering is planned, and erosion and sedimentation will be controlled. Additional work on adjacent properties will include reclaiming subsidence and erosional features from abandoned underground and surface mines. The total area affected is about 25 acres. Work is expected to be conducted between June and October 2024. The estimated cost for this project is \$750,000.

The proposed project area was reviewed by Mr. Guy Welch, PSC Range Scientist. We have included his inspection report, supporting documentation, and environmental assessment. There is no proposed or designated critical habitat in or adjacent to the project area. Reclamation activities at the 2024 Dakota Collieries Project site will not jeopardize or adversely affect any proposed, threatened, or endangered species or proposed or designated critical habitat.

We expect this project to be completed during the 2024 construction season. The attached map provides more information and shows proposed project locations. Thank you for your assistance in this matter. If you have any questions or need more information, please contact me at mjfisher@nd.gov or 701-328-4779.

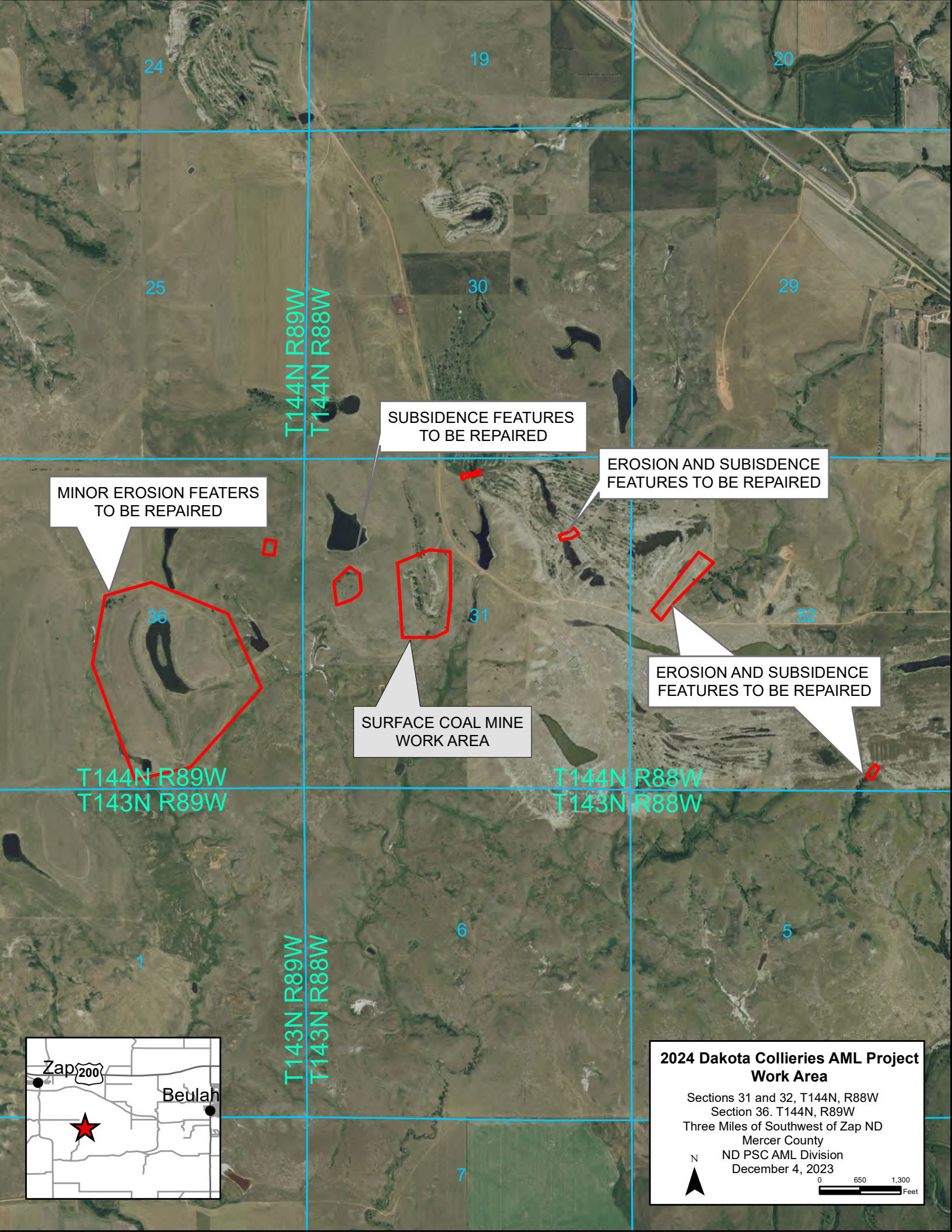
Sincerely,

Jonathan Emmer
Director
Abandoned Mine Lands Division

Enclosures

cc via email only: Jerry Reinisch (jerry_reinisch@fws.gov)

AML\2024\2024 Dakota Collieries\ATP\Concurrence Letters\2024_Advsry_auth_to_proceed_ltr_12-4-23



24

19

20

25

T144N R89W
T144N R88W

30

29

SUBSIDENCE FEATURES
TO BE REPAIRED

EROSION AND SUBSIDENCE
FEATURES TO BE REPAIRED

MINOR EROSION FEATERS
TO BE REPAIRED

36

31

32

EROSION AND SUBSIDENCE
FEATURES TO BE REPAIRED

SURFACE COAL MINE
WORK AREA

T144N R89W
T143N R89W

T144N R88W
T143N R88W

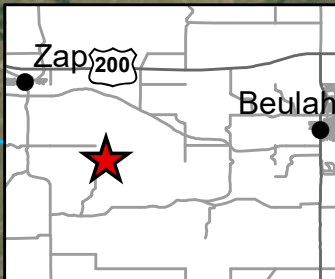
1

T143N R89W
T143N R88W

6

5

7



**2024 Dakota Collieries AML Project
Work Area**

Sections 31 and 32, T144N, R88W
 Section 36, T144N, R89W
 Three Miles of Southwest of Zap ND
 Mercer County
 ND PSC AML Division
 December 4, 2023

N

0 650 1,300
Feet

INSPECTION REPORT

DATE OF INSPECTION: November 8, 2023

TYPE OF INSPECTION: AML Site Investigation

PERSONS ACCOMPANYING INSPECTORS: Mike Howe, AML Division

INSPECTION CONDITIONS: The inspection was conducted between 1:00 p.m. and 2:00 p.m. CST. Skies were mostly sunny. The temperature was near 45° F. Access was unrestricted.

GENERAL

The purpose of this inspection was to evaluate the lands surrounding the Dakota Collieries Abandoned Mine Lands (AML) Project site in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 31, T144N, R88W, Mercer County, ND. This project site consists of orphan mined land pits and spoil piles from surface mining activities that occurred prior to North Dakota's first surface coal mining and reclamation law enacted in 1969. The USFWS IPaC site indicates that the Piping Plover, Rufa Red Knot, Whooping Crane and Dakota skipper could potentially be affected by activities at this location – see attached IPaC report dated November 9, 2023. The species of concern for this inspection is the Dakota skipper.

Most of the land located east and west of the Project site has been affected by surface coal mining activities. This would include the E $\frac{1}{2}$ of Section 31 and lands to the west in Section 36, T144N, R89W. The land located immediately north, and northwest of the project site appears to have been reclaimed according to North Dakota early reclamation laws which required spoil ridges to be graded to a rolling topography with slopes not exceeding 25 percent, and traversable by farm machinery if the affected area was to be used as cropland or hayland. Beginning in 1973, up to two feet of soil material was required to be removed and replaced on regraded spoil. It appears that areas of the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 31 may have been reclaimed in accordance with these early reclamation laws. Figure 1 depicts the Project area on NAIP 2022 aerial imagery and provides spatial information of the surrounding area.

Figure 2 depicts the NRCS Web Soil survey and associated native grassland ecological sites of the area. The NRCS Web Soil survey classifies the project area and mined areas in the E $\frac{1}{2}$ of Section 31 as soil mapping unit E4915F, Dumps, mine -Ustorthents complex, 0 to 75% slopes.

Areas immediately west of the Project area are classified as Amor -Werner loams, William loam and Sen-Chama silt loams. These are Loamy, Shallow Loamy, Limy Residual ecological sites. Shallow Loamy and Limy Residual ecological sites have the potential to support plant communities capable of supporting Dakota skipper Type B habitat, but this area has the appearance of having been affected by

anthropogenetic activities and is overwhelmingly dominated with smooth brome. Crested wheatgrass was also present and trace amounts of porcupine grass, sideoats grama and little bluestem were observed. Fringed sagewort appeared to be the dominant forb species present. This area has been fully utilized by cattle during the 2023 growing season. See photos PB090006 and PB090015.

Undisturbed native grassland was observed adjacent to an old haul road corridor located south and east of the Project site. The NRCS Web Soil Survey classifies most of this area as Rhoades-Daglum complex, Belfield-Wyola-Daglum complex and Moreau-Barkof silt clays which are thin claypan, claypan and clayey ecological sites. These clayey sites are not capable of supporting native grass communities that provide suitable habitat for the Dakota skipper according to NRCS's ecological site descriptions for Major Land Resource Area 54. These areas appeared to be dominated with blue grama, western wheatgrass and invasive cool season grasses, namely smooth brome and crested wheatgrass. Bluestem species were generally not observed growing on these ecological sites but small colonies of little bluestem was observed on a few steep slopes associated with knolls and drainageways. See photo PB090041.

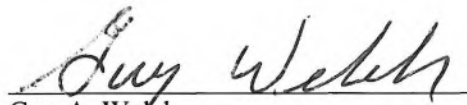
Undisturbed native grassland located southwest of an old haul road corridor is classified as a Ringling-Cabba complex which corresponds to Very Shallow and Shallow Loamy ecological sites. The Ringling soil series consists of very deep, excessively drained soils that formed from materials derived from burned shale, burned sandstone, argillite or from porcelanite. The Cabba series consists of shallow, well drained soils that formed in residuum or colluvium derived from semi consolidated, loamy sedimentary beds. These sites have the potential to support plant communities capable of providing Dakota skipper Type B habitat. This area is approximately ¼ mile southwest of the Project area. An east-west running fence separates the N½SW¼ of Section 31 south of the old haul road corridor so most of this soil mapping unit is being managed separately from lands surrounding the Project site. Areas south of this fence were observed from a distance. This area appeared to be dominated with a combination of native and non-native species, mainly western wheatgrass and smooth brome (photo PB090038). No bluestem species were observed growing on this soil mapping unit. See photo PB090038.

The ecological condition of undisturbed native grasslands surrounding the Project site were estimated to be in fair or poor ecological condition due to an abundance of smooth brome, an invasive non-native cool season species. The 2022 Dakota Skipper Survey Protocol indicates that "Dakota skippers are not likely to be present in cropped areas, previously cropped areas, non-native haylands, pasture or other grassland that is dominated by non-native species, or in areas where trees or shrubs predominate. In North Dakota, Dakota skipper Type B habitat occurs primarily on rolling terrain over gravelly glacial moraine deposits and is dominated by big bluestem, little bluestem, and perhaps western wheatgrass. Thus, it is not likely that suitable Dakota skipper habitat exists within 0.6 miles of the Project site. The AML Division can find that their proposed reclamation activities will not jeopardize or adversely affect the continued existence of the Dakota skipper.

