



# Public Service Commission

Sheri Haugen-Hoffart

Randy Christmann

Jill Kringstad

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

*sent via email only*

November 26, 2025

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

**RE: Request for Authorization to Proceed for the 2026 Exploratory Drilling AML Project in North Dakota.**

Dear Mr. Fleischman:

Enclosed is the documentation to support our Request for Authorization to Proceed for the 2026 Exploratory Drilling AML Project in North Dakota. The categorical exclusion 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.

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 Areas Description numbers, names, and project type for the proposed sites are: **ND000014 – Beulah – Exploratory Drilling**

The proposed grants for funding this project are S24AF00084 (FY2024 North Dakota State Fee Grant) and S25AF00151 (FY2025 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

3 AM-25-267 Filed 11/26/2025 Pages: 36  
Authorization to Proceed Request Package

Public Service Commission  
Matt Fischer

**List of Attachments**

A brief narrative about the proposed 2026 Exploratory Drilling AML Project.

Categorical Exclusion Determination (NEPA 6.6) for the proposed 2026 Exploratory Drilling AML Project.

Requests for concurrence for the 2026 Exploratory Drilling 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 2026 Exploratory Drilling AML Project.

## **Project Narrative**

The 2026 Exploratory Drilling AML Project: The 2026 Exploratory Drilling AML Project will locate and characterize underground mine workings beneath public roads and other infrastructure. This investigatory project is expected to be conducted near Beulah, North Dakota, between January and August 2026. This project is a continuation of the 2022 Exploratory Drilling AML Project. Surface disturbance for this type of project is minimal as the contractor will drill four-inch holes and backfill the holes with drill cuttings. The estimated cost for this project is \$875,000.

AML\2026\Exploratory Drilling\ATP\Requests sent to OSMRE\2 Project Narrative.docx

**AML CATEGORICAL EXCLUSION DETERMINATION FORM  
(REVISED APRIL 2025)**

**ABANDONED MINE LANDS  
CATEGORICAL EXCLUSION DETERMINATION<sup>1</sup>**

State: \_\_\_\_\_ PA # \_\_\_\_\_

Project Name: \_\_\_\_\_

Project Description: *[Provide a detailed description of the project/proposed action (include what will be done and how)]*

The 2026 Exploratory Drilling AML Project: The 2026 Exploratory Drilling AML Project will locate and characterize underground mine workings beneath public roads and other infrastructure. This investigatory project is expected to be conducted near Beulah, North Dakota, between January and August 2026. This project is a continuation of the 2022 Exploratory Drilling AML Project. Surface disturbance for this type of project is minimal as the contractor will drill four-inch holes and backfill the holes with drill cuttings. The estimated cost for this project is \$875,000.

**I. DEPARTMENT OF THE INTERIOR EXTRAORDINARY CIRCUMSTANCES**

Extraordinary circumstances exist if an action that is normally categorically excluded may meet any of the following criteria:

Significant impacts on public health or safety? No [ ] Yes [ ]

Significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation, or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (EO 11990); floodplains (EO 11988); national monuments; migratory birds; and other ecologically significant or critical areas? No [ ] Yes [ ]

---

<sup>1</sup> Executive Order 14154, Unleashing American Energy (Jan. 20, 2025), and a Presidential Memorandum, Ending Illegal Discrimination and Restoring Merit-Based Opportunity (Jan. 21, 2025), require the Department to strictly adhere to the National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321 et seq. Further, such Order and Memorandum repeal Executive Orders 12898 (Feb. 11, 1994) and 14096 (Apr. 21, 2023). Because Executive Orders 12898 and 14096 have been repealed, complying with such Orders is a legal impossibility. The Office of Surface Mining Reclamation and Enforcement verifies that it has complied with the requirements of NEPA, including the Department’s regulations and procedures implementing NEPA at 43 C.F.R. Part 46 and Part 516 of the Departmental Manual, consistent with the President’s January 2025 Order and Memorandum. The Office of Surface Mining Reclamation and Enforcement has also voluntarily considered the Council on Environmental Quality’s rescinded regulations implementing NEPA, previously found at 40 C.F.R. Parts 1500–1508, as guidance to the extent appropriate and consistent with the requirements of NEPA and Executive Order 14154.

If yes, check the ones that apply.

- |   |  |
|---|--|
| <input type="checkbox"/> Historic or Cultural Resources               | <input type="checkbox"/> Prime Farmlands                                     |
| <input type="checkbox"/> Park, Recreation, or Refuge Lands            | <input type="checkbox"/> Wetlands  |
| <input type="checkbox"/> Wilderness Areas                             | <input type="checkbox"/> Floodplains   |
| <input type="checkbox"/> Wild or Scenic Rivers                        | <input type="checkbox"/> National Monuments                                  |
| <input type="checkbox"/> National Natural Landmarks                   | <input type="checkbox"/> Migratory Birds                                     |
| <input type="checkbox"/> Sole or Principal Drinking Water<br>Aquifers | <input type="checkbox"/> Other Ecologically Significant or<br>Critical Areas |

Highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102(2)(E)]? No  Yes

Highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks? No  Yes

Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects? No  Yes

Directly related to other actions with individually insignificant but cumulatively significant environmental effects? No  Yes

Significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by the bureau? No  Yes

Significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or significant impacts on designated Critical Habitat for these species? No  Yes

Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment? No  Yes

Have a disproportionately high and adverse effect on low income or minority populations (43 C.F.R. § 46.215(j))<sup>2</sup>? No  Yes

Limit access to and ceremonial use of Indian sacred sites on Federal Lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (EO 13007)? No  Yes

---

<sup>2</sup> The Department's regulation at 43 C.F.R. § 46.215(j), which implemented Executive Order 12898, currently identifies projects that may have a "disproportionate, significant adverse effect on low income or minority populations" as an extraordinary circumstance that might prevent reliance on a categorical exclusion under NEPA; however, the Department's regulations have not yet been updated to reflect the repeal of Executive Order 12898 (see footnote 1 above). If there are any questions about whether this extraordinary circumstance might prevent reliance on a categorical exclusion, please contact the Office of the Solicitor.

Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and EO 13112)?

No [ ] Yes [ ]

<b>II. RESOURCE IMPACT EXCEPTIONS</b>
---------------------------------------

Are there any unresolved issues with agencies, persons, or groups?

No [ ] Yes [ ]

Are there any adverse effects on resources requiring specialized mitigation (see Appendix 6.5 of OSMRE's NEPA Handbook)

No [ ] Yes [ ]

<b>III. ATTACH CONSULTATION LETTERS AND A LOCATION MAP</b>
--

*[List attachments here]*

Project Location Map

**IV.**

**OSMRE DETERMINATION**

Determination criteria: **Any “Yes” responses in Section I or II require submission of an Environmental Assessment (EA).**

[ ] This project conforms with the exclusion criteria in 516 DM Chapter 13, and is excluded from further NEPA compliance.

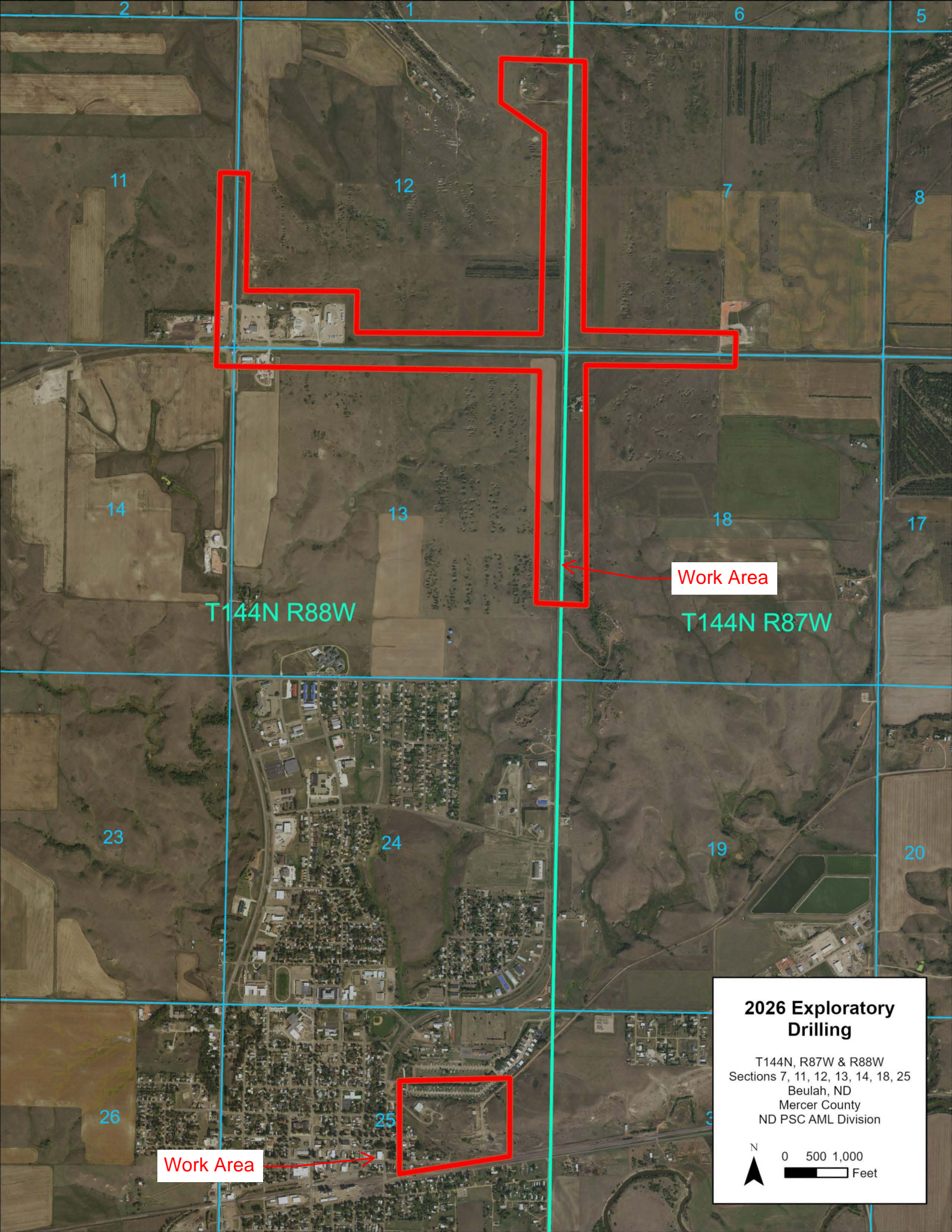
[ ] This project does not conform with the exclusion criteria in 516 DM Chapter 13, and requires an Environmental Assessment. As such, OSMRE will complete an *Evaluation of a Proposed Action* template (see Appendix 4.1 of OSMRE’s NEPA Handbook (2019)).

OSMRE Reviewer Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name and Title: \_\_\_\_\_

Field Office Director Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name and Title: \_\_\_\_\_



T144N R88W

Work Area

T144N R87W

Work Area

### 2026 Exploratory Drilling

T144N, R87W & R88W  
Sections 7, 11, 12, 13, 14, 18, 25  
Beulah, ND  
Mercer County  
ND PSC AML Division





# Public Service Commission

Sheri Haugen-Hoffart

Randy Christmann

Jill Kringstad

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

*sent via email only*

October 1, 2025

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 2026 at various Abandoned Mine Lands (AML) Sites in Beulah, North Dakota. The contractor will be selected through a competitive bidding process.

As part of the project approval process, our office requests concurrence that the proposed reclamation work, as described below, will not adversely affect any surface or groundwater resources. Please reply regarding these proposed projects by **November 3, 2025**.

The 2026 Exploratory Drilling AML Project: This project will locate and characterize underground mine workings beneath public roads and other infrastructure. This investigatory project will be conducted in Beulah, North Dakota between December 2025 and August 2026. Surface disturbance for this type of project is minimal. The contractor will drill four-inch holes and backfill the holes with drill cuttings upon completion. The estimated cost for this project is \$875,000. The attached map 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](mailto:bjob@nd.gov) or 701-989-4041.

