



Public Service Commission

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sent via email only

January 23, 2025

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 2025 Scranton Phase IV AML Project in North Dakota.

Dear Mr. Fleischman:

Enclosed is the documentation to support our Request for Authorization to Proceed for the 2025 Scranton Phase IV AML Project in North Dakota. The environmental assessments are 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 in Scranton, ND, on December 12, 2024, regarding proposed work near Scranton. All affected property owners for this project had been contacted and consents for right-of-entry have been executed.

The e-AMLIS Problem Area Description numbers for the proposed Scranton site are ND000528 and ND000003. The proposed grants for funding this project are S23AF00108 (FY2023 North Dakota State Fee Grant) and S24AF00084 (FY2024 North Dakota State Fee Grant). 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 (jsieving@osmre.gov)

AML\2025\Lehigh Phase X & Scranton Phase IV\ATP\Requests sent to OSMRE\I 2025_Auth_to_Proceed_rqst_ltr_1-23-25

List of Attachments

A brief narrative about the proposed 2025 Scranton Phase IV AML Project.

Standardized environmental assessments for the proposed 2025 Scranton Phase IV AML Project.

Requests for concurrence for the 2025 Scranton Phase IV AML Project and the responses received to date:

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 2025 Scranton Phase IV AML Project.

AMLIS PAD Numbers for proposed 2025 Scranton Phase IV AML Project:

PAD No.	PAD Name	Project Type
ND000003	South Scranton	Drilling and Remote Backfilling
ND000528	Scranton	Drilling and Remote Backfilling

Project Narrative

The 2025 Scranton Phase IV AML Project: This remote backfilling project will stabilize abandoned underground coal mine workings along 133rd Ave SW and other infrastructure located near Scranton, ND. This project is a continuation of the 2024 Exploratory Drilling Project. That project revealed the extent of the underground mines along 133rd Ave SW and other infrastructure is larger than expected. AML staff has estimated that 2,500 cubic yards of grout will be pumped into these mine workings. Work is expected to be conducted between May and August 2025. The estimated cost for this project is \$1,035,000.

AML\2025\Lehigh Phase X & Scranton Phase IV\ATP\Requests sent to OSMRE\2 Project Narrative

STANDARDIZED ENVIRONMENTAL ASSESSMENT

2024 Scranton Phase IV AML Project

ND000528

Bowman County, North Dakota

Prepared by

North Dakota Public Service Commission

In Cooperation With

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

January 2025

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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.

To our knowledge, no deaths or serious personal injuries attributable to the abandoned mines in the Scranton project area have been reported. However, the presence of abandoned underground mines is a hazard. Several hazardous sinkholes have been documented and filled in the project area within the last few years. AML drilling and or grouting projects were conducted in 2013-2015 and 2024. Numerous mine voids have been found in the 2024 exploratory drilling project.

B. Project Background

The Scranton Phase IV AML proposed project area is located within Section 24, Township 131N, Range 100W in Bowman County, North Dakota. The proposed project area is shown on the map on page 7.

The first recorded abandoned underground lignite coal mine located within this work area was the Scranton Coal Mine which began operations in 1909. Mining in the area was also conducted by Johnson Fuel Co. Coal Mine (1917-1923), Scranton Coal Mining Company (1924-1929), Scranton Collieries Corporation (1930) Northwestern Power Company (1931), Scranton Coal Mining Company (1932-1936). In 1918, it was reported that the underground system of mining was going to be abandoned and surface (strip) mining was to be pursued; however, the mine continued to be reported as an underground mine through 1936. Mining continued beyond the last recorded mine map (1929). The AML Division has conducted multiple sinkhole filling projects in the area and three phases of drilling and grouting projects.

Exploratory drilling records indicate portions of the underground mines are in various stages of collapse with upward migration as close as 50 feet below the surface. The average depth of the mined coal seam is 70 feet below the surface. The collapsing underground mine workings are beneath and adjacent to the access road to the landfill and other roads, presenting a potential hazard to the public. The Scranton Phase IV AML Project will also include drilling near a privately owned railroad spur.

The following table shows the project types, year, feet drilled, total grout pumped, and cost for the Scranton & South Scranton PADs:

Project Type	Year	Feet Drilled	Total Grout Pumped	Total cost
Drilling and Grouting	2013	15,590	3,498 cy	\$858,092.14
Drilling and Grouting	2014	10,998	3,056 cy	\$753,097.35
Drilling and Grouting	2015	199	86 cy	\$16,411.38
Exploratory Drilling	2024	7,881		\$214,907.50
Total		34,668	6,640 cy	\$1,842,508.37

Chapter 2

Proposed Action and Appropriate Alternatives

A. No Action Alternative

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

B. Proposed Action

The preferred method to stabilize overburden from collapse at abandoned underground coal mines in North Dakota is by pressurized remote backfilling. Backfilling begins with drilling injection holes about every 10 linear feet, depending upon mine specific conditions. The relatively close spacing of drill holes is essential to target the mine workings. Tunnels and workings were often 10 feet wide or less. Angle or directional drilling may be used to drill under buildings, utilities, or roads. Drilled holes that intercept mine workings or rubble are cased from the ground surface to within five feet of the voids with 3 inch diameter Schedule 40 PVC Pipe. Casing the holes allows for mine inspection with a borehole and a conduit for pumping grout into the mine voids. Once hardened, the grout stabilizes the overburden and prevents a collapse of the mine workings.

C. Other Reasonable Alternatives

Gravity backfilling is an alternative method for abandoned underground mine reclamation. A sand-water slurry is poured through large diameter holes drilled into the mine workings. This method works well with intact mine workings. It will not penetrate the rubble and differential levels of the voids that have been encountered through exploratory drilling at this site.

Another alternative would be “daylighting” or over-excavation. In this process, the overburden is removed to expose the mine. Once the mine has been fully opened, the overburden is replaced. Prohibitive costs of overburden removal and infrastructure relocation render this alternative impractical.

Other alternatives include property buy-out, condemnation, or relocation by a political subdivision or no action at all. Buy-outs with demolition, removal, or relocation of existing structures, roads, and utilities are generally cost-prohibitive. Also, the greater area contains a substantial amount of abandoned underground mining, making nearby relocation difficult without encountering other

undermined areas. Additionally, these options do not solve the existing inherently dangerous abandoned mine problems and are not considered viable options.

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).

In a letter received on December 31, 2024, the North Dakota State Historical Society has signed-off on the Scranton Phase IV AML Project Area and has offered a “No Historic Properties Affected” recommendation for the proposed project.

B. Water quality values (Clean Water Act, as amended)

There are streams, drainages and wetlands located within close proximity to the Scranton reclamation sites. Reclamation will be conducted in a manner that should have no significant effect on surface water quality or quantity. Groundwater can be affected by pressurized grout remote backfilling. However, water contained in abandoned underground coal mines and coal seams is of poor quality and is not generally used for home consumption. The AML Division remains in continual consultation with the North Dakota Department of Environmental Quality to monitor the performance and environmental aspects of the use of fly ash-grout, especially as it concerns groundwater.

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

No reclamation activities are planned on or near wetlands in the project area.

D. Floodplain values (Executive Order 11988)

No reclamation activities in the project area are 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 Bowman County identified by the U.S. Fish and Wildlife Service include Western Regal Fritillary (*Argynnis idalia occidentalis*), Monarch Butterfly (*Danaus plexippus*), and Whooping Crane (*Grus americana*). None of these species are likely to be found or disturbed by the 2025 Scranton Phase IV AML Project.

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

Reclamation will have no effect on prime or unique farmland values.

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.

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 solicitation package. Reclamation will be conducted in a manner that minimizes any disruption of socioeconomic factors.

J. Political factors

Bowman County, North Dakota has zoning jurisdiction over most of the project area. Correspondence between the North Dakota Public Service Commission and all governing entities are ongoing and will continue throughout the duration of the project. City and County Officials have expressed support for reclamation of the proposed Scranton Phase IV project.

K. Existing vegetative cover

Existing vegetation varies with land use in the project area. It includes gravel or asphalt driveways, grass yards, and highway ditches. 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 species known to exist in North Dakota is the Western Prairie Fringed Orchid (*Platanthera praeclar*). Known locations of this plant are within moist, tall grass prairie and sedge meadows of the Sheyenne

National Grasslands in the southeastern corner of the state. This plant has not been seen and is not likely to inhabit the project area.

M. Anticipated dates of reclamation

Three phases of AML drilling and grouting projects and one exploratory drilling project have been completed. The 2025 Scranton Phase IX AML Project is a continuation of those projects. The anticipated work period is from June to October 2025. Reclamation may continue beyond 2025.

N. Estimated cost of reclamation

The 2025 Scranton Phase IX AML Project is estimated at \$580,000 for the Scranton PAD.

O. Offsite 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. Aggregate used for this project will be taken only from locations that comply with the North Dakota Department of Transportation (NDDOT) material source requirement. Material Source Certificates of Approval may be found at the NDDOT website.

P. Noise pollution

Project work may be conducted near occupied buildings and roadways. If noise pollution problems arise, the North Dakota Department of Environmental Quality will be consulted for remedial action.

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 16, 2024, requesting concurrence for the 2025 Scranton Phase IV AML Project. Responses dated December 10, 2024 and January 16, 2025 concurred with the PSC's determination of 'no effect' on any threatened, endangered, or rare animals or plant species.

A letter was sent to the State Historical Society of North Dakota on December 16, 2024, requesting concurrence for the 2025 Scranton Phase IV AML Project. The response dated December 31, 2024, concurred with the determination of 'No Historic Properties Affected' for the project.

A letter was sent to the North Dakota Department of Environmental Quality (NDDEQ) on December 16, 2024, requesting concurrence for the 2025 Scranton Phase IV AML Project. The response dated December 17, 2024, indicated that planned activities are not likely to adversely affect groundwater quality. The AML Division will remain in consultation with NDDEQ and will provide the NDDEQ with a copy of the Invitation for Bid and any requested reports.

A letter was sent to the North Dakota Parks and Recreation Department (NDPRD) on December 16, 2024, requesting concurrence for the 2025 Scranton Phase IV AML Project. The response dated January 15, 2025, indicated that planned activities do not appear to affect any properties that NDPRD owns, leases, or manages. The response also stated that planned activities do not appear to affect properties protected under Section 6(f) of the Land and Water Conservation Fund.

