



# 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*

January 6, 2026

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 2026 New Salem AML Project in North Dakota.**

Dear Mr. Fleischman:

Enclosed is the documentation to support our Request for Authorization to Proceed for the 2026 New Salem AML Project in North Dakota. The environmental assessment is attached for the proposed project.

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

A public meeting is scheduled for January 21, 2026, regarding proposed work near New Salem. All affected property owners for this project have been contacted and consents for right-of-entry have been executed.

The e-AMLIS Problem Area Description number for the proposed New Salem site is ND000054. The proposed grants for funding this project are **S24AF00018** (FY2023 North Dakota IIJA AML) and **S25AF00127** and (FY2024 North Dakota IIJA AML). We have posted updated priority documentation for this project in the documents section in e-AMLIS. If you need more information or have any questions, please call Matthew Fischer at 701-328-4779 or me at 701-328-4094.

Sincerely,

Jonathan Emmer  
Director  
Reclamation and AML Divisions

Enclosures

16 AM-25-268 Filed 01/06/2026 Pages: 38  
Authorization to Proceed Request Letters

cc via email only: John Sieving (jsieving@osmre.gov)

Public Service Commission  
Jonathan Emmer

AML\2026\New Salem\ATP\Requests sent to OSMRE\1 2026\_Auth\_to\_Proceed\_rqst\_ltr\_1-6-26

**List of Attachments**

A brief narrative about the proposed 2026 New Salem AML Project.

Standardized environmental assessments for the proposed 2026 New Salem AML Project.

Requests for concurrence for the 2026 New Salem 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 New Salem AML Project.

AMLIS PAD Number for proposed 2026 New Salem AML Project:

<b>PAD No.</b>	<b>PAD Name</b>	<b>Project Type</b>
ND000054	New Salem	Drilling and Remote Backfilling

## Project Narrative

The 2026 New Salem AML Project: This remote backfilling project will stabilize abandoned underground coal mine workings along Old Highway 10 and other infrastructure located in New Salem, ND. This project is a continuation of the 2024 and 2025 Exploratory Drilling Projects. The recent projects revealed that the extent of the underground mine is larger than expected. Work is expected to be conducted between June and October 2026. The estimated cost for this project is \$970,000.

AML\2026\New Salem\ATP\Requests sent to OSMRE\2 Project Narrative

**STANDARDIZED ENVIRONMENTAL ASSESSMENT**

**2026 New Salem AML Project**

**ND000054**

**Morton 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 2026**

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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 New Salem project area have been reported. However, the presence of abandoned underground mines is a hazard. AML exploratory drilling projects were conducted in 2024 and 2025. Numerous large mine voids have been found in the 2024-2025 exploratory drilling projects.

#### B. Project Background

The New Salem AML proposed project area is located within Section 21, Township 139N, Range 85W in Morton 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 McCormick Coal Company which began operations in 1922. Mining in the area was also conducted by the Deep Mine Coal Company (1933-1951). Mining continued beyond the last recorded mine map (1924). The AML Division has conducted two phases of exploratory drilling projects.

Exploratory drilling records indicate portions of the underground mines are in early stages of collapse with slight upward migration as close as 180 feet below the surface. The average depth of the mined coal seam is 195 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 following table shows the project types, year, feet drilled, total grout pumped, and cost for the New Salem PAD:

<b>Project</b>	<b>Year</b>	<b>Feet Drilled</b>	<b>Total cost</b>
Exploratory Drilling	2024	12,211	\$175,250.00
Exploratory Drilling	2025	25,275	\$390,176.00
<b>Total</b>		<b>37,486</b>	<b>\$565,426.00</b>

## 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, 2025, the North Dakota State Historical Society has signed-off on the New Salem AML Project Area and has offered a “No Adverse Effect” 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 New Salem 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 Morton County identified by the U.S. Fish and Wildlife Service include Piping Plover (*Charadrius melodus*), Rufa Red Knot (*Calidris canutus rufa*), Suckley's Cuckoo Bumble Bee (*Bombus suckleyi*), 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 2026 New Salem 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**

Morton 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 New Salem 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**

Two phases of AML exploratory drilling projects have been completed. The 2026 New Salem AML Project is a continuation of those projects. The anticipated work period is from June to October 2026. Reclamation is likely to continue beyond 2026.