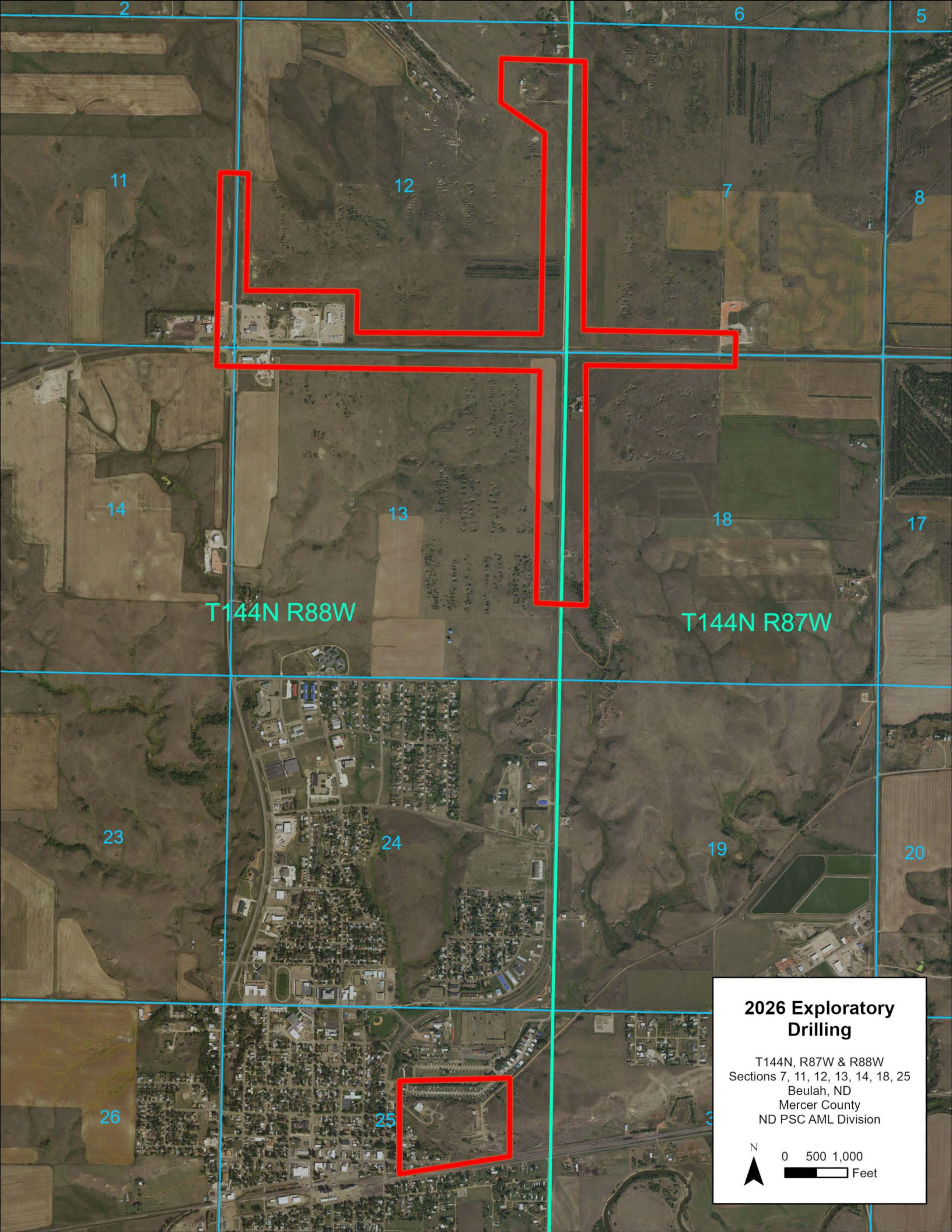
Sincerely,

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

Jonathan Emmer  
Director  
Abandoned Mine Lands Division

Enclosure

AML\2026\Exploratory Drilling\ATP\Concurrence Letters\2026\_Advsry\_auth\_to\_proceed\_ltr\_10-1-25

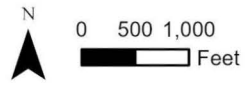


T144N R88W

T144N R87W

### 2026 Exploratory Drilling

T144N, R87W & R88W  
Sections 7, 11, 12, 13, 14, 18, 25  
Beulah, ND  
Mercer County  
ND PSC AML Division



October 28, 2025

Mr. Jonathan Emmer  
Director  
Abandoned Mine Lands Division  
Public Service Commission  
600 East Boulevard Avenue  
Dept 408  
Bismarck, ND 588505-0408

Subject: 2026 Beulah Exploratory Drilling AML Project

Mr. Emmer,

The North Dakota Department of Environmental Quality (NDDEQ) has reviewed the proposed exploratory boring project summarized in your October 1, 2025 letter. The southern project area overlies the Knife River aquifer, which is a sensitive aquifer. Care should be taken to avoid spills of any materials that may have an adverse effect on groundwater quality. All spills must be immediately reported to this department and appropriate remedial actions should be performed.

We appreciate the opportunity to review the proposed projects. If you have any questions, please contact me at 701-328-5213.

Sincerely,



Carl Anderson  
Groundwater Protection Program Manager  
NDDEQ – Division of Water Quality.



# Public Service Commission

Sheri Haugen-Hoffart

Randy Christmann

Jill Kringstad

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

*sent via email only*

October 1, 2025

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 2026 at various Abandoned Mine Lands (AML) Sites in Beulah, North Dakota. The contractor will be selected through a competitive bidding process.

As part of the project approval process, our office requests concurrence that the proposed reclamation work, as described below, will not adversely affect any historical or archaeological resources. Please reply regarding these proposed projects by **November 3, 2025**.