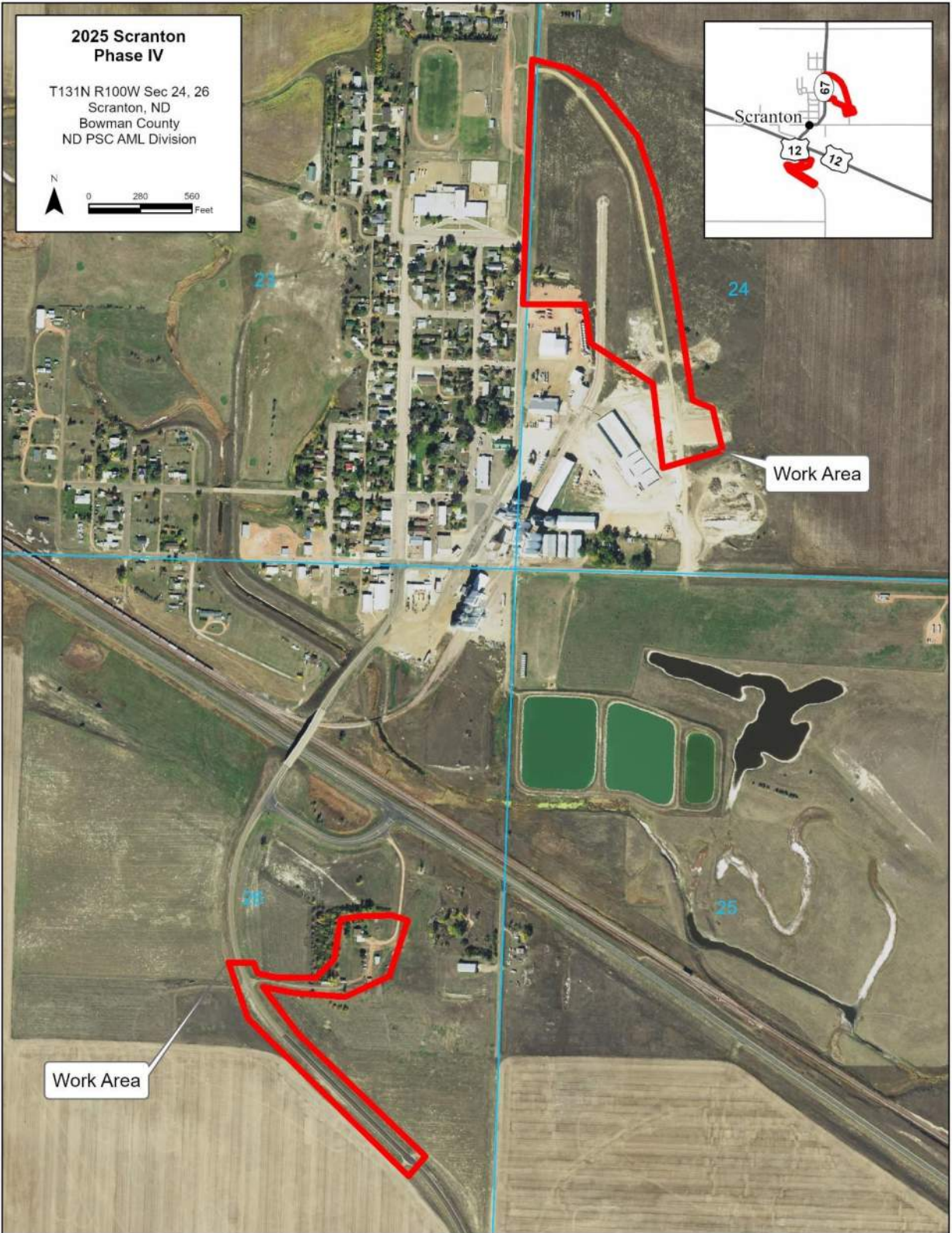
Preparers



Matthew Fischer
Assistant Director - AML Division
ND Public Service Commission



Brett Job
Project Manager - AML Division
ND Public Service Commission



STANDARDIZED ENVIRONMENTAL ASSESSMENT

2024 Scranton Phase IV AML Project

ND000003

Bowman County, North Dakota

Prepared by

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Chapter 1

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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.

To our knowledge, no deaths or serious personal injuries attributable to the abandoned mines in the Scranton project area have been reported. However, the presence of abandoned underground mines is a hazard. Several hazardous sinkholes have been documented and filled in the project area within the last few years. AML drilling and or grouting projects were conducted in 2013-2015 and 2024. Numerous mine voids have been found in the 2024 exploratory drilling project.

B. Project Background

The Scranton Phase IV AML proposed project area is located within Section 26, Township 131N, Range 100W in Bowman County, North Dakota. The proposed project area is shown on the map on page 7.

One known abandoned underground lignite coal mine is located near the work area. The Scranton Lignite Coal Company first recorded mining in 1923. The mine was operated and reported continuous annual production from 1923 through 1946. Since no reports were noted for this mine following 1946, it is assumed that the mine ceased operations at about that time; however, it is possible that the mine was operated but not reported or that it was operated and reported under some other name following 1946. The AML Division has conducted multiple sinkhole filling and drilling & grouting projects in the area. In May of 2023, the Bowman County Road Superintendent contacted the AML Division about a settlement feature in Highway 67. This section of road was estimated to be adjacent to the known abandoned mine workings. During the AML investigation, the Bowman County Highway Department had one of their contractors core the settling portion of the road. Coring revealed an 8 foot deep by 8 foot wide sinkhole right underneath the roadway surface. The road was immediately closed and the sinkhole was filled through a PSC AML contract. Thankfully the sinkhole was mitigated before it caused any harm to the public.

Exploratory drilling records indicate portions of the underground mines are in various stages of collapse with upward migration as close as 50 feet below the surface. The average depth of the mined coal seam is 85 feet below the surface. The collapsing underground mine workings are beneath and adjacent to 133rd Ave SW, presenting a potential hazard to the public.

The following table shows the project types, year, feet drilled, total grout pumped, and cost for the Scranton & South Scranton PADs:

Project Type	Year	Feet Drilled	Total Grout Pumped	Total cost
Drilling and Grouting	2013	15,590	3,498 cy	\$858,092.14
Drilling and Grouting	2014	10,998	3,056 cy	\$753,097.35
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Another alternative would be “daylighting” or over-excavation. In this process, the overburden is removed to expose the mine. Once the mine has been fully opened, the overburden is replaced. Prohibitive costs of overburden removal and infrastructure relocation render this alternative impractical.

Other alternatives include property buy-out, condemnation, or relocation by a political subdivision or no action at all. Buy-outs with demolition, removal, or relocation of existing structures, roads, and utilities are generally cost-prohibitive. Also, the greater area contains a substantial amount of abandoned underground mining, making nearby relocation difficult without encountering other

undermined areas. Additionally, these options do not solve the existing inherently dangerous abandoned mine problems and are not considered viable options.

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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).

In a letter received on December 31, 2024, the North Dakota State Historical Society has signed-off on the Scranton Phase IV AML Project Area and has offered a “No Historic Properties Affected” recommendation for the proposed project.

B. Water quality values (Clean Water Act, as amended)

There are streams, drainages and wetlands located within close proximity to the Scranton reclamation sites. Reclamation will be conducted in a manner that should have no significant effect on surface water quality or quantity. Groundwater can be affected by pressurized grout remote backfilling. However, water contained in abandoned underground coal mines and coal seams is of poor quality and is not generally used for home consumption. The AML Division remains in continual consultation with the North Dakota Department of Environmental Quality to monitor the performance and environmental aspects of the use of fly ash-grout, especially as it concerns groundwater.

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

No reclamation activities are planned on or near wetlands in the project area.

D. Floodplain values (Executive Order 11988)

No reclamation activities in the project area are 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 Bowman County identified by the U.S. Fish and Wildlife Service include Western Regal Fritillary (*Argynnis idalia occidentalis*), Monarch Butterfly (*Danaus plexippus*), and Whooping Crane (*Grus americana*). None of these species are likely to be found or disturbed by the 2025 Scranton Phase IV AML Project.

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

Reclamation will have no effect on prime or unique farmland values.

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.

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.

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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 solicitation package. Reclamation will be conducted in a manner that minimizes any disruption of socioeconomic factors.

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Bowman County, North Dakota has zoning jurisdiction over most of the project area. Correspondence between the North Dakota Public Service Commission and all governing entities are ongoing and will continue throughout the duration of the project. City and County Officials have expressed support for reclamation of the proposed Scranton Phase IV project.

K. Existing vegetative cover

Existing vegetation varies with land use in the project area. It includes gravel or asphalt driveways, grass yards, and highway ditches. 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 species known to exist in North Dakota is the Western Prairie Fringed Orchid (*Platanthera praeclar*). Known locations of this plant are within moist, tall grass prairie and sedge meadows of the Sheyenne

National Grasslands in the southeastern corner of the state. This plant has not been seen and is not likely to inhabit the project area.

M. Anticipated dates of reclamation

Three phases of AML drilling and grouting projects and one exploratory drilling project have been completed. The 2025 Scranton Phase IX AML Project is a continuation of those projects. The anticipated work period is from June to October 2025. Reclamation may continue beyond 2025.

N. Estimated cost of reclamation

The 2025 Scranton Phase IX AML Project is estimated at \$455,000.00 for the South Scranton PAD.

O. Offsite 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. Aggregate used for this project will be taken only from locations that comply with the North Dakota Department of Transportation (NDDOT) material source requirement. Material Source Certificates of Approval may be found at the NDDOT website.

P. Noise pollution

Project work may be conducted near occupied buildings and roadways. If noise pollution problems arise, the North Dakota Department of Environmental Quality will be consulted for remedial action.

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

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A letter was sent to the North Dakota Department of Environmental Quality (NDDEQ) on December 16, 2024, requesting concurrence for the 2025 Scranton Phase IV AML Project. The response dated December 17, 2024, indicated that planned activities are not likely to adversely affect groundwater quality. The AML Division will remain in consultation with NDDEQ and will provide the NDDEQ with a copy of the Invitation for Bid and any requested reports.

A letter was sent to the North Dakota Parks and Recreation Department (NDPRD) on December 16, 2024, requesting concurrence for the 2025 Scranton Phase IV AML Project. The response dated January 15, 2025, indicated that planned activities do not appear to affect any properties that NDPRD owns, leases, or manages. The response also stated that planned activities do not appear to affect properties protected under Section 6(f) of the Land and Water Conservation Fund.