**N. Estimated cost of reclamation**

The 2026 New Salem AML Project is estimated at \$970,000.

**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 8, 2025, requesting concurrence for the 2026 New Salem AML Project. The response dated December 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 8, 2025, requesting concurrence for the 2026 New Salem AML Project. The response dated December 31, 2025, concurred with the determination of 'No Adverse Effect' for the project.

A letter was sent to the North Dakota Department of Environmental Quality (NDDEQ) on December 8, 2025, requesting concurrence for the 2026 New Salem AML Project. The response dated December 18, 2025, indicated that planned activities are not likely to significantly impact groundwater quality. The AML Division will remain in consultation with NDDEQ and will provide the NDDEQ with any requested reports.

A letter was sent to the North Dakota Parks and Recreation Department (NDPRD) on December 8, 2025, requesting concurrence for the 2026 New Salem AML Project. The response dated December 18, 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



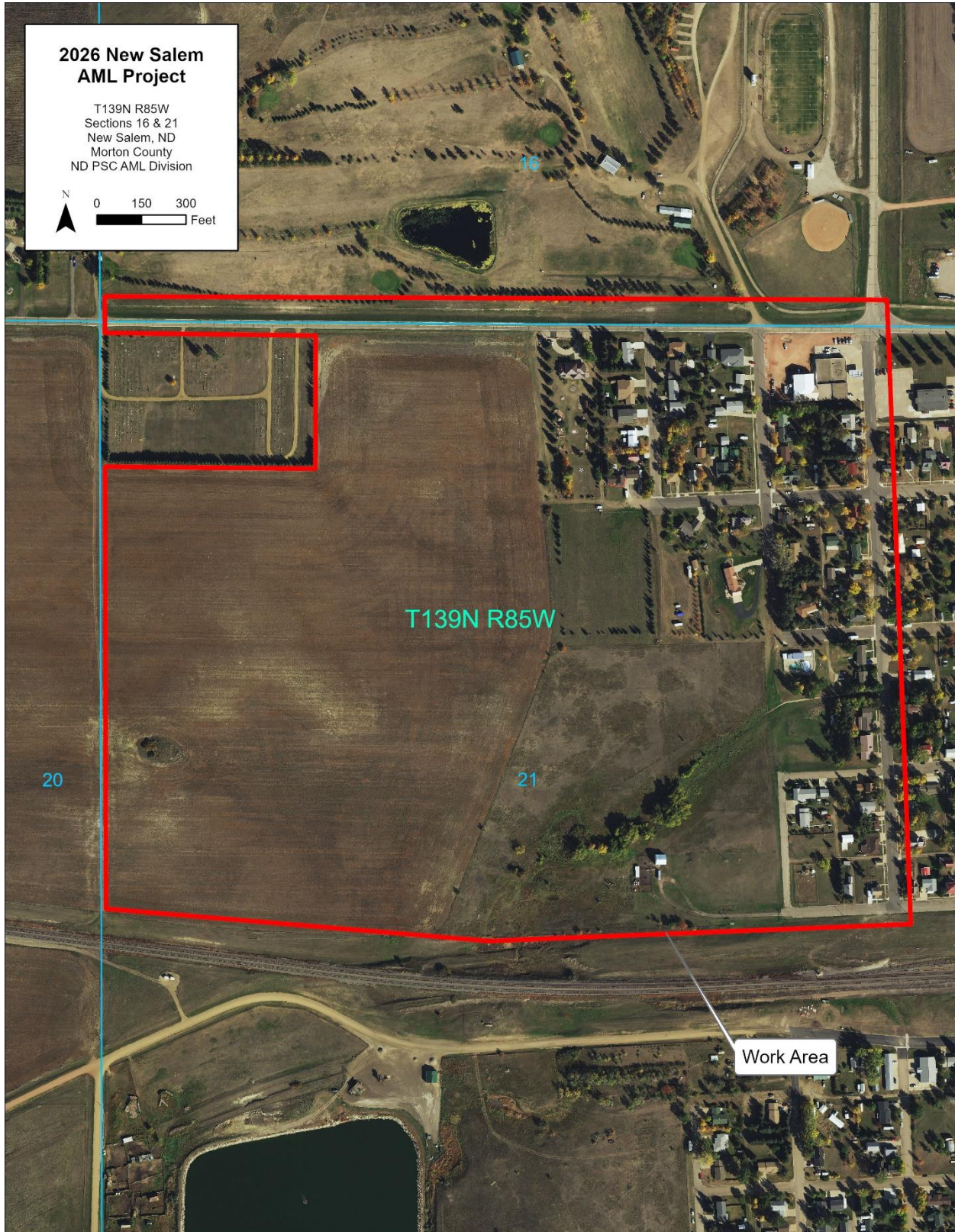
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Matthew Fischer  
Assistant Director - AML Division  
ND Public Service Commission



