

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

**ABANDONED MINE LANDS
CATEGORICAL EXCLUSION DETERMINATION¹**

State: North Dakota PA # ND000014

Project Name: 2026 Exploratory Drilling AML Project

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

¹ 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 Because Executive Orders 12898 and 14096 have been repealed, complying with such Orders is a legal impossibility.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.

- 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
- Floodplains
- National Monuments
- Migratory Birds
- Other Ecologically Significant or 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))²

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

² 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

II. RESOURCE IMPACT EXCEPTIONS

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

III. ATTACH CONSULTATION LETTERS AND A LOCATION MAP
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[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: JOHN SIEVING Digitally signed by JOHN SIEVING
Date: 2025.11.26 11:44:59 -07'00' Date: _____

Name and Title: John Sieving, Physical Scientist

Field Office Director Signature: HILLARY SMITH Digitally signed by HILLARY SMITH
Date: 2025.11.26 12:43:32 -07'00' Date: _____

Name and Title: For Jeff Fleischman, DFD Chief