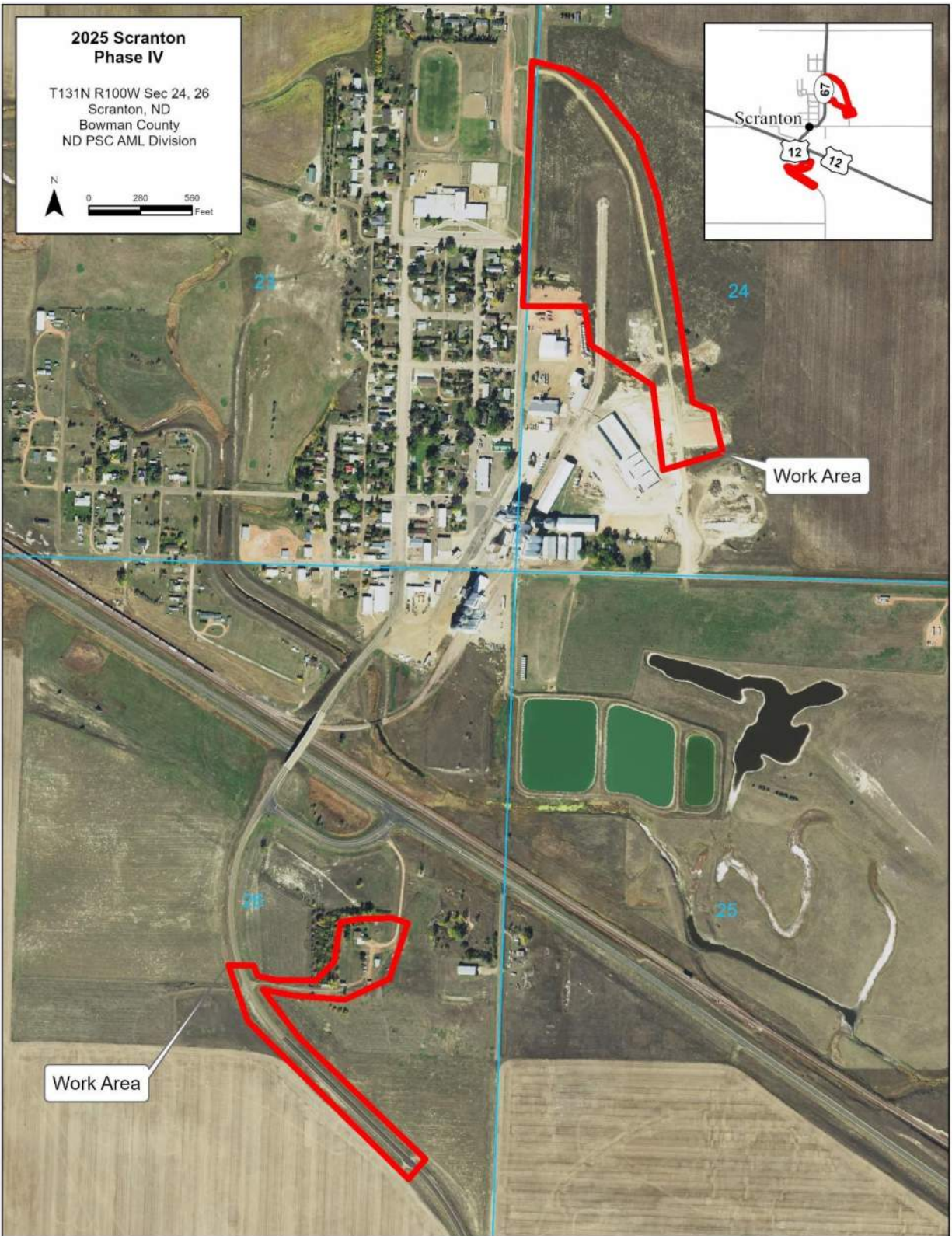
Preparers



Matthew Fischer
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ND Public Service Commission



Brett Job
Project Manager - AML Division
ND Public Service Commission





Public Service Commission

Sheri Haugen-Hoffart

Randy Christmann

Julie Fedorchak

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sent via email only

December 9, 2024

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 2025 at an Abandoned Mine Land (AML) site near Scranton, North Dakota. All project work will be completed by contractors selected through competitive bidding.

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 this proposed project by **January 9, 2025**.

The 2025 Scranton Phase IV AML Project: This remote backfilling project will stabilize abandoned underground coal mine workings along 133rd Ave SW and other infrastructure located near Scranton, ND. This project is a continuation of the 2024 Exploratory Drilling Project. The recent projects revealed the extent of the underground mines are larger than expected. AML staff estimated that 2,000 cubic yards of grout will be pumped into these mine workings. Work is expected to be conducted between June and October 2025. The estimated cost for this project is \$680,000. The attached map provides more information and shows the proposed project location. We have attached an updated map delineating the working area, which your agency approved in 2024 (ND SHPO Ref: 24-0074).

Thank you for your assistance in this matter. If you have any questions or need more information, please contact the project manager, Brett Job, at bjob@nd.gov or 701-328-4073.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jonathan Emmer".

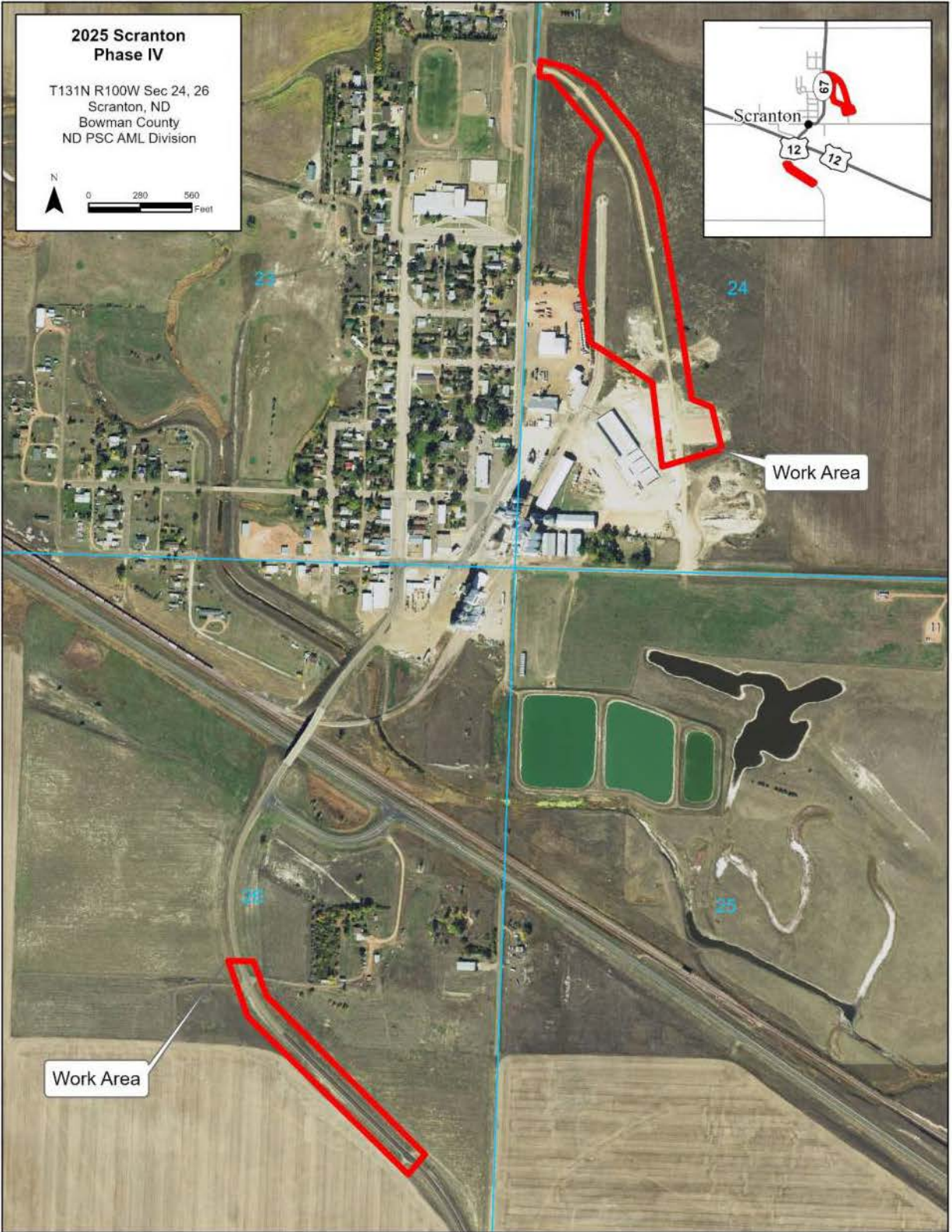
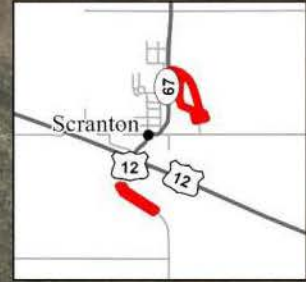
Jonathan Emmer
Director
Abandoned Mine Lands Division

Enclosure

AML\2025\Lehigh Phase X & Scranton Phase IV\ATP\Concurrence Letters\2025_Scranton_Advsry_auth_to_proceed_ltr_12-9-24

**2025 Scranton
Phase IV**

T131N R100W Sec 24, 26
Scranton, ND
Bowman County
ND PSC AML Division





Public Service Commission

Sheri Haugen-Hoffart

Randy Christmann

Julie Fedorchak

600 East Boulevard Ave
Dept. 408
Bismarck, ND 58505-0480
701-328-2400
ndpsc@nd.gov

sent via email only

December 16, 2024

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 2025 at an Abandoned Mine Land (AML) site near Scranton, North Dakota. All project work will be completed by contractors selected through competitive bidding. We are amending our December 9, 2024 concurrence request. The PSC held a public meeting in Scranton on December 12, 2024 regarding this project. New information learned at the meeting indicated that additional drilling should be added to the project. The attached map was updated to depict the expanded work areas.

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 this proposed project by **January 16, 2025**.

The 2025 Scranton Phase IV AML Project: This remote backfilling project will stabilize abandoned underground coal mine workings along 133rd Ave SW and other infrastructure located near Scranton, ND. This project is a continuation of the 2024 Exploratory Drilling Project. The recent projects revealed the extent of the underground mines are larger than expected. AML staff estimated that 2,500 cubic yards of grout will be pumped into these mine workings. Work is expected to be conducted between June and October 2025. The estimated cost for this project is \$1,035,000. The attached map provides more information and shows the proposed project location. We have attached an updated map delineating the work areas, which your agency approved in 2024 (ND SHPO Ref: 24-0074).

Thank you for your assistance in this matter. If you have any questions or need more information, please contact the project manager, Brett Job, at bjob@nd.gov or 701-328-4073.

Sincerely,

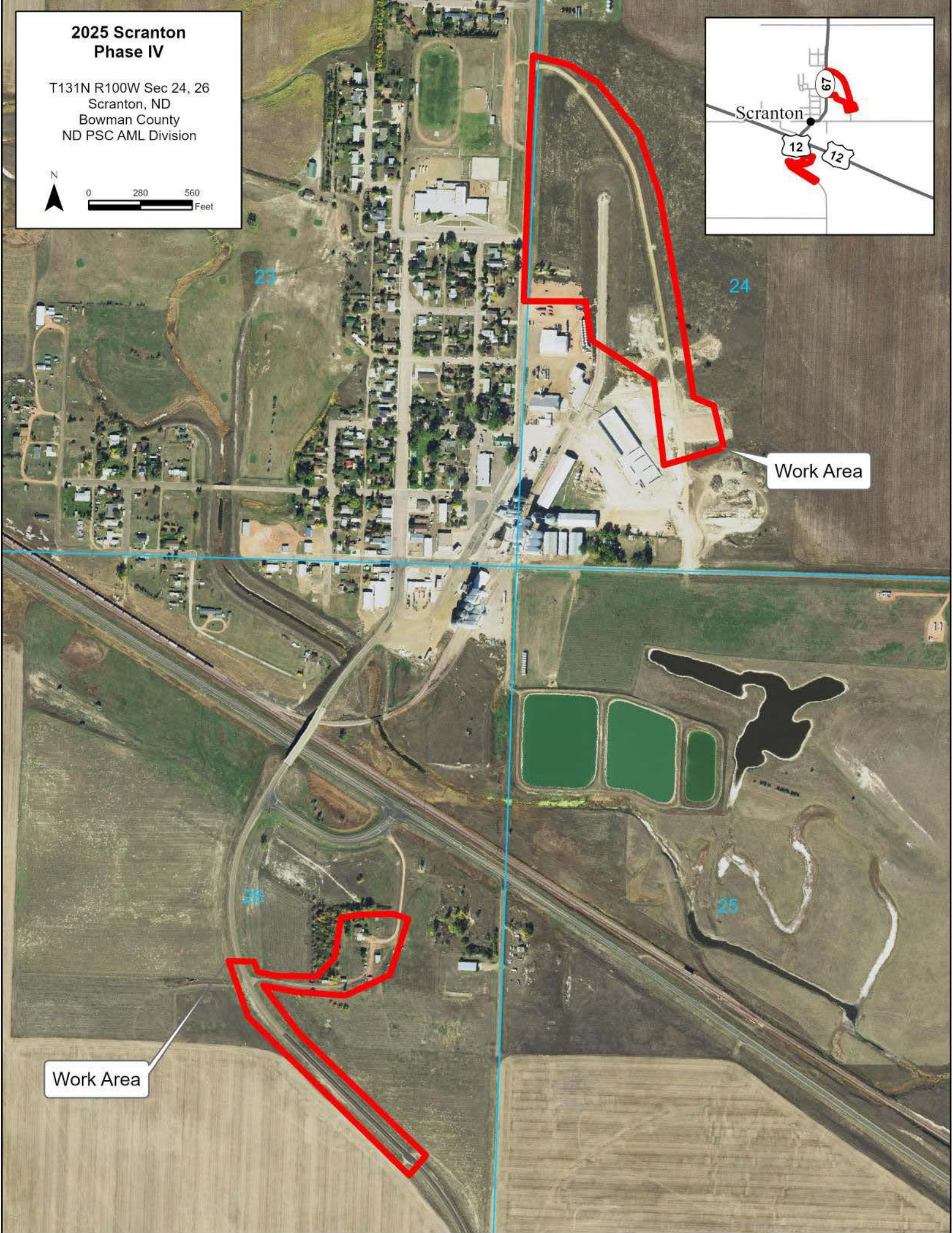
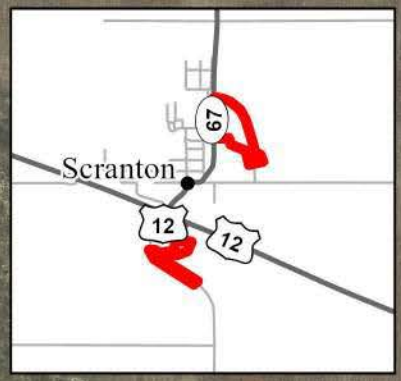
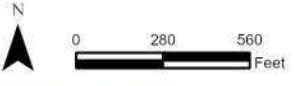
A handwritten signature in blue ink, appearing to read "Jonathan Emmer".