The 2026 Exploratory Drilling AML Project: This project will locate and characterize underground mine workings beneath public roads and other infrastructure. This investigatory project will be conducted in Beulah, North Dakota between December 2025 and August 2026. Surface disturbance for this type of project is minimal. The contractor will drill four-inch holes and backfill the holes with drill cuttings upon completion. The estimated cost for this project is \$875,000. The attached map 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](mailto:bjob@nd.gov) or 701-989-4041.

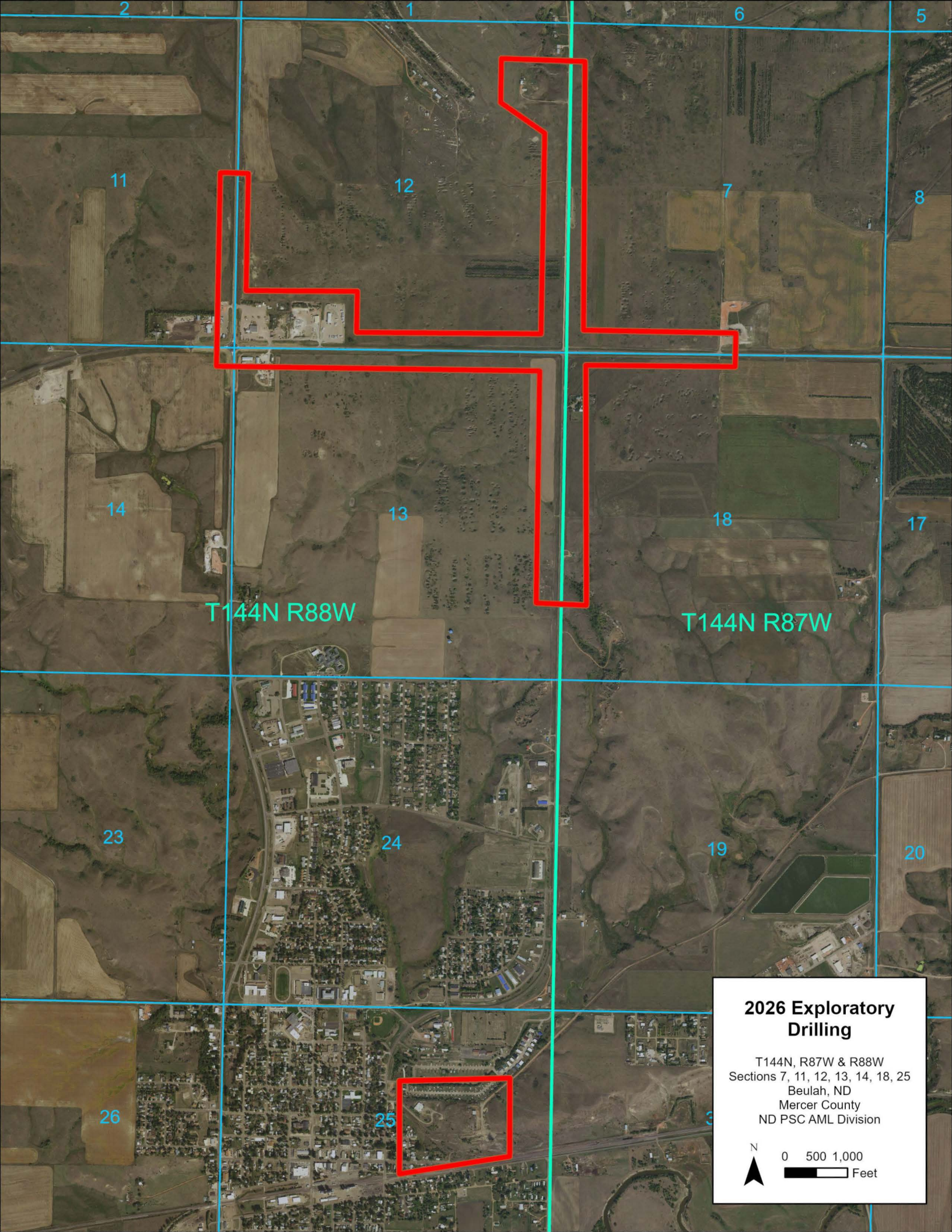
Sincerely,

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

Jonathan Emmer  
Director  
Abandoned Mine Lands Division

Enclosure

AML\2026\Exploratory Drilling\ATP\Concurrence Letters\2026\_Advsry\_auth\_to\_proceed\_ltr\_10-1-25

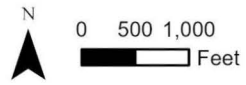


T144N R88W

T144N R87W

### 2026 Exploratory Drilling

T144N, R87W & R88W  
Sections 7, 11, 12, 13, 14, 18, 25  
Beulah, ND  
Mercer County  
ND PSC AML Division





October 27, 2025

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

**ND SHPO Ref: 26-0002 2026 Exploratory Drilling Project, Beulah in portions of [T144N R87W Sections 7 and 18; and T144N R88W Sections 11, 12, 13, 14, and 25] Mercer County, North Dakota**

Dear Jonathan,

We've reviewed project ND SHPO Ref: 26-0002 2026 Exploratory Drilling Project, Beulah in portions of [T144N R87W Sections 7 and 18; and T144N R88W Sections 11, 12, 13, 14, and 25] Mercer County, North Dakota as received by our office on October 1, 2025.

We concur with "No Historic Properties Affected" provided the project takes place in the manner and location described in the documentation and all borrow comes from an approved source.

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](mailto:mmpatton@nd.gov).

Sincerely,

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

26-0002



# Public Service Commission

Sheri Haugen-Hoffart

Randy Christmann

Jill Kringstad

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

*sent via email only*

October 1, 2025

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 2026 at various Abandoned Mine Lands (AML) Sites in Beulah, North Dakota. The contractor will be selected through a competitive bidding process.

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 this proposed project by **November 3, 2025**.

The 2026 Exploratory Drilling AML Project: This project will locate and characterize underground mine workings beneath public roads and other infrastructure. This investigatory project will be conducted in Beulah, North Dakota between December 2025 and August 2026. Surface disturbance for this type of project is minimal. The contractor will drill four-inch holes and backfill the holes with drill cuttings upon completion. The estimated cost for this project is \$875,000. The attached map shows the proposed project location. The attached IPAC for the project area does not list any critical habitat. We believe that our project should have "no effect" and will not jeopardize or adversely affect any proposed, threatened, or endangered species.

