



INDUSTRIAL COMMISSION OF NORTH DAKOTA

Kelly Armstrong
Governor

Drew H. Wrigley
Attorney General

Doug Goehring
Agriculture Commissioner

Tuesday, February 24, 2026

Governor's Conference Room or Microsoft Teams – 9:00 am

Join on your computer or mobile app

[Join the meeting now](#)

Or call in (audio only)

[+1 701-328-0950,444708522#](tel:+17013280950,444708522#)

I. Roll Call and Pledge of Allegiance

(approximately 9:00 am)

II. Public Finance Authority – DeAnn Ament

- A. **Consideration of Approval of the Following State Revolving Fund Loans:**
 - i. City of Wahpeton – Clean Water - \$16,006,000 (Attachment 1)
 - ii. City of Wahpeton – Drinking Water - \$3,011,000 (Attachment 2)
- B. Presentation of Memo of State Revolving Fund Loans Approved by PFA Advisory Committee Pursuant to Policy P-3B (Attachment 3)
 - i. City of Reile's Acres – Clean Water - \$1,146,000 (Attachment 3A)
 - ii. City of McVile – Drinking Water - \$1,006,000 (Attachment 3B)
- C. **Consideration of Approval of Resolution for Issuance of up to \$300,000,000 State Revolving Fund Program Bonds** (Attachment 4)
- D. Other PFA Business

(approximately 9:15 am)

III. North Dakota Housing Finance Agency – Brendan Dettlaff, Jennifer Henderson

- A. Report on Declaration of Intent to Issue Multifamily Tax-exempt Bonds not to exceed \$20,000,000 for financing of Brookstone Apartments, Grand Forks (Attachment 5)
- B. Other NDHFA Business

(approximately 9:25 am)

IV. North Dakota Mill and Elevator – Vance Taylor, Cathy Dub

- A. Presentation of Q2 2026 Financial Results (Attachment 6)
- B. Other Mill and Elevator Business

(approximately 9:35 am)

V. Clean Sustainable Energy Authority (CSEA), Funding Round 6 – Jordan Kannianen, Kelvin Hullet, Courtney Heiser

- A. Presentation of CSEA Project Management and Financial Report (Attachment 7a)
- B. **Consideration of Approval of the Following Grant Applications as Recommended by the Authority (Attachment 7b):**
 - i. C-06-C: "ND Lithium-ion Battery Manufacturing Plant" Packet Digital, Grant: \$2,297,376, Loan: \$10,000,000 (Attachment 8)
 - ii. C-06-D: "The Forge Project" AmeriCarbon Forge LLC, Loan: \$30,000,000 (Attachment 9)
 - iii. C-06-E: "The Forge Project: Rare Earths and Critical Materials Integration" Ore Spring Materials, LLC Grant: \$1,125,000 (Attachment 10)
- C. Other CSEA Business

(approximately 9:50 am)

VI. Bank of North Dakota – Don Morgan, Rob Pfennig, Lori Leingang

- A. CEO Report – Don Morgan (Attachment 11)
 - i. Strategic Discussion
 - 1. BND B3 Brochure (Attachment 12)
 - 2. SB 2403 and HB 1623 Update
 - ii. Financial
 - 1. **Consideration of Approval of 2025 SMART Plan Results** (Attachment 13)
 - iii. Risk
 - iv. Policy and Programs
- B. **Consideration of Approval of BND Officer Designation** (Attachment 16)
- C. December 17 and 18, 2025, Advisory Board and Committee Minute (Attachment 17)
- D. Other BND Business

**Meeting Closed to the Public for Executive Session
Pursuant to NDCC 6-09-35, 44-04-18.4, 44-04-19.1 and 44-04-19.2**

(approximately 10:20 am)

VII. Bank of North Dakota Executive Session – Don Morgan, Kirby Evanger, Craig Hanson

- A. CEO Report (Confidential Attachment 18)
 - i. Executive Summary
 - 1. Concentrations of Credit (Confidential Attachment 19)
 - ii. Material Credit Related Changes
 - iii. Problem Loan Report (Confidential Attachment 20)
- B. **Consideration of Approval of Modification of One Loan** (Confidential Attachment 21)
- C. Discussion of One Loan
- D. December 17 and 18, 2025, Confidential Advisory Board and Committee Minutes (Confidential Attachment 22)
- E. Other BND Confidential Business

VIII. Department of Mineral Resources – Nathan Anderson, Mark Bohrer, David Garner

- A. Attorney Consultation – Garaas v. NDIC/Petro Hunt Supreme Court Decision

Meeting Returns to Public Session

(approximately 11:05 am)

IX. Legal Update – Phil Axt, Matt Sagsveen

- A. Defenses of State Law
 - i. Pore Space Amalgamation
- B. Defenses of Federal Actions
 - i. DAPL Operation
- C. Challenges to Federal Actions
 - i. EPA Mercury Air Toxics Rule
 - ii. EPA Carbon Rule
 - iii. EPA Endangerment Rule

(approximately 11:15 am)

I. Department of Mineral Resources – Nathan Anderson, Mark Bohrer, Ed Murphy, David Garner

- A. Geological Survey Quarterly Report – Ed Murphy (Attachment 23)

- B. Presentation of DMR Geological Survey 2025 Strategic Plan Review (Attachment 24)
- C. **Consideration of Approval of Geological Survey Proposed 2026 Strategic Plan** (Attachment 25)
- D. **Case No 32456/Order No. 35230** - regarding the consideration of approval of the creation of the "Rules and Regulations for Exploration and Production of Critical Minerals in Coal-Bearing Formations" codified as Article 43-02 North Dakota Administrative Code (Attachment 26)
- E. **Consideration of approval of the following orders – Mark Bohrer:**
 - i. **Case No. 32399/Order No. 35170** – regarding the application of Phoenix Operating LLC for an order amending the applicable orders for the Sheep Butte-Bakken Pool to extend the field outline, establish a standup 2560 acre spacing unit, authorize four horizontal wells and other such relief as appropriate (Attachment 27)
 - ii. **Case No. 31842/Order No. 34579** - regarding the application of Phoenix Operating LLC for an order amending the applicable orders for Cottonwood-Bakken Pool to establish an overlapping 3820-acre spacing unit and to authorize one horizontal well to be drilled and other such relief as appropriate (Attachment 28)
 - iii. **Case No. 32483/Order No. 35263** - regarding the application of Oasis Petroleum North America LLC for an order amending the applicable orders for the Foothills and/or Cottonwood-Bakken Pools to establish an overlapping standup 2560-acre spacing unit and authorize three horizontal wells to be drilled and other such relief as appropriate (Attachment 29)
- F. Director's Update
- G. Other DMR Business

(approximately 12:25 pm)

II. Industrial Commission Administrative Office – Karen Tyler, Jordan Kannianen

- A. **Consideration of Approval of January 20, 2026, Meeting Minutes and January 26, 2026, Special Industrial Commission Meeting Minutes** (Attachment 30)
- B. Other Administrative Office Business

III. Adjournment

Next Regular Industrial Commission Meeting – Tuesday, March 31, 2026
9:00 am – 12:30 pm
Governor’s Conference Room

February 13, 2026

PUBLIC FINANCE AUTHORITY ADVISORY COMMITTEE

RECOMMENDATION TO THE INDUSTRIAL COMMISSION

The Advisory Committee, at its February 13, 2026 meeting, reviewed, discussed, and recommends approval of a \$16,006,000 Clean Water State Revolving Fund Program loan to the City of Wahpeton.

North Dakota Public Finance Authority
Advisory Committee

Keith Lund, Chairman
Linda Svihovec
John Phillips

Industrial Commission
of North Dakota

Kelly Armstrong
GOVERNOR

Drew H. Wrigley
ATTORNEY GENERAL

Doug Goehring
AGRICULTURE COMMISSIONER



Memorandum

To: Public Finance Authority Advisory Committee
Miles Silbert, Public Finance Management
Kylee Merkel, Bank of North Dakota

From: DeAnn Ament, Executive Director

Date: January 23, 2026

Re: City of Wahpeton
Clean Water State Revolving Fund Program Loan

Purpose of the Project: Construct lift stations, sanitary and storm sewer to serve the new Legacy Lakes Development.

Project Amount:

CWSRF Request	\$16,006,000
Project Total	\$16,006,000

Population to Benefit from the Project: 850

Population Served by the System: 8,007

The City will issue improvement bonds payable from special assessments for \$16,006,000. The requested term for the Clean Water State Revolving Fund (CWSRF) loan is 30 years. Accordingly, the average annual payment will be approximately \$674,446. The improvement bonds will be a contingent general obligation of the City, backed by the statutory requirement that the City levy a general deficiency tax in the event that the revenues from the collection of special assessments are not sufficient to pay the debt service on the improvement bonds.

Sewer Fund:

The City has 2,498 sewer connections which pay a monthly base rate of \$23.22 per connection (includes 2,000 gallons) and \$3.76 per 1,000 gallons.

Sewer Fund Revenues and Expenditures:

	2022	2023	2024
Operating Revenue	\$1,340,940	\$1,484,386	\$1,588,123
Operating Expenses	1,110,819	1,123,942	1,346,665
Net Operating Revenue	\$230,121	\$360,444	\$241,458
Depreciation	271,666	299,224	444,258
Adjusted Net Operating Revenue	\$501,787	\$659,668	\$685,716
Revenue Bond Payments	\$26,250	\$25,688	\$217,720
Net Operating Coverage	1,912%	2,568%	315%

Outstanding Debt December 31, 2025:

	Original Amount	Outstanding Amount
Improvement Bonds ¹	\$31,981,115	\$19,149,860
Revenue Bonds ¹	4,275,000	3,815,000
Total Bonds	\$36,256,115	\$22,964,860

¹ All payments have been made as agreed. The City has four CWSRF and four Drinking Water SRF loans with an outstanding total of \$9,345,000.

The average annual bond payment including these new issues is approximately \$2,735,307 or \$342 per resident.

Population and Employment

The City of Wahpeton is located in Richland County approximately 54 miles south of Fargo on Interstate 29. The total population according to the 2020 census is 8,007; this is an increase of 241 from the 2010 census. The largest employers in the area are Com-Del Innovation (manufacturing) with 332 employees, North Dakota State College of Science which employs 305 and Wahpeton Public Schools with 250 employees.

Wahpeton Public Schools Enrollment:

				Projected
2022-2023	2023-2024	2024-2025	2025-2026	2026-2027
1,204	1,186	1,185	1,199	1,210

Tax Information

The City's 2024 taxable valuation was \$26,963,853. This is an increase of \$7,018,687 over the 2020 taxable valuation.

Property Taxes Levied & Collected November 30, 2025:

Levy Year	Dollar Amount of Levy	Amount Collected to Date of Application	Percentage Collected
2024	\$2,298,089	\$2,250,554	98%
2023	\$2,168,997	\$2,160,616	100%
2022	\$2,057,009	\$2,057,009	100%

Special Assessment Collections as of November 30, 2025:

Year	Dollar Amount	Amount Collected to Date of Application	Percentage Collected
2024	\$1,396,329	\$1,357,752	97%
2023	\$1,309,201	\$1,305,145	100%
2022	\$906,471	\$906,471	100%

City of Mill Levy History:

Year	City	School	Park District	State and County	Total for Each Year
2024	84.74	130.98	38.73	95.15	349.60
2023	84.09	133.85	41.06	95.35	354.35
2022	84.82	134.57	35.60	95.44	350.43
2021	93.02	131.59	37.28	98.44	360.33
2020	93.21	135.61	37.02	99.19	365.03



Memorandum

TO: DeAnn Ament, Executive Director
North Dakota Public Finance Authority

FROM: PFM Financial Advisors LLC

DATE: February 13, 2026

RE: Marketplace Analysis - Clean Water State Revolving Fund Program
City of Wahpeton

The City of Wahpeton (“City”) has presented a request to the Authority and the North Dakota Department of Environmental Quality (“Department”) for a \$16,006,000 loan under the Clean Water State Revolving Fund Program (“CWSRF Program”). The CWSRF Program is used to make subsidized interest rate loans to political subdivisions for the purpose of constructing various wastewater treatment projects and landfill projects as approved by the Department in accordance with federal and state regulations and an updated Intended Use Plan prepared by the Department.

The City intends to use the proceeds to construct lift stations, sanitary and storm sewer to serve the new Legacy Lakes Development.

The municipal securities to be acquired by the Authority will be improvement bonds of the City payable from special assessments levied against the benefited property. The proposed term of the loan is 30 years with a subsidized interest rate of 1.50%. The City’s average annual payment under the proposed loan will be approximately \$674,446. The improvement bonds will be a contingent general obligation of the City, which will be required by law to levy a general deficiency tax if the revenues collected from the levy of special assessments are insufficient to make the debt service payments.

As of December 31, 2025, the City has \$19,149,860 of Improvement Bonds and \$3,815,000 of Revenue Bonds outstanding. The City currently has four Clean Water and four Drinking Water loans outstanding totaling \$9,345,000. The City is current in its payments for its outstanding Authority loans.

Funding for the construction of the City's projects has been included in a list of approved projects as prepared and updated by the Department. As an authorized participant in the CWSRF Program, the City will benefit substantially from the subsidized fixed rate loans made under the Program. Consequently, no other financing mechanism can provide a greater cost advantage than that offered by the CWSRF Program.

Memorandum

Attachment 1E

To: Industrial Commission

From: Kylee Merkel, Business Banker
Bank of North Dakota

Date: January 26, 2026

RE: City of Wahpeton
Clean Water State Revolving Fund Program

ND Public Finance Authority has delivered to BND their memo which recommends approval of a \$16,006,000 loan to the City of Wahpeton under the Clean Water State Revolving Fund (CWSRF). The entire cost of the project is \$16,006,000, with the SRF program financing the entire cost of the project.

The project will construct lift stations, sanitary and storm sewer infrastructure for the new Legacy Lakes residential development. The requested loan term is 30 years. The City will issue an improvement bond payable with special assessment collections. The annual payment will average \$674,446.

Sewer Fund:

Sewer Fund	2022	2023	2024
Operating Revenue	1,340,940	1,484,386	1,588,123
Operating Expenses	-1,110,819	-1,123,942	-1,346,665
Net Operating Revenue	230,121	360,444	241,458
Plus: Depreciation	271,666	299,224	444,258
Adjusted Net Operating Income	501,787	659,668	685,716
Current Debt Service	26,250	25,688	217,720
Debt Service Coverage	1912%	2568%	315%

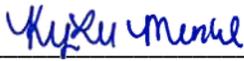
Outstanding Debt (as of December 31, 2024):

	Original Amount	Current Balance
Improvement Bonds	30,337,795	20,087,890
Revenue Bonds	4,275,000	3,950,000
	34,612,795	24,037,890

Average annual debt service requirements are estimated at \$2,559,041, which is an average of \$319.60 per resident.

Historical census populations for the City of Wahpeton were 8,007 in 2020, 7,766 in 2010 and 8,586 in 2000. Current K-12 school enrollment is 1,199, an increase of 14 from the prior year. The largest employers in the area are Com-Del Innovation, North Dakota State College of Science and Wahpeton Public Schools.

Based upon the PFA recommendation and the benefits obtained with this project, BND concurs with their evaluation and support of the request.