Jonathan Emmer
Director
Abandoned Mine Lands Division

Enclosure

2025 Scranton Phase IV

T131N R100W Sec 24, 26
Scranton, ND
Bowman County
ND PSC AML Division



Work Area

Work Area



December 31, 2024

Jonathan Emmer
Abandoned Mines Division
600 East Boulevard, Dept 408
Bismarck, ND 58505

ND SHPO Ref: 24-0074 2025 Exploratory Drilling AML Project near New Salem and Scranton, ND in portions of [T131N R100W Sections 24 and 26] Bowman County, North Dakota

Dear Jonathan,

We've reviewed project ND SHPO Ref: 24-0074 2025 Exploratory Drilling AML Project near New Salem and Scranton, ND in portions of [T131N R100W Sections 24 and 26] Bowman County, North Dakota as received by our office on December 9, 2024, with additional information submitted on December 16, 2024.

We concur with a determination of "No Historic Properties Affected" for the Scranton Phase IV AML Project. For the work area in the farmstead in Section 26, please avoid any historic surface features (structures, buildings, foundations, building remains, etc.) if possible.

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)

24-0074



Public Service Commission

Sheri Haugen-Hoffart

Randy Christmann

Julie Fedorchak

600 East Boulevard Ave
Dept. 408
Bismarck, ND 58505-0480
701-328-2400
ndpsc@nd.gov

sent via email only

December 9, 2024

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 2025 at an Abandoned Mine Land (AML) site near Scranton, North Dakota. All project work will be completed by contractors selected through competitive bidding.

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 this proposed project by **January 9, 2025**.

The 2025 Scranton Phase IV AML Project: This remote backfilling project will stabilize abandoned underground coal mine workings along 133rd Ave SW and other infrastructure located near Scranton, ND. This project is a continuation of the 2024 Exploratory Drilling Project. The recent projects revealed the extent of the underground mines are larger than expected. AML staff estimated that 2,000 cubic yards of grout will be pumped into these mine workings. Work is expected to be conducted between June and October 2025. The estimated cost for this project is \$680,000. The attached map provides more information and shows the proposed project location.

Thank you for your assistance in this matter. If you have any questions or need more information, please contact the project manager, Brett Job, at bjob@nd.gov or 701-328-4073.

Sincerely,

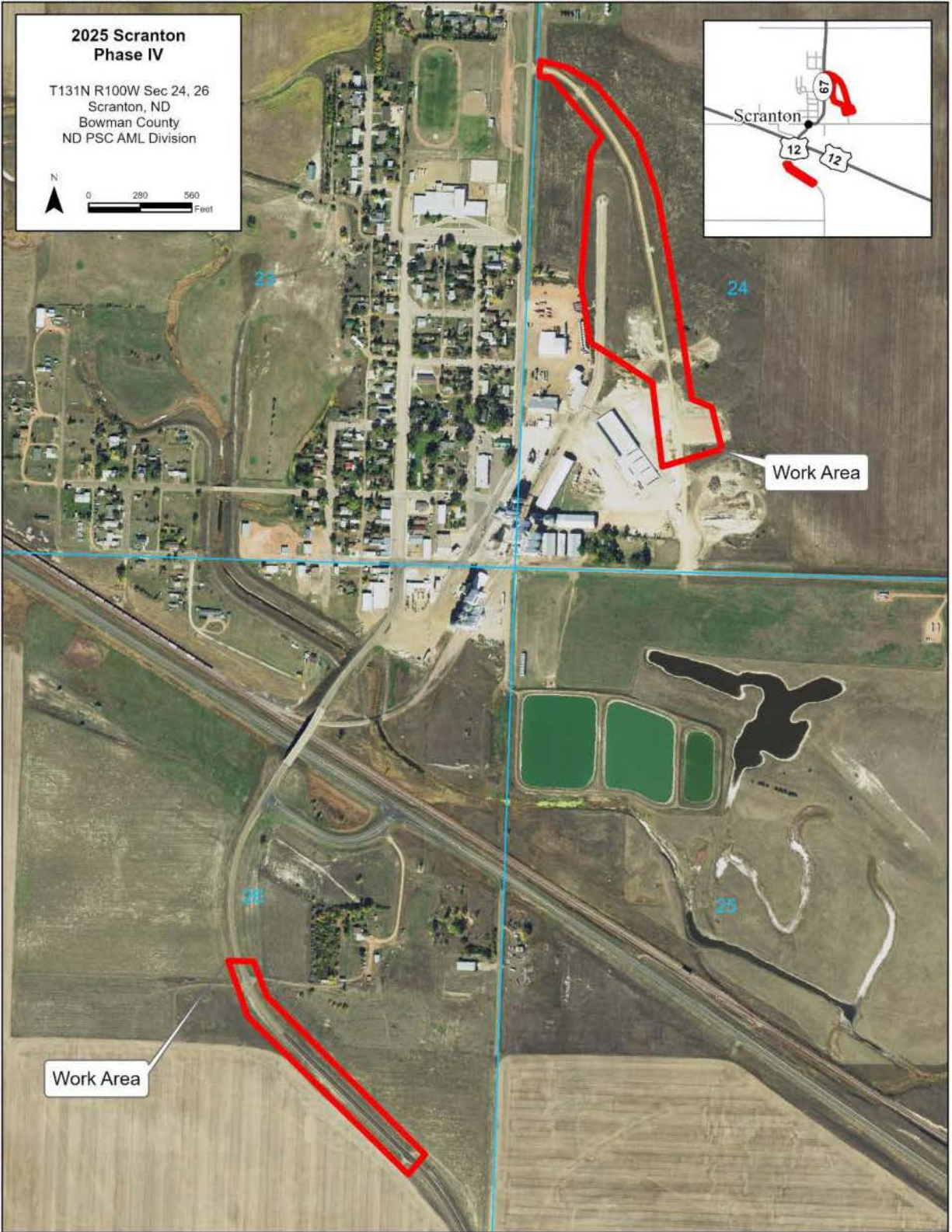
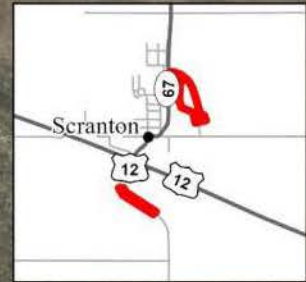
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Jonathan Emmer
Director
Abandoned Mine Lands Division

Enclosure

**2025 Scranton
Phase IV**

T131N R100W Sec 24, 26
Scranton, ND
Bowman County
ND PSC AML Division





Public Service Commission

Sheri Haugen-Hoffart

Randy Christmann

Julie Fedorchak

600 East Boulevard Ave
Dept. 408
Bismarck, ND 58505-0480
701-328-2400
ndpsc@nd.gov

sent via email only

December 16, 2024

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 2025 at an Abandoned Mine Land (AML) site near Scranton, North Dakota. All project work will be completed by contractors selected through competitive bidding. We are amending our December 9, 2024 concurrence request. The PSC held a public meeting in Scranton on December 12, 2024 regarding this project. New information learned at the meeting indicated that additional drilling should be added to the project. The attached map was updated to depict the expanded work areas.

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 this proposed project by **January 16, 2025**.

The 2025 Scranton Phase IV AML Project: This remote backfilling project will stabilize abandoned underground coal mine workings along 133rd Ave SW and other infrastructure located near Scranton, ND. This project is a continuation of the 2024 Exploratory Drilling Project. The recent projects revealed the extent of the underground mines are larger than expected. AML staff estimated that 2,500 cubic yards of grout will be pumped into these mine workings. Work is expected to be conducted between June and October 2025. The estimated cost for this project is \$1,035,000. The attached map provides more information and shows the proposed project location.

Thank you for your assistance in this matter. If you have any questions or need more information, please contact the project manager, Brett Job, at bjob@nd.gov or 701-328-4073.