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](mailto:bjob@nd.gov) or 701-989-4041.

Sincerely,

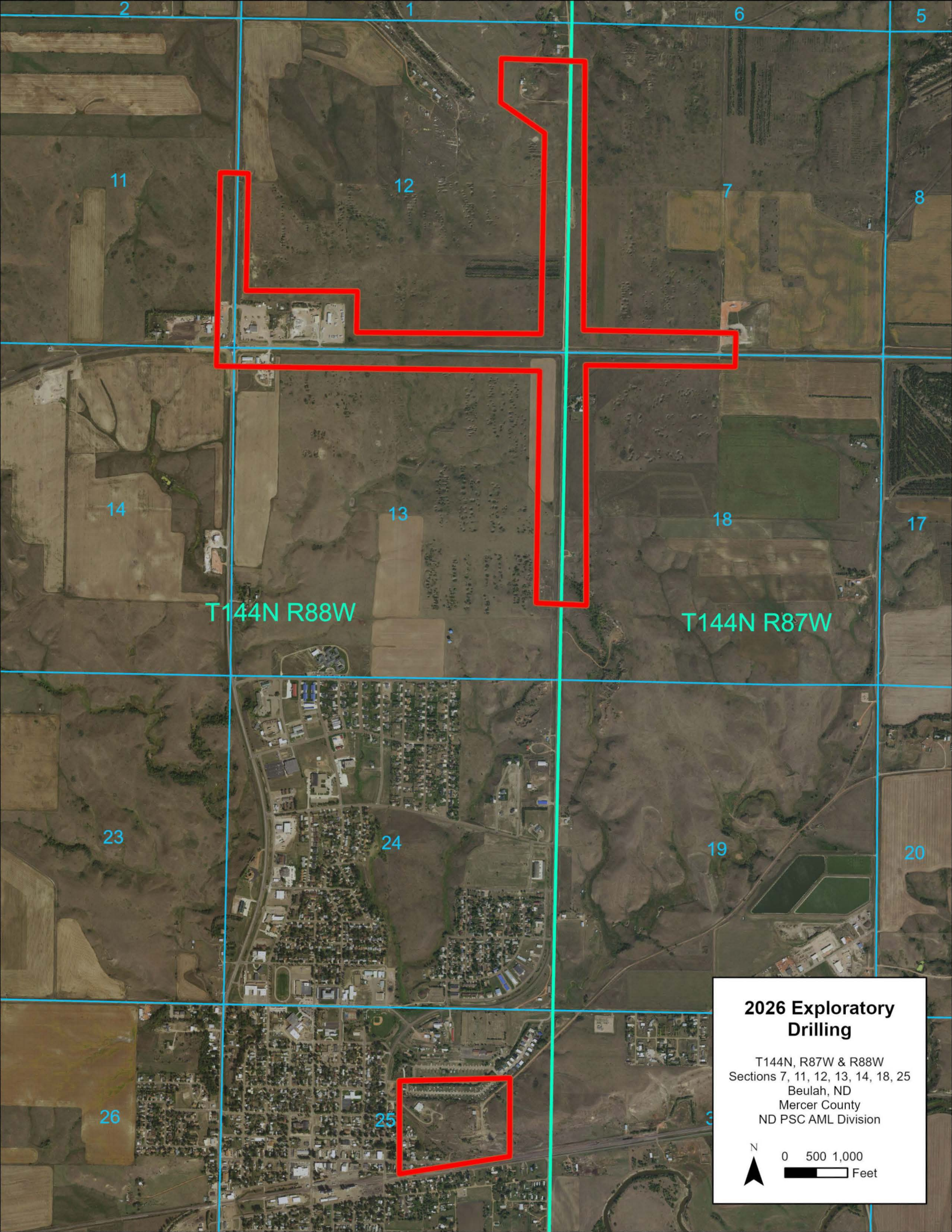
A handwritten signature in blue ink, appearing to read "Jonathan Emmer".

Jonathan Emmer  
Director  
Abandoned Mine Lands Division

Enclosures

cc via email only: Jerry Reinisch ([jerry\\_reinisch@fws.gov](mailto:jerry_reinisch@fws.gov))

AML\2026\Exploratory Drilling\ATP\Concurrence Letters\2026\_Advsry\_auth\_to\_proceed\_ltr\_10-1-25

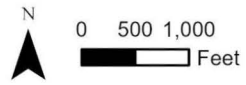


T144N R88W

T144N R87W

### 2026 Exploratory Drilling

T144N, R87W & R88W  
Sections 7, 11, 12, 13, 14, 18, 25  
Beulah, ND  
Mercer 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:

09/24/2025 18:21:26 UTC

Project Code: 2025-0154086

Project Name: 2026 Exploratory Drilling

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

## **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: 2025-0154086

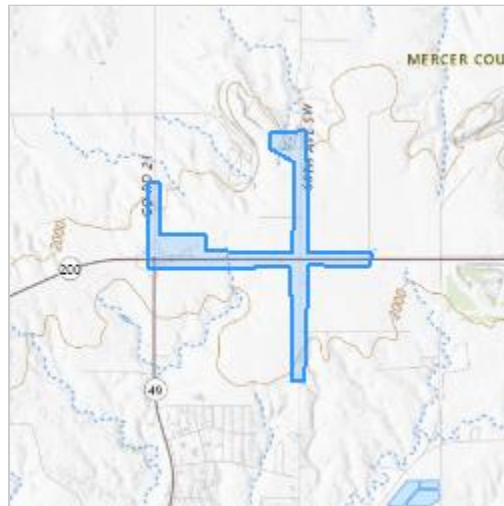
Project Name: 2026 Exploratory Drilling

Project Type: Subsurface Exploration - Coal

Project Description: This project will locate and characterize underground mine workings beneath public roads and other infrastructure. This investigatory project is to be conducted near Beulah, North Dakota between December 2025 and August 2026. Surface disturbance for this type of project is minimal as the contractor will fill the four-inch holes drilled in with the cuttings from drilling.

Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@47.2993712,-101.77027844238157,14z>



Counties: Mercer County, North Dakota

## ENDANGERED SPECIES ACT SPECIES

There is a total of 7 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 Fisheries<sup>1</sup>, 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
<p>Piping Plover <i>Charadrius melodus</i></p> <p>Population: [Atlantic Coast and Northern Great Plains populations] - Wherever found, except those areas where listed as endangered.</p> <p>There is <b>final</b> critical habitat for this species. Your location does not overlap the critical habitat.</p> <p>Species profile: <a href="https://ecos.fws.gov/ecp/species/6039">https://ecos.fws.gov/ecp/species/6039</a></p> <p>General project design guidelines: <a href="https://ipac.ecosphere.fws.gov/project/DVQP3JZF4BEGZL4C4KAW4Z7OAOQ/documents/generated/9588.pdf">https://ipac.ecosphere.fws.gov/project/DVQP3JZF4BEGZL4C4KAW4Z7OAOQ/documents/generated/9588.pdf</a></p>	Threatened
<p>Rufa Red Knot <i>Calidris canutus rufa</i></p> <p>There is <b>proposed</b> critical habitat for this species. Your location does not overlap the critical habitat.</p> <p>Species profile: <a href="https://ecos.fws.gov/ecp/species/1864">https://ecos.fws.gov/ecp/species/1864</a></p> <p>General project design guidelines: <a href="https://ipac.ecosphere.fws.gov/project/DVQP3JZF4BEGZL4C4KAW4Z7OAOQ/documents/generated/8763.pdf">https://ipac.ecosphere.fws.gov/project/DVQP3JZF4BEGZL4C4KAW4Z7OAOQ/documents/generated/8763.pdf</a></p>	Threatened
<p>Whooping Crane <i>Grus americana</i></p> <p>Population: Wherever found, except where listed as an experimental population</p> <p>There is <b>final</b> critical habitat for this species. Your location does not overlap the critical habitat.</p> <p>Species profile: <a href="https://ecos.fws.gov/ecp/species/758">https://ecos.fws.gov/ecp/species/758</a></p> <p>General project design guidelines: <a href="https://ipac.ecosphere.fws.gov/project/DVQP3JZF4BEGZL4C4KAW4Z7OAOQ/documents/generated/9885.pdf">https://ipac.ecosphere.fws.gov/project/DVQP3JZF4BEGZL4C4KAW4Z7OAOQ/documents/generated/9885.pdf</a></p>	Endangered

**INSECTS**

NAME	STATUS
<p>Dakota Skipper <i>Hesperia dacotae</i></p> <p>There is <b>final</b> critical habitat for this species. Your location does not overlap the critical habitat.</p> <p>Species profile: <a href="https://ecos.fws.gov/ecp/species/1028">https://ecos.fws.gov/ecp/species/1028</a></p> <p>General project design guidelines: <a href="https://ipac.ecosphere.fws.gov/project/DVQP3JZF4BEGZL4C4KAW4Z7OAOQ/documents/generated/9522.pdf">https://ipac.ecosphere.fws.gov/project/DVQP3JZF4BEGZL4C4KAW4Z7OAOQ/documents/generated/9522.pdf</a></p>	Threatened
<p>Monarch Butterfly <i>Danaus plexippus</i></p> <p>There is <b>proposed</b> critical habitat for this species. Your location does not overlap the critical habitat.</p> <p>Species profile: <a href="https://ecos.fws.gov/ecp/species/9743">https://ecos.fws.gov/ecp/species/9743</a></p>	Proposed Threatened
<p>Suckley's Cuckoo Bumble Bee <i>Bombus suckleyi</i></p> <p>Population:</p> <p>No critical habitat has been designated for this species.</p> <p>Species profile: <a href="https://ecos.fws.gov/ecp/species/10885">https://ecos.fws.gov/ecp/species/10885</a></p> <p>General project design guidelines: <a href="https://ipac.ecosphere.fws.gov/project/DVQP3JZF4BEGZL4C4KAW4Z7OAOQ/documents/generated/9852.pdf">https://ipac.ecosphere.fws.gov/project/DVQP3JZF4BEGZL4C4KAW4Z7OAOQ/documents/generated/9852.pdf</a></p>	Proposed Endangered

NAME	STATUS
Western Regal Fritillary <i>Argynnis idalia occidentalis</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/12017">https://ecos.fws.gov/ecp/species/12017</a>	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.

## **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: 7019579684



# 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:

10/01/2025 12:54:44 UTC

Project Code: 2026-0000135

Project Name: 2026 Exploratory Drilling 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

## **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: 2026-0000135

Project Name: 2026 Exploratory Drilling Part 2

Project Type: Subsurface Exploration - Coal

Project Description: This project will locate and characterize underground mine workings beneath public roads and other infrastructure. This investigatory project is to be conducted near Beulah, North Dakota between December 2025 and August 2026. Surface disturbance for this type of project is minimal as the contractor will fill the four-inch holes drilled in with the cuttings from drilling.

Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@47.26498985,-101.77110914501563,14z>