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Brett Job  
Project Manager - AML Division  
ND Public Service Commission





# 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*

December 8, 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 an Abandoned Mine Land (AML) site near New Salem, 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 8, 2026**.

The 2026 New Salem AML Project: This remote backfilling project will stabilize abandoned underground coal mine workings along Old Highway 10 and other infrastructure located in New Salem, ND. This project is a continuation of the 2024 and 2025 Exploratory Drilling Projects. The recent projects revealed the extent of the underground mine is larger than expected. AML staff estimated that 1,000 cubic yards of grout will be pumped into these mine workings. Work is expected to be conducted between June and October 2026. The estimated cost for this project is \$1,000,000. 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](mailto:bjob@nd.gov) or 701-328-4073.

Sincerely,

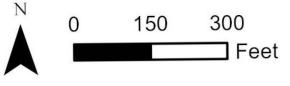
A handwritten signature in blue ink, appearing to read "Jonathan Emmer".

Jonathan Emmer  
Director  
Abandoned Mine Lands Division

Enclosure

# 2026 New Salem AML Project

T139N R85W  
Sections 16 & 21  
New Salem, ND  
Morton County  
ND PSC AML Division



Work Area

December 18, 2025

RECEIVED

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

DEC 19 2025

NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

Subject: 2026 New Salem AML Project

Mr. Emmer,

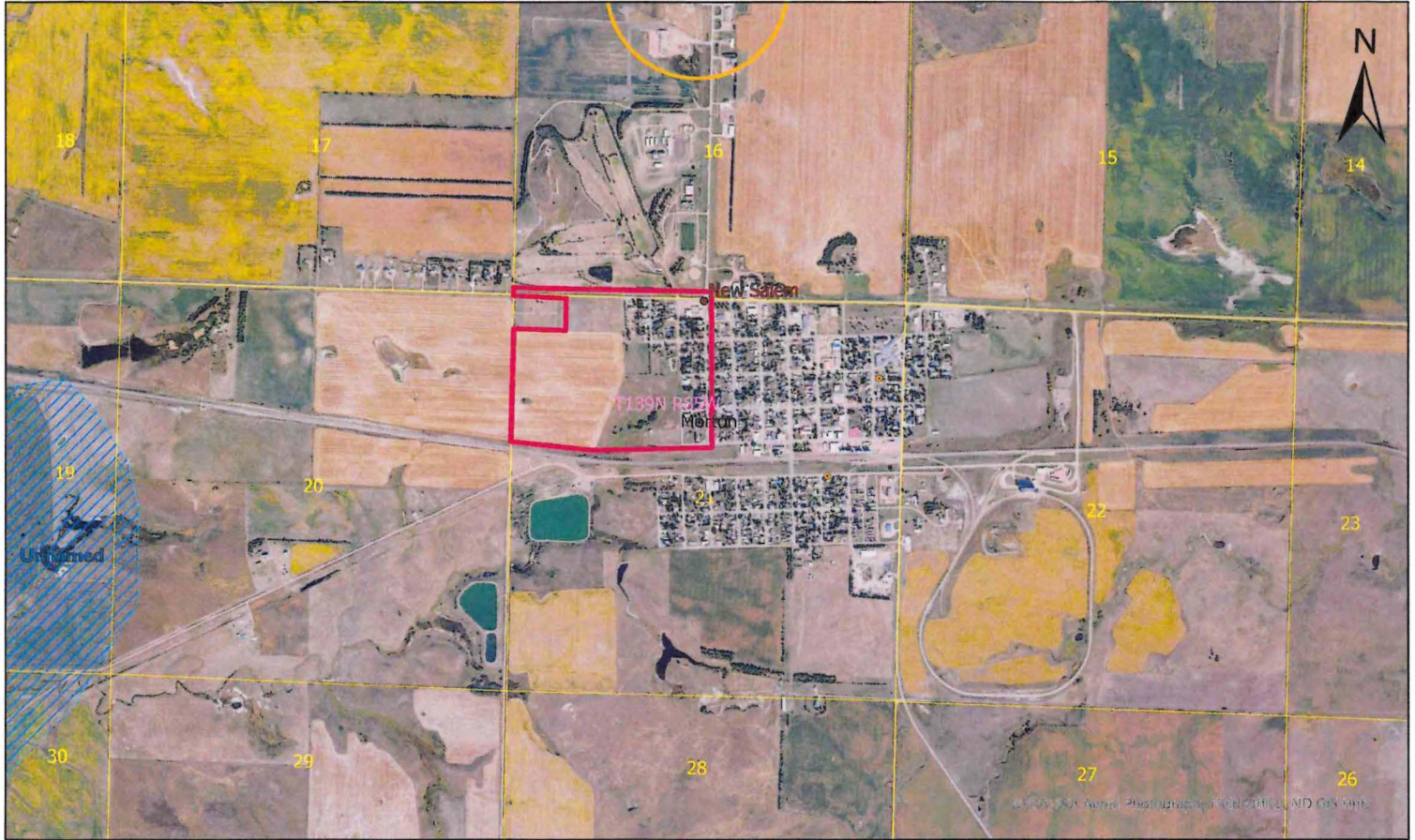
The North Dakota Department of Environmental Quality (NDDEQ) has reviewed the proposed mine reclamation project summarized in your December 8, 2025, letter. The proposed reclamation area has been mapped in relation to aquifers, wellhead protection areas, and existing wells (map attached). Based our review, 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 mine reclamation project. If you have any questions, please contact me at 701-328-5213.