Sincerely,

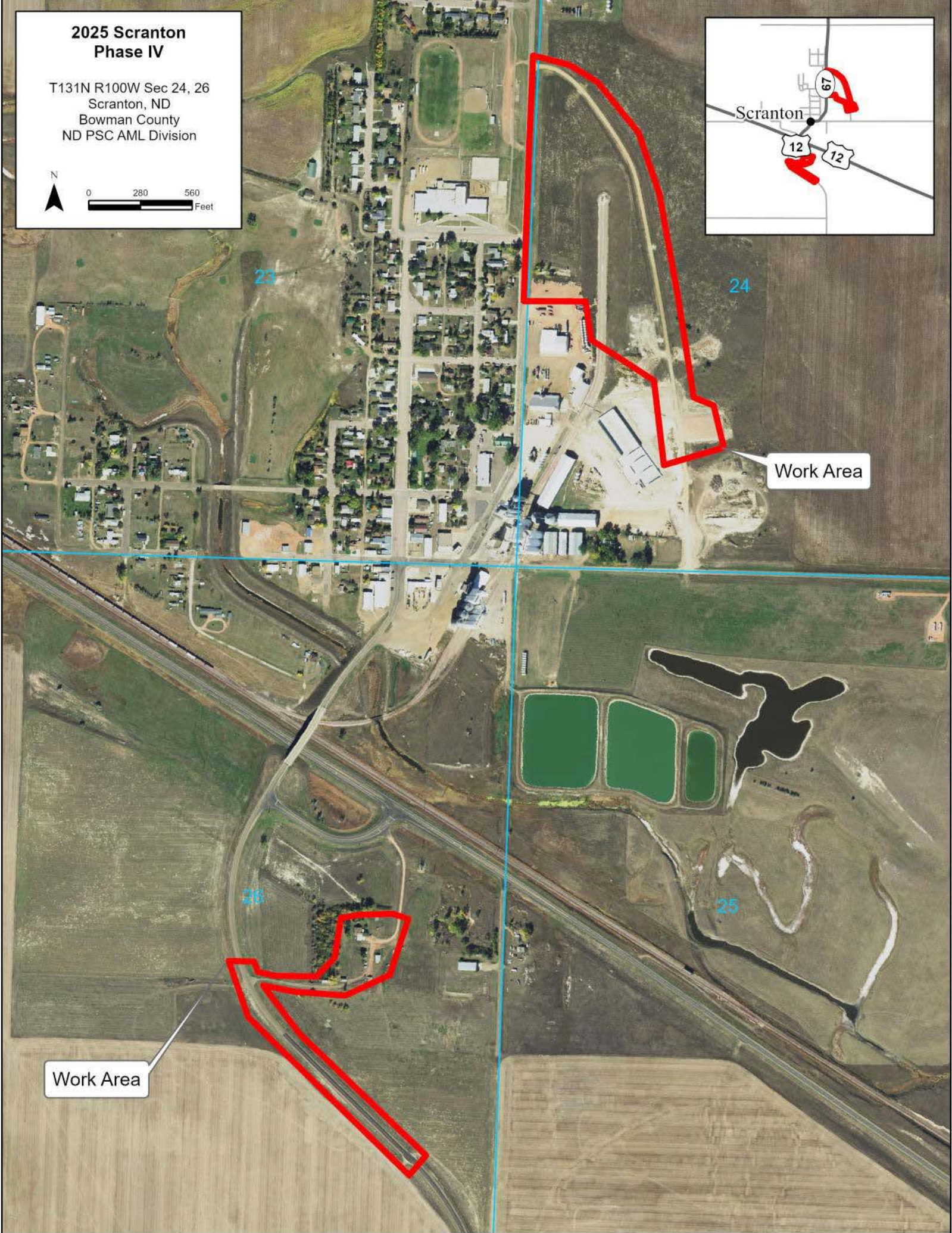
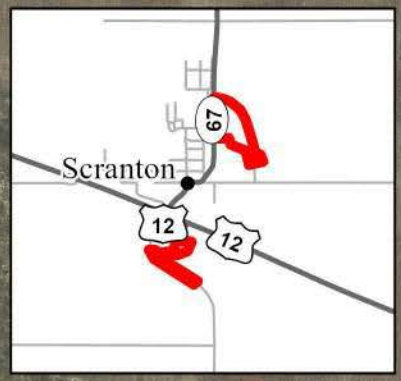
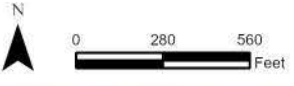
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Jonathan Emmer
Director
Abandoned Mine Lands Division

Enclosure

2025 Scranton Phase IV

T131N R100W Sec 24, 26
Scranton, ND
Bowman County
ND PSC AML Division



Work Area

Work Area

December 17, 2024

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

Subject: Scranton 2025 Proposed Mine Reclamation Project

Mr. Emmer,

The North Dakota Department of Environmental Quality (NDDEQ) has reviewed the proposed mine reclamation project summarized in your December 16, 2024, letter. Based on our review, it does not appear that the proposed activities will significantly impact groundwater quality. However, all reclamation activities should be conducted in a manner that minimizes potential impacts to water supply wells located in the vicinity of the sites.

We appreciate the opportunity to review the planned exploratory drilling activities. If you have any questions, please contact me at 701-328-5213.

Sincerely,



Carl Anderson
Groundwater Protection Manager
NDDEQ – Division of Water Quality



Public Service Commission

600 East Boulevard Ave
Dept. 408
Bismarck, ND 58505-0480
701-328-2400
ndpsc@nd.gov

Sheri Haugen-Hoffart

Randy Christmann

Julie Fedorchak

sent via email only

December 9, 2024

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 2025 at an Abandoned Mine Land (AML) site near Scranton, North Dakota. All project work will be completed by contractors selected through competitive bidding.

As part of the project approval process, our office requests concurrence that the proposed reclamation work will not adversely affect any properties that NRPRD owns, leases, or manages; properties protected under the Land and Water Conservation Fund; rare plants; and ecological communities established through the Natural Heritage Program. Please reply regarding this proposed project by **January 9, 2025**.

The 2025 Scranton Phase IV AML Project: This remote backfilling project will stabilize abandoned underground coal mine workings along 133rd Ave SW and other infrastructure located near Scranton, ND. This project is a continuation of the 2024 Exploratory Drilling Project. The recent projects revealed the extent of the underground mines are larger than expected. AML staff estimated that 2,000 cubic yards of grout will be pumped into these mine workings. Work is expected to be conducted between June and October 2025. The estimated cost for this project is \$680,000. The attached map provides more information and shows the proposed project location.

Thank you for your assistance in this matter. If you have any questions or need more information, please contact the project manager, Brett Job, at bjob@nd.gov or 701-328-4073.

Sincerely,

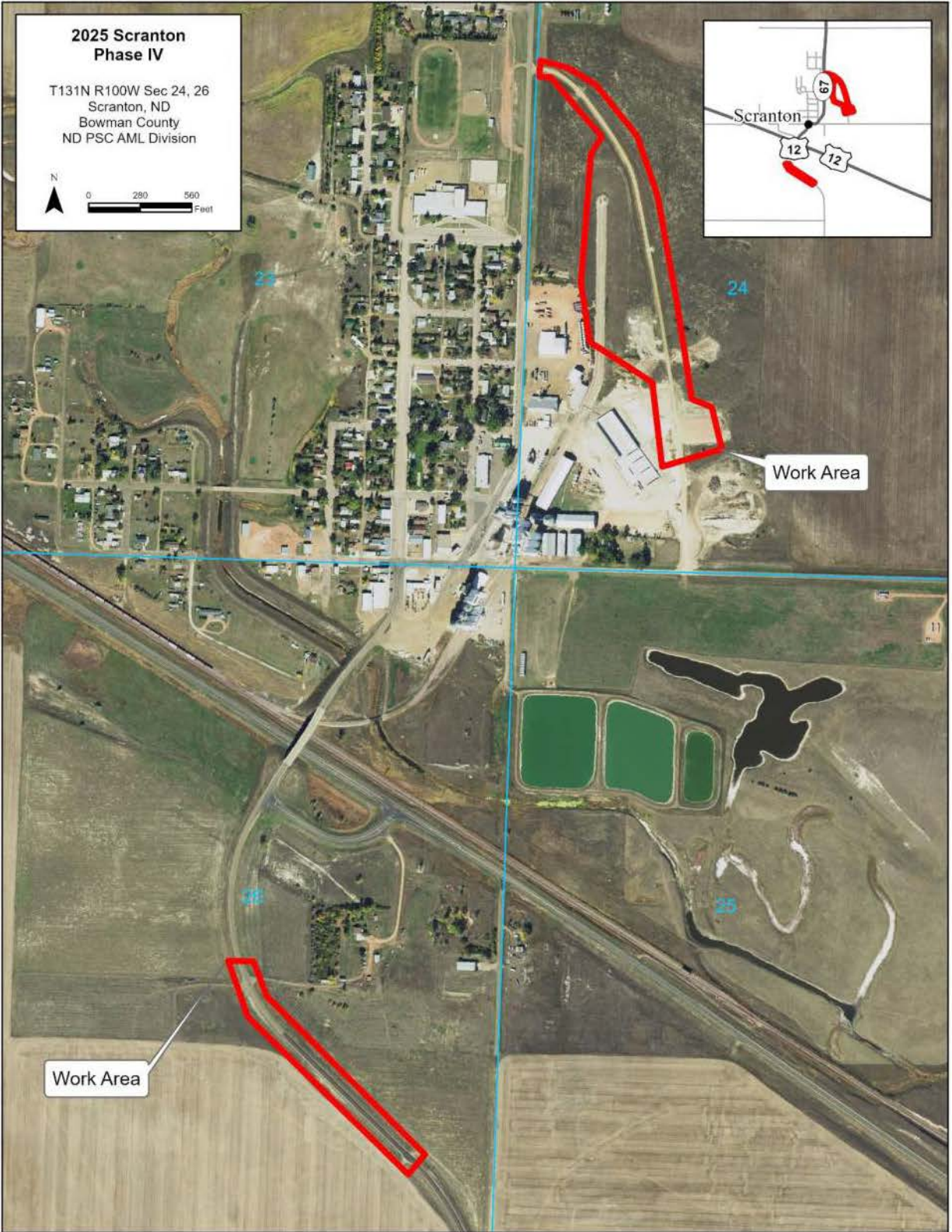
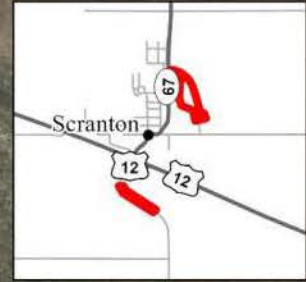
A handwritten signature in blue ink that reads "Jonathan Emmer".

Jonathan Emmer
Director
Abandoned Mine Lands Division

Enclosure

**2025 Scranton
Phase IV**

T131N R100W Sec 24, 26
Scranton, ND
Bowman County
ND PSC AML Division





Public Service Commission

Sheri Haugen-Hoffart

Randy Christmann

Julie Fedorchak

600 East Boulevard Ave
Dept. 408
Bismarck, ND 58505-0480
701-328-2400
ndpsc@nd.gov

sent via email only

December 16, 2024

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

Dear Ms. Duttenhefner:

The Public Service Commission is planning reclamation activities in 2025 at an Abandoned Mine Land (AML) site near Scranton, North Dakota. All project work will be completed by contractors selected through competitive bidding. We are amending our December 9, 2024 concurrence request. The PSC held a public meeting in Scranton on December 12, 2024 regarding this project. New information learned at the meeting indicated that additional drilling should be added to the project. The attached map was updated to depict the expanded work areas.

As part of the project approval process, our office requests concurrence that the proposed reclamation work will not adversely affect any properties that NRPRD owns, leases, or manages; properties protected under the Land and Water Conservation Fund; rare plants; and ecological communities established through the Natural Heritage Program. Please reply regarding this proposed project by **January 16, 2025**.

The 2025 Scranton Phase IV AML Project: This remote backfilling project will stabilize abandoned underground coal mine workings along 133rd Ave SW and other infrastructure located near Scranton, ND. This project is a continuation of the 2024 Exploratory Drilling Project. The recent projects revealed the extent of the underground mines are larger than expected. AML staff estimated that 2,500 cubic yards of grout will be pumped into these mine workings. Work is expected to be conducted between June and October 2025. The estimated cost for this project is \$1,035,000. The attached map provides more information and shows the proposed project location.

Thank you for your assistance in this matter. If you have any questions or need more information, please contact the project manager, Brett Job, at bjob@nd.gov or 701-328-4073.