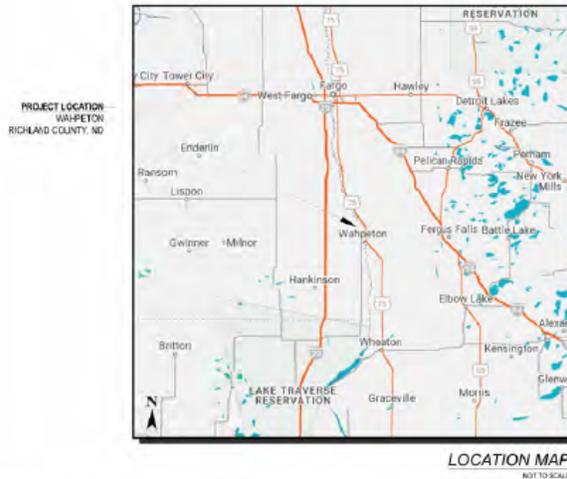


Kylee Merkel
Business Banker



CONSTRUCTION PLANS
FOR
JPA HOMESTEAD ADDITION
LEGACY LAKE
19TH STREET NORTH, PFISTER COURT,
COMMERCE STREET, & 14TH AVENUE NORTH
CITY PROJECT No. ST21-263
SECTION 2 AND 3

PREPARED FOR
WAHPETON, NORTH DAKOTA



February 13, 2026

PUBLIC FINANCE AUTHORITY ADVISORY COMMITTEE

RECOMMENDATION TO THE INDUSTRIAL COMMISSION

The Advisory Committee, at its February 13, 2026 meeting, reviewed, discussed, and recommends approval of a \$3,011,000 Drinking Water State Revolving Fund Program loan to the City of Wahpeton.

North Dakota Public Finance Authority
Advisory Committee

Keith Lund, Chairman
Linda Svihovec
John Phillips

Industrial Commission
of North Dakota

Kelly Armstrong
GOVERNOR

Drew H. Wrigley
ATTORNEY GENERAL

Doug Goehring
AGRICULTURE COMMISSIONER



Memorandum

To: Public Finance Authority Advisory Committee
Miles Silbert, Public Finance Management
Kylee Merkel, Bank of North Dakota

From: DeAnn Ament, Executive Director

Date: February 11, 2026

Re: City of Wahpeton
Drinking Water State Revolving Fund Program Loan

Purpose of the Project: Abrasively blast the interior and exterior surfaces of water towers 1 and 2, then repaint them to extend their useful service lives.

Project Amount:

DWSRF Request	\$3,011,000
Project Total	\$3,011,000

Population to Benefit from the Project: 8,007

Population Served by the System: 8,007

The requested term for the Drinking Water State Revolving Fund (DWSRF) loan is 20 years. The City will issue revenue bonds payable with water fee revenues. The average annual payment for the revenue bonds will be \$176,266. The 110% coverage requirement will be \$193,892 and the required debt service reserve will be \$187,775.

Water Fund:

The City has 2,486 water connections which pay a monthly base rate of \$33.10 per connection (includes 2,000 gallons) and \$4.46 per 1,000 gallons.

Water Fund Revenues and Expenditures:**Unaudited**

	2022	2023	2024	2025
Operating Revenue	\$1,682,580	\$1,843,901	\$1,828,518	\$1,795,059
Operating Expenses	1,490,289	1,654,827	1,587,229	1,801,183
Net Operating Revenue	192,291	189,074	241,289	-6,124
Depreciation	263,903	286,872	338,888	408,046
Adjusted Net Operating Revenue	\$456,194	\$475,946	\$580,177	\$401,922
Revenue Bond Payments	\$129,225	\$129,465	-	-
Net Operating Coverage	353%	368%	-	-
Proforma DWSRF Payment	\$176,266	\$176,266	\$176,266	\$176,266
Proforma Net Operating Coverage	149%	156%	329%	228%

With existing net revenues, the City should be able to meet the 110% net operating coverage requirement.

Outstanding Debt December 31, 2025:

	Original Amount	Outstanding Amount
Improvement Bonds ¹	\$31,981,115	\$19,149,860
Revenue Bonds ¹	4,275,000	3,815,000
Total Bonds	\$36,256,115	\$22,964,860

¹ All payments have been made as agreed. The City has four DWSRF and four Drinking Water SRF loans with an outstanding total of \$9,345,000.

The average annual bond payment including these new issues is approximately \$2,735,307 or \$342 per resident.

Population and Employment

The City of Wahpeton is located in Richland County approximately 54 miles south of Fargo on Interstate 29. The total population according to the 2020 census is 8,007; this is an increase of 241 from the 2010 census. The largest employers in the area are Com-Del Innovation (manufacturing) with 332 employees, North Dakota State College of Science which employs 305 and Wahpeton Public Schools with 250 employees.



Memorandum

TO: DeAnn Ament, Executive Director
North Dakota Public Finance Authority

FROM: PFM Financial Advisors LLC

DATE: February 13, 2026

RE: Marketplace Analysis - Drinking Water State Revolving Fund Program
City of Wahpeton

The City of Wahpeton (“City”) has presented a request to the Authority and the North Dakota Department of Environmental Quality (“Department”) for a \$3,011,000 loan under the Drinking Water State Revolving Fund Program (“DWSRF Program”). The DWSRF Program is used to make subsidized interest rate loans to political subdivisions for the purpose of constructing various water treatment, distribution, and storage facilities as approved by the Department in accordance with federal and state regulations and an updated Intended Use Plan prepared by the Department.

The City intends to use the proceeds to abrasively blast the interior and exterior surfaces of water towers 1 and 2, then repaint them to extend their useful service lives.

The municipal securities to be acquired by the Authority will be revenue bonds payable from water user fees. The City’s average annual payment under the proposed loan will be approximately \$176,266 indicating a 110% net revenue coverage requirement of approximately \$193,892. The City will be required to deposit \$187,775 into a reserve fund with payments of \$37,555 per year for the first five years of the loan. Pro forma net operating coverage of the Water Fund was 1.49x, 1.56x, 3.29x and 2.28x for 2022-2025, respectively. The existing net operating revenue will provide sufficient net revenues to meet the 110% coverage requirement.

As of December 31, 2025, the City has \$19,149,860 of Improvement Bonds and \$3,815,000 of Revenue Bonds outstanding. The City currently has four Clean Water and four Drinking Water loans outstanding totaling \$9,345,000. The City is current in its payments for its outstanding Authority loans.

Funding for the construction of the City's projects has been included in a list of approved projects as prepared and updated by the Department. As an authorized participant in the DWSRF Program, the City will benefit substantially from the subsidized fixed rate loans made under the Program. Consequently, no other financing mechanism can provide a greater cost advantage than that offered by the DWSRF Program.

Wahpeton Public Schools Enrollment:

				Projected
2022-2023	2023-2024	2024-2025	2025-2026	2026-2027
1,186	1,185	1,199	1,209	1,195

Tax Information

The City's 2024 taxable valuation was \$26,963,853. This is an increase of \$7,018,687 over the 2020 taxable valuation.

Property Taxes Levied & Collected November 30, 2025:

Levy Year	Dollar Amount of Levy	Amount Collected to Date of Application	Percentage Collected
2024	\$2,298,089	\$2,250,554	98%
2023	\$2,168,997	\$2,160,616	100%
2022	\$2,057,009	\$2,057,009	100%

Special Assessment Collections as of November 30, 2025:

Year	Dollar Amount	Amount Collected to Date of Application	Percentage Collected
2024	\$1,396,329	\$1,357,752	97%
2023	\$1,309,201	\$1,305,145	100%
2022	\$906,471	\$906,471	100%

City of Mill Levy History:

Year	City	School	Park District	State and County	Total for Each Year
2024	84.74	130.98	38.73	95.15	349.60
2023	84.09	133.85	41.06	95.35	354.35
2022	84.82	134.57	35.60	95.44	350.43
2021	93.02	131.59	37.28	98.44	360.33
2020	93.21	135.61	37.02	99.19	365.03

Memorandum

Attachment 2E

To: Industrial Commission

From: Kylee Merkel, Business Banker
Bank of North Dakota

Date: February 12, 2026

RE: City of Wahpeton
Drinking Water State Revolving Fund Program

ND Public Finance Authority has delivered to BND their memo which recommends approval of a \$3,011,000 loan to the City of Wahpeton under the Drinking Water State Revolving Fund (DWSRF). The entire cost of the project is \$3,011,000, with the DWSRF program financing the entire cost of the project.

The project will strip and repaint the interior and exterior surfaces of two water towers. The requested loan term is 20 years. The City will issue a revenue bond payable with water user fees. The annual payment will average \$176,266.

Water Fund Debt Service Coverage:

Water Fund	2022	2023	2024	Projected
Operating Revenue	1,682,580	1,843,901	1,828,518	1,828,518
Operating Expenses	-1,490,289	-1,654,827	-1,587,229	-1,587,229
Net Operating Revenue	192,291	189,074	241,289	241,289
Plus: Depreciation	263,903	286,872	338,888	338,888
Adjusted Net Operating Income	456,194	475,946	580,177	580,177
Current Debt Service	129,225	129,465		0
Proposed Debt Service				176,266
Total Debt Service				176,266
Debt Service Coverage	353%	368%		329%

The City currently serves 2,486 water connections that pay a monthly base rate of \$33.10 per connection. In addition, all connections they pay a volume charge of \$4.46 per 1,000 gallons in excess of 2,000 gallons. The existing revenues will generate sufficient net operating revenues to service the proposed debt.

Outstanding Debt (as of December 31, 2025):

	Original Amount	Current Balance
Improvement Bonds	31,981,115	19,149,860
Revenue Bonds	4,275,000	3,815,000
	36,256,115	22,964,860

Average annual debt service requirements are estimated at \$2,735,307, which is an average of \$341.61 per resident.

Historical census populations for the City of Wahpeton were 8,007 in 2020, 7,766 in 2010 and 8,586 in 2000. Current K-12 school enrollment is 1,199, an increase of 14 from the prior year. The largest employers in the area are Com-Del Innovation, North Dakota State College of Science and Wahpeton Public Schools.

Based upon the PFA recommendation and the benefits obtained with this project, BND concurs with their evaluation and support of the request.



Kylee Merkel
Business Banker

10

Tower #1
Walmart Supercenter

18TH AVEN N

18TH ST N

19TH ST N

COMMERCE ST

78TH ST SE

17TH AVEN N

TWO TEN DR

TWO TEN DR

UNNAMED RD

MAPLE CT

WALNUT CT

WOODLAND DR

OAK CT N

SPRUCE DR

12TH ST N

13

16TH AVEN N

15TH AVEN N

OAKWOOD AVE N

OAKWOOD CT

15TH ST N

14TH ST N

14 1/2 AVE N

14 1/2 AVE N

15TH AVEN N

15TH ST N

14TH AVEN N

13TH ST N

LOY AVE

HWY 210

78 1/2 ST SE

Wahpeton

Middle/Elementary School

High School

B AVE

B AVE

HUSKY AVE

WESTERN RD

RICHLAND ST

VALLEY ST

A AVE

9TH DR S

WESTMORE AVE

Industrial Commission
of North Dakota

Kelly Armstrong
GOVERNOR

Drew H. Wrigley
ATTORNEY GENERAL

Doug Goehring
AGRICULTURE COMMISSIONER



Memorandum

To: Industrial Commission: Governor Kelly Armstrong, Attorney General Drew H. Wrigley, Agriculture Commissioner Doug Goehring

From: DeAnn Ament, Executive Director

Date: February 13, 2026

Re: Reile's Acres, Clean Water State Revolving Fund
McVile, Drinking Water State Revolving Fund

Under current policy, the Public Finance Authority can make loans under the State Revolving Fund Program in an amount not to exceed \$2,000,000 and under the Capital Financing Program in an amount not to exceed \$500,000 without seeking the final approval of the Industrial Commission. Within this policy, once the loan has been approved, the Public Finance Authority is required to provide the details of the loan to the Industrial Commission. Accordingly, the Public Finance Authority and its Advisory Committee used this policy to approve the following loans.

The committee reviewed the City of Reile's Acres' Clean Water State Revolving Fund application for a \$1,146,000 loan towards a \$2,850,00 project. The City will issue bonds for the additional \$1,704,000 needed. The project will provide sanitary and storm sewer for the New Haven Addition Phase 2, a 23 acre subdivision with 26 active living lots and 12 standard home lots. The requested term for the loan is 25 years. The City will issue improvement bonds payable with special assessments. The improvement bonds will be a contingent general obligation of the City, backed by the statutory requirement that the City levy a general deficiency tax in the event that the revenues from the collection of special assessments are not sufficient to pay the debt service on the improvement bonds.

The committee reviewed the City of McVile's Drinking Water State Revolving Fund application for a \$1,006,000 loan towards a \$1,968,100 project. The Department of Water Resources Cost Share will provide \$962,100. The project will rehabilitate the water treatment plant. The requested term for the loan is 30 years. The City will issue revenue bonds payable with water user fees.

Industrial Commission
of North Dakota

Kelly Armstrong
GOVERNOR

Drew H. Wrigley
ATTORNEY GENERAL

Doug Goehring
AGRICULTURE COMMISSIONER



Memorandum

To: Public Finance Authority Advisory Committee
Miles Silbert, Public Financial Management LLC
Kylee Merkel, Bank of North Dakota

From: DeAnn Ament, Executive Director

Date: January 20, 2026

Re: City of Reile's Acres
Clean Water State Revolving Fund Program Loan

Purpose of the Project: Sanitary and storm sewer for the New Haven Addition Phase 2. A 23 acre subdivision with 26 active living lots and 12 standard home lots.

Project Amount:

CWSRF Request	\$1,146,000
City Bond Issue	1,704,000
Total Project Cost	\$2,850,000

Population to Benefit from the Project: 100

Population Served by the System: 866

The City will issue improvement bonds payable with special assessments. The requested term is 25 years. The average annual payment for the improvement bonds will be \$55,840. The improvement bonds will be a contingent general obligation of the City, backed by the statutory requirement that the City will levy a general deficiency tax in the event that the revenues from the collection of special assessments are not sufficient to pay the debt service on the improvement bonds.

Sewer Fund:

The City has an estimated 224 sewer connections which pay a monthly base rate of \$36.50 per connection.

Sewer Fund Statement of Revenues and Expenditures:

	2022	2023	2024	2025
Operating Revenue	\$121,940	\$122,840	\$115,858	\$109,325
Operating Expenses	95,817	173,486	143,839	114,089
Net Operating Revenue (Expense)	\$26,123	-\$50,646	-\$27,981	-\$4,764

Outstanding debt as of December 31, 2025:

	Original Amount	Outstanding Amount
Improvement Bonds	\$6,668,257	\$5,928,975

The current average annual debt payment is \$385,900 or \$549 per resident. The 38 parcels assessed for this project will have an average annual payment of \$1,469. Combined with the bond payment, the average annual payment per parcel will be approximately \$4,837.

Population and Employment

The City of Reile’s Acres is located in Cass County 13 miles northwest of Fargo. Based on the 2020 census, the total population was 703; this is an increase of 190 from the 2000 census. The largest employers in the County are Sanford Health with 8,440 employees, North Dakota State University with 4,096 employees, and Essentia Health with 3,853 employees.

West Fargo Public School Enrollment:

					Projected
School Year	2022-2023	2023-2024	2024-2025	2025-2026	2026-2027
Enrollment	12,491	12,676	12,999	13,211	13,500

Tax Information

The City's 2025 taxable valuation was \$7,070,983. This is an increase of \$2,302,515 from the 2021 taxable valuation.

Property Taxes Levied & Collected 11/30/2025:

Levy Year	Dollar Amount of Levy	Amount Collected to Date of Application	Percentage Collected
2025	\$244,510	-	-
2024	\$278,361	\$263,930	95%
2023	\$290,603	\$275,784	95%

Special Assessments Levied & Collected 11/30/2025:

Year	Dollar Amount	Amount Collected to Date of Application	Percentage Collected
2025	\$356,049	-	-
2024	\$137,375	\$117,532	86%
2023	\$96,673	\$96,673	100%

City of Reile's Acres Mill Levy History:

Year	City	School	State and County	Other	Total for Each Year
2025	45.85	144.68	46.73	6.88	244.14
2024	46.00	129.42	45.00	7.67	228.09
2023	46.82	129.53	45.00	7.59	228.94
2022	46.84	136.10	47.00	8.23	238.17
2021	47.21	143.16	47.75	8.23	246.35



Memorandum

TO: DeAnn Ament, Executive Director
North Dakota Public Finance Authority

FROM: PFM Financial Advisors LLC

DATE: February 13, 2026

RE: Marketplace Analysis - Clean Water State Revolving Fund Program
City of Reile's Acres

The City of Reile's Acres ("City") has presented a request to the Authority and the North Dakota Department of Environmental Quality ("Department") for a \$1,146,000 loan under the Clean Water State Revolving Fund Program ("CWSRF Program"). The CWSRF Program is used to make subsidized interest rate loans to political subdivisions for the purpose of constructing various wastewater treatment projects and landfill projects as approved by the Department in accordance with federal and state regulations and an updated Intended Use Plan prepared by the Department.