Sincerely,



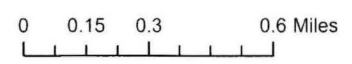
Carl Anderson  
Groundwater Protection Manager  
NDDEQ – Division of Water Quality



**Legend**

- |                     |                      |   |                |
|---------------------|----------------------|---|----------------|
| Area of Interest    | Domestic & Municipal | Observation Well                            | City Locations |
| County Roads        | Industrial           | Aquifer                                     | PLSS Townships |
| Commercial Well     | Irrigation           | Sensitive Groundwater Areas                 | PLSS Sections  |
| Domestic Well       | Monitoring           | Community Source Water Protection Areas     |                |
| Domestic/Stock Well | Municipal            | Non-Community Source Water Protection Areas |                |
| Geothermal Well     | Stock                |   |                |

**2026 New Salem AML Project**



Carter Ahlstedt  
 T: 139N R: 85W S: 16,21  
 12/8/2025



# 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*

December 8, 2025

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

Dear Ms. Duttenhefner:

The Public Service Commission is planning reclamation activities in 2026 at an Abandoned Mine Land (AML) site near New Salem, 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 8, 2026**.

The 2026 New Salem AML Project: This remote backfilling project will stabilize abandoned underground coal mine workings along Old Highway 10 and other infrastructure located in New Salem, ND. This project is a continuation of the 2024 and 2025 Exploratory Drilling Projects. The recent projects revealed the extent of the underground mine is larger than expected. AML staff estimated that 1,000 cubic yards of grout will be pumped into these mine workings. Work is expected to be conducted between June and October 2026. The estimated cost for this project is \$1,000,000. 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](mailto:bjob@nd.gov) or 701-328-4073.