A pdf copy of the NRCS Web Soil Survey for Section 31, T144N, R88W, Mercer County is attached to this report. The soil mapping units and associated ecological sites are provided as support information. A few representative photographs taken are provide at the end of this report.

MISCELLANEOUS

Photographs, with GPS coordinates, were taken during this inspection are on file with the Reclamation Division. The date stamp on the photographs mistakenly indicates the photo was taken a day later, November 9th rather than the 8th. A GPS tracklog of the route traveled is also on file.



Guy A. Welch
Permit Administrator
BS Range Science, SDSU

\\coal\Rec Data\GAW\AML\IndianHeadMineSite\Dakota_Collieries_Project.docx

Figure 1 : Dakota Collieries Project site with 2022 NAIP aerial imagery

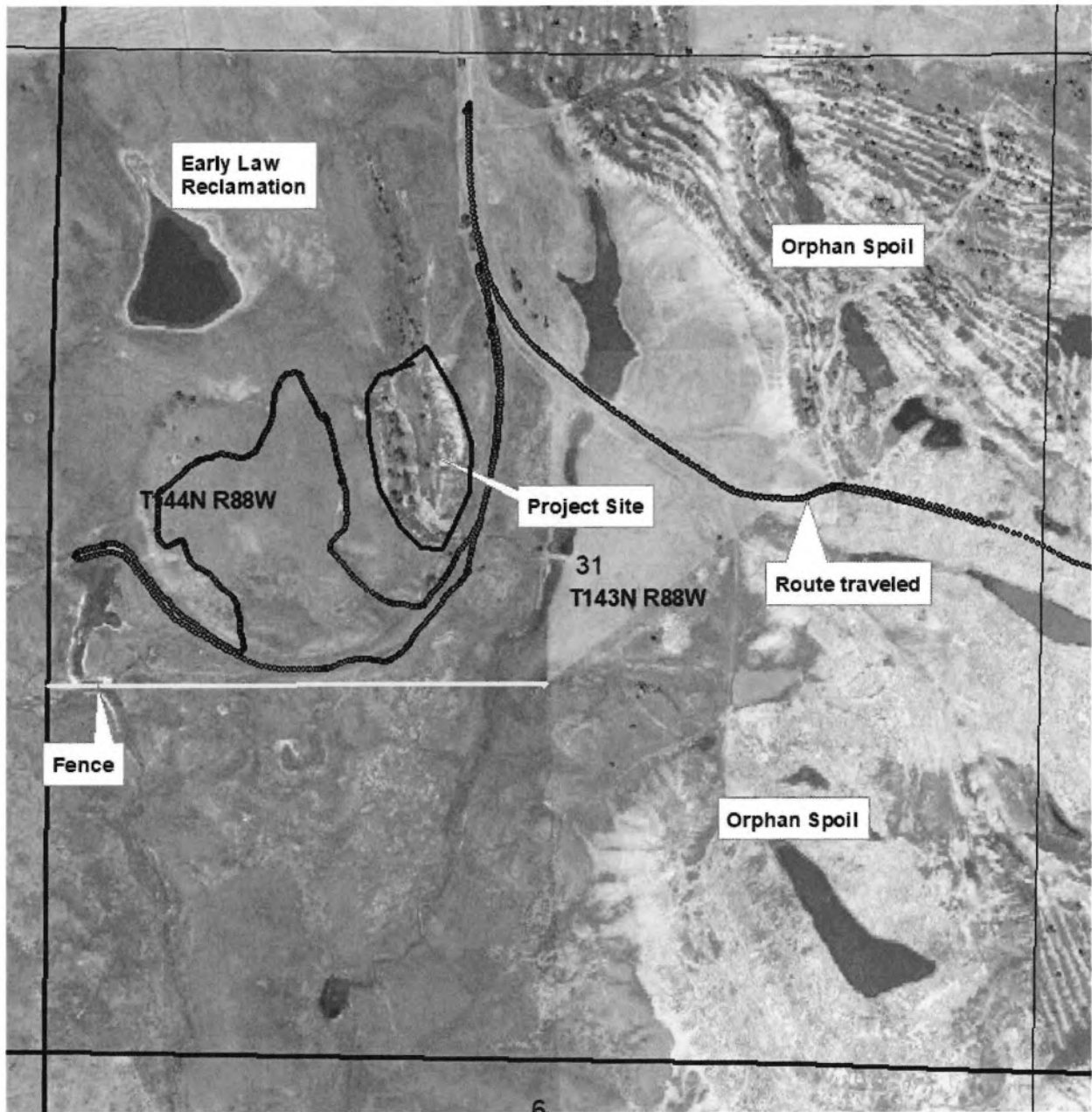


Figure 2: NRCS Web Soil Survey and associated native grassland Ecological Sites, Section 31, T144N, R88W, Mercer County, ND

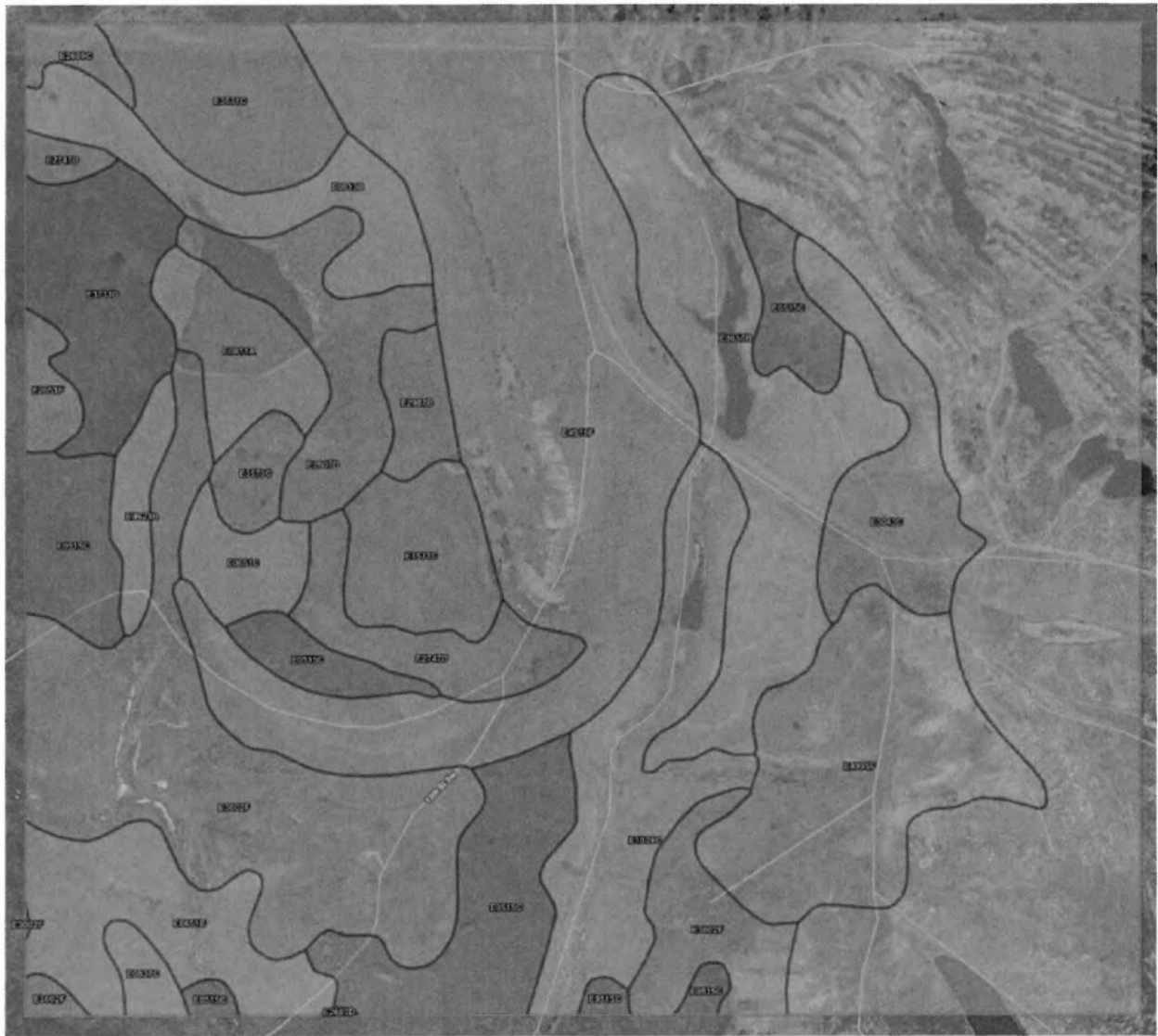


Photo PB090006.jpg: West of Project site facing northeast.



Photo PB090015.jpg: West of Project site facing northwest



Photo PB090038.jpg: South of Project site facing southeast



Photo PB090041.jpg: Southeast of Project site facing northeast



Photo PB090046.jpg: South end of Project site facing north



IPaC resource list

This report is an automatically generated list of species and other resources such as critical habitat (collectively referred to as *trust resources*) under the U.S. Fish and Wildlife Service's (USFWS) jurisdiction that are known or expected to be on or near the project area referenced below. The list may also include trust resources that occur outside of the project area, but that could potentially be directly or indirectly affected by activities in the project area. However, determining the likelihood and extent of effects a project may have on trust resources typically requires gathering additional site-specific (e.g., vegetation/species surveys) and project-specific (e.g., magnitude and timing of proposed activities) information.

Below is a summary of the project information you provided and contact information for the USFWS office(s) with jurisdiction in the defined project area. Please read the introduction to each section that follows (Endangered Species, Migratory Birds, USFWS Facilities, and NWI Wetlands) for additional information applicable to the trust resources addressed in that section.

Location

Mercer County, North Dakota



Local office

North Dakota Ecological Services Field Office

☎ (701) 250-4481

🏢 (701) 355-8513

3425 Miriam Avenue
Bismarck, ND 58501-7926

NOT FOR CONSULTATION

Endangered species

This resource list is for informational purposes only and does not constitute an analysis of project level impacts.

The primary information used to generate this list is the known or expected range of each species. Additional areas of influence (AOI) for species are also considered. An AOI includes areas outside of the species range if the species could be indirectly affected by activities in that area (e.g., placing a dam upstream of a fish population even if that fish does not occur at the dam site, may indirectly impact the species by reducing or eliminating water flow downstream). Because species can move, and site conditions can change, the species on this list are not guaranteed to be found on or near the project area. To fully determine any potential effects to species, additional site-specific and project-specific information is often required.

Section 7 of the Endangered Species Act **requires** Federal agencies to "request of the Secretary information whether any species which is listed or proposed to be listed may be present in the area of such proposed action" for any project that is conducted, permitted, funded, or licensed by any Federal agency. A letter from the local office and a species list which fulfills this requirement can **only** be obtained by requesting an official species list from either the Regulatory Review section in IPaC (see directions below) or from the local field office directly.