The City intends to use the proceeds to replace sanitary and storm sewer for the New Haven Addition Phase 2.

The municipal securities to be acquired by the Authority will be improvement bonds of the City payable from special assessments levied against the benefited property. The proposed term of the loan is 25 years with a subsidized interest rate of 1.50%. The City's average annual payment under the proposed loan will be approximately \$55,840. The improvement bonds will be a contingent general obligation of the City, which will be required by law to levy a general deficiency tax if the revenues collected from the levy of special assessments are insufficient to make the debt service payments.

As of December 31, 2025, the City has \$5,928,975 of outstanding Improvement Bonds.

Funding for the construction of the City's projects has been included in a list of approved projects as prepared and updated by the Department. As an authorized participant in the CWSRF Program, the City will benefit substantially from the subsidized fixed rate loans made under the Program. Consequently, no other financing mechanism can provide a greater cost advantage than that offered by the CWSRF Program.

Memorandum

Attachment 3A.3

To: Industrial Commission

From: Kylee Merkel, Business Banker
Bank of North Dakota

Date: January 22, 2026

RE: City of Reile's Acres
Clean Water State Revolving Fund Program

ND Public Finance Authority has delivered to BND their memo which recommends approval of a \$1,146,000 loan to the City of Reile's Acres under the Clean Water State Revolving Fund (CWSRF). The entire cost of the project is \$2,850,000, with the City issuing bonds for \$1,704,000.

The project will construct water, sewer and road infrastructure for a new 38 lot residential subdivision. The requested loan term is 25 years. The City will issue an improvement bond payable with special assessment collections. The annual payment will average \$55,840.

Sewer Fund:

Sewer Fund	2023	2024	2025
Operating Revenue	122,840	115,858	109,325
Operating Expenses	-173,486	-143,839	-114,089
Net Operating Revenue	-50,646	-27,981	-4,764

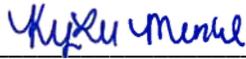
Outstanding Debt (as of December 31, 2025):

	Original Amount	Current Balance
Improvement Bonds	6,688,257	5,928,975
	6,688,257	5,928,975

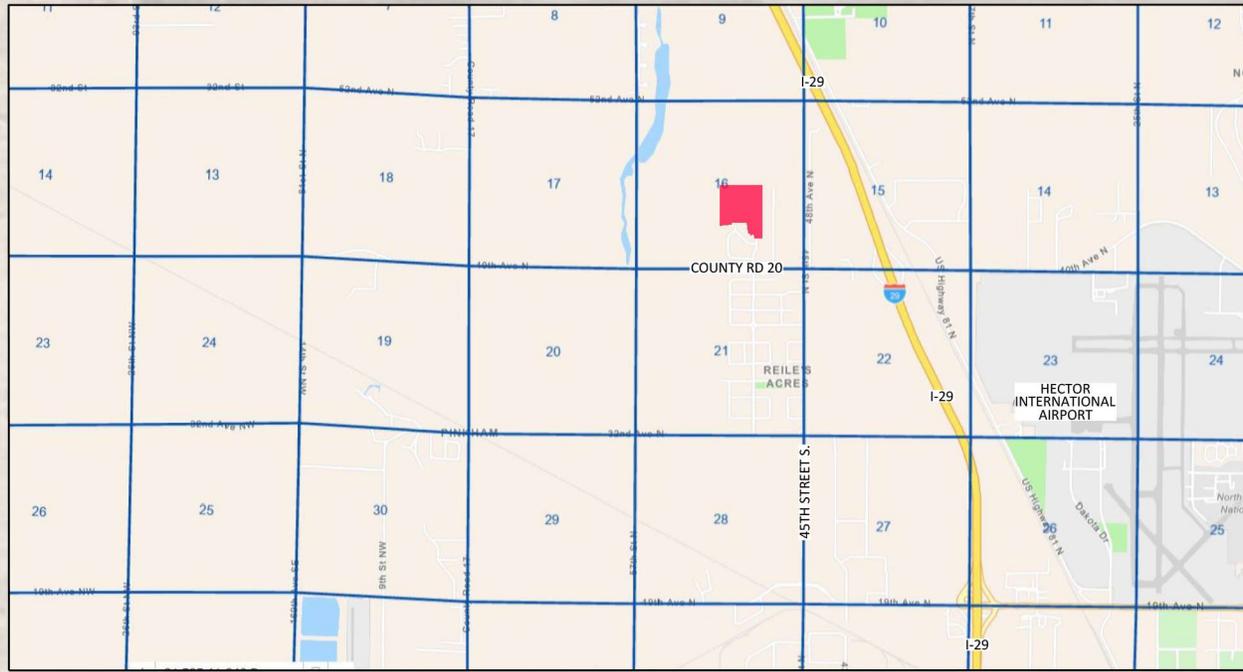
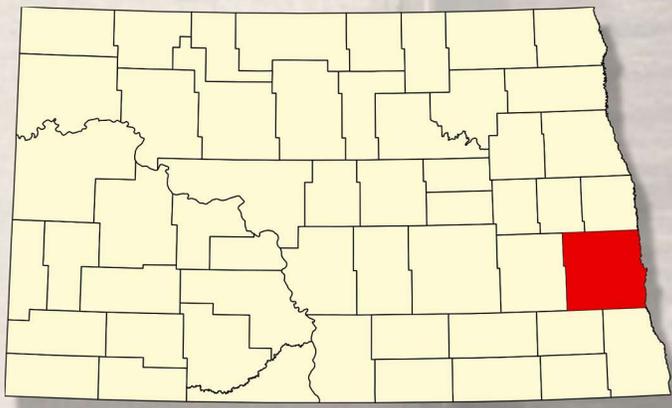
Average annual debt service requirements are estimated at \$569,724, which is an average of \$810.42 per resident.

The City of Reile's Acres is located 13 miles northwest of the City of Fargo. Historical census populations for the City of Reile's Acres were 703 in 2020, 513 in 2010 and 254 in 2000. The largest employers in the area are Sanford Health, North Dakota State University and Essentia Health.

Based upon the PFA recommendation and the benefits obtained with this project, BND concurs with their evaluation and support of the request.



Kylee Merkel
Business Banker



Industrial Commission
of North Dakota

Kelly Armstrong
GOVERNOR

Drew H. Wrigley
ATTORNEY GENERAL

Doug Goehring
AGRICULTURE COMMISSIONER



Public Finance Authority

Memorandum

To: Public Finance Authority Advisory Committee
Miles Silbert, Public Financial Management LLC
Kylee Merkel, Bank of North Dakota

From: DeAnn Ament, Executive Director

Date: January 23, 2026

Re: City of McVille
Drinking Water State Revolving Fund Program Loan

Purpose of the Project:

Rehabilitate the water treatment plant including replacing the water meters, valves, service motors/drives, control systems, process instrumentation, underdrains and other internals.

Project Amount:

DWSRF Request	\$1,006,000
DWR Cost Share	962,100
Total Project Cost	\$1,968,100

Population to Benefit from the Project: 392

Population Served by the System: 392 and Tri-County Water District which serves a population of 3,000

The requested term for the Drinking Water State Revolving Fund (DWSRF) loan is 30 years. The City will issue revenue bonds payable with water, sewer and garbage user fees. The average annual payment for the revenue bonds will be \$42,222. The 110% coverage requirement will be \$46,444 and the required debt service reserve will be \$46,350.

Water/Sewer/Garbage Fund:

The City has 246 connections that pay monthly base rates of \$30 for water and \$9 for sewer, with volume charges of \$7.50 and \$3.75 per 1,000 gallons, respectively. Effective October 1, 2025, the water base rate increased by \$13.50, the sewer base rate by \$1.50, and the sewer volume rate by \$0.50 per 1,000 gallons. On January 1, 2026, a \$15 infrastructure fee was added for all properties with access to the water and sewer system. These increases will generate annual revenue of \$88,560.

Water/Sewer/Garbage Fund Revenues and Expenditures:

		Unaudited	Unaudited	November
	2022	2023	2024	2025
Operating Revenue	\$222,829	\$229,580	\$235,718	\$225,785
Operating Expenses	195,343	192,361	221,991	225,535
Net Operating Revenues	\$27,486	\$37,219	\$13,727	\$251
Revenue Bond Payments	\$37,483	\$36,888	\$36,228	\$35,112
Net Operating Coverage Ratio	73%	101%	38%	1%
Proforma Revenue Increase	\$88,560	\$88,560	\$88,560	\$88,560
Proforma DWSRF Bond Payment	\$42,222	\$42,222	\$42,222	\$42,222
Proforma Net Operating Coverage	146%	159%	130%	115%

With the recent rate increases, the City should be able to meet the 110% net operating coverage requirement.

Outstanding Debt as of December 31, 2025

	Original Amount	Outstanding Amount
Revenue Bonds	\$674,663	\$210,442
Total Debt	\$674,663	\$210,442

The average annual payment of all bonded debt will be \$89,821 or \$229 per resident.

Population and Employment

The City of McVile is located in Nelson County 67 miles southwest of Grand Forks. Based on the 2020 census, the total population was 392; this is an increase of 43 from the 2000 census. The largest employers in the City are Nelson County Health Center with 90

employees, Dakota Prairie Elementary with 40 employees, and Nelson County Highway Department with 13 employees.

Dakota Prairie 1 School Enrollment:

				Projected
2022-2023	2023-2024	2024-2025	2025-2026	2026-2027
275	278	267	268	268

Tax Information

The City's 2025 taxable valuation was \$797,633. This is an increase of \$122,431 from the 2021 taxable valuation.

Property Taxes Levied & Collected 1/16/2026:

Levy Year	Dollar Amount of Levy	Amount Collected to Date of Application	Percentage Collected
2025	\$99,219	\$62,634	63%
2024	\$96,801	\$92,079	95%
2023	\$98,502	\$96,035	97%

No special assessments were certified for collection in the last three years.

City of McVile Mill Levy History:

Year	City	School	Park District	State and County	Other	Total for Each Year
2025	112.69	80.78	26.56	115.40	19.42	354.85
2024	116.62	81.80	28.31	115.20	14.42	356.35
2023	118.67	78.43	28.55	116.58	14.47	356.70
2022	106.69	85.81	30.03	112.39	14.75	349.67
2021	121.02	86.48	35.27	109.86	4.90	357.53



Memorandum

TO: DeAnn Ament, Executive Director
North Dakota Public Finance Authority

FROM: PFM Financial Advisors LLC

DATE: February 13, 2026

RE: Marketplace Analysis - Drinking Water State Revolving Fund Program
City of McVile

The City of McVile (“City”) has presented a request to the Authority and the North Dakota Department of Environmental Quality (“Department”) for a \$1,006,000 loan under the Drinking Water State Revolving Fund Program (“DWSRF Program”). The DWSRF Program is used to make subsidized interest rate loans to political subdivisions for the purpose of constructing various water treatment, distribution, and storage facilities as approved by the Department in accordance with federal and state regulations and an updated Intended Use Plan prepared by the Department.

The City intends to use the proceeds to rehabilitate the water treatment plant by replacing the water meters, valves, service motors/drives, control systems, process instrumentation, underdrains and other internals.

The municipal securities to be acquired by the Authority will be revenue bonds payable from water, sewer and garbage user fees. The City’s average annual payment under the proposed loan will be approximately \$42,222 indicating a 110% net revenue coverage requirement of approximately \$46,444. The City will be required to deposit \$46,350 into a reserve fund with payments of \$9,270 per year for the first five years of the loan. Effective October 1, 2025, the City increased the water base rate by \$13.50, the sewer base rate by \$1.50, and the sewer volume rate by \$0.50 per 1,000 gallons. Additionally, on January 1, 2026, the City instituted a \$15 infrastructure fee for all properties with access to the water and sewer system. The rate increases will generate \$88,560 of additional annual revenue. Pro forma net operating coverage of the Water, Sewer and Garbage Fund was 1.46x, 1.59x, 1.30x and 1.15x for 2022-2025, respectively. The rate increases in addition to the existing net operating revenue will provide sufficient net revenues to meet the 110% coverage requirement.

As of December 31, 2025, the City has \$210,442 of Revenue Bonds outstanding.

Funding for the construction of the City's projects has been included in a list of approved projects as prepared and updated by the Department. As an authorized participant in the DWSRF Program, the City will benefit substantially from the subsidized fixed rate loans made under the Program. Consequently, no other financing mechanism can provide a greater cost advantage than that offered by the DWSRF Program.

Memorandum

To: Industrial Commission

From: Kylee Merkel, Business Banker
Bank of North Dakota

Date: January 23, 2026

RE: City of McVile
Drinking Water State Revolving Fund Program

ND Public Finance Authority has delivered to BND their memo which recommends approval of a \$1,006,000 loan to the City of McVile under the Drinking Water State Revolving Fund (DWSRF). The entire cost of the project is \$1,968,100, with Department of Water Resources providing a \$962,100 cost-share grant.

The project will rehabilitate the existing water treatment plant. The requested loan term is 30 years. The City will issue a revenue bond payable with water, sewer and garbage user fees. The annual payment will average \$42,222.

Debt Service Coverage:

Water, Sewer & Garbage Fund	2022	2023	2024	Projected
Operating Revenue	222,829	229,580	235,718	235,718
Projected Rate Increase				88,560
Operating Expenses	-195,343	-192,361	-221,991	-221,991
Net Operating Revenue	27,486	37,219	13,727	102,287
Current Debt Service	37,483	36,888	36,228	36,228
Proposed Debt Service				42,222
Total Debt Service				78,450
Debt Service Coverage	73%	101%	38%	130%

The City currently serves 246 connections that pay a monthly base rate of \$30 for water and \$9 for sewer. In addition, they pay a volume charge of \$7.50 per 1,000 gallons for water and \$3.75 per 1,000 gallons for sewer. In October 2025, the City increased the water base rate by \$13.50, the sewer base rate by \$1.50 and the volume rate by \$0.50 per 1,000 gallons. The City also implemented a \$15 monthly infrastructure fee in January 2026. The combined increases will generate \$88,560 annually. The existing revenues

combined with the increases will generate sufficient net operating revenues to service both the new and existing debt.

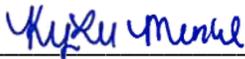
Outstanding Debt (as of December 31, 2025):

	Original Amount	Current Balance
Revenue Bonds	674,663	210,442
	674,663	210,442

Average annual debt service requirements are estimated at \$89,821, which is an average of \$229.14 per resident.

Historical census populations for the City of McVile were 394 in 2020, 349 in 2010 and 470 in 2000. The largest employers in the City are Nelson County Health Center, Dakota Prairie Elementary and Nelson County Highway Department.

Based upon the PFA recommendation and the benefits obtained with this project, BND concurs with their evaluation and support of the request.