Sincerely,

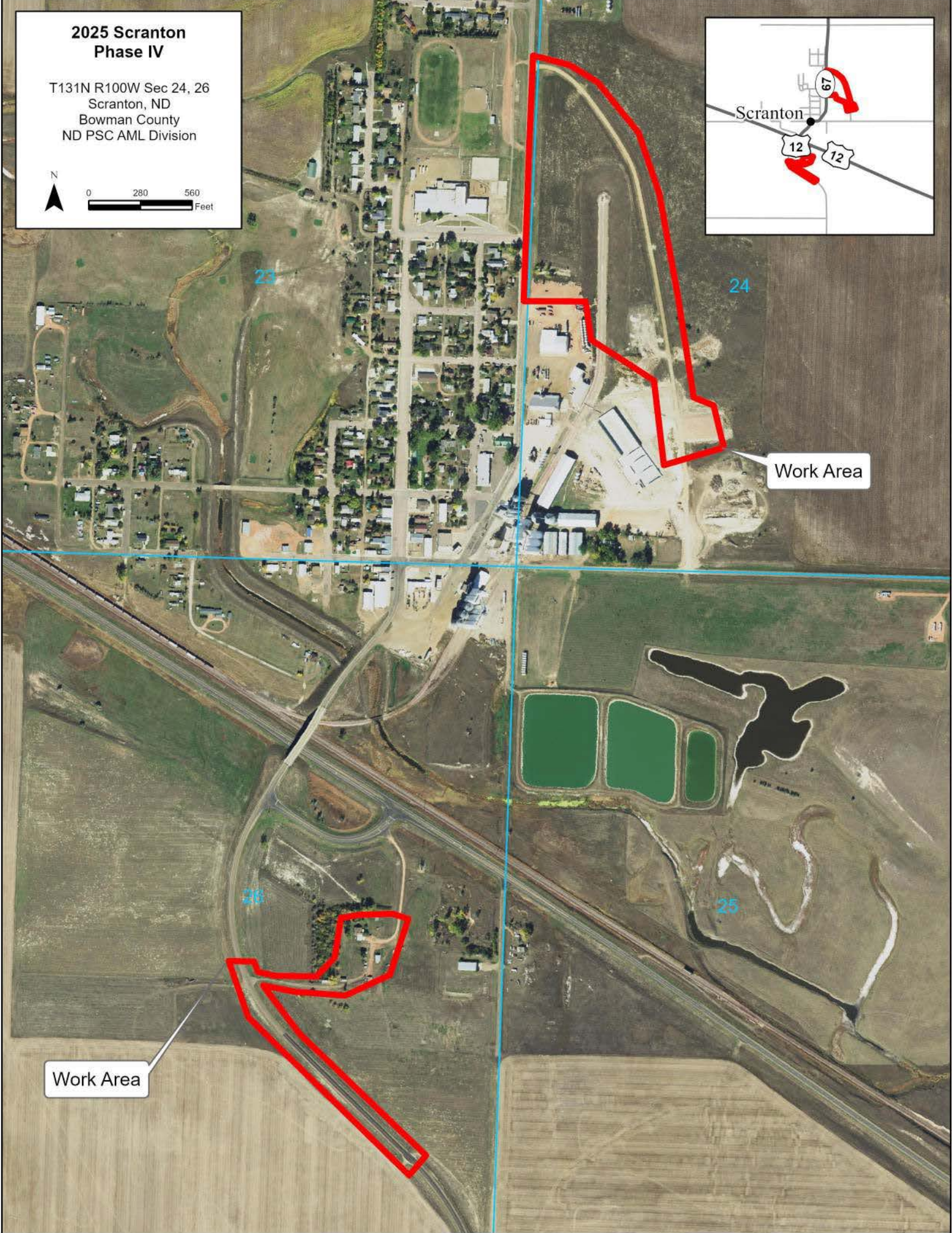
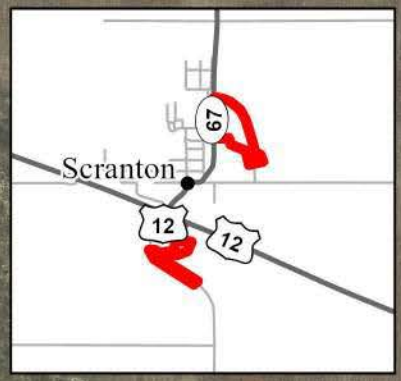
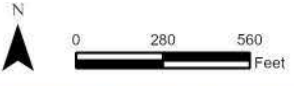
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Jonathan Emmer
Director
Abandoned Mine Lands Division

Enclosure

2025 Scranton Phase IV

T131N R100W Sec 24, 26
Scranton, ND
Bowman County
ND PSC AML Division



Work Area

Work Area

January 15, 2025

Jonathan Emmer
NDPSC
600 East Boulevard Ave.
Bismarck, ND 58505

Re: Scranton Phases IV AML

Dear Jonathan,

The North Dakota Parks and Recreation Department (NDPRD) has reviewed the above-referenced proposed Abandoned Mine Land project near Scranton, North Dakota.

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 project does not appear to affect any 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 and 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, please contact Kathy Duttonhefner at 701-328-5370, 701-220-3377 (cell), or kgduttonhefner@nd.gov.

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

Sincerely,



Kathy Duttonhefner, Chief Natural Resources Division

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

State Scientific Name	State Common Name	State Rank	Global Rank	Federal Status	Township Range Section	County	Last Observation	Estimated Representation Accuracy	Precision
Numenius americanus	Long-billed Curlew	S2	G5		131N100W - 13; 131N100W - 12; 131N100W - 02; 131N099W - 07; 131N100W - 23; 131N100W - 11; 131N100W - 14; 131N099W - 18; 131N100W - 01; 131N100W - 15; 131N100W - 10; 131N100W - 24	Bowman	1965-06-11		M
Numenius americanus	Long-billed Curlew	S2	G5		131N099W - 19; 131N100W - 24; 131N099W - 20; 131N100W - 13; 131N099W - 07; 131N099W - 18; 131N099W - 30; 131N099W - 29; 131N099W - 17; 131N100W - 25	Bowman	1965-06-11		M

Land and Water Conservation Fund Projects

Project Name

Scranton Recreation Complex

Project Number

38-00661



Public Service Commission

Sheri Haugen-Hoffart

Randy Christmann

Julie Fedorchak

600 East Boulevard Ave
Dept. 408
Bismarck, ND 58505-0480
701-328-2400
ndpsc@nd.gov

sent via email only

December 9, 2024

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 2025 at an Abandoned Mine Land (AML) site near Scranton, North Dakota. All project work will be completed by contractors selected through competitive bidding.

As part of the project approval process, our office requests concurrence that the proposed reclamation work will not adversely affect any threatened, endangered, or rare plant or animal species. Please reply regarding this proposed project by **January 9, 2025**.

The 2025 Scranton Phase IV AML Project: This remote backfilling project will stabilize abandoned underground coal mine workings along 133rd Ave SW and other infrastructure located near Scranton, ND. This project is a continuation of the 2024 Exploratory Drilling Project. The recent projects revealed the extent of the underground mines are larger than expected. AML staff estimated that 2,000 cubic yards of grout will be pumped into these mine workings. Work is expected to be conducted between June and October 2025. The estimated cost for this project is \$680,000. The attached map provides more information and shows the proposed project location.

The combined project area is described as 23 acres, but we will only be disturbing approximately 0.25 acres. The construction will be conducted near roads and an industrial facility with no critical habitat. We believe that our project should have "no effect" on any threatened, endangered, or rare animal or plant species identified. Also attached is the auto-generated species list from the IPAC website.

Thank you for your assistance in this matter. If you have any questions or need more information, please contact the project manager, Brett Job, at bjob@nd.gov or 701-328-4073.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jonathan Emmer".

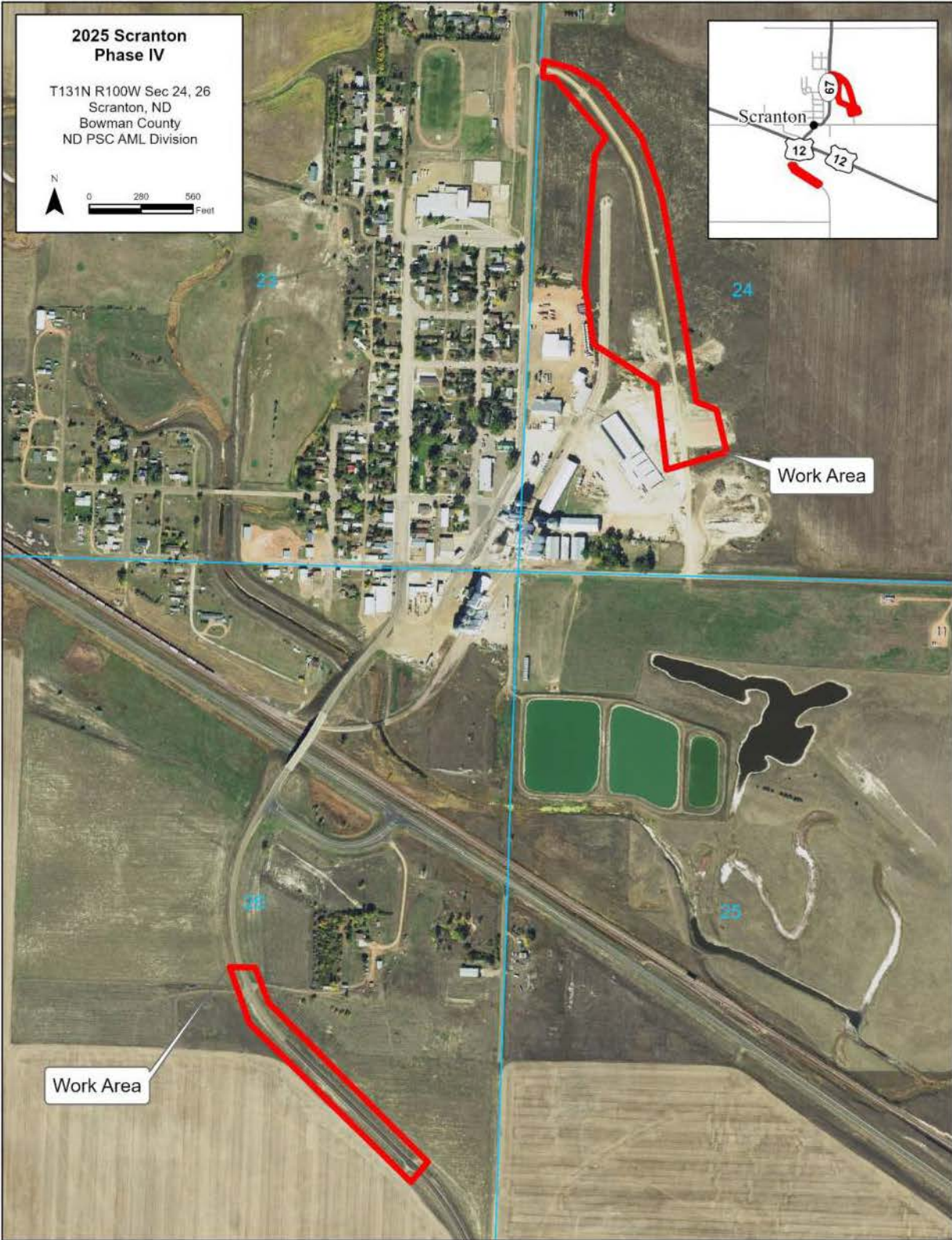
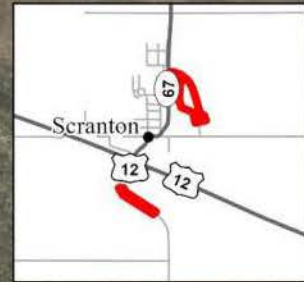
Jonathan Emmer
Director
Abandoned Mine Lands Division

Enclosures

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

**2025 Scranton
Phase IV**

T131N R100W Sec 24, 26
Scranton, ND
Bowman County
ND PSC AML Division





United States Department of the Interior



FISH AND WILDLIFE SERVICE
North Dakota Ecological Services Field Office
3425 Miriam Avenue
Bismarck, ND 58501-7926
Phone: (701) 250-4481 Fax: (701) 355-8513

In Reply Refer To:
Project Code: 2025-0025814
Project Name: 2025 Scranton Phase IV

12/02/2024 16:51:01 UTC

Subject: List of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

To Whom It May Concern:

Section 7 of the Endangered Species Act

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the IPaC system by completing the same process used to receive the enclosed list.