For project evaluations that require USFWS concurrence/review, please return to the IPaC website and request an official species list by doing the following:

1. Draw the project location and click CONTINUE.
2. Click DEFINE PROJECT.
3. Log in (if directed to do so).
4. Provide a name and description for your project.
5. Click REQUEST SPECIES LIST.

Listed species¹ and their critical habitats are managed by the [Ecological Services Program](#) of the U.S. Fish and Wildlife Service (USFWS) and the fisheries division of the National Oceanic and Atmospheric Administration (NOAA Fisheries²).

Species and critical habitats under the sole responsibility of NOAA Fisheries are **not** shown on this list. Please contact [NOAA Fisheries](#) for [species under their jurisdiction](#).

1. Species listed under the [Endangered Species Act](#) are threatened or endangered; IPaC also shows species that are candidates, or proposed, for listing. See the [listing status page](#) for more information. IPaC only shows species that are regulated by USFWS (see FAQ).

2. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

The following species are potentially affected by activities in this location:

Birds

NAME

STATUS

Piping Plover *Charadrius melodus*

Threatened

There is **final** critical habitat for this species. Your location does not overlap the critical habitat.

<https://ecos.fws.gov/ecp/species/6039>

Rufa Red Knot *Calidris canutus rufa*

Threatened

Wherever found

There is **proposed** critical habitat for this species.

<https://ecos.fws.gov/ecp/species/1864>

Whooping Crane *Grus americana*

Endangered

There is **final** critical habitat for this species. Your location does not overlap the critical habitat.

<https://ecos.fws.gov/ecp/species/758>

Insects

NAME

STATUS

Dakota Skipper *Hesperia dacotae*

Threatened

Wherever found

There is **final** critical habitat for this species. Your location does not overlap the critical habitat.

<https://ecos.fws.gov/ecp/species/1028>

Monarch Butterfly *Danaus plexippus*

Candidate

Wherever found

No critical habitat has been designated for this species.

<https://ecos.fws.gov/ecp/species/9743>

Critical habitats

Potential effects to critical habitat(s) in this location must be analyzed along with the endangered species themselves.

There are no critical habitats at this location.

You are still required to determine if your project(s) may have effects on all above listed species.

Bald & Golden Eagles

Bald and golden eagles are protected under the Bald and Golden Eagle Protection Act¹ and the Migratory Bird Treaty Act².

Any person or organization who plans or conducts activities that may result in impacts to bald or golden eagles, or their habitats³, should follow appropriate regulations and consider implementing appropriate conservation measures, as described below.

Additional information can be found using the following links:

- Eagle Management <https://www.fws.gov/program/eagle-management>
- Measures for avoiding and minimizing impacts to birds
<https://www.fws.gov/library/collections/avoiding-and-minimizing-incident-take-migratory-birds>
- Nationwide conservation measures for birds
<https://www.fws.gov/sites/default/files/documents/nationwide-standard-conservation-measures.pdf>
- Supplemental Information for Migratory Birds and Eagles in IPaC
<https://www.fws.gov/media/supplemental-information-migratory-birds-and-bald-and-golden-eagles-may-occur-project-action>

There are bald and/or golden eagles in your project area.

For guidance on when to schedule activities or implement avoidance and minimization measures to reduce impacts to migratory birds on your list, click on the PROBABILITY OF PRESENCE SUMMARY at the top of your list to see when these birds are most likely to be present and breeding in your project area.

NAME

BREEDING SEASON

Bald Eagle *Haliaeetus leucocephalus*

Breeds Dec 1 to Aug 31

This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities.

Probability of Presence Summary

The graphs below provide our best understanding of when birds of concern are most likely to be present in your project area. This information can be used to tailor and schedule your project activities to avoid or minimize impacts to birds. Please make sure you read and understand the FAQ "Proper Interpretation and Use of Your Migratory Bird Report" before using or attempting to interpret this report.

Probability of Presence (■)

Each green bar represents the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during a particular week of the year. (A year is represented as 12 4-week months.) A taller bar indicates a higher probability of species presence. The survey effort (see below) can be used to establish a level of confidence in the presence score. One can have higher confidence in the presence score if the corresponding survey effort is also high.

How is the probability of presence score calculated? The calculation is done in three steps:

1. The probability of presence for each week is calculated as the number of survey events in the week where the species was detected divided by the total number of survey events for that week. For example, if in week 12 there were 20 survey events and the Spotted Towhee was found in 5 of them, the probability of presence of the Spotted Towhee in week 12 is 0.25.
2. To properly present the pattern of presence across the year, the relative probability of presence is calculated. This is the probability of presence divided by the maximum probability of presence across all weeks. For example, imagine the probability of presence in week 20 for the Spotted Towhee is 0.05, and that the probability of presence at week 12 (0.25) is the maximum of any week of the year. The relative probability of presence on week 12 is $0.25/0.25 = 1$; at week 20 it is $0.05/0.25 = 0.2$.
3. The relative probability of presence calculated in the previous step undergoes a statistical conversion so that all possible values fall between 0 and 10, inclusive. This is the probability of presence score.

To see a bar's probability of presence score, simply hover your mouse cursor over the bar.

Breeding Season (■)

Yellow bars denote a very liberal estimate of the time-frame inside which the bird breeds across its entire range. If there are no yellow bars shown for a bird, it does not breed in your project area.

Survey Effort (|)

Vertical black lines superimposed on probability of presence bars indicate the number of surveys performed for that species in the 10km grid cell(s) your project area overlaps. The number of surveys is expressed as a range, for example, 33 to 64 surveys.

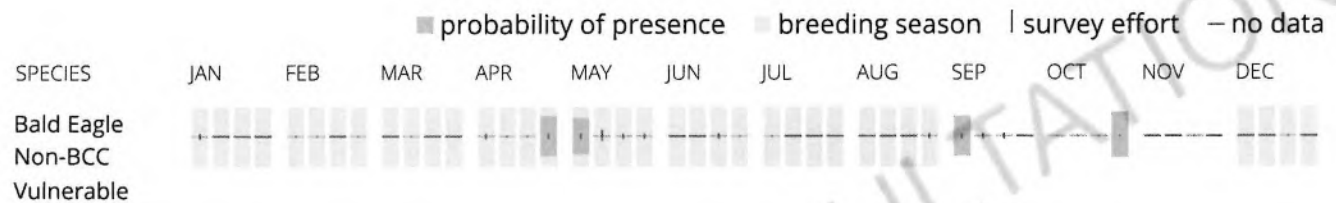
To see a bar's survey effort range, simply hover your mouse cursor over the bar.

No Data (–)

A week is marked as having no data if there were no survey events for that week.

Survey Timeframe

Surveys from only the last 10 years are used in order to ensure delivery of currently relevant information. The exception to this is areas off the Atlantic coast, where bird returns are based on all years of available data, since data in these areas is currently much more sparse.



What does IPaC use to generate the potential presence of bald and golden eagles in my specified location?

The potential for eagle presence is derived from data provided by the [Avian Knowledge Network \(AKN\)](#). The AKN data is based on a growing collection of [survey, banding, and citizen science datasets](#) and is queried and filtered to return a list of those birds reported as occurring in the 10km grid cell(s) which your project intersects, and that have been identified as warranting special attention because they are a BCC species in that area, an eagle ([Eagle Act](#) requirements may apply). To see a list of all birds potentially present in your project area, please visit the [Rapid Avian Information Locator \(RAIL\) Tool](#).

What does IPaC use to generate the probability of presence graphs of bald and golden eagles in my specified location?

The Migratory Bird Resource List is comprised of USFWS [Birds of Conservation Concern \(BCC\)](#) and other species that may warrant special attention in your project location.

The migratory bird list generated for your project is derived from data provided by the [Avian Knowledge Network \(AKN\)](#). The AKN data is based on a growing collection of [survey, banding, and citizen science datasets](#) and is queried and filtered to return a list of those birds reported as occurring in the 10km grid cell(s) which your project intersects, and that have been identified as warranting special attention because they are a BCC species in that area, an eagle ([Eagle Act](#) requirements may apply), or a species that has a particular vulnerability to offshore activities or development.

Again, the Migratory Bird Resource list includes only a subset of birds that may occur in your project area. It is not representative of all birds that may occur in your project area. To get a list of all birds potentially present in your project area, please visit the [Rapid Avian Information Locator \(RAIL\) Tool](#).

What if I have eagles on my list?

If your project has the potential to disturb or kill eagles, you may need to obtain a permit to avoid violating the [Eagle Act](#) should such impacts occur. Please contact your local Fish and Wildlife Service Field Office if you have questions.

Migratory birds

Certain birds are protected under the Migratory Bird Treaty Act¹ and the Bald and Golden Eagle Protection Act².

Any person or organization who plans or conducts activities that may result in impacts to migratory birds, eagles, and their habitats³ should follow appropriate regulations and consider implementing appropriate conservation measures, as described below.

1. The [Migratory Birds Treaty Act](#) of 1918.
2. The [Bald and Golden Eagle Protection Act](#) of 1940.

Additional information can be found using the following links:

- Eagle Management <https://www.fws.gov/program/eagle-management>
- Measures for avoiding and minimizing impacts to birds <https://www.fws.gov/library/collections/avoiding-and-minimizing-incident-take-migratory-birds>
- Nationwide conservation measures for birds <https://www.fws.gov/sites/default/files/documents/nationwide-standard-conservation-measures.pdf>
- Supplemental Information for Migratory Birds and Eagles in IPaC <https://www.fws.gov/media/supplemental-information-migratory-birds-and-bald-and-golden-eagles-may-occur-project-action>

The birds listed below are birds of particular concern either because they occur on the [USFWS Birds of Conservation Concern \(BCC\) list](#) or warrant special attention in your project location. To learn more about the levels of concern for birds on your list and how this list is generated, see the FAQ [below](#). This is not a list of every bird you may find in this location, nor a guarantee that every bird on this list will be found in your project area. To see exact locations of where birders and the general public have sighted birds in and around your project area, visit the [E-bird data mapping tool](#) (Tip: enter your location, desired date range and a species on your list). For projects that occur off the Atlantic Coast, additional maps and models detailing the relative occurrence and abundance of bird species on your list are available. Links to additional information about Atlantic Coast birds, and other important information about your migratory bird list, including how to properly interpret and use your migratory bird report, can be found [below](#).

For guidance on when to schedule activities or implement avoidance and minimization measures to reduce impacts to migratory birds on your list, click on the PROBABILITY OF PRESENCE SUMMARY at the top of your list to see when these birds are most likely to be present and breeding in your project area.