Kylee Merkel
Business Banker



Legend

 Project Location

Water Treatment Plant



SERIES RESOLUTION FOR UP TO
\$300,000,000
NORTH DAKOTA PUBLIC FINANCE AUTHORITY
STATE REVOLVING FUND PROGRAM BONDS

WHEREAS, the North Dakota Public Finance Authority (the “Authority”) is duly constituted as an instrumentality of the State of North Dakota exercising public and governmental functions under the operation, management and control of the Industrial Commission of North Dakota (the “Industrial Commission”), pursuant to Chapter 6-09.4, North Dakota Century Code (the “Act”);

WHEREAS, pursuant to the Act, the Authority is authorized to issue bonds and to make loans to political subdivisions of the State of North Dakota and certain other entities through the purchase of municipal securities and other obligations;

WHEREAS, the Legislative Assembly of North Dakota has established a revolving loan fund (the “Clean Water State Revolving Fund” or “Clean Water SRF”) pursuant to Chapter 61-28.2, North Dakota Century Code (the “Clean Water SRF Act”) to be maintained and operated by the North Dakota Department of Environmental Quality (the “Department”) to provide for loans for the design, construction and rehabilitation of wastewater treatment facilities and certain other activities in accordance with Title VI of the Clean Water Act (the “Clean Water Program”);

WHEREAS, the Legislative Assembly of North Dakota has established a revolving loan fund (the “Drinking Water State Revolving Fund” or “Drinking Water SRF”) pursuant to Chapter 61-28.1, North Dakota Century Code (the “Drinking Water SRF Act”) to be maintained and operated by the Department to provide for loans for expenditures on public water systems and certain other activities in accordance with the Safe Drinking Water Act (the “Drinking Water Program”);

WHEREAS, the Authority has previously issued and there are outstanding under the Drinking Water SRF and Clean Water SRF the State Revolving Fund Program Bonds, Series 2016A, Series 2018A, Series 2022A and Series 2024A (together, the “Outstanding Bonds”);

WHEREAS, the Outstanding Bonds are secured by an Amended and Restated Master Trust Indenture dated as of July 1, 2011, as amended by a First Supplemental Master Trust Indenture dated as of July 1, 2015 (the “Master Trust Indenture”), each between the Authority and The Bank of North Dakota, as trustee (the “Trustee”), as provided therein;

WHEREAS, the Master Trust Indenture authorizes the issuance of bonds in one or more series pursuant to a Series Resolution authorizing each series;

WHEREAS, the Industrial Commission has determined that, subject to the conditions described herein, it is necessary and expedient that the Authority issue one or more series of

tax-exempt bonds to be designated “North Dakota Public Finance Authority State Revolving Fund Program Bonds, Series 2026__” with such letter or other designation for each series as the Executive Director may determine (collectively, the “Series 2026 Bonds”) as follows: in a principal amount not to exceed \$300,000,000 to provide additional funds for the Clean Water Program and Drinking Water Program to provide financing for loans made or to be made to various political subdivisions of the State of North Dakota and other eligible borrowers whose applications may be approved from time to time (together the “Borrowers”) through the purchase of debt obligations issued by such Borrowers (the “Municipal Securities”);

WHEREAS, the Series 2026 Bonds are sometimes referred to herein as the “Bonds”;
and

WHEREAS, there have been presented to this Commission, or are on file in the office of the Executive Director of the Authority, copies of the following documents: (i) the Master Trust Indenture; (ii) the form of Continuing Disclosure Certificate (the “Continuing Disclosure Certificate”) to be executed by the Executive Director; and (iii) forms of Loan Agreements (the “Loan Agreements”) between the Authority and the Borrowers;

NOW, THEREFORE, BE IT RESOLVED by the Industrial Commission of North Dakota as follows:

ARTICLE I

Authority and Definitions

Section 1.01. Series Resolution. This Series Resolution is adopted in accordance with the provisions of Sections 2.01 and 2.03 of the Master Trust Indenture and pursuant to the authority contained in the Act, the Clean Water SRF Act and the Drinking Water SRF Act. It is hereby determined pursuant to the Act that the reason for the issuance of the Series 2026 Bonds and the purposes thereof are to provide financing for loans to Borrowers through the purchase of Municipal Securities for essential projects at borrowing costs substantially below the costs available to the Borrowers in the private bond markets, or to do a combination thereof.

Section 1.02. Definitions. All terms defined in Article I of the Master Trust Indenture or in the Act shall have the same meanings, respectively, in this Series Resolution and with respect to the Series 2026 Bonds, as such terms are given in said Article I of the Master Trust Indenture or the Act. References herein to the “Executive Director” are to the Executive Director of the Authority and the attestation hereof is by the Executive Director of the Commission.

ARTICLE II

Authorization of Series 2026 Bonds

Section 2.01. Authorization of Series 2026 Bonds. Pursuant to the Master Trust Indenture, one or more Series of State Revolving Fund Program Bonds to be designated as the “Series 2026__” is hereby created and authorized to be issued with such series letter or other designation and in such aggregate principal amount consistent with this Series Resolution as the Executive Director may determine, but not to exceed \$300,000,000.

Section 2.02. Purposes. The Series 2026 Bonds are being issued to (a) provide funds to be loaned to Borrowers by purchasing the Municipal Securities issued or to be issued by Borrowers, (b) pay costs of issuance and/or (c) reimburse funds previously allocated for the purpose of making loans.

Section 2.03. Date, Payment Dates and Series 2026 Maturities. The Series 2026 Bonds shall be dated as of the date of delivery, or such other date as the Executive Director may determine, except that Series 2026 Bonds issued on or subsequent to the first interest payment date shall be dated as of the most recent date to which interest has been duly paid or provided for.

The Series 2026 Bonds shall bear interest payable semiannually on April 1 and October 1 in each year, commencing October 1, 2026 or such other date as the Executive Director may determine, and shall have such regular record dates as the Executive Director may determine.

The Series 2026 Bonds shall mature on October 1 in each of the years and in the principal amounts as the Executive Director may determine, provided that the final maturity shall not be later than October 1, 2056.

Section 2.04. Sinking Fund Installments. The Series 2026 Bonds maturing on any date or dates (the “Term Bonds”) may be subject to mandatory redemption prior to their stated maturity by payment of Sinking Fund Installments, upon notice as provided in Article III of the Master Trust Indenture, on October 1 in each of the years and amounts as follows, in each case at a redemption price of 100% of the principal amount of such Term Bonds or portions thereof to be so redeemed, together with accrued interest to the redemption date on such mandatory redemption dates and in such amounts as the Executive Director may determine.

Section 2.05. Optional Redemption. The Series 2026 Bonds identified by the Executive Director shall be subject to redemption and prior payment at the option of the Authority on October 1 of the year designated by the Executive Director and on any date thereafter in whole or in part in such amounts from such maturities as the Authority may determine and by lot within a maturity at the redemption prices determined by the Executive Director together with accrued interest to the redemption date.

Section 2.06. Interest Rates. The Series 2026 Bonds shall bear interest at the rates per annum determined by the Executive Director, but not to exceed a true interest cost of 5.50% for each series of Series 2026 Bonds.

Section 2.07. Denominations, Numbers and Letters. Each Series 2026 Bond of a series shall be in an integral multiple of \$5,000 and shall be numbered separately from R-1 consecutively upwards in order of issuance.

Section 2.08. Sale of Bonds; Acceptance of Offer. The Series 2026 Bonds shall be sold on the basis of competitive bids. Upon receipt of an offer for the purchase of Series 2026 Bonds which she determines to be acceptable, the Executive Director is authorized to execute the official bid form or other document to evidence acceptance of the successful bid.

Section 2.09. Official Statement. The Executive Director shall prepare a Preliminary Official Statement of the Authority in respect to the Series 2026 Bonds, in substantially the form of the program Preliminary Official Statements on file in the office of the Executive Director with all such changes as the Executive Director may approve, and a final Official Statement shall be distributed with such changes, omissions, insertions and revisions as the Executive Director shall deem advisable in order to make such Official Statement a complete and accurate disclosure of all necessary material information to prospective purchasers of the Series 2026 Bonds.

Section 2.10. Loan Agreements. The forms of Loan Agreements proposed to be entered into between the Authority and the Borrowers are hereby approved in substantially the forms on file in the office of the Executive Director and the Executive Director is hereby authorized to execute the same with all such changes and revisions therein as the Executive Director shall approve.

Section 2.11. Letter of Representations. The form of Blanket Letter of Representation heretofore executed by the Authority to Depository Trust Company is hereby confirmed and said Blanket Letter of Representation shall be applicable to the Series 2026 Bonds.

Section 2.12. Continuing Disclosure. The form of Continuing Disclosure Certificate in substantially the program form on file in the office of the Executive Director is approved and shall be executed by the Executive Director with all such changes as the Executive Director may approve, which approval shall be conclusively evidenced by the execution thereof. The Continuing Disclosure Certificate shall constitute a contractual obligation of the Authority as provided therein.

Section 2.13. Mandatory Redemption. The Series 2026 Bonds shall be subject to mandatory redemption to the extent that the Executive Director determines such a provision to be necessary to comply with the provisions of Section 149(f) of the Internal Revenue Code.

Section 2.14. Other Documents. The Executive Director is authorized to execute such other documents, instruments and certificates and to take such action as may be necessary or convenient in connection with the issuance and sale of the Series 2026 Bonds and maintenance of the tax-exempt status thereof and to take such further actions as may be necessary or convenient for the performance of the Trust Indenture.

ARTICLE III

Use of Proceeds of Bonds; Allocations

Section 3.01. Allocations. Pursuant to Section 4.01 of the Master Trust Indenture, the Commission specifies that the Clean Water Portions and the Drinking Water Portions of each scheduled payment of principal and interest on each maturity of the Series 2026 Bonds shall be as determined by the Executive Director to reflect (i) that the Series 2026 Bonds issued for the Clean Water Program loans are allocated to the Clean Water Portion as provided in the Master Trust Indenture, and (ii) that the Series 2026 Bonds issued for Drinking Water Program loans are allocated to the Drinking Water Portion as provided in the Master Trust Indenture. Within each of the Drinking Water Portions and Clean Water Portions of principal and interest payments on the Series 2026 Bonds, the Executive Director shall determine the State Match Portion and Leveraged Portion as provided in the Master Trust Indenture. The final percentages, based on the sale results and federal regulations, shall be certified by the Executive Director to the Trustee, subject to modification pursuant to an Allocation Order under the Master Trust Indenture.

Section 3.02. Application of Proceeds. The proceeds of the Series 2026 Bonds shall initially be deposited in the Funds and Accounts established under the Master Trust Indenture as follows:

(a) A portion of the accrued interest, if any, on the Series 2026 Bonds shall be deposited in the Leveraged Bond Accounts of the Drinking Water Bond Fund and Clean Water Bond Fund, and any remainder of the accrued interest on the Series 2026 Bonds shall be deposited as determined by the Executive Director. The amounts shall be determined by the Executive Director.

(b) Amounts determined by the Executive Director shall be deposited in the Clean Water Administration Fund and Drinking Water Administration Fund for payment of the Costs of Issuance of the Series 2026 Bonds and other authorized purposes as allocated by the Executive Director.

(c) The remaining proceeds of the Series 2026 Bonds shall be deposited in the State Match and Leveraged Loan Accounts of the Drinking Water Loan Fund and the State Match and Leveraged Loan Accounts of the Clean Water Loan Fund and to reimburse other Funds and Accounts for amounts drawn to fund loans, all as determined by the Executive Director.

(d) The Executive Director may on behalf of the Authority issue such instructions to the Trustee as she may deem necessary or appropriate to adjust the balances on deposit in the Funds and Accounts under the Master Trust Indenture to reflect the proper loan sources and other accounting matters consistent with the Master Trust Indenture and federal regulations and to determine the appropriate amounts in each of the Funds and Accounts at the time of delivery of the Series 2026 Bonds. All such instructions shall be reported to this Commission.

It is hereby determined that, because a reserve fund is not reasonably required for the Series 2026 Bonds under Section 148 of the Internal Revenue Code, investment of additional deposits to the Reserve Funds under the Master Trust Indenture would be restricted as to yield, the Series 2026 Bonds shall not be Covered Bonds under the Master Trust Indenture and no deposits shall be made to the Clean Water Reserve Fund or Drinking Water Reserve Fund. The procedures for requesting funds from the Legislature under Sections 5.06 and 6.06 of the Master Trust Indenture do not apply to the Series 2026 Bonds.

ARTICLE IV

Form, Execution and Other Details of Bonds

Section 4.01. Form of Bond. The Series 2026 Bonds, the Registrar's Authentication Certificate, and the form of assignment shall be in substantially the form set forth in Exhibit A to the Master Trust Indenture, with all such insertions as may be consistent with this Series Resolution.

Section 4.02. Execution and Delivery. The Series 2026 Bonds shall be executed and delivered as provided in the Master Trust Indenture.

Section 4.03. Uses of Securities Depository; Book-Entry Only System. The provisions of this Section shall take precedence over the provisions of the Master Trust Indenture to the extent they are inconsistent therewith.

(a) The Depository Trust Company ("DTC") is expected to agree to act as securities depository for the Series 2026 Bonds, and to provide a Book-Entry Only System for registering the ownership interests of the financial institutions for which it holds the Series 2026 Bonds (the "DTC Participants"), and for distributing to such DTC Participants such amount of the principal and interest payments on the Series 2026 Bonds as they are entitled to receive, for redistribution to the beneficial owners of the Series 2026 Bonds as reflected in their records (the "Beneficial Owners").

(b) Initially, and so long as DTC or another qualified entity continues to act as securities depository, the Series 2026 Bonds shall be issued in typewritten form, one for each maturity in a principal amount equal to the aggregate principal amount of each maturity, shall be registered in the name of the securities depository or its

nominee, and shall be subject to the provisions of this Section. While DTC is acting as the securities depository, the Series 2026 Bonds shall be registered in the name of DTC's nominee, CEDE & CO; provided that upon delivery by DTC to the Authority and the Trustee of written notice to the effect that DTC has determined to substitute a new nominee in place of CEDE & CO., the words "CEDE & CO." in this Resolution shall refer to such new nominee of DTC.

With respect to Series 2026 Bonds registered in the name of a securities depository or its nominee, the Authority and the Trustee shall have no responsibility or obligation to any DTC Participant or other person with respect to the following: (i) the accuracy of the records of any securities depository or its nominee with respect to any ownership interest in the Series 2026 Bonds, (ii) the delivery to any DTC Participant or any other person, other than DTC, of any notice with respect to the Series 2026 Bonds, including any notice of redemption, or (iii) the payment to any DTC Participant or any other person, other than DTC, of any amount with respect to the principal of or interest on the Series 2026 Bonds. The Trustee shall pay all principal of and interest on the Series 2026 Bonds only to or upon the order of DTC, and all such payments shall be valid and effective to fully satisfy and discharge the Authority's obligations with respect to the principal and interest on the Series 2026 Bonds to the extent of the sum or sums so paid. So long as the Book-Entry Only System described in this Section is in effect, no person other than DTC shall receive an authenticated Series 2026 Bond.

(c) Upon receipt by the Authority and the Trustee of written notice from the securities depository to the effect that it is unable or unwilling to discharge its responsibilities under the Book-Entry Only System, the Trustee shall issue, transfer and exchange Series 2026 Bonds of the initial series as requested by the securities depository in appropriate amounts, and whenever the securities depository requests the Authority and the Trustee to do so, the Authority and the Trustee shall cooperate with the securities depository in taking appropriate action after reasonable notice (i) to arrange for a substitute depository willing and able, upon reasonable and customary terms, to maintain custody of the Series 2026 Bonds, or (ii) to make available Series 2026 Bonds registered in whatever name or names the Beneficial Owner registering ownership, transferring or exchanging such Series 2026 Bonds shall designate, in accordance with clause (f) or clause (g) below, whichever is applicable.

(d) In the event the Authority determines that it is in the best interests of the Beneficial Owners that they be able to obtain printed Series 2026 Bonds, the Authority may so notify the securities depository and the Trustee, whereupon the securities depository shall notify the Beneficial Owners of the availability through the securities depository of such printed Series 2026 Bonds. In such event, the Authority shall cause to be prepared and the Trustee shall issue, transfer and exchange printed Series 2026 Bonds, fully executed and authenticated, as requested by the securities depository in appropriate amounts and, whenever the securities depository requests, the Authority and the Trustee shall cooperate with the securities depository in taking

appropriate action after reasonable notice to make available printed Series 2026 Bonds registered on the Bond Register in whatever name or names the Beneficial Owners entitled to receive Series 2026 Bonds shall designate, in accordance with clause (f) or clause (g) below, whichever is applicable.