The Act requires that actions authorized, funded, or carried out by Federal agencies not jeopardize federally threatened or endangered species or adversely modify designated critical habitat. To fulfill this mandate, Federal agencies (or their designated non-federal representative) must consult with the Service *if they determine their project and associated actions “may affect” listed species or critical habitat*. If Federal agencies or their non-federal representatives determine their project and associated actions will have “no effect” on listed species, their habitats, or designated critical habitat, consultation is not required. However, if a “no effect” is determined, we recommend that you maintain a written record in support of your conclusion.

Bald and Golden Eagle Protection Act and Migratory Bird Treaty Act

Additionally, while not all are listed as threatened or endangered, eagles and migratory birds

have protections under the Bald and Golden Eagle Protection Act (BGEPA) and the Migratory Bird Treaty Act (MBTA). The BGEPA prohibits take which is defined as, “pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, destroy, molest, or disturb” (50 CFR 22.3). Disturb is defined in regulations as, “to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, 1) injury to an eagle, 2) decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or 3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior.”. The MBTA makes it unlawful without a waiver to pursue, hunt, take, capture, kill, or sell birds listed as migratory birds, including eagles. The statute does not discriminate between live or dead birds and also grants full protection to any bird parts including feathers, eggs, and nests.

Service Property Interests

As part of the National Wildlife Refuge System, the Service administers fee title Refuge and Waterfowl Production Areas, as well as wetland and grassland easements, throughout North Dakota. For exact locations of Service interest lands, please contact the appropriate Wetland Management Districts (WMD) for guidance regarding FWS easements.

Northwest ND WMD Complex: Kyle Flanery, (701) 768-2548

Eastern ND WMD Complex: Dave Azure, (701) 285-3341

Central ND WMD Complex (also covers south and west): Todd Luke, (701) 442-5474

Attachment(s):

- Official Species List
- USFWS National Wildlife Refuges and Fish Hatcheries
- Wetlands

OFFICIAL SPECIES LIST

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

North Dakota Ecological Services Field Office

3425 Miriam Avenue

Bismarck, ND 58501-7926

(701) 250-4481

PROJECT SUMMARY

Project Code: 2025-0025814

Project Name: 2025 Scranton Phase IV

Project Type: Subsurface Reclamation - Coal

Project Description: The 2025 Scranton Phase IV AML Project: This remote backfilling project will stabilize abandoned underground coal mine workings along ND Highway 67 and other infrastructure located near Scranton, ND. This project is a continuation of the 2024 Exploratory Drilling project. The recent projects revealed the extent of the underground mines along Highway 67 and near the Scranton Equity Exchange are larger than expected. AML staff estimated that 2,000 cubic yards of grout will need to be pumped into these mine workings. Work is expected to be conducted between June and October 2025.

Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@46.14038515,-103.14492807516659,14z>



Counties: Bowman County, North Dakota

ENDANGERED SPECIES ACT SPECIES

There is a total of 3 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

-
1. [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.

BIRDS

NAME	STATUS
Whooping Crane <i>Grus americana</i> Population: Wherever found, except where listed as an experimental population There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/758	Endangered

INSECTS

NAME	STATUS
Monarch Butterfly <i>Danaus plexippus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9743	Candidate
Western Regal Fritillary <i>Argynnis idalia occidentalis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/12017	Proposed Threatened

CRITICAL HABITATS

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

YOU ARE STILL REQUIRED TO DETERMINE IF YOUR PROJECT(S) MAY HAVE EFFECTS ON ALL ABOVE LISTED SPECIES.

USFWS NATIONAL WILDLIFE REFUGE LANDS AND FISH HATCHERIES

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 OR FISH HATCHERIES WITHIN YOUR PROJECT AREA.

WETLANDS

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](#).

Please note that the NWI data being shown may be out of date. We are currently working to update our NWI data set. We recommend you verify these results with a site visit to determine the actual extent of wetlands on site.

THERE ARE NO WETLANDS WITHIN YOUR PROJECT AREA.

IPAC USER CONTACT INFORMATION

Agency: State of North Dakota
Name: Brett Job
Address: 600 E Boulevard Ave.
Address Line 2: 13th Floor Dept. 408
City: Bismarck
State: ND
Zip: 58505
Email: bjob@nd.gov
Phone: 7019894041



United States Department of the Interior



FISH AND WILDLIFE SERVICE
North Dakota Ecological Services Field Office
3425 Miriam Avenue
Bismarck, ND 58501-7926
Phone: (701) 250-4481 Fax: (701) 355-8513

In Reply Refer To:

12/02/2024 16:57:45 UTC

Project Code: 2025-0025824

Project Name: 2025 Scranton Phase IV Part 2

Subject: List of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

To Whom It May Concern:

Section 7 of the Endangered Species Act

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the IPaC system by completing the same process used to receive the enclosed list.

The Act requires that actions authorized, funded, or carried out by Federal agencies not jeopardize federally threatened or endangered species or adversely modify designated critical habitat. To fulfill this mandate, Federal agencies (or their designated non-federal representative) must consult with the Service *if they determine their project and associated actions “may affect” listed species or critical habitat*. If Federal agencies or their non-federal representatives determine their project and associated actions will have “no effect” on listed species, their habitats, or designated critical habitat, consultation is not required. However, if a “no effect” is determined, we recommend that you maintain a written record in support of your conclusion.

Bald and Golden Eagle Protection Act and Migratory Bird Treaty Act

Additionally, while not all are listed as threatened or endangered, eagles and migratory birds

have protections under the Bald and Golden Eagle Protection Act (BGEPA) and the Migratory Bird Treaty Act (MBTA). The BGEPA prohibits take which is defined as, “pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, destroy, molest, or disturb” (50 CFR 22.3). Disturb is defined in regulations as, “to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, 1) injury to an eagle, 2) decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or 3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior.”. The MBTA makes it unlawful without a waiver to pursue, hunt, take, capture, kill, or sell birds listed as migratory birds, including eagles. The statute does not discriminate between live or dead birds and also grants full protection to any bird parts including feathers, eggs, and nests.

Service Property Interests

As part of the National Wildlife Refuge System, the Service administers fee title Refuge and Waterfowl Production Areas, as well as wetland and grassland easements, throughout North Dakota. For exact locations of Service interest lands, please contact the appropriate Wetland Management Districts (WMD) for guidance regarding FWS easements.

Northwest ND WMD Complex: Kyle Flanery, (701) 768-2548

Eastern ND WMD Complex: Dave Azure, (701) 285-3341

Central ND WMD Complex (also covers south and west): Todd Luke, (701) 442-5474

Attachment(s):

- Official Species List
- USFWS National Wildlife Refuges and Fish Hatcheries
- Wetlands

OFFICIAL SPECIES LIST

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

North Dakota Ecological Services Field Office

3425 Miriam Avenue

Bismarck, ND 58501-7926

(701) 250-4481

PROJECT SUMMARY

Project Code: 2025-0025824

Project Name: 2025 Scranton Phase IV Part 2

Project Type: Subsurface Reclamation - Coal

Project Description: The 2025 Scranton Phase IV AML Project: This remote backfilling project will stabilize abandoned underground coal mine workings along ND Highway 67 and other infrastructure located near Scranton, ND. This project is a continuation of the 2024 Exploratory Drilling project. The recent projects revealed the extent of the underground mines along Highway 67 and near the Scranton Equity Exchange are larger than expected. AML staff estimated that 2,000 cubic yards of grout will need to be pumped into these mine workings. Work is expected to be conducted between June and October 2025

Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@46.1528021,-103.13878312353677,14z>



Counties: Bowman County, North Dakota

ENDANGERED SPECIES ACT SPECIES

There is a total of 3 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

-
1. [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.

BIRDS

NAME	STATUS
Whooping Crane <i>Grus americana</i> Population: Wherever found, except where listed as an experimental population There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/758	Endangered

INSECTS

NAME	STATUS
Monarch Butterfly <i>Danaus plexippus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9743	Candidate
Western Regal Fritillary <i>Argynnis idalia occidentalis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/12017	Proposed Threatened

CRITICAL HABITATS

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

YOU ARE STILL REQUIRED TO DETERMINE IF YOUR PROJECT(S) MAY HAVE EFFECTS ON ALL ABOVE LISTED SPECIES.

USFWS NATIONAL WILDLIFE REFUGE LANDS AND FISH HATCHERIES

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 OR FISH HATCHERIES WITHIN YOUR PROJECT AREA.

WETLANDS

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](#).

Please note that the NWI data being shown may be out of date. We are currently working to update our NWI data set. We recommend you verify these results with a site visit to determine the actual extent of wetlands on site.

THERE ARE NO WETLANDS WITHIN YOUR PROJECT AREA.

IPAC USER CONTACT INFORMATION

Agency: State of North Dakota
Name: Brett Job
Address: 600 E Boulevard Ave.
Address Line 2: 13th Floor Dept. 408
City: Bismarck
State: ND
Zip: 58505
Email: bjob@nd.gov
Phone: 7019894041



United States Department of the Interior



FISH AND WILDLIFE SERVICE
North Dakota Ecological Services
3425 Miriam Avenue
Bismarck, North Dakota 58501-7926
(701) 250-4481, ndfieldoffice@fws.gov

IN REPLY REFER
TO:
AML Scranton Phase
IV

December 10, 2024

Mr. Jonathan Emmer
Director, Abandoned Mines Division
North Dakota Public Service Commission
600 East Boulevard Avenue, Dept. 408
Bismarck, North Dakota 58505-0480

Dear Mr. Emmer:

Thank you for the email and letter communication dated December 9, 2024, requesting concurrence with effects determinations from the North Dakota Public Service Commission, Abandoned Mines Division (PSC-AML) Scranton Phase IV project in Bowman County, North Dakota. This request is a continuation of the 2024 exploratory drilling project. The drilling revealed that the extent of underground mines in this area are larger than expected. Approximately 2,000 cubic yards of grout will be pumped into the mine workings between June and October 2025.

Section 7(a) (2) of the Endangered Species Act as amended, (16 USC 1531 et seq., [Act]) requires that each Federal agency, in consultation with the Secretary, ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat. In fulfilling these requirements, each agency is to use the best scientific and commercial data available to assess the impacts of their action and make an effects determination. The PSC-AML is the designated non-federal representative for this project, and therefore has the delegated responsibility of making effects determinations under 7(a)(2) of the Act.

In accordance with section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) (Act), you requested U.S. Fish and Wildlife Service (FWS) concurrence of your “no effect” determination for the endangered whooping crane (*Grus americana*). There is no requirement under the implementing regulations of the Act (50 CFR Part 402) for action agencies to receive FWS concurrence with “no effect” determinations, therefore the responsibility for “no effect” determinations remain with the PSC-AML. Accordingly, we recommend the PSC-AML retain the documentation in your decisional record for this federal action. As part of this action, we request all sightings of whooping cranes identified during project activities be reported to FWS immediately.