NAME	BREEDING SEASON
Bald Eagle <i>Haliaeetus leucocephalus</i> This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities.	Breeds Dec 1 to Aug 31
Bobolink <i>Dolichonyx oryzivorus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds May 20 to Jul 31
California Gull <i>Larus californicus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds Mar 1 to Jul 31
Franklin's Gull <i>Leucophaeus pipixcan</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds May 1 to Jul 31
Prairie Falcon <i>Falco mexicanus</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA https://ecos.fws.gov/ecp/species/4736	Breeds Mar 1 to Jul 31

Probability of Presence Summary

The graphs below provide our best understanding of when birds of concern are most likely to be present in your project area. This information can be used to tailor and schedule your project activities to avoid or minimize impacts to birds. Please make sure you read and understand the FAQ "Proper Interpretation and Use of Your Migratory Bird Report" before using or attempting to interpret this report.

Probability of Presence (■)

Each green bar represents the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during a particular week of the year. (A year is represented as 12 4-week months.) A taller bar indicates a higher probability of species presence. The survey

effort (see below) can be used to establish a level of confidence in the presence score. One can have higher confidence in the presence score if the corresponding survey effort is also high.

How is the probability of presence score calculated? The calculation is done in three steps:

1. The probability of presence for each week is calculated as the number of survey events in the week where the species was detected divided by the total number of survey events for that week. For example, if in week 12 there were 20 survey events and the Spotted Towhee was found in 5 of them, the probability of presence of the Spotted Towhee in week 12 is 0.25.
2. To properly present the pattern of presence across the year, the relative probability of presence is calculated. This is the probability of presence divided by the maximum probability of presence across all weeks. For example, imagine the probability of presence in week 20 for the Spotted Towhee is 0.05, and that the probability of presence at week 12 (0.25) is the maximum of any week of the year. The relative probability of presence on week 12 is $0.25/0.25 = 1$; at week 20 it is $0.05/0.25 = 0.2$.
3. The relative probability of presence calculated in the previous step undergoes a statistical conversion so that all possible values fall between 0 and 10, inclusive. This is the probability of presence score.

To see a bar's probability of presence score, simply hover your mouse cursor over the bar.

Breeding Season ()

Yellow bars denote a very liberal estimate of the time-frame inside which the bird breeds across its entire range. If there are no yellow bars shown for a bird, it does not breed in your project area.

Survey Effort (|)

Vertical black lines superimposed on probability of presence bars indicate the number of surveys performed for that species in the 10km grid cell(s) your project area overlaps. The number of surveys is expressed as a range, for example, 33 to 64 surveys.

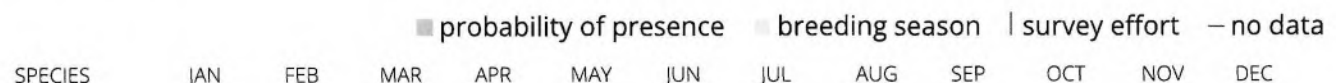
To see a bar's survey effort range, simply hover your mouse cursor over the bar.

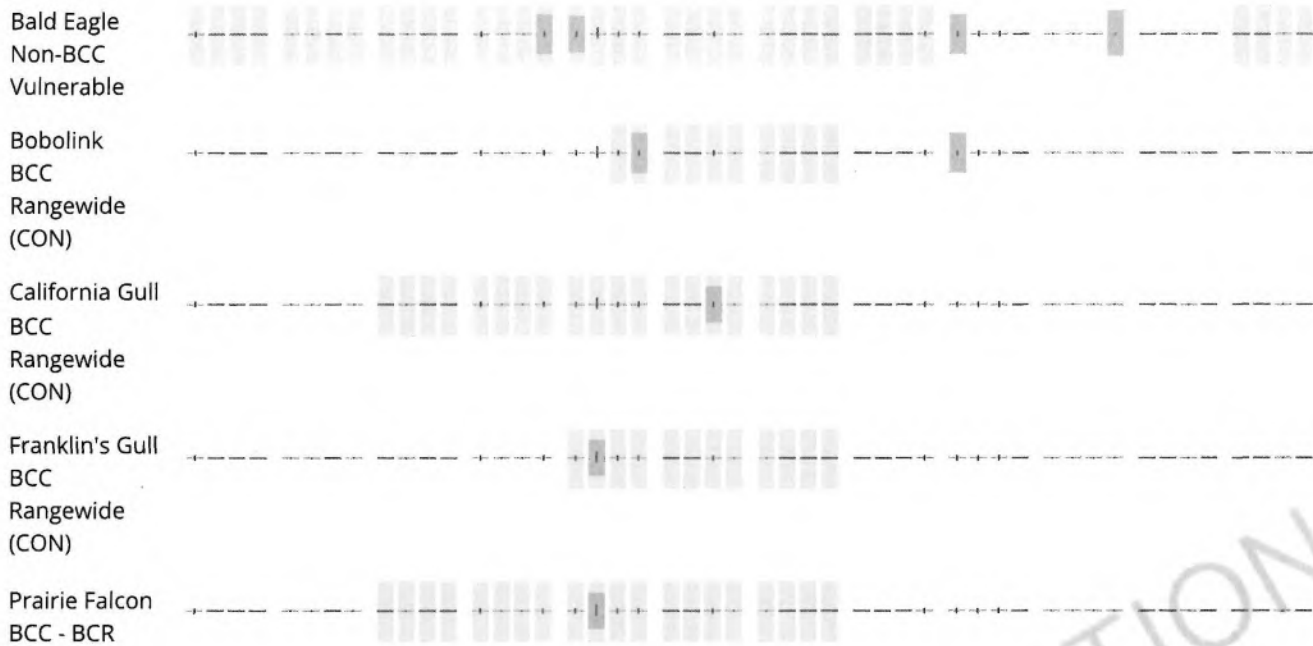
No Data (–)

A week is marked as having no data if there were no survey events for that week.

Survey Timeframe

Surveys from only the last 10 years are used in order to ensure delivery of currently relevant information. The exception to this is areas off the Atlantic coast, where bird returns are based on all years of available data, since data in these areas is currently much more sparse.





Tell me more about conservation measures I can implement to avoid or minimize impacts to migratory birds.

Nationwide Conservation Measures describes measures that can help avoid and minimize impacts to all birds at any location year round. Implementation of these measures is particularly important when birds are most likely to occur in the project area. When birds may be breeding in the area, identifying the locations of any active nests and avoiding their destruction is a very helpful impact minimization measure. To see when birds are most likely to occur and be breeding in your project area, view the Probability of Presence Summary. Additional measures or permits may be advisable depending on the type of activity you are conducting and the type of infrastructure or bird species present on your project site.

What does IPaC use to generate the list of migratory birds that potentially occur in my specified location?

The Migratory Bird Resource List is comprised of USFWS Birds of Conservation Concern (BCC) and other species that may warrant special attention in your project location.

The migratory bird list generated for your project is derived from data provided by the Avian Knowledge Network (AKN). The AKN data is based on a growing collection of survey, banding, and citizen science datasets and is queried and filtered to return a list of those birds reported as occurring in the 10km grid cell(s) which your project intersects, and that have been identified as warranting special attention because they are a BCC species in that area, an eagle (Eagle Act requirements may apply), or a species that has a particular vulnerability to offshore activities or development.

Again, the Migratory Bird Resource list includes only a subset of birds that may occur in your project area. It is not representative of all birds that may occur in your project area. To get a list of all birds potentially present in your project area, please visit the Rapid Avian Information Locator (RAIL) Tool.

What does IPaC use to generate the probability of presence graphs for the migratory birds potentially occurring in my specified location?

The probability of presence graphs associated with your migratory bird list are based on data provided by the [Avian Knowledge Network \(AKN\)](#). This data is derived from a growing collection of [survey, banding, and citizen science datasets](#).

Probability of presence data is continuously being updated as new and better information becomes available. To learn more about how the probability of presence graphs are produced and how to interpret them, go to the Probability of Presence Summary and then click on the "Tell me about these graphs" link.

How do I know if a bird is breeding, wintering or migrating in my area?

To see what part of a particular bird's range your project area falls within (i.e. breeding, wintering, migrating or year-round), you may query your location using the [RAIL Tool](#) and look at the range maps provided for birds in your area at the bottom of the profiles provided for each bird in your results. If a bird on your migratory bird species list has a breeding season associated with it, if that bird does occur in your project area, there may be nests present at some point within the timeframe specified. If "Breeds elsewhere" is indicated, then the bird likely does not breed in your project area.

What are the levels of concern for migratory birds?

Migratory birds delivered through IPaC fall into the following distinct categories of concern:

1. "BCC Rangewide" birds are [Birds of Conservation Concern](#) (BCC) that are of concern throughout their range anywhere within the USA (including Hawaii, the Pacific Islands, Puerto Rico, and the Virgin Islands);
2. "BCC - BCR" birds are BCCs that are of concern only in particular Bird Conservation Regions (BCRs) in the continental USA; and
3. "Non-BCC - Vulnerable" birds are not BCC species in your project area, but appear on your list either because of the [Eagle Act](#) requirements (for eagles) or (for non-eagles) potential susceptibilities in offshore areas from certain types of development or activities (e.g. offshore energy development or longline fishing).

Although it is important to try to avoid and minimize impacts to all birds, efforts should be made, in particular, to avoid and minimize impacts to the birds on this list, especially eagles and BCC species of rangewide concern. For more information on conservation measures you can implement to help avoid and minimize migratory bird impacts and requirements for eagles, please see the FAQs for these topics.

Details about birds that are potentially affected by offshore projects

For additional details about the relative occurrence and abundance of both individual bird species and groups of bird species within your project area off the Atlantic Coast, please visit the [Northeast Ocean Data Portal](#). The Portal also offers data and information about other taxa besides birds that may be helpful to you in your project review. Alternately, you may download the bird model results files underlying the portal maps through the [NOAA NCCOS Integrative Statistical Modeling and Predictive Mapping of Marine Bird Distributions and Abundance on the Atlantic Outer Continental Shelf](#) project webpage.

Bird tracking data can also provide additional details about occurrence and habitat use throughout the year, including migration. Models relying on survey data may not include this information. For additional information on marine bird tracking data, see the [Diving Bird Study](#) and the [nanotag studies](#) or contact [Caleb Spiegel](#) or [Pam Loring](#).

What if I have eagles on my list?

If your project has the potential to disturb or kill eagles, you may need to obtain a permit to avoid violating the Eagle Act should such impacts occur.

Proper Interpretation and Use of Your Migratory Bird Report

The migratory bird list generated is not a list of all birds in your project area, only a subset of birds of priority concern. To learn more about how your list is generated, and see options for identifying what other birds may be in your project area, please see the FAQ "What does IPaC use to generate the migratory birds potentially occurring in my specified location". Please be aware this report provides the "probability of presence" of birds within the 10 km grid cell(s) that overlap your project; not your exact project footprint. On the graphs provided, please also look carefully at the survey effort (indicated by the black vertical bar) and for the existence of the "no data" indicator (a red horizontal bar). A high survey effort is the key component. If the survey effort is high, then the probability of presence score can be viewed as more dependable. In contrast, a low survey effort bar or no data bar means a lack of data and, therefore, a lack of certainty about presence of the species. This list is not perfect; it is simply a starting point for identifying what birds of concern have the potential to be in your project area, when they might be there, and if they might be breeding (which means nests might be present). The list helps you know what to look for to confirm presence, and helps guide you in knowing when to implement conservation measures to avoid or minimize potential impacts from your project activities, should presence be confirmed. To learn more about conservation measures, visit the FAQ "Tell me about conservation measures I can implement to avoid or minimize impacts to migratory birds" at the bottom of your migratory bird trust resources page.