(e) Notwithstanding any other provisions of this Resolution to the contrary, so long as any Series 2026 Bond is registered in the name of a securities depository or its nominee, all payments of principal and interest on the Series 2026 Bond and all notices with respect to the Series 2026 Bond shall be made and given, respectively, to the securities depository as provided in the Blanket Representation Letter given to it by the Authority.

(f) In the event that the Book-Entry Only System established pursuant to this Section is discontinued, except as provided in clause (g), the Series 2026 Bonds shall be issued through the securities depository to the Beneficial Owners.

(g) In the event of termination of the Book-Entry Only System, the Authority shall have the right to terminate, and shall take all steps necessary to terminate, all arrangements with the securities depository described herein, and thereafter shall issue, register ownership of, transfer and exchange all Series 2026 Bonds as provided in Article II hereof. Upon receipt by the securities depository of notice from the Authority, the securities depository shall take all actions necessary to assist the Authority and the Trustee in terminating all arrangements for the issuance of documents evidencing ownership interests in the Series 2026 Bonds through the securities depository. Nothing herein shall affect the securities depository's rights under clause (e) above.

ARTICLE V

Special Covenants

The Commission and the Authority covenant and agree with the persons who at any time are Holders and Owners of the Series 2026 Bonds that so long as any Series 2026 Bonds remain outstanding and unpaid:

Section 5.01. Observe Master Trust Indenture, Series Resolution and Loan Agreements. The Commission and the Authority will faithfully keep and observe all the terms, provisions and covenants contained in the Master Trust Indenture, this Series Resolution and the Loan Agreements.

Section 5.02. Maintenance of Tax-Exempt Status. Neither the Commission nor the Authority shall take, or permit a Political Subdivision (as defined in the Act) to take, any action that would cause the Series 2026 Bonds to be "private activity bonds" within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended. The Commission and the Authority shall comply with all the rebate requirements imposed under

Section 148(f) of the Internal Revenue Code of 1986, as amended, and regulations thereunder, which are necessary to preserve the tax exempt status of the Series 2026 Bonds, including (if applicable) the requirement to make periodic calculations of the amount subject to rebate thereunder and the requirement to make all required rebates to the United States. The Authority agrees to use any moneys on deposit in any Fund or Account maintained under the Master Trust Indenture to pay any such rebate (or penalty in lieu thereof) when due to the extent permitted by the Master Trust Indenture. In addition, the Authority shall make no investment of funds or take or permit a Political Subdivision to take any action that would cause the Series 2026 Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, and regulations thereunder. The Executive Director is hereby authorized to make on behalf of the Authority any elections under the provisions of Section 148 of the Internal Revenue Code of 1986 and regulations thereunder as she may deem appropriate. All terms used in this Section 5.02 shall have the meanings provided in the Internal Revenue Code of 1986, as amended, and regulations thereunder. The Executive Director shall execute any certificates and take such action as may be necessary or appropriate to establish and maintain the tax-exempt status of the Series 2026 Bonds.

ARTICLE VI

Miscellaneous

Section 6.01. Amendments. This Series Resolution may be amended as provided in the Master Trust Indenture.

Section 6.02. Determinations. All determinations of the Executive Director required or permitted to be made hereunder shall be in writing, and the Executive Director shall file a copy thereof with the Trustee and the Secretary or other officer of the Industrial Commission.

(Remainder of page intentionally left blank)

Section 6.03. Effective Date. This Series Resolution is effective immediately.

Adopted: February 24, 2026

Kelly Armstrong, Governor
Chairman

Attest:

Karen Tyler
Executive Director and Secretary

(Commission Seal)



February 24, 2026

To: Industrial Commission of North Dakota

From: Jennifer Henderson, Director, Community Housing & Grants Management Division

RE: Authorizing Declarations of Intent to issue Multifamily Revenue Bonds Report

On January 06, 2026, North Dakota Housing Finance Agency (“Agency”) issued a Declaration of Official Intent to issue Multifamily Revenue Bonds in an amount not to exceed \$20,000,000. The proceeds of the Bonds will be used for the acquisition and new construction of a 160-unit general occupancy affordable housing project located in Grand Forks, commonly referred to as **Brookstone Apartments**. A copy of the declaration is attached.

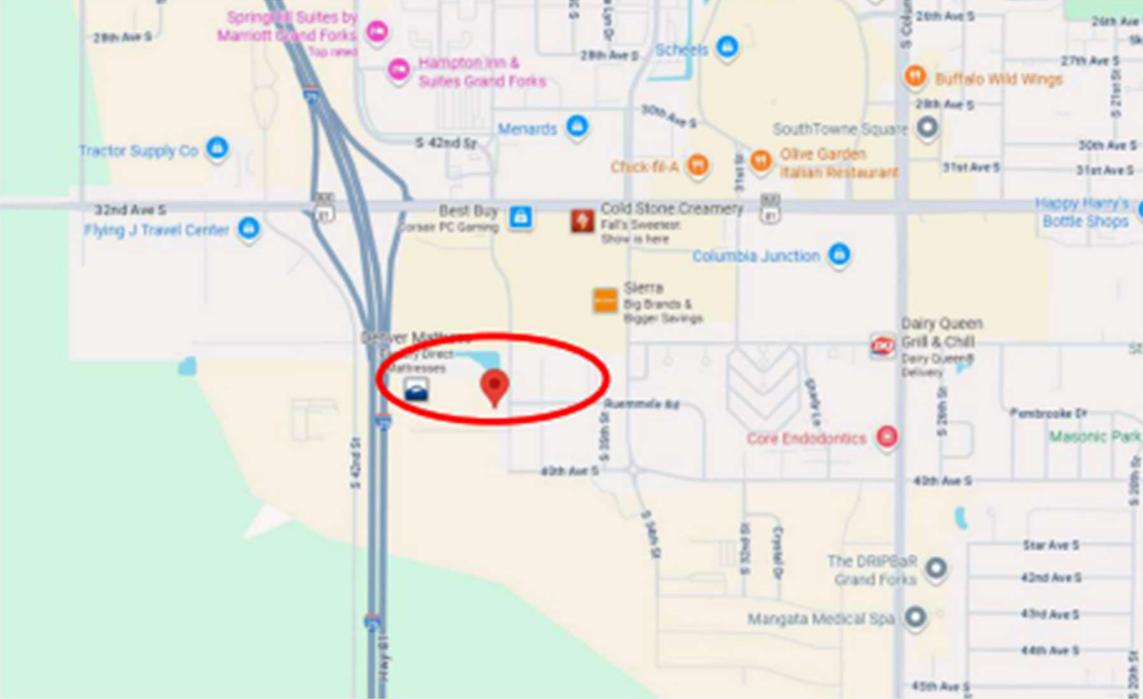
The issuance of tax-exempt bonds is required for a project to qualify for an allocation of 4% low-income housing tax credits. The authority for the Agency to issue the Declaration of Official Intent was granted by a Resolution Authorizing Declarations of Intent adopted by the Industrial Commission on March 24, 2015.

Applicant: Brookstone Apartments, LLLP, a North Dakota limited liability limited partnership

Project Description: New construction on currently vacant land on the 3900 block of 39th Ave S in Grand Forks. Developed by Dakota Commercial and MAK Construction and assisted by Red River CHDO. MAK Construction is proposed to manage the construction. All units will be income and rent restricted between 40 and 60 percent Area Median Income by the Low-Income Housing Tax Credit and Housing Incentive Fund programs. Sixteen of the units include the Agency's Universal Design features, providing the tenant's of these accessible units amenities above and beyond basic ADA requirements.

The issuance of a Declaration of Official Intent declares the intention to issue multifamily Bonds; however, it does not obligate the Agency to give final approval for the issuance of the bonds. Final approval for issuance of the Bonds can only be authorized by independent action of the Industrial Commission. Prior to final Bond issuance, the project’s application must meet underwriting conditions and receive approval for 4% low-income housing tax credits. Once underwriting conditions are met, the Industrial Commission will be presented with a request to approve the Resolution Authorizing Revenue Bonds and the substantially drafted bond documents.

Proposed Project Location: 3810 39th Ave S. Grand Forks





TO: Brookstone Apartments LLC

FROM: Jennifer Henderson, Director, Community Housing & Grants Management

DATE: January 06, 2026

RE: Declaration of "Official Intent" with respect to Authorizing Declarations of Intent to Issue Multifamily Revenue Bonds

By the authority granted in a certain resolution adopted by the Industrial Commission of North Dakota ("Commission") on March 24, 2015 entitled "Resolution Authorizing Declarations of Intent to Issue Multifamily Revenue Bonds", pursuant to Section 1.150-2 of the Internal Revenue Code Regulations, I hereby declare the intention of the Industrial Commission of North Dakota acting as the North Dakota Housing Finance Agency ("Agency") to issue Bonds, in an amount not to exceed \$20,000,000, which shall provide funds to finance a loan for the development of a 160 unit general occupancy affordable housing rental project located in Grand Forks, North Dakota, commonly referred to as Brookstone Apartments, subject to the following:

This declaration of intention does not obligate the Agency to provide final approval for the issuance of said Bonds. Final approval of the issuance of the Bonds may only be authorized through an independent action of the Commission, which may contain such conditions thereto as the Commission may deem appropriate. The Commission, in its absolute discretion, may refuse to grant final approval to authorize the issuance of the Bonds and shall not be liable to any person, including but not limited to, the Developer, Borrower, or Applicant for its refusal or inability to do so.

A handwritten signature in blue ink, appearing to read "Jennifer Henderson", is written over a horizontal line.

Jennifer Henderson
Director, Community Housing & Grants Management



**North Dakota Mill
Review of Operations
2nd Quarter Ended 12/31/25**

SUMMARY

Activities in the 2nd Quarter of the year resulted in a profit of \$5,672,041 compared to \$5,634,934 last year. For the six months ending December there is a profit of \$11,660,036 compared to \$10,758,537 last year.

	<u>Quarter</u>		<u>Year to date</u>	
	<u>12/25</u>	<u>12/24</u>	<u>12/25</u>	<u>12/24</u>
Profits	\$5,672,041	\$5,634,934	\$11,660,036	\$10,758,537
Sales	118,140,272	124,191,771	234,406,697	242,739,856
Cwt. Shipped				
Spring	4,506,528	4,445,067	8,926,480	8,653,549
% to Total	92.1%	91.7%	92.3%	92.0%
Durum/Blends	<u>389,043</u>	<u>400,102</u>	<u>741,963</u>	<u>756,504</u>
Total	<u>4,895,571</u>	<u>4,845,169</u>	<u>9,668,443</u>	<u>9,410,053</u>
Bulk Shipments	4,008,666	4,038,831	7,936,815	7,860,949
% to Total	81.9%	83.4%	82.1%	83.5%
Bag Shipments	835,711	758,466	1,639,105	1,458,165
% to Total	17.1%	15.6%	16.9%	15.5%
Tote Shipments	51,194	47,872	92,523	90,939
% to total	1.0%	1.0%	1.0%	1.0%
Family Flour Shipments	163,221	147,882	343,674	291,464
% to Total	3.3%	3.1%	3.6%	3.1%
Organic Flour	27,197	25,312	57,002	61,416
% to Total	.6%	.5%	.6%	.6%

Wheat/Durum Bought				
Spring / Winter	8,595,691	9,720,660	18,024,932	18,408,738
Durum	<u>922,339</u>	<u>957,759</u>	<u>1,604,951</u>	<u>1,904,233</u>
Total	<u>9,518,030</u>	<u>10,678,419</u>	<u>19,629,883</u>	<u>20,312,971</u>

SALES

2nd Quarter

Sales for the 2nd quarter were \$118,140,272 compared to \$124,191,771 last year. Shipments of 4,895,571 cwts. are 50,402 cwts. above last year. Bag shipments for the 2nd quarter are 835,711 cwts., which is 10.2% above last year's 2nd quarter. Tote shipments for the 2nd quarter are 51,194 cwts., which is 6.9% above last year's 2nd quarter. Family flour shipments of 163,221 cwts. is 10.4% above last year's 2nd quarter. Organic flour shipments were 27,197 cwts., which is 7.4 % above last year's 2nd quarter.

Year-to-Date

Sales for the six months ending in December were \$234,406,697 compared to \$242,739,856 last year, a decrease of 3.4%. For the first six months the average settled price of grain is \$.58 per bushel less than last year. Shipments of 9,668,443 cwts. are 258,390 cwts. above last year, an increase of 2.7%. Year-to-date bag shipments are 1,639,105 cwts., an increase of 180,940 cwts. from last year. Tote shipments are 92,523 cwts., an increase of 1,583 cwts. from last year. Family flour shipments for the six months ending are 343,674 cwts., an increase of 17.9%. Organic flour shipments of 57,002 cwts. is a decrease of 7.2% from last year.

OPERATING COSTS

2nd Quarter

Operating costs for the 2nd quarter were \$13,886,833 compared to \$13,815,722 last year, an increase of .5%. Operating cost per cwt. of production was \$2.82 compared to \$2.85 last year, a decrease of \$.03 per cwt.

Year-to-Date

Year-to-date operating costs are \$27,829,124 compared to \$26,523,430 last year, an increase of 4.9%. Operating cost per cwt. of production for the six months ending is \$2.87 compared to \$2.83 last year, an increase of \$.04 per cwt. Flour production increased 3.5% to 9,690,265 cwts.

PROFITS

2nd Quarter

Operating activity for the 2nd quarter led to a profit of \$5,672,041 compared to a profit of \$5,634,934 last year. Gross margins as a percent of gross sales for the quarter were 17.4% compared to 16.6% last year, an increase of .8%.

Year-to-Date

Operating activity for six months ending December led to a profit of \$11,660,036 compared to a profit of \$10,758,537 last year. Gross margins as a percentage of gross sales for the year are 17.7% compared to 16.3% last year, an increase of 1.4%.

RISK MANAGEMENT POSITION

The table below shows our hedge ratio by futures months going forward. While the mill does monitor and maintain the spring wheat hedges, it does remain at risk for fluctuations in the basis.