Sincerely,

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

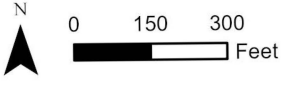
Jonathan Emmer  
Director  
Abandoned Mine Lands Division

Enclosure

cc via email only: Christine Dirk ([cdirk@nd.gov](mailto:cdirk@nd.gov))

# 2026 New Salem AML Project

T139N R85W  
Sections 16 & 21  
New Salem, ND  
Morton County  
ND PSC AML Division



Work Area



RECEIVED

DEC 18 2025

NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

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

Dear Jonathan Emmer,

The North Dakota Parks and Recreation Department (NDPRD) has completed its review of the proposed 2026 Abandoned Mine Land site near New Salem, 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 may affect any properties protected under Section 6(f) of the LWCF. For additional information regarding LWCF properties, don't hesitate to contact Char Langehaug, ND Parks and Recreation's Grants Coordinator, at [clangehaug@nd.gov](mailto:clangehaug@nd.gov) or 701-328- 5364.
- 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.

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,

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

Kathy Duttenhefner  
Chief, Natural Resources Division

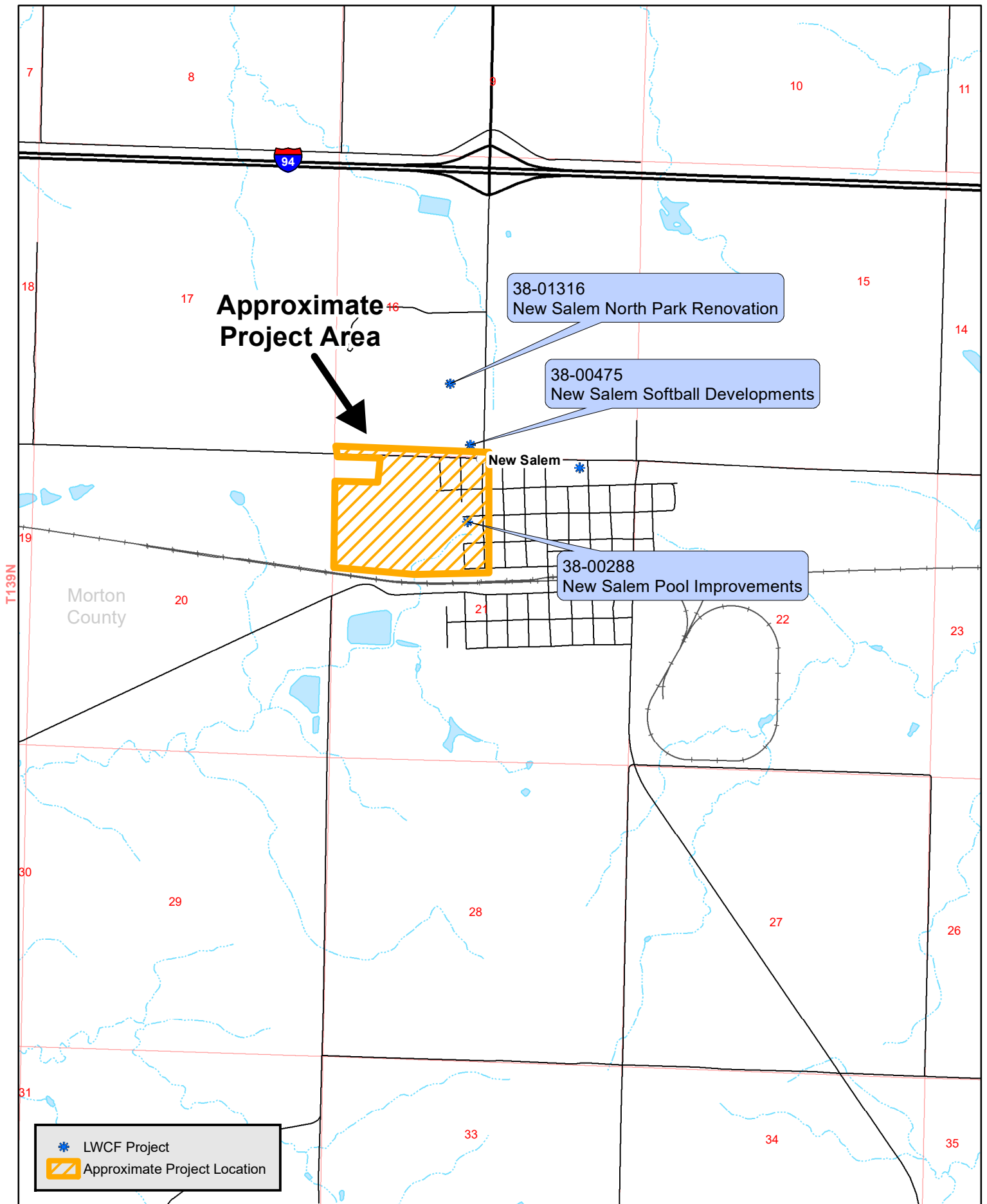
604 E Boulevard Ave Dept. 750 | Bismarck, ND 58505