Facilities

National Wildlife Refuge lands

Any activity proposed on lands managed by the National Wildlife Refuge system must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

There are no refuge lands at this location.

Fish hatcheries

There are no fish hatcheries at this location.

Wetlands in the National Wetlands Inventory (NWI)

Impacts to [NWI wetlands](#) and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local [U.S. Army Corps of Engineers District](#).

Wetland information is not available at this time

This can happen when the National Wetlands Inventory (NWI) map service is unavailable, or for very large projects that intersect many wetland areas. Try again, or visit the [NWI map](#) to view wetlands at this location.

Data limitations

The Service's objective of mapping wetlands and deepwater habitats is to produce reconnaissance level information on the location, type and size of these resources. The maps are prepared from the analysis of high altitude imagery. Wetlands are identified based on vegetation, visible hydrology and geography. A margin of error is inherent in the use of imagery; thus, detailed on-the-ground inspection of any particular site may result in revision of the wetland boundaries or classification established through image analysis.

The accuracy of image interpretation depends on the quality of the imagery, the experience of the image analysts, the amount and quality of the collateral data and the amount of ground truth verification work conducted. Metadata should be consulted to determine the date of the source imagery used and any mapping problems.

Wetlands or other mapped features may have changed since the date of the imagery or field work. There may be occasional differences in polygon boundaries or classifications between the information depicted on the map and the actual conditions on site.

Data exclusions

Certain wetland habitats are excluded from the National mapping program because of the limitations of aerial imagery as the primary data source used to detect wetlands. These habitats include seagrasses or submerged aquatic vegetation that are found in the intertidal and subtidal zones of estuaries and nearshore coastal waters. Some deepwater reef communities (coral or tubercid worm reefs) have also been excluded from the inventory. These habitats, because of their depth, go undetected by aerial imagery.

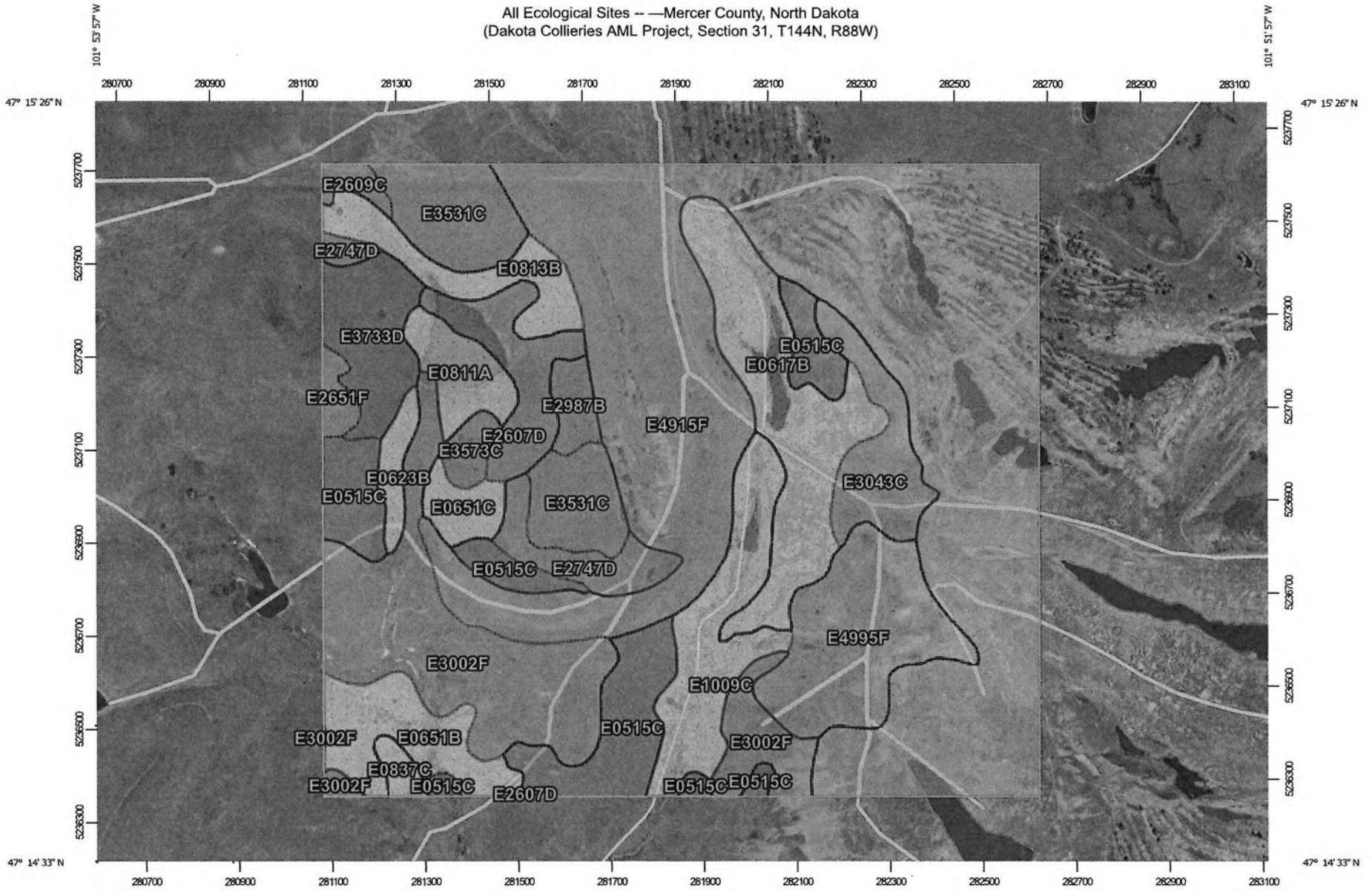
Data precautions

Federal, state, and local regulatory agencies with jurisdiction over wetlands may define and describe wetlands in a different manner than that used in this inventory. There is no attempt, in either the design or products of this inventory, to define the limits of proprietary jurisdiction of any Federal, state, or local

government or to establish the geographical scope of the regulatory programs of government agencies. Persons intending to engage in activities involving modifications within or adjacent to wetland areas should seek the advice of appropriate Federal, state, or local agencies concerning specified agency regulatory programs and proprietary jurisdictions that may affect such activities.

NOT FOR CONSULTATION

All Ecological Sites -- Mercer County, North Dakota
 (Dakota Collieries AML Project, Section 31, T144N, R88W)



Map Scale: 1:11,500 if printed on A landscape (11" x 8.5") sheet.

0 150 300 600 900 Meters


0 500 1000 2000 3000 Feet

Map projection: Web Mercator Corner coordinates: WGS84 Edge tics: UTM Zone 14N WGS84

All Ecological Sites -- Mercer County, North Dakota
(Dakota Collieries AML Project, Section 31, T144N, R88W)


MAP LEGEND

Area of Interest (AOI)

 Area of Interest (AOI)

Soils



Soil Rating Polygons





-  R054XY020ND
-  R054XY026ND
-  R054XY030ND
-  R054XY031ND
-  R054XY033ND
-  R054XY035ND
-  R054XY999ND
-  Not rated or not available

Soil Rating Lines


-  R054XY020ND
-  R054XY026ND
-  R054XY030ND
-  R054XY031ND
-  R054XY033ND
-  R054XY035ND
-  R054XY999ND
-  Not rated or not available

Soil Rating Points

-  R054XY020ND
-  R054XY026ND
-  R054XY030ND
-  R054XY031ND

-  R054XY033ND
-  R054XY035ND
-  R054XY999ND
-  Not rated or not available


Water Features

 Streams and Canals

Transportation

-  Rails
-  Interstate Highways
-  US Routes
-  Major Roads
-  Local Roads

Background

 Aerial Photography

MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:20,000.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service
Web Soil Survey URL:
Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Mercer County, North Dakota
Survey Area Data: Version 30, Sep 7, 2023

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: May 31, 2021—Jun 2, 2021

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

All Ecological Sites —

Map unit symbol	Map unit name	Component name (percent)	Ecological site	Acres in AOI	Percent of AOI
E0515C	Rhoades-Daglum complex, 6 to 9 percent slopes	Rhoades (50%)	R054XY033ND — Thin Claypan	34.2	6.6%
		Daglum (35%)	R054XY021ND — Claypan		
		Wyola (6%)	R054XY020ND — Clayey		
		Barkof (4%)	R054XY020ND — Clayey		
		Rhoades, severely eroded (3%)	R054XY033ND — Thin Claypan		
		Cabba (2%)	R054XY030ND — Shallow Loamy		
E0617B	Belfield-Wyola-Daglum complex, 2 to 6 percent slopes	Belfield (35%)	R054XY020ND — Clayey	34.5	6.6%
		Wyola (30%)	R054XY020ND — Clayey		
		Daglum (20%)	R054XY021ND — Claypan		
		Grail (8%)	R054XY023ND — Loamy Overflow		
		Regent (5%)	R054XY020ND — Clayey		
		Rhoades (2%)	R054XY033ND — Thin Claypan		
E0623B	Grail-Belfield clay loams, 2 to 6 percent slopes	Belfield (34%)	R054XY020ND — Clayey	4.1	0.8%
		Grail (32%)	R054XY020ND — Clayey		
		Wyola (11%)	R054XY020ND — Clayey		
		Daglum (10%)	R054XY021ND — Claypan		
		Farnuf (10%)	R054XY031ND — Loamy		
		Regent (3%)	R054XY020ND — Clayey		
E0651B	Regent-Janesburg complex, 3 to 6 percent slopes	Regent (40%)	R054XY020ND — Clayey	16.1	3.1%
		Janesburg (28%)	R054XY021ND — Claypan		
		Reeder (10%)	R054XY031ND — Loamy		