Position Report 31-Dec-25

Period	Hedge Ratio
Mar-26	1.1
May-26	1.0
Jul-26	1.0
Sep-26	1.0
Dec-26	1.0
Net Position	1.0

cc: Vance Taylor, President & CEO



North Dakota Mill

Quarterly Income Statement Summary

For the Six Months Ending Wednesday, December 31, 2025

	2nd Qtr			Fiscal Year 2026	Fiscal Year 2025	Change
	Dec 2025	Dec 2024	Change			
GROSS SALES	\$118,140,272	\$124,191,771	(\$6,051,500)	\$234,406,697	\$242,739,856	(\$8,333,158)
SALES DEDUCTIONS	(24,744,998)	(25,879,504)	1,134,507	(50,032,422)	(49,089,277)	(943,146)
NET SALES	\$93,395,274	\$98,312,267	(\$4,916,993)	\$184,374,275	\$193,650,579	(\$9,276,304)
COGS	(\$72,881,985)	(\$77,748,961)	\$4,866,976	(\$142,921,996)	(\$154,082,466)	\$11,160,470
GROSS MARGIN	\$20,513,290	\$20,563,306	(\$50,017)	\$41,452,279	\$39,568,113	\$1,884,166
Gross Margin	17.4%	16.6%	0.8%	17.7%	16.3%	1.4%
OPERATING EXPENSES						
PRODUCTION	(\$11,231,221)	(\$11,094,808)	(\$136,413)	(\$22,389,026)	(\$21,182,166)	(\$1,206,860)
QUALITY CONTROL	(424,877)	(405,252)	(19,625)	(846,917)	(747,172)	(99,745)
MARKETING	(767,391)	(832,293)	64,902	(1,566,605)	(1,549,873)	(16,731)
GENERAL & ADMIN	(1,463,344)	(1,483,369)	20,025	(3,026,576)	(3,044,218)	17,642
TOTAL OPERATING EXPENSES	(\$13,886,833)	(\$13,815,722)	(\$71,112)	(\$27,829,124)	(\$26,523,430)	(\$1,305,694)
per cwt production	\$2.82	\$2.85	-\$0.03	\$2.87	\$2.83	\$0.04
OPERATING INCOME	\$6,626,456	\$6,747,585	(\$121,129)	\$13,623,155	\$13,044,683	\$578,471
OTHER INCOME	\$49,751	\$94,301	(\$44,550)	\$111,554	\$203,988	(\$92,434)
OTHER EXPENSES	(1,004,166)	(1,206,952)	202,786	(2,074,672)	(2,490,135)	415,462
NET INCOME	\$5,672,041	\$5,634,934	\$37,108	\$11,660,036	\$10,758,537	\$901,500
PRODUCTION - CWTS.						
SPRING WHEAT FLOUR	4,534,548	4,452,302	82,246	8,938,578	8,607,535	331,044
% to total	92.0%	91.7%	0.3%	92.2%	91.9%	0.3%
DURUM FLOUR/SEMO	396,328	400,956	(4,628)	751,687	754,206	(2,519)
% to total	8.0%	8.3%	(0.3%)	7.8%	8.1%	(0.3%)
TOTAL CWTS.	4,930,876	4,853,258	77,618	9,690,265	9,361,741	328,525
SALES - CWTS.						
SPRING WHEAT	4,506,528	4,445,067	61,461	8,926,480	8,653,549	272,931
% to total	92.1%	91.7%	0.4%	92.3%	92.0%	0.3%
DURUM & BLENDS	389,042	400,102	(11,060)	741,963	756,504	(14,541)
% to total	7.9%	8.3%	(0.4%)	7.7%	8.0%	(0.3%)
TOTAL CWTS.	4,895,571	4,845,169	50,402	9,668,443	9,410,053	258,390
BY-PRODUCTS	70,350	70,140	210	140,014	137,916	2,098
Price per ton	\$93.96	\$107.75	-\$13.79	\$90.30	\$99.18	-\$8.88

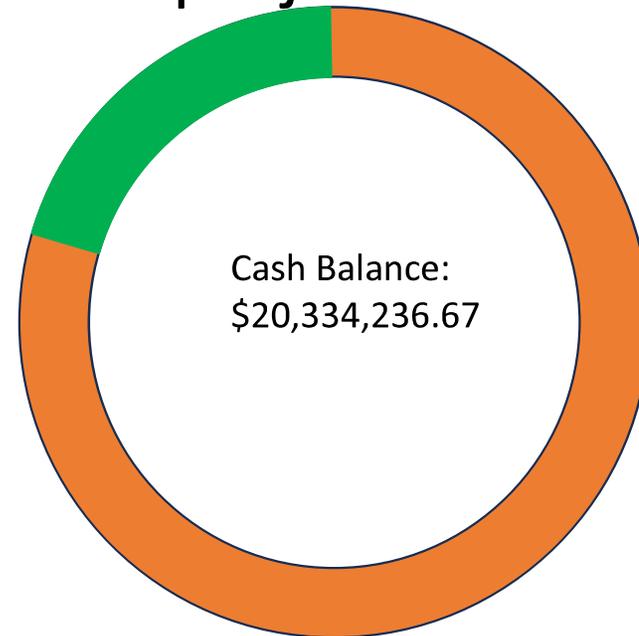
**Clean Sustainable Energy Authority
Project Management Update (February 2026)**

Contract Number	Project	Project Sponsor	Status	Original Grant Award	Total Spend To Date	Remaining Grant Commitment	Total Project Costs	Projected End Date
C-03-09	Enerplus Geothermal Power	Chord	Were expected to make progress in 2025, but no Status Reports were received.	\$ 1,098,500	\$ 150,251.00	\$ 948,249.00	\$ 2,197,000	7/1/2026
C-04-10	Farm Traceability Dashboard	Bushel	Progress towards software development.	\$ 3,500,000	\$ 1,758,704.56	\$ 2,136,475.84	\$ 12,265,250	12/31/2026
C-04-11	Produced Water 2	Wellspring Hydro	Refining unit in Texas. Received final report last week.	\$ 5,000,000	\$ 3,285,282.83	\$ 1,714,717.17	\$ 250,000,000	12/31/2026
C-05-12	Green Pig Iron	Scranton Metals		\$ 7,000,000	\$ 7,000,000.00	\$ -	\$ 27,000,000	12/31/2025
C-05-14	Lithium Battery Manufacturing	Dakota Lithium	Construction ongoing. No Status Reports	\$ 2,000,000	\$ 584,295.87	\$ 1,415,704.13	\$ 10,250,000	3/31/2028
C-05-15	GTL FEL-3	Cerilon	received.	\$ 9,500,000	\$ -	\$ 9,500,000.00	\$ 3,600,000,000	3/31/2026
					Total Remaining Commitment:		\$ 15,715,146.14	

Current Status

20 Cumulative Projects
\$74.5M in total grant awards
\$15.4M in returned or withdrawn
\$545.5M loaned
\$6.2B project value

Uncommitted
Cash Available:
\$3,923,910.13



Outstanding
Commitments/
Expenses:
\$16,410,326.54

CSEA 2025-2027 Biennium Report

Project Proposals recommended to the NDIC by the CSEA Advisory Board

Project #	Project Title	Applicant	Project Description	Project Total	Tech.	Grant	Loan	
					Review Avg. Score (of 315)			Tech. Comm. Score
C-06-C	Packet Digital - ND Lithium-Ion Battery Manufacturing Plant	Packet Digital, LLC	Continue now-under-way construction of 80,000 sq ft lithium-ion battery cell manufacturing and research facility in Fargo. Will produce high- power and high-energy-density pouch cells for defense and aerospace systems.	\$100,827,845	303	38.9	\$ 2,297,376	\$ 10,000,000
C-06-D	The Forge Project	AmeriCarbon Forge, LLC	Construction of first US commercial-scale facility near Underwood producing Eco-Pitch, a coal-tar-pitch from ND lignite, along with carbon byproducts. 15k tons of Eco-Pitch & 15k tons carbon byproducts annually.	\$100,000,000	268.5	38.5	\$ -	\$ 30,000,000
C-06-E	The Forge Project: Rare Earths and Critical Materials Integration	Ore Spring Materials, LLC	Integrate Eco-Pitch carbon manufacturing with REE and CM recovery technologies. Establish a scalable, co-located platform at Forge site near Underwood.	\$4,500,000	252	36.8	\$ 1,125,000	\$ -
Total Requests:				\$205,327,845				
Available Funding					Total Grants:		\$ 3,422,376	
					Total Loans:		\$ 40,000,000	

CSEA C-06-C

Title: Packet Digital – North Dakota Lithium-Ion Battery Manufacturing Plant

Applicant: Packet Digital, LLC

Point of Contact: Terri Zimmerman, CEO

Funding Request:

Grant: \$2,297,376 – R&D facility and equipment

Loan: \$18,842,659 – Improvements and equipment

Duration of Project: Continuation of existing project through December 31, 2026

Objective: Packet Digital proposes to establish an end-to-end lithium-ion battery cell manufacturing and research facility in Fargo, ND. The 80,000-square-foot Fargo facility, now under construction, will produce high-power and high-energy-density pouch cells for defense and aerospace systems. A co-located R&D center will develop next-generation chemistries with partners such as UND, EERC, WellSpring Hydro, and Talon Metals.

Packet Digital previously obtained a \$17 million CSEA loan for this \$100,000,000 project. The reason for the additional funding request is that demand has increased substantially, and Packet Digital is adding equipment and manufacturing capabilities to increase the daily output of battery cells. Initial plans were to construct the facility to produce 2,000 cells per 8-hour shift, and due to demand plans have expanded to produce 5,000 cells per 8-hour shift. Receiving additional CSEA funding would allow Packet Digital to complete construction sooner on the expanded facility and fulfill increasing demand.

With more than 95% of drone batteries currently being imported from China, and with Executive Orders and the NDAA requiring a reduction in dependence on foreign sources of energy technology, Packet Digital is well-positioned to be a vital domestic supplier of batteries to the defense industry.

Participants with Packet Digital in this venture include: US Navy, Rainbow Energy, NDSU, UND, EERC, WellSpring Hydro, Talon Metals, US Airforce Research Laboratory, Toyota and Lockheed Martin.

Other funding sources beyond the existing \$17 million CSEA loan include \$15 million in equity contributions, a \$24.3 million bank loan, a \$10 million Navy grant, a \$5.4 million SBA loan, and \$3.2 million from the Dakota Business Lending NMTC program.

Recommendation of CSEA Advisory Board:

Grant: \$2,297,376

Loan: \$10,000,000

CSEA C-06-D

Title: The Forge Project

Applicant: AmeriCarbon Forge, LLC

Point of Contact: Greg Henthorn, Chief Business Officer

Funding Request:

Loan: \$40,000,000

Duration of Project: 2-3 years

Objective: AmeriCarbon Forge, LLC proposes the first U.S. commercial-scale facility producing an engineered coal-tar-pitch (named Eco-Pitch) manufactured directly from North Dakota lignite. The facility would be located near Underwood.

The loan request would assist in construction, commissioning, and startup of the facility. The project would create 250-300 construction jobs and about 50 full-time jobs once in operation.

Full commercial operation would see about 100 tons per day of ND lignite as an input, with the annual output being about 15,000 tons of Eco-Pitch and 15,000 tons of carbon by-products. By-products include creosote, naphthalene, anthracene oil, and concentrated ash with rare earth elements (REEs).

AmeriCarbon has a pilot plant in West Virginia that has demonstrated the complete coal liquefaction process for producing Eco-Pitch and other advanced carbon materials.

AmeriCarbon Forge, LLC is a JV of AmeriCarbon Enterprises, NACCO Industries and other investors, and other project participants include Worley Group (engineering), UND (feedstock integration), SDSU and VertX (market validation collaborators), and North American Coal and Rainbow Energy (site collaborators).

The application showed a project cost basis of \$100 million, with a potential range of \$80-\$100 million. Testimony given at the CSEA meeting was that the estimated project costs will be closer to \$83 million. The planned capital stack includes 20% equity funding and 80% debt funding with commercial debt and a requested CSEA loan.

Recommendation of CSEA Advisory Board:

Loan: \$30,000,000

CSEA C-06-E

Title: The Forge Project: Rare Earths and Critical Materials Integration

Applicant: Ore Spring Materials, LLC (an affiliate of AmeriCarbon Forge, LLC)

Point of Contact: Greg Henthorn, Chief Business Officer, AmeriCarbon Forge, LLC

Funding Request:

Grant: \$2,250,000

Duration of Project: 2 years

Objective: The purpose of this project is to advance the integration of AmeriCarbon's Eco-Pitch carbon manufacturing process with rare earth element (REE) and critical mineral recovery technologies developed by UND and Microbeam Technologies, Inc. This project aims to establish a scalable, co-located facility near Underwood that recovers REEs, germanium, gallium, and other critical minerals from process by-products.

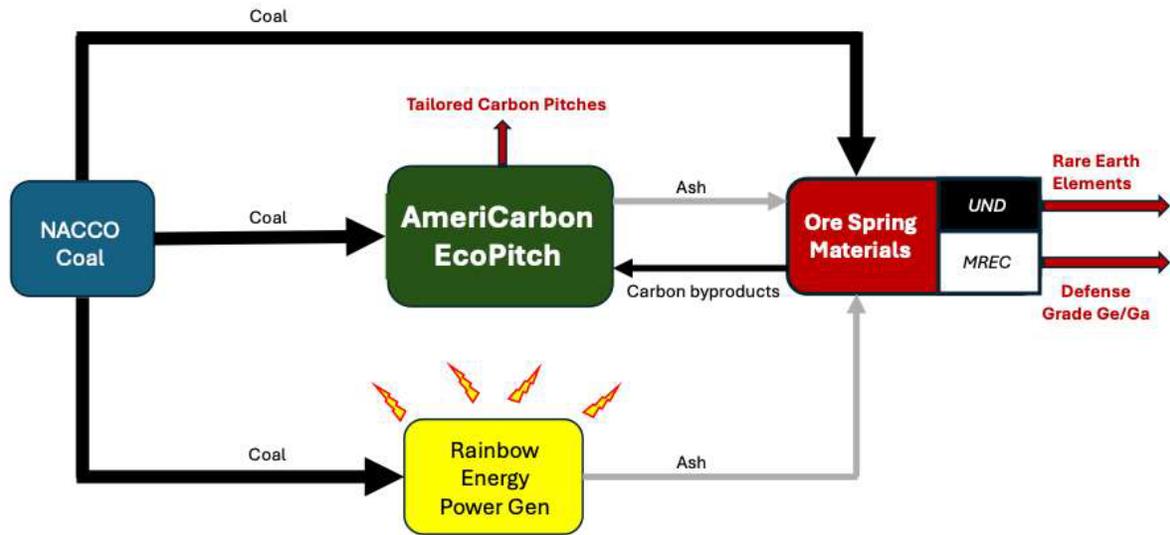
This project will define the engineering and economic framework for commercial-scale deployment at the Forge site. It would validate utilizing UND's REE extraction technologies to further optimize AmeriCarbon's liquefaction process and developing a feedstock for Microbeam's germanium and gallium recovery system.

Expected project costs are \$4.5 million. Testimony given to the board was that one project is not dependent on the other (The Forge Project and this REE project), but the integration of the two would benefit each one.

Worley Group will provide engineering and integration support, developing process flow diagrams and site-level integration studies for co-located operations.

Project FORGE

Carbon & Rare Earth Metal Critical Materials



Recommendation of CSEA Advisory Board:

Grant: \$1,125,000

GEOLOGICAL SURVEY QUARTERLY REPORT

*October 1, 2024 to December 31, 2025
to the*

NORTH DAKOTA INDUSTRIAL COMMISSION

Edward C. Murphy
State Geologist
Geological Survey
Department of Mineral Resources
North Dakota Industrial Commission

February 24, 2026

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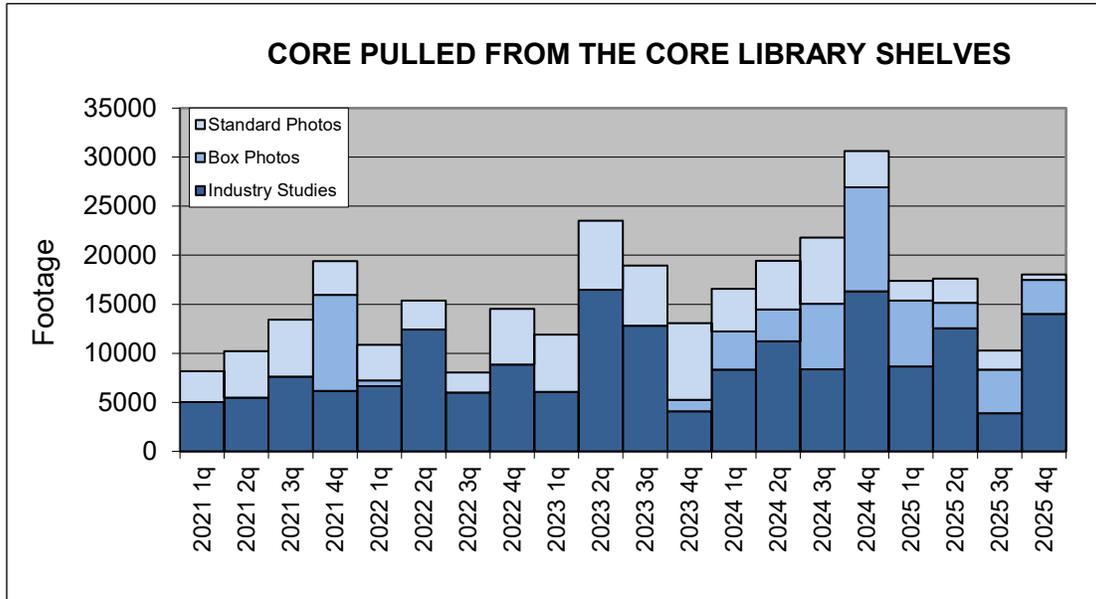
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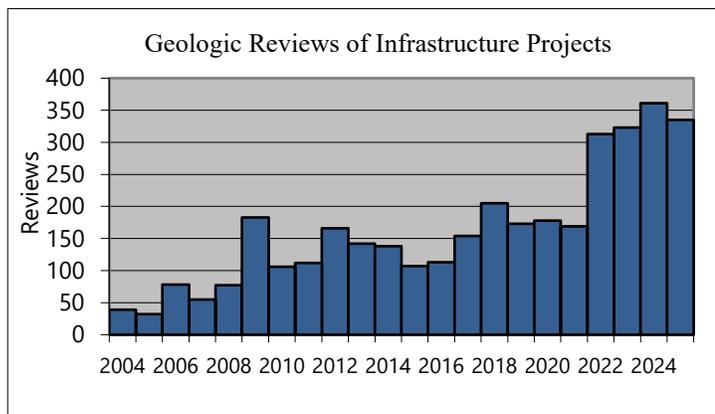
During the fourth quarter of 2025, geologists from three oil companies, the Geological Survey, the Energy and Environmental Research Center, as well as graduate students from the University of North Dakota and a professor from Moorhead State University studied 14,051 feet of core. A total of 544 feet of core was photographed, generating 714 standard photographs and 3,462 feet of core was photographed with a tripod generating 325 photographs for the subscription site.