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

We appreciate your efforts to ensure the conservation of listed and proposed species as part of our joint responsibilities under the Act. If you have any questions on these comments, please contact Jerry Reinisch at (701) 425-2133 or me at (720) 793-6797.

Sincerely,

LUKE TOSO

Digitally signed by LUKE TOSO
Date: 2024.12.10 08:51:42
-06'00'

Luke Toso, Deputy Field Office Supervisor
For
Chris Swanson, Project Leader

Cc: Greg Link, North Dakota State Game and Fish Department



Public Service Commission

Sheri Haugen-Hoffart

Randy Christmann

Julie Fedorchak

sent via email only

December 16, 2024

600 East Boulevard Ave
Dept. 408
Bismarck, ND 58505-0480
701-328-2400
ndpsc@nd.gov

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 2025 at an Abandoned Mine Land (AML) site near Scranton, North Dakota. All project work will be completed by contractors selected through competitive bidding. We are amending our December 9, 2024 concurrence request. The PSC held a public meeting in Scranton on December 12, 2024 regarding this project. New information learned at the meeting indicated that additional drilling should be added to the project. The attached map was updated to depict the expanded work areas.

As part of the project approval process, our office requests concurrence that the proposed reclamation work will not adversely affect any threatened, endangered, or rare plant or animal species. Please reply regarding this proposed project by **January 16, 2025**.

The 2025 Scranton Phase IV AML Project: This remote backfilling project will stabilize abandoned underground coal mine workings along 133rd Ave SW and other infrastructure located near Scranton, ND. This project is a continuation of the 2024 Exploratory Drilling Project. The recent projects revealed the extent of the underground mines are larger than expected. AML staff estimated that 2,500 cubic yards of grout will be pumped into these mine workings. Work is expected to be conducted between June and October 2025. The estimated cost for this project is \$1,035,000. The attached map provides more information and shows the proposed project location.

The combined project area is described as 23 acres, but we will only be disturbing approximately 0.25 acres. The construction will be conducted near roads and an industrial facility with no critical habitat. We believe that our project should have "no effect" on any threatened, endangered, or rare animal or plant species identified. Also attached is the auto-generated species list from the IPAC website.

Thank you for your assistance in this matter. If you have any questions or need more information, please contact the project manager, Brett Job, at bjob@nd.gov or 701-328-4073.

Sincerely,

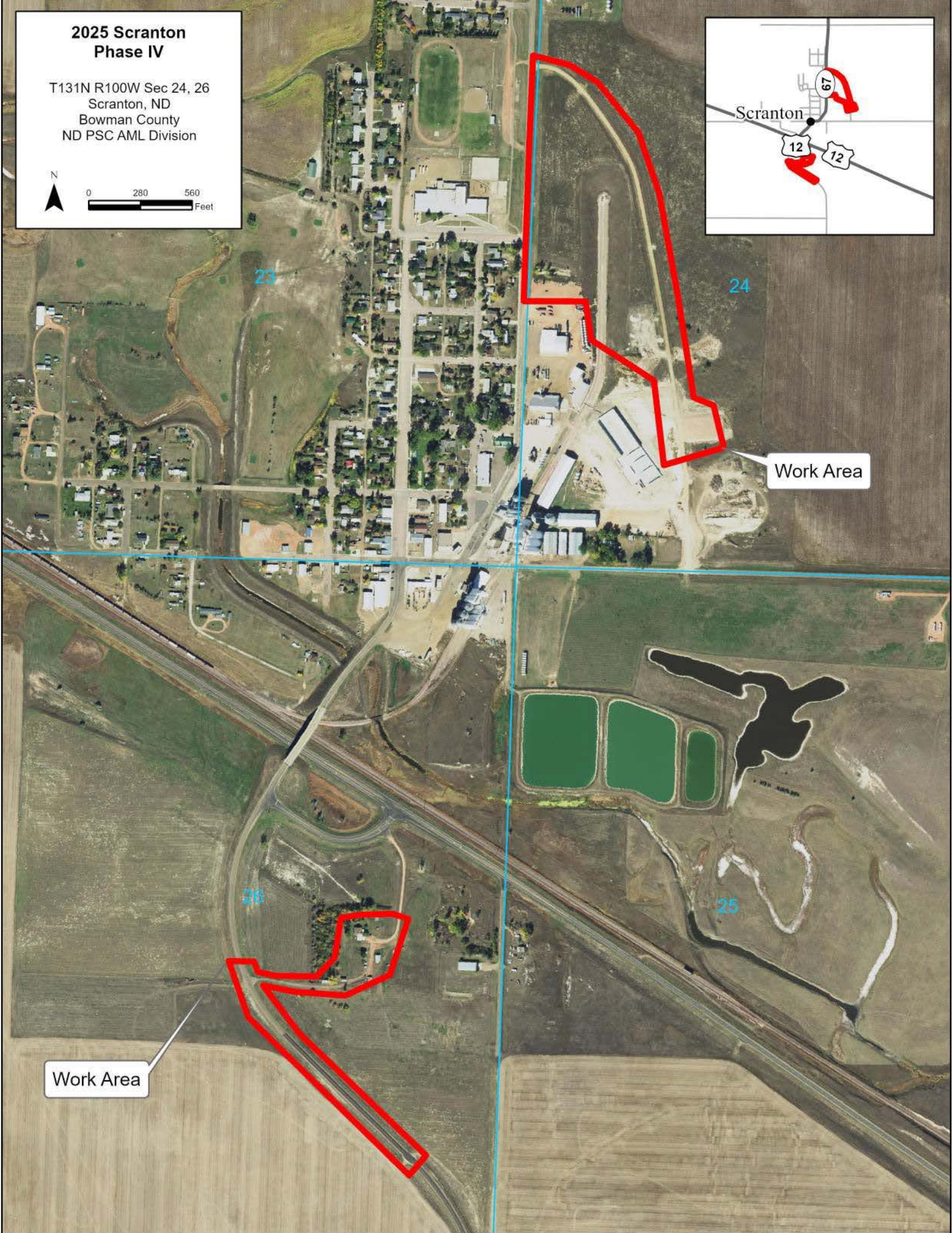
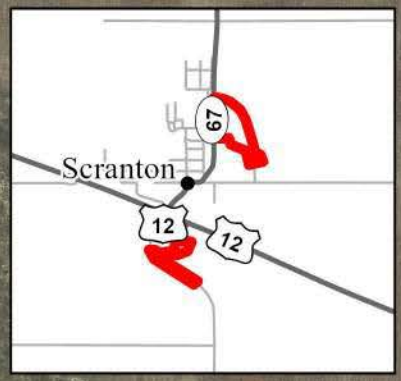
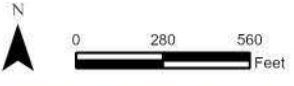
A handwritten signature in blue ink, appearing to read "Jonathan Emmer".

Jonathan Emmer
Director
Abandoned Mine Lands Division

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

2025 Scranton Phase IV

T131N R100W Sec 24, 26
Scranton, ND
Bowman County
ND PSC AML Division



From: [Reinisch, Jerry D](#)
To: [Fischer, Matthew J.](#)
Subject: RE: [EXTERNAL] AML\2025\Lehigh Phase X & Scranton Phase IV\ATP\Concurrence Letters
Date: Thursday, January 16, 2025 4:03:06 PM

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Matt

After reviewing the materials provided for the addendum to this project, the previous letter of concurrence will cover the expansion of the project.

Thanks

Jerry

From: Fischer, Matthew J. <mjfischer@nd.gov>
Sent: Thursday, January 16, 2025 2:12 PM
To: Reinisch, Jerry D <jerry_reinisch@fws.gov>
Subject: RE: [EXTERNAL] AML\2025\Lehigh Phase X & Scranton Phase IV\ATP\Concurrence Letters

Hi Jerry,

What is the status of this request? Can you get this completed by the end of next week?

Thanks,

Matt Fischer

From: Reinisch, Jerry D <jerry_reinisch@fws.gov>
Sent: Wednesday, December 18, 2024 2:38 PM
To: Fischer, Matthew J. <mjfischer@nd.gov>
Subject: RE: [EXTERNAL] AML\2025\Lehigh Phase X & Scranton Phase IV\ATP\Concurrence Letters

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Sounds good, thanks for the update.

Jerry

From: Fischer, Matthew J. <mjfischer@nd.gov>
Sent: Wednesday, December 18, 2024 2:29 PM
To: Reinisch, Jerry D <jerry_reinisch@fws.gov>
Cc: Emmer, Jonathan W. <jemmer@nd.gov>; Miller, Jill <millerjill@nd.gov>; Job, Brett <bjob@nd.gov>
Subject: RE: [EXTERNAL] AML\2025\Lehigh Phase X & Scranton Phase IV\ATP\Concurrence Letters

Jerry,

Thank you for the December 10 response.

We did an addendum on 12-16 to increase the size of the project area. The project scope remains the same. The PSC held a public meeting in Scranton on December 12, 2024, regarding this project. New information learned at the meeting indicated that additional drilling should be added to the project. The attached map was updated to depict the expanded work areas.

Let me know if you have any questions.

Thanks,

Matt Fischer

From: Miller, Jill <millerjill@nd.gov>
Sent: Wednesday, December 18, 2024 2:15 PM
To: Fischer, Matthew J. <mjfischer@nd.gov>
Subject: FW: [EXTERNAL] AML\2025\Lehigh Phase X & Scranton Phase IV\ATP\Concurrence Letters

Jill Miller
Administrative Assistant/Specialist
Public Service Commission
600 E Boulevard Ave Dept 408
Bismarck ND 58505-0480
701-328-5056
millerjill@nd.gov



From: Reinisch, Jerry D <jerry_reinisch@fws.gov>

Sent: Wednesday, December 18, 2024 1:51 PM

To: Miller, Jill <millerjill@nd.gov>

Subject: RE: [EXTERNAL] AML\2025\Lehigh Phase X & Scranton Phase IV\ATP\Concurrence Letters

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Jill

Concurrence sent 12/10/2024 to Mr. Emmer for this request.

Jerry

From: Miller, Jill <millerjill@nd.gov>

Sent: Monday, December 16, 2024 1:33 PM

To: Toso, Luke B <luke_toso@fws.gov>; Reinisch, Jerry D <jerry_reinisch@fws.gov>

Cc: Emmer, Jonathan W. <jemmer@nd.gov>; Fischer, Matthew J. <mjfischer@nd.gov>; Job, Brett <bjob@nd.gov>

Subject: [EXTERNAL] AML\2025\Lehigh Phase X & Scranton Phase IV\ATP\Concurrence Letters

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Jill Miller

Administrative Assistant/Specialist

Public Service Commission

600 E Boulevard Ave Dept 408

Bismarck ND 58505-0480

701-328-5056

millerjill@nd.gov



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Public Service Commission

Sheri Haugen-Hoffart

Randy Christmann

600 East Boulevard Ave
Dept. 408
Bismarck, ND 58505-0480
701-328-2400
ndpsc@nd.gov

January 6, 2025

Mr. Jeff Fleischman, Chief
Denver Field Division Office of Surface Mining
P.O. Box 11018
Casper, WY 82601

Dear Mr. Fleischman:

This letter is submitted under 30 CFR 874.12 as the required eligibility determination for land included in the 2025 Scranton Phase IV 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,

A handwritten signature in blue ink, appearing to read "Brian Johnson".

Brian Johnson
Special Assistant Attorney General