Map unit symbol	Map unit name	Component name (percent)	Ecological site	Acres in AOI	Percent of AOI
		Wyola (8%)	R054XY020ND — Clayey		
		Belfield (6%)	R054XY020ND — Clayey		
		Dogtooth (5%)	R054XY033ND — Thin Claypan		
		Barkof (3%)	R054XY020ND — Clayey		
E0651C	Regent-Janesburg complex, 6 to 9 percent slopes	Regent (45%)	R054XY020ND — Clayey	5.4	1.0%
		Janesburg (32%)	R054XY021ND — Claypan		
		Wyola (8%)	R054XY020ND — Clayey		
		Chama (5%)	R054XY046ND — Limy Residual		
		Dogtooth (5%)	R054XY033ND — Thin Claypan		
		Barkof (3%)	R054XY020ND — Clayey		
		Wayden (2%)	R054XY028ND — Shallow Clayey		
E0811A	Grail silty clay loam, 0 to 2 percent slopes	Grail (65%)	R054XY020ND — Clayey	8.9	1.7%
		Wyola (12%)	R054XY020ND — Clayey		
		Grail, frequently flooded (10%)	R054XY023ND — Loamy Overflow		
		Belfield (9%)	R054XY020ND — Clayey		
		Lawther (4%)	R054XY020ND — Clayey		
E0813B	Grail-Wyola silty clay loams, 2 to 6 percent slopes	Grail (47%)	R054XY020ND — Clayey	12.7	2.4%
		Wyola (36%)	R054XY020ND — Clayey		
		Belfield (7%)	R054XY020ND — Clayey		
		Grail, frequently flooded (5%)	R054XY023ND — Loamy Overflow		
		Regent (3%)	R054XY020ND — Clayey		
		Lawther (2%)	R054XY020ND — Clayey		
E0837C	Wyola silty clay loam, 6 to 9 percent slopes	Wyola (69%)	R054XY020ND — Clayey	2.2	0.4%

Map unit symbol	Map unit name	Component name (percent)	Ecological site	Acres in AOI	Percent of AOI
		Regent (7%)	R054XY020ND — Clayey		
		Grail, frequently flooded (6%)	R054XY023ND — Loamy Overflow		
		Shambo (6%)	R054XY031ND — Loamy		
		Daglum (5%)	R054XY021ND — Claypan		
		Morton (5%)	R054XY031ND — Loamy		
		Chama (2%)	R054XY046ND — Limy Residual		
E1009C	Moreau-Barkof silty clays, 6 to 9 percent slopes	Moreau (50%)	R054XY020ND — Clayey	23.4	4.5%
		Barkof (15%)	R054XY020ND — Clayey		
		Wayden (12%)	R054XY028ND — Shallow Clayey		
		Regent (8%)	R054XY020ND — Clayey		
		Lawther (7%)	R054XY020ND — Clayey		
		Janesburg (5%)	R054XY021ND — Claypan		
		Wyola (3%)	R054XY020ND — Clayey		
E2607D	Amor-Werner loams, 9 to 15 percent slopes	Amor (51%)	R054XY031ND — Loamy	13.8	2.7%
		Werner (35%)	R054XY030ND — Shallow Loamy		
		Arnegard (3%)	R054XY031ND — Loamy		
		Chama (3%)	R054XY046ND — Limy Residual		
		Parshall (3%)	R054XY026ND — Sandy		
		Shambo (3%)	R054XY031ND — Loamy		
		Vebar (2%)	R054XY026ND — Sandy		
E2609C	Amor-Werner-Farnuf loams, 6 to 9 percent slopes	Amor (42%)	R054XY031ND — Loamy	2.4	0.5%
		Werner (24%)	R054XY030ND — Shallow Loamy		
		Farnuf (20%)	R054XY031ND — Loamy		

Map unit symbol	Map unit name	Component name (percent)	Ecological site	Acres in AOI	Percent of AOI
		Vebar (4%)	R054XY026ND — Sandy		
		Arnegard (3%)	R054XY023ND — Loamy Overflow		
		Tally (3%)	R054XY026ND — Sandy		
		Cohagen (2%)	R054XY043ND — Shallow Sandy		
		Regent (2%)	R054XY020ND — Clayey		
E2651F	Werner-Amor-Arnegard loams, 9 to 50 percent slopes	Werner (44%)	R054XY030ND — Shallow Loamy	2.7	0.5%
		Amor (33%)	R054XY031ND — Loamy		
		Arnegard (15%)	R054XY031ND — Loamy		
		Wabek (4%)	R054XY035ND — Very Shallow		
		Grail (2%)	R054XY023ND — Loamy Overflow		
		Harriet, occasionally flooded (2%)	R054XY024ND — Saline Lowland		
E2747D	Werner-Chama-Sen silt loams, 9 to 15 percent slopes	Werner (38%)	R054XY030ND — Shallow Loamy	10.1	1.9%
		Chama (25%)	R054XY046ND — Limy Residual		
		Sen (20%)	R054XY031ND — Loamy		
		Zahl (8%)	R054XY038ND — Thin Loamy		
		Vebar (5%)	R054XY026ND — Sandy		
		Arnegard (4%)	R054XY023ND — Loamy Overflow		
E2987B	Sen-Chama silt loams, 3 to 6 percent slopes	Sen (50%)	R054XY031ND — Loamy	4.2	0.8%
		Chama (25%)	R054XY046ND — Limy Residual		
		Farland (10%)	R054XY031ND — Loamy		
		Williams (8%)	R054XY031ND — Loamy		
		Grassna (5%)	R054XY023ND — Loamy Overflow		
		Cabba (2%)	R054XY030ND — Shallow Loamy		

Map unit symbol	Map unit name	Component name (percent)	Ecological site	Acres in AOI	Percent of AOI
E3002F	Ringling-Cabba complex, 9 to 35 percent slopes	Ringling, channery (60%)	R054XY035ND — Very Shallow	53.2	10.2%
		Cabba (20%)	R054XY030ND — Shallow Loamy		
		Rock outcrop, porcelainite (7%)	R054XY999ND — Non-site		
		Searing (5%)	R054XY031ND — Loamy		
		Dogtooth (4%)	R054XY033ND — Thin Claypan		
		Amor (2%)	R054XY031ND — Loamy		
		Chama (2%)	R054XY046ND — Limy Residual		
E3043C	Searing-Ringling loams, 6 to 9 percent slopes	Searing (51%)	R054XY031ND — Loamy	14.1	2.7%
		Ringling (30%)	R054XY035ND — Very Shallow		
		Cabba (5%)	R054XY030ND — Shallow Loamy		
		Farnuf (5%)	R054XY031ND — Loamy		
		Amor (4%)	R054XY031ND — Loamy		
		Chama (3%)	R054XY046ND — Limy Residual		
		Janesburg (2%)	R054XY021ND — Claypan		
E3531C	Williams loam, 6 to 9 percent slopes	Williams, gently sloping (60%)	R054XY031ND — Loamy	24.1	4.6%
		Williams, nearly level (12%)	R054XY031ND — Loamy		
		Bowbells (8%)	R054XY023ND — Loamy Overflow		
		Niobell (8%)	R054XY020ND — Clayey		
		Zahl (8%)	R054XY038ND — Thin Loamy		
		Moreau (2%)	R054XY020ND — Clayey		
		Noonan (2%)	R054XY021ND — Claypan		
E3573C	Williams-Ustorthents, collapsed mined land complex, 0 to 9 percent slopes	Williams, collapsed mined land (55%)	R054XY031ND — Loamy	3.4	0.7%
		Ustorthents, collapsed mined land (30%)	R054XY999ND — Non-site		

Map unit symbol	Map unit name	Component name (percent)	Ecological site	Acres in AOI	Percent of AOI
		Werner (5%)	R054XY030ND — Shallow Loamy		
		Ringling (4%)	R054XY035ND — Very Shallow		
		Bowbells (3%)	R054XY023ND — Loamy Overflow		
		Zahl (3%)	R054XY038ND — Thin Loamy		
E3733D	Flaxton-Williams complex, 9 to 15 percent slopes	Flaxton (49%)	R054XY026ND — Sandy	14.8	2.8%
		Williams (30%)	R054XY031ND — Loamy		
		Zahl (10%)	R054XY038ND — Thin Loamy		
		Livona (4%)	R054XY026ND — Sandy		
		Parshall (3%)	R054XY026ND — Sandy		
		Telfer (2%)	R054XY025ND — Sands		
		Werner (2%)	R054XY030ND — Shallow Loamy		
E4915F	Dumps, mine-Ustorthents complex, 0 to 75 percent slopes	Pits, mined land (40%)	R054XY999ND — Non-site	205.8	39.6%
		Ustorthents (25%)	R054XY999ND — Non-site		
		Dumps, mined land (20%)	R054XY999ND — Non-site		
		Wabek (6%)	R054XY035ND — Very Shallow		
		Flasher (5%)	R054XY043ND — Shallow Sandy		
		Manning (4%)	R054XY026ND — Sandy		
E4995F	Pits, gravel and sand	Pits, gravel and sand (100%)	R054XY999ND — Non-site	29.3	5.6%
Totals for Area of Interest				519.4	100.0%

The 2024 Dakota Collieries Project will not affect the continued existence of any threatened, endangered, or proposed species or result in the destruction or adverse modification of proposed or designated critical habitats.

Reclamation activities at the 2024 Dakota Collieries Project site will not jeopardize or adversely affect any proposed, threatened, or endangered species or proposed or designated critical habitat. No federal threatened, endangered, or proposed species were observed within or adjacent to the 2024 Dakota Collieries Project site, and there are no proposed or designated critical habitats in or adjacent to the area. USFWS Information for Planning and Consultation (IPaC) identifies five threatened or endangered species, one candidate species, and designated piping plover critical habitat in Mercer County ND. The **piping plover, red knot, and Dakota skipper** are listed threatened; the **whooping crane** is listed endangered; and the **monarch butterfly** is a candidate species for listing in Mercer County.

The 2024 Dakota Collieries Project area does not contain suitable **whooping crane** stopover habitat and it is not within the whooping crane breeding or wintering ranges. It is conceivable that whooping cranes could fly over the area and that they could utilize the upland grassland sites at the abandoned mine, but this is unlikely given the absence of suitable wetland habitat in the area and anthropogenic activities in the area. Therefore, the Commission believes that the proposed reclamation activities in the 2024 Dakota Collieries Project area will have “**no effect**” to the continued existence of the whooping crane.

The 2024 Dakota Collieries Project area contains well vegetated orphan spoils. There is no suitable habitat for the **piping plover** in the project area. Piping plover habitat is generally characterized as sparsely vegetated shorelines usually associated with alkaline wetlands and sandbars and shorelines associated with major river systems. The Missouri River and Lake Sakakawea, designated piping plover critical habitat, is located at least 14 miles from the reclamation area. The balance of the designated critical habitat is located north and east of the Missouri River. Reclamation activities may create sparsely vegetated habitat, but such habitats have only been used when the species’ natural shoreline habitat is adversely affected by high water. There are spoil piles east of the site which contain ponded water with sparsely vegetated shorelines however, they are over one-half mile away. The Commission believes that the proposed reclamation activities will have “**no effect**” to the continued existence of the piping plover.

Rufa red knot is a robin-sized shorebird that migrates from south to north every spring and repeats the trip in reverse every fall from far-flung sites throughout the Western Hemisphere. This species is one of the longest-distance migrants in the animal kingdom. Rufa red knots begin their life cycle in the Arctic tundra and undertake their first migration on their own. Migration and wintering habitats include both high-energy ocean or bay front areas as well as tidal flats in more sheltered bays and lagoons. Available information suggests that rufa red knots use inland saline lakes as stopover habitat in the Northern Great Plains. The species range map includes portions of central North Dakota. In July of 2021, the USFWS has proposed to designate critical habitat for the rufa red knot in areas outside of North Dakota. The 2024 Dakota Collieries Project area does not contain habitat for the rufa red knot and the Commission believes that the proposed reclamation activities will have “**no effect**”* on the continued existence of rufa red knot species.