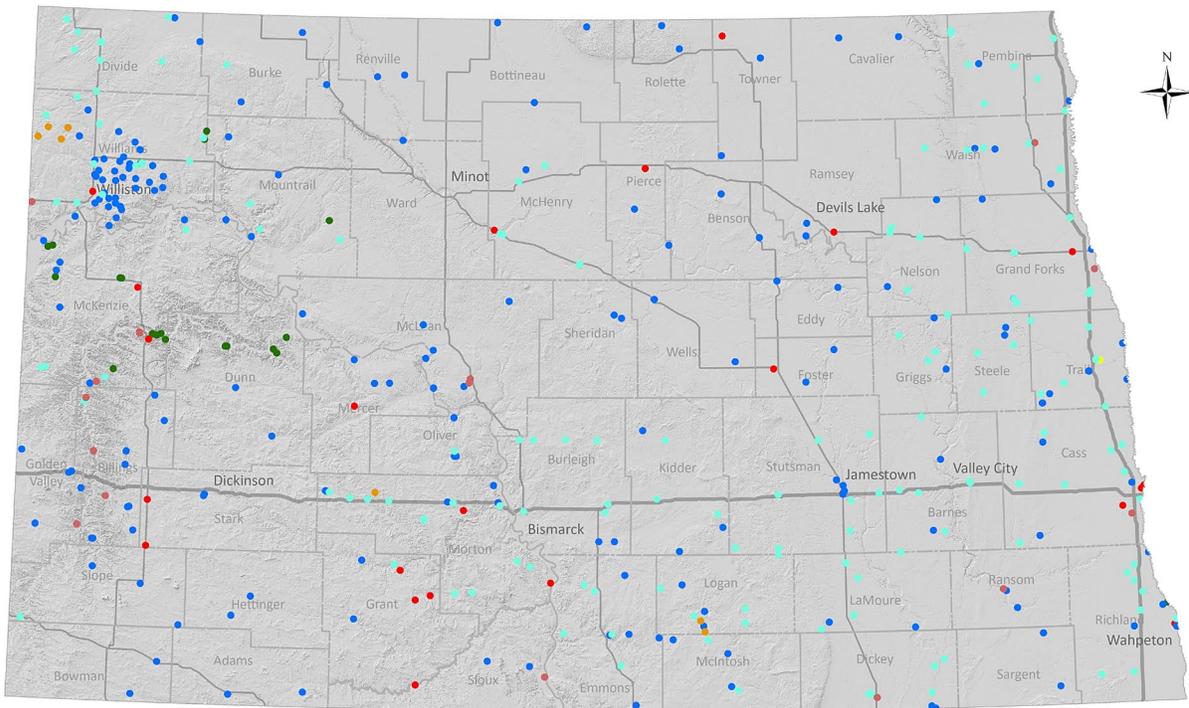
Workers pulled 18,021 feet of core from library shelves during the fourth quarter of 2025.

Geologic Reviews of Infrastructure Projects

The Geological Survey performed 335 geologic reviews of proposed infrastructure projects in 2025, down 7% (335 vs 361) from the previous record-setting year. Engineering firms solicited comments on water storage, treatment, and water supply projects, accounting for 26% (87 out of 335) of the total infrastructure projects reviewed. In the past, transportation projects were typically the major type of projects reviewed, but last year only accounted for 8% (27) of the total projects reviewed. Last year, we continued our assessment of cell tower locations, reviewing the surface geologic conditions at 40 locations in 24 counties. External comments were generated for 30% of the reviews received in 2025 with water supply and energy related projects in landslide prone areas generating the most need for written comments.



Geologic Reviews of Infrastructure Projects from 2004 – 2025.

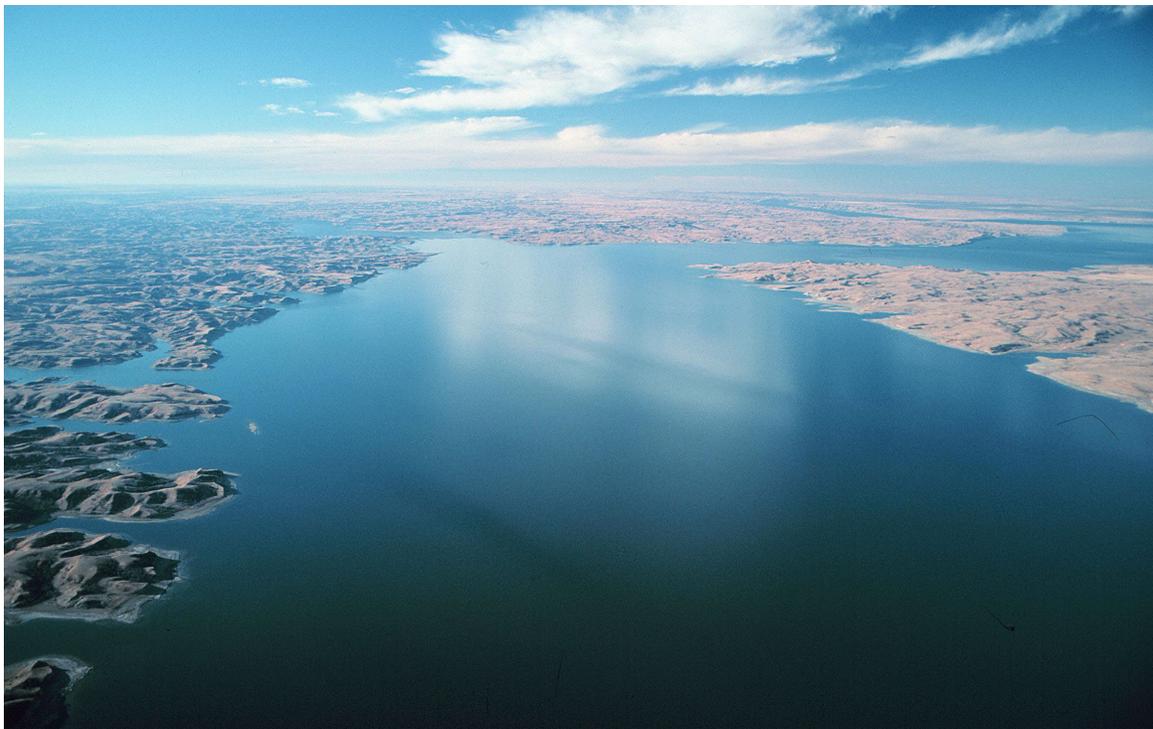


Review Locations

- Wind
- Oil and Gas/Well Pad
- Electrical/Communications
- Water
- Agriculture
- Transportation/Road
- Mining/General Construction



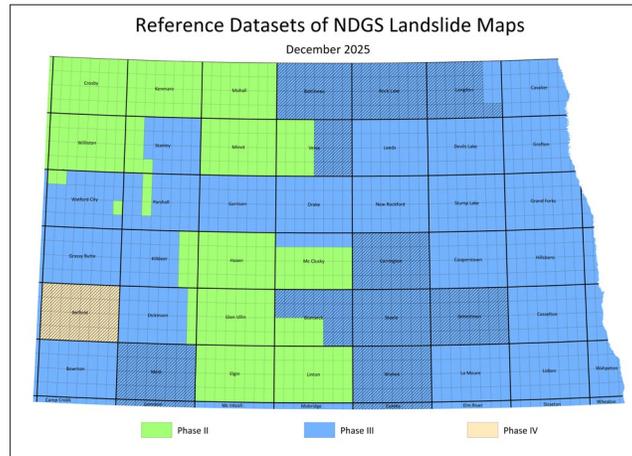
The locations of proposed infrastructure projects reviewed by the Geological Survey in 2025.



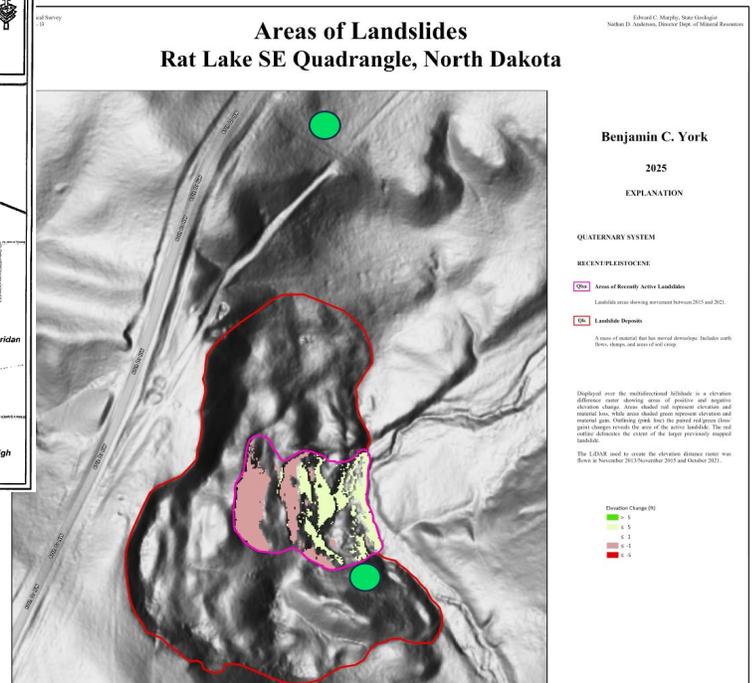
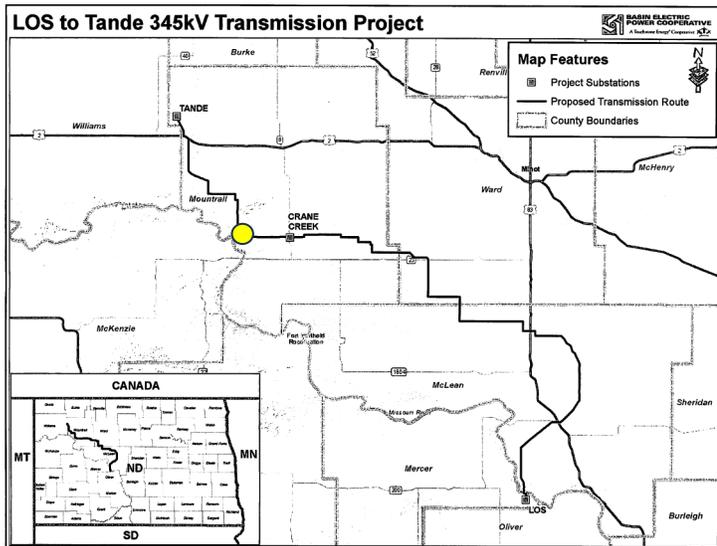
An oblique aerial photograph from the fall of 2001 looking west along Lake Sakakawea to the mouth of the Little Missouri River (to the left in the distance). We reviewed 11 proposed water supply intake structures along both the north and south sides of Lake Sakakawea in 2025.

Phase III and IV Landslide Mapping in 2025

In 2025, Survey geologists mapped 6,462 landslides in 336 quadrangles in the north-central, south-central, and southwestern parts of the state. A total of 538 of these landslides were active i.e., slope movement occurred sometime during the roughly ten-year period between the first and second LiDAR coverages. A majority of these quadrangles (304) were mapped under the Phase III landslide program; 32 quads were mapped under the Phase IV program.



The status of landslide mapping in North Dakota (hashed quadrangles were mapped in 2025).



An example of one of the Geological Survey's 2025 infrastructure reviews and, at the same time, an application of our Phase III landslide maps (NDPSC Case No. PU-24-361 345kV transmission line from Mercer County to Williams County). Upper left: the yellow dot is the location of the landslide outlined in red in the Rat Lake SE Quadrangle Phase III landslide map. Lower right: The green dots are the locations of proposed transmission line towers. As a result of our review comments, the transmission line was rerouted away from this landslide.

Regulatory Programs (October 1 to December 31, 2025)

Coal Exploration Program	One permit was issued this quarter.
Subsurface Mineral Program	No permits were issued this quarter.
UIC Class III Well Program	No permits were issued this quarter.
Geothermal Program	Three permits (2 residential, 1 commercial) were issued this quarter.
Paleontological Resource Program	No permits were issued this quarter.