Counties: Mercer County, North Dakota

## ENDANGERED SPECIES ACT SPECIES

There is a total of 7 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 Fisheries<sup>1</sup>, 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
<p>Piping Plover <i>Charadrius melodus</i></p> <p>Population: [Atlantic Coast and Northern Great Plains populations] - Wherever found, except those areas where listed as endangered.</p> <p>There is <b>final</b> critical habitat for this species. Your location does not overlap the critical habitat.</p> <p>Species profile: <a href="https://ecos.fws.gov/ecp/species/6039">https://ecos.fws.gov/ecp/species/6039</a></p> <p>General project design guidelines: <a href="https://ipac.ecosphere.fws.gov/project/EAJM46AJEVCHPBMHNS7UPUKKAI/documents/generated/9588.pdf">https://ipac.ecosphere.fws.gov/project/EAJM46AJEVCHPBMHNS7UPUKKAI/documents/generated/9588.pdf</a></p>	Threatened
<p>Rufa Red Knot <i>Calidris canutus rufa</i></p> <p>There is <b>proposed</b> critical habitat for this species. Your location does not overlap the critical habitat.</p> <p>Species profile: <a href="https://ecos.fws.gov/ecp/species/1864">https://ecos.fws.gov/ecp/species/1864</a></p> <p>General project design guidelines: <a href="https://ipac.ecosphere.fws.gov/project/EAJM46AJEVCHPBMHNS7UPUKKAI/documents/generated/8763.pdf">https://ipac.ecosphere.fws.gov/project/EAJM46AJEVCHPBMHNS7UPUKKAI/documents/generated/8763.pdf</a></p>	Threatened
<p>Whooping Crane <i>Grus americana</i></p> <p>Population: Wherever found, except where listed as an experimental population</p> <p>There is <b>final</b> critical habitat for this species. Your location does not overlap the critical habitat.</p> <p>Species profile: <a href="https://ecos.fws.gov/ecp/species/758">https://ecos.fws.gov/ecp/species/758</a></p> <p>General project design guidelines: <a href="https://ipac.ecosphere.fws.gov/project/EAJM46AJEVCHPBMHNS7UPUKKAI/documents/generated/9885.pdf">https://ipac.ecosphere.fws.gov/project/EAJM46AJEVCHPBMHNS7UPUKKAI/documents/generated/9885.pdf</a></p>	Endangered

**INSECTS**

NAME	STATUS
<p>Dakota Skipper <i>Hesperia dacotae</i></p> <p>There is <b>final</b> critical habitat for this species. Your location does not overlap the critical habitat.</p> <p>Species profile: <a href="https://ecos.fws.gov/ecp/species/1028">https://ecos.fws.gov/ecp/species/1028</a></p> <p>General project design guidelines: <a href="https://ipac.ecosphere.fws.gov/project/EAJM46AJEVCHPBMHNS7UPUKKAI/documents/generated/9522.pdf">https://ipac.ecosphere.fws.gov/project/EAJM46AJEVCHPBMHNS7UPUKKAI/documents/generated/9522.pdf</a></p>	Threatened
<p>Monarch Butterfly <i>Danaus plexippus</i></p> <p>There is <b>proposed</b> critical habitat for this species. Your location does not overlap the critical habitat.</p> <p>Species profile: <a href="https://ecos.fws.gov/ecp/species/9743">https://ecos.fws.gov/ecp/species/9743</a></p>	Proposed Threatened
<p>Suckley's Cuckoo Bumble Bee <i>Bombus suckleyi</i></p> <p>Population:</p> <p>No critical habitat has been designated for this species.</p> <p>Species profile: <a href="https://ecos.fws.gov/ecp/species/10885">https://ecos.fws.gov/ecp/species/10885</a></p> <p>General project design guidelines: <a href="https://ipac.ecosphere.fws.gov/project/EAJM46AJEVCHPBMHNS7UPUKKAI/documents/generated/9852.pdf">https://ipac.ecosphere.fws.gov/project/EAJM46AJEVCHPBMHNS7UPUKKAI/documents/generated/9852.pdf</a></p>	Proposed Endangered

NAME	STATUS
Western Regal Fritillary <i>Argynnis idalia occidentalis</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/12017">https://ecos.fws.gov/ecp/species/12017</a>	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.

## **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: 7019579684



# 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](mailto:ndfieldoffice@fws.gov)

IN REPLY REFER  
TO:  
AML Beulah 2026  
Exploratory Drilling

November 18, 2025

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 October 1, 2025, requesting concurrence with effects determinations from the North Dakota Public Service Commission, Abandoned Mines Division (PSC-AML) regarding the 2026 exploratory drilling projects in Mercer County, North Dakota. This is an investigatory project that would locate and characterize underground mine workings beneath public roads and other infrastructure. The government shutdown has delayed our timely response for this request.

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. In this case, PSC-AML is acting as an agent for the Office of Surface Mining Reclamation and Enforcement (OSMRE) for the purposes of this consultation.

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” determinations for the Endangered Whooping crane (*Gus americana*), Threatened Piping plover (*Charadrius melodus*), Rufa red knot (*Calidris canutus rufa*) and Dakota skipper (*Hesperia dacotae*). 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 these federal actions.

The PSC-AML may request conferencing on voluntary basis for proposed species, which includes the Monarch (*Danaus plexippus*), Western regal fritillary (*Argynnis idalia occidentalis*) butterflies and Suckley's Cuckoo bumble bee (*Bombus suckleyi*). We understand the PSC-AML have made no effect determinations for these species, and have not requested conferencing. At this time, we generally recommend that habitat within the project area be evaluated for these species prior to construction.

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 of my staff at (701) 425-2133 or me at (720) 793-6797.

Sincerely,

**LUKE TOSO**

Digitally signed by LUKE TOSO  
Date: 2025.11.18 11:11:41  
-06'00'

Luke Toso, Acting Field Office Supervisor



# Public Service Commission

Sheri Haugen-Hoffart

Randy Christmann

Jill Kringstad

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

*sent via email only*

October 1, 2025

Kathy Duttenhefner  
Natural Resources Management Coordinator  
ND Parks & Recreation Department  
604 East Boulevard Ave. Dept. 750  
Bismarck, ND 58503  
kgduttenhefner@nd.gov

Dear Ms. Duttenhefner:

The Public Service Commission is planning reclamation activities in 2026 at various Abandoned Mine Lands (AML) Sites in Beulah, North Dakota. The contractor will be selected through a competitive bidding process.

As part of the project approval process, our office requests concurrence that the following proposed reclamation work will not adversely affect any properties that NDPRD 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 these proposed projects by **November 3, 2025**.

The 2026 Exploratory Drilling AML Project: This project will locate and characterize underground mine workings beneath public roads and other infrastructure. This investigatory project will be conducted in Beulah, North Dakota between December 2025 and August 2026. Surface disturbance for this type of project is minimal. The contractor will drill four-inch holes and backfill the holes with drill cuttings upon completion. The estimated cost for this project is \$875,000. The attached map shows the proposed project location.