PHONE: 701-328-5357 | FAX: 701-328-5363 | EMAIL: [parkrec@nd.gov](mailto:parkrec@nd.gov) | WEBSITE: [www.parkrec.nd.gov](http://www.parkrec.nd.gov)

## Land and Water Conservation Fund Projects

<b><u>Project Name</u></b>	<b><u>Project Number</u></b>
New Salem North Park Renovation	38-01316
New Salem Pool Improvements	38-00288
New Salem Softball Developments	38-00475

# North Dakota Parks and Recreation Department North Dakota Natural Heritage Inventory





# 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*

December 8, 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 an Abandoned Mine Land (AML) site near New Salem, 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 8, 2026**.

The 2026 New Salem AML Project: This remote backfilling project will stabilize abandoned underground coal mine workings along Old Highway 10 and other infrastructure located in New Salem, ND. This project is a continuation of the 2024 and 2025 Exploratory Drilling Projects. The recent projects revealed the extent of the underground mine is larger than expected. AML staff estimated that 1,000 cubic yards of grout will be pumped into these mine workings. Work is expected to be conducted between June and October 2026. The estimated cost for this project is \$1,000,000. 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](mailto:bjob@nd.gov) or 701-328-4073.

Sincerely,

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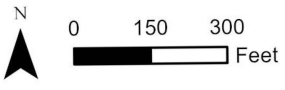
Jonathan Emmer  
Director  
Abandoned Mine Lands Division

Enclosure

AML\2026\New Salem\ATP\Concurrence Letters\2026\_Advsry\_auth\_to\_proceed\_ltr\_12-8-25

# 2026 New Salem AML Project

T139N R85W  
Sections 16 & 21  
New Salem, ND  
Morton County  
ND PSC AML Division



T139N R85W

20

21

16

Work Area



December 31, 2025

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

**ND SHPO Ref: 26-0051 2026 New Salem AML Project in portions of [T139N R85W Sections 16 and 21]  
Morton County, North Dakota**

Dear Jonathan,

We've reviewed the project ND SHPO Ref: 26-0051 2026 New Salem AML Project in portions of [T139N R85W Sections 16 and 21] Morton County, North Dakota, as received by our office on December 8, 2025.

The project near New Salem, ND is within the boundaries of 32MOX340 (McCormick Mine). We concur with a determination of "No Adverse Effect" provided any historic surface features (foundations, equipment, building remains, etc.) are avoided if possible.

Please note the project's close proximity to Graceland Cemetery/Zion Lutheran Cemetery/St. Pius V Catholic Cemetery in NW NW NW of T139N R85W Section 21 and refer to state laws regarding burials, NDCC 23-06-27 and NDAC 40-02-03.

Thank you for the opportunity to review this project. Please include the ND SHPO Ref number in future correspondence for this project. 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)

25-0003



# 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*

December 8, 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 an Abandoned Mine Land (AML) site near New Salem, 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 8, 2026**.