The **Dakota skipper** is a small butterfly that requires high-quality mixed or tallgrass prairie. Two habitat types have been identified as suitable for this species. Suitable habitat consists of a moist lowland bluestem prairie habitat type with wood lily, harebell, and smooth camas and a relatively dry upland prairie habitat type found on ridges and hillsides dominated with bluestem grasses, needlegrasses, and desirable native forbs such as purple coneflower. Mercer County was added to the list of counties in North Dakota where this species is believed to exist.

The 2024 Dakota Collieries Project reclamation and adjacent areas do not contain any moist lowland bluestem prairie habitat and the dry upland sites are generally in reduced ecological condition according to an inspection conducted by Mr. Guy Welch, Range Scientist of the ND PSC Reclamation Division. The inspection report provided an assessment of the vegetation composition of the project and adjacent areas. The report determined that the native grassland at the 2024 Dakota Collieries Project and adjacent areas provided no suitable habitat for the Dakota skipper. The Commission believes that the proposed reclamation activities will have **“no effect”** on the continued existence of the Dakota skipper.

On December 15, 2020, the US Fish and Wildlife Service found that adding the monarch butterfly to the list of threatened and endangered species is warranted but precluded by work on higher-priority listing actions. This decision made the monarch butterfly a candidate for listing under the Endangered Species Act (ESA). The monarch butterfly is not listed or proposed for listing, so it is currently not provided protection by the ESA.



Public Service Commission State of North Dakota

COMMISSIONERS

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Shen Haugen-Hoffart
Julie Fedorchak

sent via email only

December 4, 2023

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Bismarck, ND 58501-7926
luke_toso@fws.gov

The U.S. Fish and Wildlife Service concurs with your conclusion that this project as described will not adversely affect or jeopardize federally listed/proposed species nor adversely modify designated/proposed critical habitat(s). If the project changes or new information becomes available, please contact this office again so potential impacts to federally listed species and other trust resources may be reevaluated.

Digitally signed by

LUKE TOSO

LUKE TOSO
Date: 2023.12.07
12:24:03 -06:00'

Supervisor, North Dakota Ecological Services Field Office

Date

Dear Mr. Toso:

The Public Service Commission is planning reclamation activities in 2024 at Abandoned Mine Land (AML) sites near Beulah. The contractor selected through competitive bidding will conduct the project. As part of the project approval process, our office requests concurrence that the following proposed reclamation work will not adversely affect any threatened, endangered, or rare animal or plant species. Please reply regarding these proposed projects by **January 4, 2023**.

The 2024 Dakota Collieries AML Project: The Dakota Collieries abandoned surface coal mine contains 915 feet of steep highwall that is approximately 50 feet high. The proposed work is planned in two phases: a tree removal phase between January 2024 and March 2024 and a construction phase between May and November 2024. The proposed reclamation work involves backsloping and backfilling the highwall with on-site mine spoil to reduce the hazard. The property owners support the proposed reclamation project. Affected areas will be reseeded with locally adapted grass species native to western North Dakota. No off-site pit dewatering is planned, and erosion and sedimentation will be controlled. Additional work on adjacent properties will include reclaiming subsidence and erosional features from abandoned underground and surface mines. The total area affected is about 25 acres. Work is expected to be conducted between June and October 2024. The estimated cost for this project is \$750,000.

The proposed project area was reviewed by Mr. Guy Welch, PSC Range Scientist. We have included his inspection report, supporting documentation, and environmental assessment. There is no proposed or designated critical habitat in or adjacent to the project area. Reclamation activities at the 2024 Dakota Collieries Project site will not jeopardize or adversely affect any proposed, threatened, or endangered species or proposed or designated critical habitat.

We expect this project to be completed during the 2024 construction season. The attached map provides more information and shows proposed project locations. Thank you for your assistance in this matter. If you have any questions or need more information, please contact me at mifischer@nd.gov or 701-328-4779.

Sincerely,

Jonathan Emmer
Director
Abandoned Mine Lands Division



Public Service Commission State of North Dakota

COMMISSIONERS

Randy Christmann
Sheri Haugen-Hoffart
Julie Fedorchak

December 28, 2023

600 East Boulevard, Dept. 408
Bismarck, North Dakota 58505-0480
Web: www.psc.nd.gov
E-mail: ndpsc@nd.gov
Phone: 701-328-2400
ND Toll Free: 1-877-245-6685
Fax: 701-328-2410
TDD: 800-366-6888 or 711

Mr. Jeff Fleischman, Chief
Denver Field Division Office of Surface Mining
P.O. Box 11018
Casper WY 82602-5004

Dear Mr. Fleischman:

This letter is submitted under 30 CFR 874.12 as the required eligibility determination for land included in the 2024 Dakota Collieries AML Project.

Eligibility Determination - 30 CFR 874.12

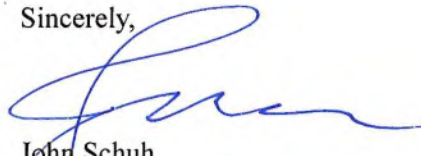
The requirements of this section of the Abandoned Mine Reclamation Program set forth the following criteria for eligibility for reclamation activities (paraphrased):

- a. Was the real property subjected to coal mining and related processes?
- b. Did the coal mining processes on the real property occur before August 3, 1977, and was said real property left or abandoned in an unreclaimed or inadequately reclaimed condition? and;
- c. Is there continuing responsibility for reclamation by the operator, permittee or agent of the permittee under the statutes of the State of North Dakota or the government of the United States?

Based upon available historical information, I find that the described real properties were mined for coal; that the coal mining activity occurred before August 3, 1977; and, that the property has been left in an abandoned and unreclaimed state. I further find that there is no continuing responsibility for reclamation by the operator, permittee, or agent of the permittee under statutes of the State of North Dakota or the government of the United States.

Based on these findings, it is my opinion that the described real properties meet the eligibility requirements of 30 CFR 874.12 for abandoned mine reclamation.

Sincerely,



John Schuh
General Counsel

Abandoned mines impact on water quality and quantity.

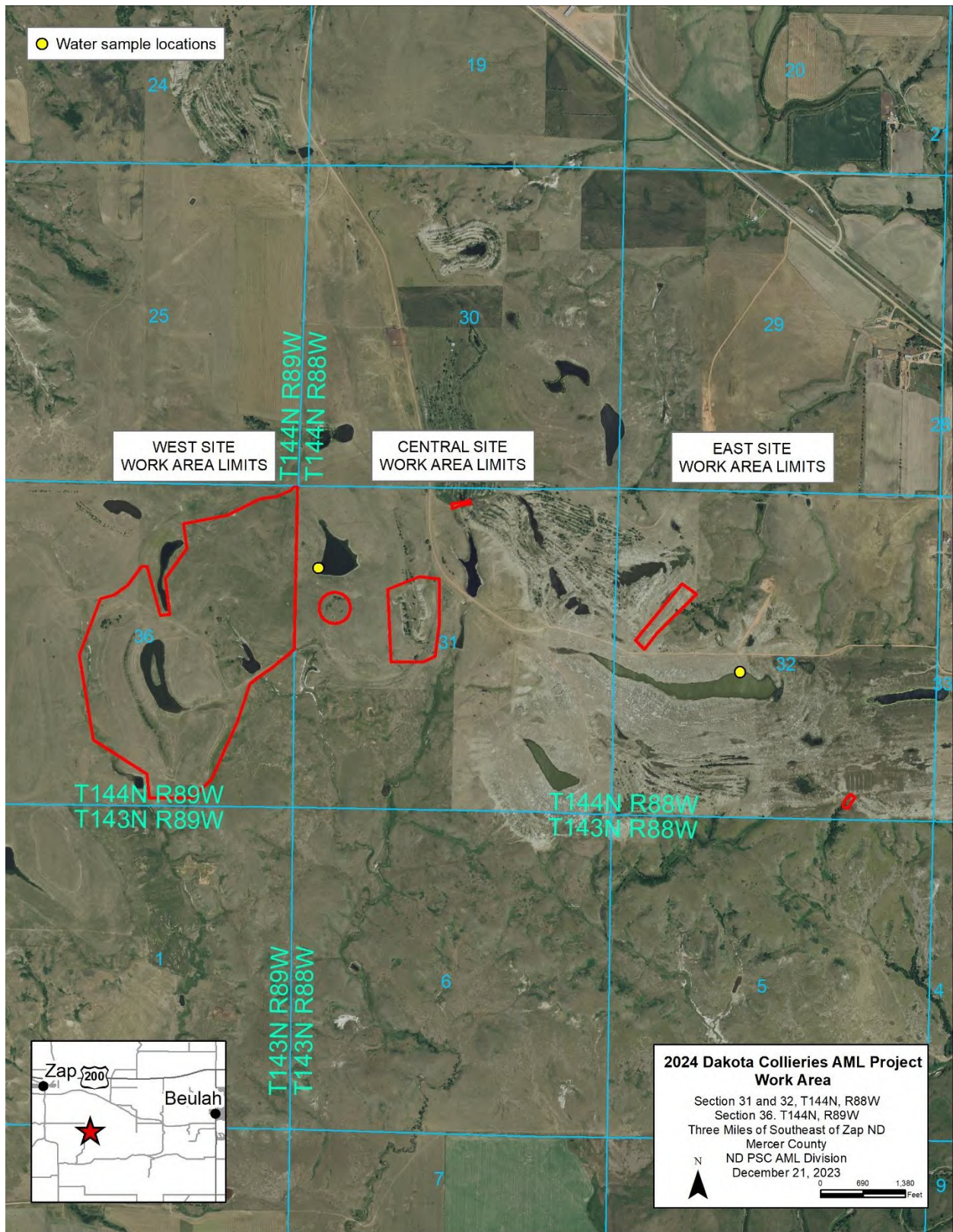
The North Dakota Public Service Commission proposes to install a range well with the proposed 2024 Dakota Collieries AML Project. The primary land use is and will continue to be range land for cattle production.

Abandoned coal mines have negatively impacted the availability of groundwater, surface water, and surface water quality. There are five known range wells for cattle in adjacent unmined properties with depths ranging from 46 to 80 feet. This well water is coming out of the first coal seam. There is one range well in abandoned mine spoils located one mile east of the proposed abandoned mine project site. This well is 219 feet deep, which is well beyond the mined coal seam. The first minable coal seam was the historic aquifer for the area and a source of domestic and livestock water. Historic mining has removed this aquifer and now the closest shallow aquifer is over 200 feet.

The quantity of surface water in this area was reduced by abandoned mines. Mining activity from both the north and east of the project site captures or diverts surface flows that once supplied surface water for the area. The current sub-watershed size is approximately 35 acres. Although no data was found to quantify the pre-mining watershed, analysis of historical aerial photos shows the upstream watershed has been diverted by abandoned mines.

vegetative growth around the mine pits raised concerns about the surface water quality. Water samples were taken from two of the former mine pits (**Figure 1**). Both are located within a half mile of the proposed surface mine project. The attached water quality tests confirmed very high sodium concentrations, along with high levels of iron and manganese. High levels of iron and manganese affect the taste and odor of water and bond with essential vitamins and minerals which makes them unavailable for a cow's digestive system.