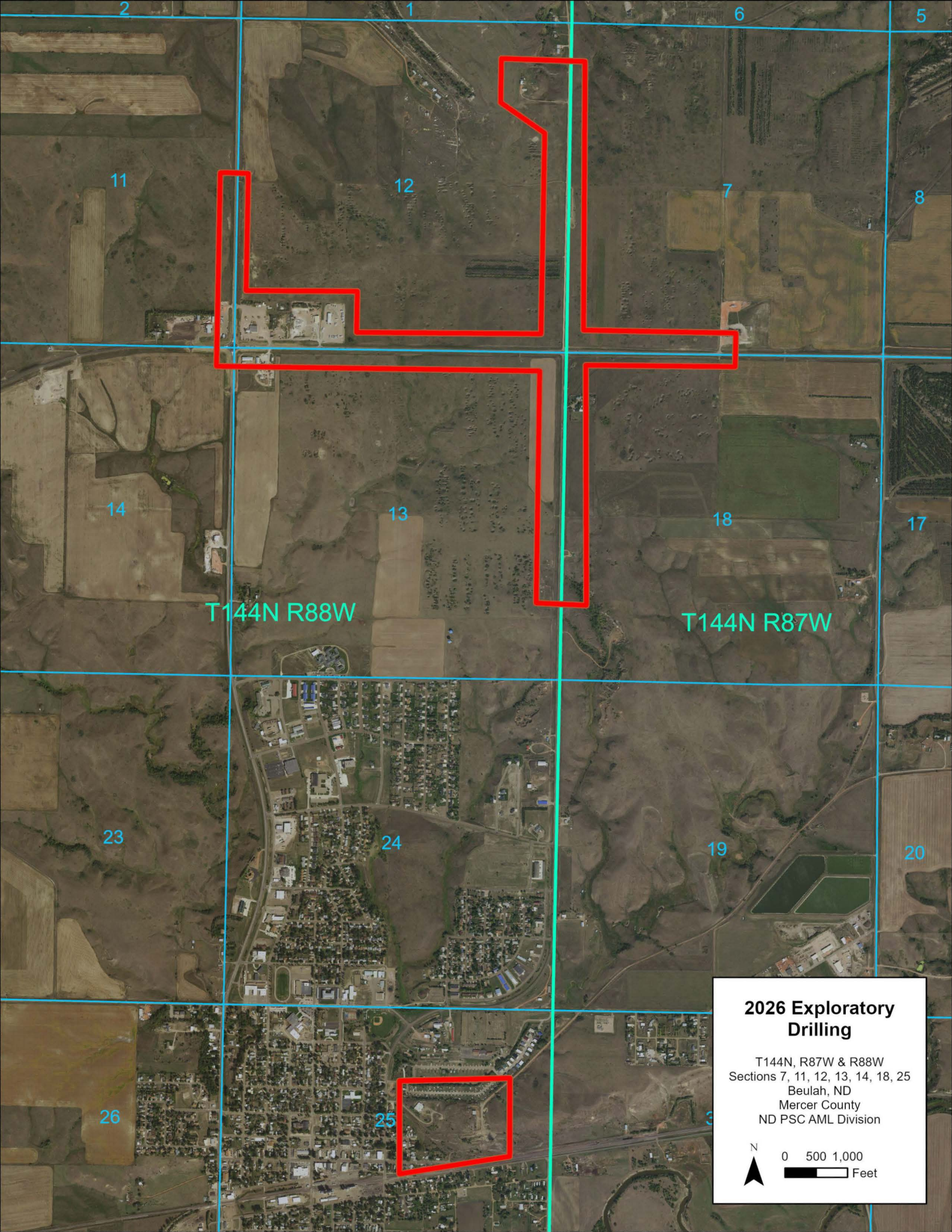
Thank you for your assistance in this matter. If you have any questions or need more information, please contact the project manager, Brett Job, at [bjob@nd.gov](mailto:bjob@nd.gov) or 701-989-4041.

Sincerely,

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

Jonathan Emmer  
Director  
Abandoned Mine Lands Division

Enclosure



T144N R88W

T144N R87W

### 2026 Exploratory Drilling

T144N, R87W & R88W  
Sections 7, 11, 12, 13, 14, 18, 25  
Beulah, ND  
Mercer County  
ND PSC AML Division



November 25, 2025

NDPSC  
Jonathan Emmer  
600 East Blvd Ave  
Bismarck, ND

Re: Environmental Review – Abandoned Mine Lands (AML) Site in Beulah, ND

Dear Jonathan Emmer,

The North Dakota Parks and Recreation Department (NDPRD) has completed its review of the proposed reclamation activities in 2026 at various AML sites in Beulah, North Dakota.

Our review considered:

1. NDPRD Jurisdictional Properties – Properties owned, leased, or managed by NDPRD.
2. Land and Water Conservation Fund (LWCF) Section 6(f) Properties – Areas protected under federal funding agreements.
3. Natural Heritage Program Resources – Documented occurrences of rare plants, animals, and significant ecological communities within the project vicinity.

Findings:

- The proposed project does not appear to affect properties owned, leased, or managed by NDPRD.
- The proposed project does not appear to impact any properties protected under Section 6(f) of the LWCF.
- A query of the North Dakota Natural Heritage biological conservation database indicates no documented occurrences of plant or animal species of concern, or significant ecological communities, within or immediately adjacent to the project area (approximately one-mile radius).

We appreciate your commitment to conserving North Dakota's natural resources and your cooperation in the environmental review process. If you have questions or require further information, please contact me at (701) 328-5370, (701) 220-3377 (cell), or by email at [kgduttenhefner@nd.gov](mailto:kgduttenhefner@nd.gov).

Thank you for the opportunity to comment on this project.

Sincerely,



Kathy Duttenhefner  
Chief, Natural Resources Division

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

November 19, 2025

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 2026 Exploratory Drilling 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,



Chris Martens  
General Counsel  
North Dakota Public Service Commission