The 2026 New Salem AML Project: This remote backfilling project will stabilize abandoned underground coal mine workings along Old Highway 10 and other infrastructure located in New Salem, ND. This project is a continuation of the 2024 and 2025 Exploratory Drilling Projects. The recent projects revealed the extent of the underground mine is larger than expected. AML staff estimated that 1,000 cubic yards of grout will be pumped into these mine workings. Work is expected to be conducted between June and October 2026. The estimated cost for this project is \$1,000,000. The attached map provides more information and shows the proposed project location.

The combined project area is 123 acres, but we will only be disturbing approximately 0.25 acres. The construction will be conducted near roads 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](mailto:bjob@nd.gov) or 701-328-4073.

Sincerely,

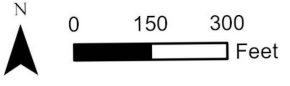
A handwritten signature in blue ink, appearing to read "Jonathan Emmer".

Jonathan Emmer  
Director  
Abandoned Mine Lands Division

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

# 2026 New Salem AML Project

T139N R85W  
Sections 16 & 21  
New Salem, ND  
Morton County  
ND PSC AML Division



T139N R85W

16

20

21

Work Area



## 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:

12/08/2025 17:46:53 UTC

Project Code: 2026-0024056

Project Name: 2026 New Salem AML Project

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: 2026-0024056

Project Name: 2026 New Salem AML Project

Project Type: Subsurface Reclamation - Coal

Project Description: This remote backfilling project will stabilize abandoned underground coal mine workings along Old Highway 10 and other infrastructure located in New Salem, ND. This project is a continuation of the 2024 and 2025 Exploratory Drilling Projects. The recent projects revealed the extent of the underground mines are larger than expected. Work is expected to be conducted between June and October 2026.

Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@46.8447424,-101.42265227213417,14z>



Counties: Morton County, North Dakota

## ENDANGERED SPECIES ACT SPECIES

There is a total of 6 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/PDU66ACZM5FBDFWLR7ZUZXEDGY/documents/generated/9588.pdf">https://ipac.ecosphere.fws.gov/project/PDU66ACZM5FBDFWLR7ZUZXEDGY/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/PDU66ACZM5FBDFWLR7ZUZXEDGY/documents/generated/8763.pdf">https://ipac.ecosphere.fws.gov/project/PDU66ACZM5FBDFWLR7ZUZXEDGY/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/PDU66ACZM5FBDFWLR7ZUZXEDGY/documents/generated/9885.pdf">https://ipac.ecosphere.fws.gov/project/PDU66ACZM5FBDFWLR7ZUZXEDGY/documents/generated/9885.pdf</a></p>	Endangered

**INSECTS**

NAME	STATUS
<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/PDU66ACZM5FBDFWLR7ZUZXEDGY/documents/generated/9852.pdf">https://ipac.ecosphere.fws.gov/project/PDU66ACZM5FBDFWLR7ZUZXEDGY/documents/generated/9852.pdf</a></p>	Proposed Endangered
<p>Western Regal Fritillary <i>Argynnis idalia occidentalis</i></p> <p>No critical habitat has been designated for this species.</p> <p>Species profile: <a href="https://ecos.fws.gov/ecp/species/12017">https://ecos.fws.gov/ecp/species/12017</a></p>	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.

### FRESHWATER POND

- PABFh

### RIVERINE

- R4SBC

### FRESHWATER EMERGENT WETLAND

- PEM1Ch

## **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

## **Endangered Species List Determinations:**

### **Whooping Crane – Endangered**

New Salem and the project area are within the principal migration route of the Whooping Crane. The likelihood of Whooping Cranes occurring in the area is very low because desirable stop-over roosting habitat does not exist in the area and Whooping Crane feeding sites are often found adjacent to roosting sites. It has been well documented that Whooping Cranes avoid human disturbances. Work for this project is being completed along roadway ditches and residential areas. The AML Division finds activities proposed with this project will have **“no effect”** to the continued existence of the Whooping Crane.