Figure 1- Water Samples and Work Areas Map



North Dakota Department of Environmental Quality
Division of Chemistry

Original Report Date: 12/ 1/23

Report Date: 12/ 1/23

Log Number: 23-N1016

Date Collected: 11/24/23

Date Received: 11/24/23

Time Collected: 13:00

Time Received: 15:55

Township: 144

Range: 88

Section: SW32

Owner:

Source: Bieber Pond in Mercer County

Project:

Comments: 47.247847; 101.8622xx Collected by Mike Howe

PUBLIC SERVICE COMMISSION
ATTN: MICHAEL HOWE
STATE CAPITOL
BISMARCK ND 58505

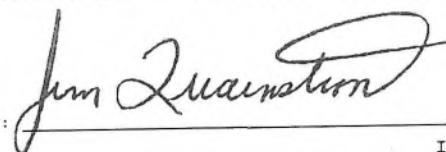
RECEIVED

DEC 11 2023

Sample Type: Non-potable Water

NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Approved by: _____



Inorganic

Chemical Analysis of Sample

Analyte	Result	Units	Evaluation
Conductivity	1000	umhos/cm	
Dissolved Solids (C) -Total	622.	mg/L	Satisfactory
Hardness Total (as CaCO3)	64.	mg/L	Low
Alkalinity (CaCO3) (Total)	504.	mg/L	Average
pH	8.67		
	Note: CO.25		
Iron (Fe)	1.81	mg/L	High
Manganese (Mn)	0.091	mg/L	High
Calcium (Ca)	12.2	mg/L	
Magnesium (Mg)	8.26	mg/L	
Sodium (Na)	236.	mg/L	Very High
Potassium (K)	10.9	mg/L	
Carbonate (CO3)	20.	mg/L	
Bicarbonate (HCO3)	574.	mg/L	
Sulfate as (SO4)	43.1	mg/L	Low
Chloride	7.28	mg/L	Low
Nitrate + Nitrite (N)	< 0.03	mg/L	Satisfactory
Silica (SiO2)	10.7	mg/L	
Fluoride (F) (IC)	0.652	mg/L	
Hydroxide (OH)	< 1	mg/L	
Temperature	13.	Deg C	
Delivery Time (hours)	3.	hrs	

If a result is noted with an alphanumeric code the result has been qualified as defined on the last page(s).

Not all codes are applicable to all results.

Original Report Date: 12/ 1/23

Report Date: 12/ 1/23

Log Number: 23-N1016 cont'd

23-N1016

Analyte	Chemical Analysis of Sample Result	Units	Evaluation
Hardness (Total)	4.	gr/gal	
Turbidity	49.7	NTU	
Percent Sodium	86.7	%	
Sodium Adsorption Ratio	12.8		

Statement: This analysis includes chemical content only,
and does not determine the bacterial quality of the water.

Units: ug/L = micrograms per liter or part per billion (ppb)
mg/L = milligrams per liter or part per million (ppm)
umhos/cm = micromhos per centimeter or microSiemens
per centimeter (conductivity)
gr/gal = grains per gallon. 1 grain per gallon is the
equivalent of 64.8 mg of calcium carbonate
per gallon or 17.1 ppm (hardness)
NTU = Nephelometric Turbidity Units
> = greater than
< = less than

For further information contact:
North Dakota Department of Environmental Quality
Division of Chemistry
Box 5573
Bismarck, ND 58506-5573
(701) 328-6140

Original Report Date: 12/ 1/23

Report Date: 12/ 1/23

Log Number: 23-N1016 cont'd

23-N1016

Qualifiers

Qualifiers are added to an analyte result to indicate a quality control failure. If a result has been noted with an alpha-numeric code, refer to this list of definitions for more information.

- A### Laboratory Fortified Sample Matrix Recovery**
The recovery of a known amount of analyte added to a portion of the sample was ###%.
- B### Laboratory Fortified Blank Recovery**
The recovery of a known amount of analyte added to laboratory reagent water was ###%.
- C### Analyte Hold Time Exceeded Before Arrival**
Analyte hold time is ### hours. The hold time had been exceeded before the sample arrived at the laboratory.
- D### Analyte Hold Time Exceeded After Arrival**
Analyte hold time is ### hours. The result was not able to be determined before the hold time had been exceeded.
- E### Surrogate Recovery in a Sample**
The recovery of a known amount of surrogate analyte added to the sample was ###%.
- F### Surrogate Recovery in a Laboratory Reagent Blank**
The recovery of a known amount of surrogate analyte added to the Laboratory Reagent Blank was ###%.
- G### Surrogate Recovery in a Laboratory Fortified Blank**
The recovery of a known amount of surrogate analyte added to the Laboratory Fortified Blank was ###%.
- H### High Relative Percent Difference for a Sample Duplicate or a Laboratory Fortified Sample Matrix Duplicates**
The Relative Percent Difference of a Sample duplicate or a Laboratory Fortified Sample Matrix duplicate was high at ###%.
- J Surrogate Recovery Not Available**
The recovery of the surrogate analyte is not available because the sample was diluted after extraction.
- K Laboratory Fortified Sample Matrix Recovery Not Available**
The recovery of a known amount of analyte added to a portion of the sample is not available because of high native level in the sample.
- L### Continuing Calibration Check Standard Recovery**
The recovery of a known amount of analyte added to laboratory reagent water was ###%.
- M Elutriate Extraction Hold Time**
The sample result was determined before the hold time of the elutriate extracted sample had been exceeded.

Qualifiers

North Dakota Department of Environmental Quality
Division of Chemistry

Original Report Date: 12/ 1/23

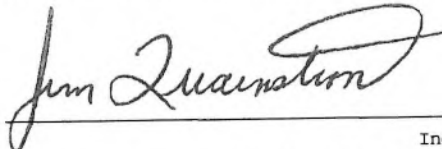
Report Date: 12/ 1/23

Log Number: 23-N1017

Date Collected: 11/24/23	Date Received: 11/24/23
Time Collected: 13:25	Time Received: 15:55
Township: 144	Range: 88
Section: NW31	Owner:
Source: Pond in Mercer County	
Project:	
Comments: Collected by Mike Howe	

PUBLIC SERVICE COMMISSION
ATTN: MICHAEL HOWE
STATE CAPITOL
BISMARCK ND 58505

Sample Type: Non-potable Water

Approved by: 
Inorganic

Chemical Analysis of Sample

Analyte	Result	Units	Evaluation
Conductivity	849.	umhos/cm	
Dissolved Solids(C)-Total	507.	mg/L	Satisfactory
Hardness Total (as CaCO3)	114.	mg/L	Fairly Low
Alkalinity (CaCO3)(Total)	425.	mg/L	Average
pH	8.63		
	Note: C0.25		
Iron (Fe)	2.28	mg/L	High
Manganese (Mn)	0.090	mg/L	High
Calcium (Ca)	15.1	mg/L	
Magnesium (Mg)	18.5	mg/L	
Sodium (Na)	158.	mg/L	High
Potassium (K)	20.7	mg/L	
Carbonate (CO3)	15.	mg/L	
Bicarbonate (HCO3)	488.	mg/L	
Sulfate as (SO4)	28.0	mg/L	Low
Chloride	10.2	mg/L	Low
Nitrate + Nitrite (N)	< 0.03	mg/L	Satisfactory
Silica (SiO2)	8.87	mg/L	
Fluoride (F) (IC)	0.415	mg/L	
Hydroxide (OH)	< 1	mg/L	
Temperature	10.	Deg C	
Delivery Time (hours)	2.	hrs	

If a result is noted with an alphanumeric code the result has been qualified as defined on the last page(s).
Not all codes are applicable to all results.

Original Report Date: 12/ 1/23

Report Date: 12/ 1/23

Log Number: 23-N1017 cont'd

23-N1017

Analyte	Chemical Analysis of Sample Result	Units	Evaluation
Hardness (Total)	7.	gr/gal	
Turbidity	47.5	NTU	
Percent Sodium	70.9	%	
Sodium Adsorption Ratio	6.44		

Statement: This analysis includes chemical content only,
and does not determine the bacterial quality of the water.

Units: ug/L = micrograms per liter or part per billion (ppb)
mg/L = milligrams per liter or part per million (ppm)
umhos/cm = micromhos per centimeter or microSiemens
per centimeter (conductivity)
gr/gal = grains per gallon. 1 grain per gallon is the
equivalent of 64.8 mg of calcium carbonate
per gallon or 17.1 ppm (hardness)
NTU = Nephelometric Turbidity Units
> = greater than
< = less than

For further information contact:
North Dakota Department of Environmental Quality
Division of Chemistry
Box 5573
Bismarck, ND 58506-5573
(701) 328-6140

Original Report Date: 12/ 1/23

Report Date: 12/ 1/23

Log Number: 23-N1017 cont'd

23-N1017

Qualifiers

Qualifiers are added to an analyte result to indicate a quality control failure. If a result has been noted with an alpha-numeric code, refer to this list of definitions for more information.

A### Laboratory Fortified Sample Matrix Recovery

The recovery of a known amount of analyte added to a portion of the sample was ###%.

B### Laboratory Fortified Blank Recovery

The recovery of a known amount of analyte added to laboratory reagent water was ###%.

C### Analyte Hold Time Exceeded Before Arrival

Analyte hold time is ### hours. The hold time had been exceeded before the sample arrived at the laboratory.

D### Analyte Hold Time Exceeded After Arrival

Analyte hold time is ### hours. The result was not able to be determined before the hold time had been exceeded.

E### Surrogate Recovery in a Sample

The recovery of a known amount of surrogate analyte added to the sample was ###%.

F### Surrogate Recovery in a Laboratory Reagent Blank

The recovery of a known amount of surrogate analyte added to the Laboratory Reagent Blank was ###%.

G### Surrogate Recovery in a Laboratory Fortified Blank

The recovery of a known amount of surrogate analyte added to the Laboratory Fortified Blank was ###%.

H### High Relative Percent Difference for a Sample Duplicate or a Laboratory Fortified Sample Matrix Duplicates

The Relative Percent Difference of a Sample duplicate or a Laboratory Fortified Sample Matrix duplicate was high at ###%.

J Surrogate Recovery Not Available

The recovery of the surrogate analyte is not available because the sample was diluted after extraction.

K Laboratory Fortified Sample Matrix Recovery Not Available

The recovery of a known amount of analyte added to a portion of the sample is not available because of high native level in the sample.

L### Continuing Calibration Check Standard Recovery

The recovery of a known amount of analyte added to laboratory reagent water was ###%.

M Elutriate Extraction Hold Time

The sample result was determined before the hold time of the elutriate extracted sample had been exceeded.

Qualifiers