### **Piping Plover – Threatened**

The Piping Plover is a migratory bird that can occur in North Dakota from mid-April through August. Suitable habitat for the species is generally characterized as sparsely vegetated shorelines usually associated with alkaline wetlands and sandbars and shorelines associated with major river systems. Work for this project is being completed along roadway ditches and residential areas. The AML Division finds activities proposed with this project will have **“no effect”** to the continued existence of the Piping Plover.

### **Rufa Red Knot – Threatened**

The Rufa Red Knot is a medium sized shorebird that migrates annually between its breeding grounds in the central Canadian Arctic and several wintering regions, including the Southeast United States and Northeast Gulf of Mexico. This species could potentially migrate over North Dakota. Available information indicates this species may use inland saline lakes as stopover habitat during its migration. Work for this project is being completed along roadway ditches and residential areas. The AML Division finds activities proposed with this project will have **“no effect”** to the continued existence of the Rufa Red Knot.

### **Monarch Butterfly – Proposed Threatened**

The Monarch Butterfly is a proposed threatened species. The Monarch requires habitat with Milkweed as a larval host plant and floral nectar sources for adults. Monarchs found in North Dakota are comprised of the eastern range Monarchs. The Monarch Butterfly could potentially be in and around the work project if Milkweed is present in the roadway ditches and residential areas. The AML Division finds the activities proposed with this project **“may affect but is not likely to jeopardize”** the continued existence of the Monarch Butterfly.

### **Western Regal Fritillary – Proposed Threatened**

The Western Regal Fritillary is a proposed threatened species. The Western Regal Fritillary prefers tallgrass prairie and other sunny, open locations such as damp meadows, marshes, wet fields, and mountain pastures. Regal Fritillary butterflies depend on three main habitat components: violet hostplants for larvae, nectar plants for adults, and native warm-season bunch grasses that provide protective sites. Based on the habitat requirements of the Western Regal Fritillary, it appears unlikely that the species will be present in the project area. The AML Division finds the activities proposed with this project **“may affect but is not likely to jeopardize”** the continued existence of the Western Regal Fritillary.

### **Suckley's Cuckoo Bumble Bee – Proposed Endangered**

The Suckley's Cuckoo Bumble Bee is a proposed endangered species. The Suckley's Cuckoo Bumble Bee is an obligate social parasite and are entirely dependent on social bumble bee hosts to collect pollen and rear their young. The species has a broad historical range and has been found in various habitat types including prairies, grasslands, meadows, urban and agricultural areas, and woodlands. The last confirmed sighting in the United States was in 2016 in Oregon. The AML Division finds the activities proposed with this project **“may affect but is not likely to jeopardize”** the continued existence of the Suckley's Cuckoo Bumble Bee.



# 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:  
PSC-AML New  
Salem/ATP

December 16, 2025

RECEIVED

DEC 17 2025

NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

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 your correspondence on December 8, 2025, requesting concurrence with effects determinations from the North Dakota Public Service Commission, Abandoned Mines Division (PSC-AML) acting as an agent for Office of Surface Mining Reclamation and Enforcement (OSMRE) regarding abandoned surface mines to be filled in Morton County, North Dakota. The project involves the remote backfilling that will stabilize abandoned underground coal mine workings along Old Highway 10 and other infrastructure located in New Salem, N.D. AML staff estimated that 1,00 cubic yards of grout will be pumped into these mine workings. The proposed construction work is planned between June and October 2026. The total area affected is approximately 125 acres with 0.25 acres of disturbance.

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 purpose 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” determination for the endangered Whooping crane (*Grus americana*), threatened Rufa red knot (*Calidris canutus rufa*) and Piping plover (*Charadrius melodus*). 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.

The PSC-AML may request conferencing on a 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 has 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 at (701) 425-2133 or me at (720) 793-6797.

Sincerely,

LUKE  
TOSO

Digitally signed  
by LUKE TOSO  
Date: 2025.12.17  
12:34:27 -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

January 5, 2026

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 2026 New Salem 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 "Chris Martens", with a long horizontal flourish extending to the right.

Chris Martens  
General Counsel