Publications This Quarter (October 1 to December 31, 2025)

York, B.C. and Maike, C.A., 2025, Areas of Landslides Towner Quadrangle, ND Quad: ND Geological Survey 24K Map Series No. Twnr - 13.
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 Maike, C.A. and Moxness, L.D., 2025, Areas of Landslides Coldwater Lake NW Quadrangle, ND Quadrangle: North Dakota Geological Survey 24K Map Series No. Cdwl NW - 13.
 Maike, C.A. and Moxness, L.D., 2025, Areas of Landslides May Lake SE Quadrangle, ND Quadrangle: North Dakota Geological Survey 24K Map Series No. MayL SE - 13.
 Maike, C.A. and Moxness, L.D., 2025, Areas of Landslides Coldwater Lake SW Quadrangle, ND Quadrangle: North Dakota Geological Survey 24K Map Series No. Cdwl SW - 13.
 Maike, C.A. and Moxness, L.D., 2025, Areas of Landslides Zeeland NW Quadrangle, ND Quadrangle: North Dakota Geological Survey 24K Map Series No. Zlnd NW - 13.
 Maike, C.A. and Moxness, L.D., 2025, Areas of Landslides Zeeland Quadrangle, ND Quadrangle: North Dakota Geological Survey 24K Map Series No. Zlnd - 13.
 Maike, C.A., 2025, Areas of Landslides Chaseley Quadrangle, ND Quadrangle: North Dakota Geological Survey 24K Map Series No. Chly - 13.
 Maike, C.A., 2025, Areas of Landslides Bowdon Quadrangle, ND Quadrangle: North Dakota Geological Survey 24K Map Series No. Bwdn - 13.
 Maike, C.A., 2025, Areas of Landslides Bowdon SE Quadrangle, ND Quadrangle: ND Geological Survey 24K Map Series No. Bwdn SE - 13.
 Maike, C.A., 2025, Areas of Landslides Pettibone Quadrangle, ND Quadrangle: North Dakota Geological Survey 24K Map Series No. PtbN - 13.
 Maike, C.A., 2025, Areas of Landslides Tappen North Quadrangle, ND Quadrangle: ND Geological Survey 24K Map Series No. Tppn N - 13.
 Maike, C.A., 2025, Areas of Landslides Medina Quadrangle, ND Quadrangle: North Dakota Geological Survey 24K Map Series No. Mdna - 13.
 Maike, C.A., 2025, Areas of Landslides Tappen South Quadrangle, ND Quadrangle: ND Geological Survey 24K Map Series No. Tppn S - 13.
 Maike, C.A., 2025, Areas of Landslides Alkaline Lake Quadrangle, ND Quadrangle: ND Geological Survey 24K Map Series No. AlnL - 13.
 Maike, C.A., 2025, Areas of Landslides Gackle North Quadrangle, ND Quadrangle: ND Geological Survey 24K Map Series No. Gckl N - 13.
 Maike, C.A., 2025, Areas of Landslides Gackle NE Quadrangle, ND Quadrangle: ND Geological Survey 24K Map Series No. Gckl NE - 13.
 Maike, C.A., 2025, Areas of Landslides McKenna Lake North Quadrangle, ND Quadrangle: ND Geo. Survey 24K Map Series No. McKL N - 13.
 Maike, C.A., 2025, Areas of Landslides Gackle South Quadrangle, ND Quadrangle: ND Geological Survey 24K Map Series No. Gckl S - 13.
 Maike, C.A. and Moxness, L.D., 2025, Areas of Landslides Weisser Dam East Quadrangle, ND Quadrangle: North Dakota Geological Survey 24K Map Series No. WssD E - 13.
 Maike, C.A. and Moxness, L.D., 2025, Areas of Landslides Ashley West Quadrangle, ND Quadrangle: North Dakota Geological Survey 24K Map Series No. Ashy W - 13.
 Maike, C.A. and Moxness, L.D., 2025, Areas of Landslides Ashley East Quadrangle, ND Quadrangle: North Dakota Geological Survey 24K Map Series No. Ashy E - 13.
 Maike, C.A. and Moxness, L.D., 2025, Areas of Landslides Wolff Lake (SD) Quadrangle, ND Quadrangle: North Dakota Geological Survey 24K Map Series No. WhfL - 13.
 Maike, C.A. and Moxness, L.D., 2025, Areas of Landslides Schumacher Lake NE(SD) Quadrangle, ND Quadrangle: North Dakota Geological Survey 24K Map Series No. SmrL NE - 13.
 Maike, C.A. and Moxness, L.D., 2025, Areas of Landslides Long Lake NW (SD) Quadrangle, ND Quadrangle: North Dakota Geological Survey 24K Map Series No. LngL NW - 13.

Presentations This Quarter (October 1 to December 31, 2025)

A.Gardner, Mammoth dig tour, Burke County school (K-5; HS), Burke County, October 1.
 A.Gardner, Mammoth dig tour, Burke County school (8th grade), Burke County, October 2.
 I. Faruqi, Preliminary Geochemical Characterization of the Pronghorn Mbr as a Supplemental Source Rock in the Bakken Petroleum System, Williston Basin, North Dakota, Rocky Mountain Section of AAPG, Keystone, CO, October 6.
 I. Faruqi, Sedimentology and stratigraphy of Cambrian-Ordovician Deadwood Fm. in Central ND: Implication towards reservoir presence and quality, Rocky Mountain Section of AAPG, Keystone, CO, October 7.
 T. Nesheim, Renewed Exploration in the Red River Formation (Williston Basin) using 3-D Seismic, Rocky Mountain Section of AAPG, Keystone, CO, October 7.
 T. Nesheim, Looking beyond the Bakken at emerged/emerging plays in the Williston Basin during 2010-15, Rocky Mountain Section of AAPG, Keystone, CO, October 7.
 A. Gardner, Dinosaurs of ND, Wachter Middle School, Bismarck, October 7.
 L. Moxness, Rare Earth Elements in ND, Western Dakota Energy Association, Watford City, ND, October 8.
 A. Gardner, Paleontology lab Collections tour, public, Heritage Center, October 10.

- A. Gardner, Paleontology of ND, Lincoln Elementary School, Lincoln, October 14.
 A. Gardner, Paleontology lab and Collections tour, Sunset Care Center, Heritage Center, October 15.
 A. Gardner, C. Lash, Dino Day, public, Heritage Center, October 16.
 C. Maike, Sliding into View: Mapping 75,000+ Landslides in ND for Real-World Use, Geological Society of America Annual Meeting, San Antonio, TX, October 20.
 L. Moxness, Delimiting Stratigraphic Intervals of REE/CM Enrichment in Fort Union Lignites, Williston Basin, ND, Geological Society of America Annual Meeting, San Antonio, TX, October 22.
 J. Person, Paleontology lab and Collections tour, public, Heritage Center, October 28.
 L. Moxness, Critical Mineral Exploration on ND Trust Lands, ND Land Board, Governor's Conf. Room, October 31.
 A. Gardner, M. Householder, NDGS paleo and fossil prep kits, Girl Scout Big Event, Bismarck, November 1.
 A. Gardner, Paleontology of North Dakota, Wahpeton 3rd graders, Teams, November 4.
 A. Gardner, Paleontology of North Dakota, Wahpeton 3rd graders, Teams, November 5.
 J. Person, Paleontology lab and Collections tour, Minot State University, Dinosaur Class, Heritage Center, November 5.
 T. Nesheim, N. Wilkens, I. Faruqi, Core Library Tour, UND Campus visitors, Grand Forks, November 6.
 A. Gardner, Paleontology of North Dakota, Wahpeton 3rd graders, Teams, November 7.
 J. Person, Solving problems in paleontological excavations, Highland Acres 5th grade LEGO Robotics team, Teams, Nov.13.
 T. Nesheim, N. Wilkens, Core Library Tour, MSU Geology Sed/Strat Course, Grand Forks, November 21.
 T. Nesheim, Core Library Tour, UND Engineering and Construction Group, Grand Forks, December 5.
 A. Gardner, Dinosaurs of ND, Solheim Elementary School 3rd graders, Bismarck, December 10.
 A. Gardner, Paleontology lab and Collections tour, Legislative Council, Heritage Center, December 12.
 L. Moxness, Critical Minerals in ND, Northwest Landowners Association, Stanley, December 15.



A glacial erratic that was used as a bison rubbing stone in southern Morton County. A trench is worn around it and the upper edge of the granite boulder is rounded and polished from the rubbing.

North Dakota Department of Mineral Resources

GEOLOGICAL SURVEY

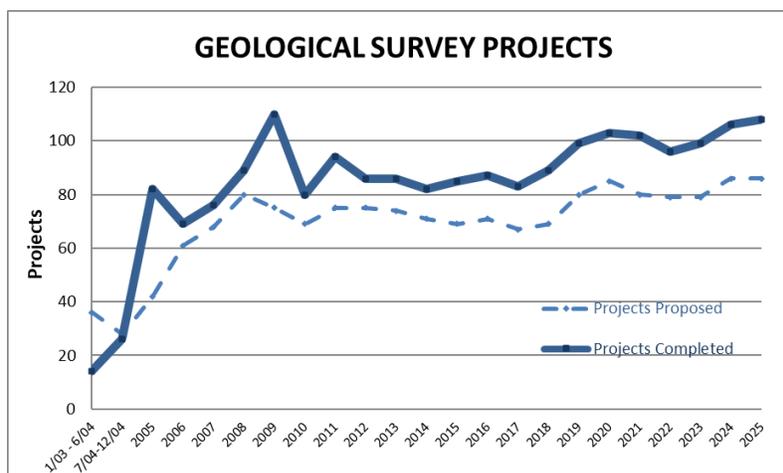
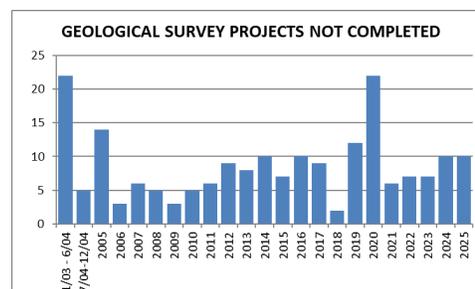
2025 STRATEGIC PLAN REVIEW

OVERVIEW

The 2025 Geological Survey Strategic Plan contained 86 one-year goals, 76 were completed as planned. We were able to complete 89% of the original projects even though longtime paleontologist Becky Barnes and subsurface geologist Ted Starns both left us at the end of June. It took us three months to hire their replacements, both of which have extensive previous work experience.

In addition to completing 76 of the original projects, we also completed 30 new projects for a total of 107 completed projects. Examples of a few of the projects added and completed in 2025 include: presentations at the 2025 Williston Basin Petroleum Conference in Regina, a report on the Red River Formation, an investigation of the proppant potential of sand deposits in the Hofflund Flats area, the drilling of 25 critical minerals testholes in five counties in west-central North Dakota, and the transfer of the remaining rocks and fossils from the NDSU and Concordia collections into the State Rock and Fossil Collections.

Proposed Projects	=	86
Projects Partially Completed	=	10
Projects Completed	=	76
Projects Added and Completed	=	32
Total Completed Projects	=	108



The proposed and completed projects in the Geological Survey's Strategic Plans (2003-2025).

SUBSURFACE ASSESSMENTS

One-year Plan:

1. Complete evaluation of Madison production by subinterval within Bottineau County.
2. Pilot gravity survey project in eastern North Dakota. (Initiated September)
3. Complete handheld XRF survey on all eastern North Dakota Precambrian basement cores. (15 cores)
4. Complete preliminary evaluation of Deadwood stratigraphy and sedimentology. (GI 290)
5. Middle Three Forks reservoir quality study.
6. Transfer core data from pdfs to spreadsheets using AI. (July 1)
7. Complete a petroleum source rock study of the Pronghorn Member. (GI 291)
8. Complete an evaporite mineralogy study of the Opeche Formation. (GI 289)
9. Complete a portion of the ND digital stratigraphic column and post on the Survey website.

Added Projects:

1. Initiated digitizing log donation program. (March 17)
2. One presentation at WBPC core workshop in Regina. (April 22)
3. Two Survey presentations were given at the WBPC in Regina. (April 23)
4. Presentation on the Cambrian-Ordovician rocks in the Williston Basin, ND Geological Society. (May 27)
5. Evaluation of the success rates for 25 enhanced oil recovery projects in North Dakota. (June 1)
6. A Red River Fm. presentation was given at the SIPES Annual Convention in Fort Worth. (June 9)
7. Presentations on Emerging Oil and Gas Plays Beyond the Bakken at the ND Petroleum Council Annual mtg, (9/19), and at the AAPG Annual Meeting. (October 7)
8. Collected 36 produced water samples (various formations) with the USGS for lithium analysis. (August 25)
9. Report on Red River Formation Interval Play. (RI 138)

CORE AND SAMPLE LIBRARY

One-Year Plan:

1. **Photograph 10,000 feet of core and add to website. (4,153 ft depth registered & photographed)**
2. Complete 10,000 feet of tripod (multi-box) core photography. (11,553 ft photographed)
3. Complete core inventory of two additional rows of shelving.
4. Review well files for coring records (NDIC numbers 1 – 1,000). (NDIC numbers 1-3,157)
5. **Photograph thin sections as they become available, post on the DMR website. (video card not working)**
6. Photograph new core (single photography) as submitted, post on the DMR website. (2,565 ft)
7. Complete core gamma ray upon request for visiting scientists (1,000 feet). (2,661 ft)
8. Continue to assist with janitorial duties at building.

Added Projects:

1. Renamed pre-existing tripod core photos with new Oil & Gas IT naming system. (490 wells)
2. Managing the UND rock and fossil collection.
3. Contacted architects and structural engs. to investigate cracks in the ceiling panels in the 2016 addition.
4. Improvements in the financial tracking of the UND billing system.

GEOHERMAL ASSESSMENTS

One-year Plan:

1. Evaluate the temporarily abandoned wells to identify good candidates for temperature logging.
2. Publish a set of temperature maps from the Pierre Formation down to the Bakken Formation. (GI 284)

LIGNITE ASSESSMENTS

One-Year Plan:

1. Interpret lithologies from 200 oil and gas gamma logs and place into coal database.
2. Convert additional data in DOS-based program into PETRA coal database. (project completed)

GEOLOGIC MAPPING

Detailed Surface or Subsurface Mapping

One-Year Plan:

1. Publish the surface geology of two quadrangles in the Camp Grafton area.
2. Publish the surface geology of one quadrangle in the Fargo area. (Leonard)
3. **Publish the surface geology of one quadrangle in the Bismarck area.**
4. **Complete mapping of the Brenna Formation in Richland County.**
5. Complete bedrock mapping of one county in southeastern North Dakota. (Richland)
6. Update quadrangles as new LiDAR flights become available.

Added Projects:

1. Published the surface geology of one additional quadrangle in the Fargo area. (Ayr SE)
2. Published the surface geology of one additional quadrangle in the Fargo area. (Bygland)
3. Published the surface geology of one additional quadrangle in the Fargo area. (Thompson)
4. Published the surface geology of one additional quadrangle in the Sheridan County. (Pickardville)

Mineral Resource Mapping

One-Year Plan:

1. Publish a report on the 2024 critical minerals drilling project. (RI 137)
2. Publish a critical minerals report on rocks in central and southwestern North Dakota. (RI 137)
3. Publish potash maps for the Watford City 100K sheet. (GI 286)

4. Publish potash maps for the Williston 100K sheet. (GI 283)

Added Projects:

1. Investigation and testing of sand deposits at Hoffland Flats east of Williston. (GI 287)
2. Drilled and cored 25 critical minerals testholes in west-central North Dakota. (Sept 9 – Sept 26)
3. Published a report on the K₂O content of the White Bear Mbr (Prairie Fm) in the Killdeer 100K. (GI 288)

Geologic Hazards Mapping

One-Year Plan:

1. Publish 50 Phase III landslide maps (1:24,000) in southwestern North Dakota. (70 completed)
2. Publish 50 Phase III landslide maps (1:24,000) in northwestern North Dakota. (north-central)
3. Phase IV landslide mapping in the Belfield and Bismarck 100K sheets.
4. Publish landslide compilation maps for two counties in North Dakota.
5. Utilize drone for landslide mapping as needed and assist other agencies.

Added Projects:

1. Published the landslide map for Golden Valley County.
2. Published the landslide map for Traill County.
3. Published the landslide map for Slope County.
4. Published the landslide map for Bowman County.
5. Published the landslide map for Adams County.
6. 56 Additional landslide quadrangles in north-central ND.
7. 50 additional landslide quadrangles in south-central ND.
8. 58 additional landslide quadrangles in south-central ND.

PALEONTOLOGICAL ACTIVITIES

One-Year Plan:

1. Conduct one week of excavations at the northwestern ND mammoth site. (Sept 29 – Oct 3)
2. Administer the Medora Public Fossil Dig.
3. Administer a two-week paleo camp for High School students.
4. Administer Bismarck Public Fossil Dig.
5. Administer the Pembina Gorge Fossil Dig.
6. Conduct one week of excavations at Tyrannosaurus rex site. (Sept 8 – Sept 13)
7. Design, construct, and install a new fossil exhibit in the Paul Broste Museum.
8. Complete a new funding agreement with the US Forest Service for 2025.
9. Evaluate a public fossil exhibit outside of Bismarck to determine if it needs updating. (UND exhibits)
10. Enter all publications that include NDGS fossils into the Specify database.
11. Conduct 24 tours of the Corridor of Time Exhibit or the Paleo Lab at the Heritage Center.
12. Prepare 150 field jackets (or 650 prep units) from the backlog in field storage. (B. Barnes left the agency)
13. Install the Dakota arm replica and bite mark exhibit update at the Heritage Center. (Waiting on SHSND)
14. Assess land tracts for development for potential impact on paleo resources for the Land Dept.
15. Interact with federal agencies to assure effective management of ND paleontological resources.
16. Present lectures on prehistoric life in North Dakota to public and academic groups.
17. Conduct fossil survey of outcrops on ACOE Lands along Missouri River.

Added Projects:

1. Transferred the remaining fossils & rocks from the Concordia (April) and NDSU (May, August) collections into the State Rock and Fossil Collections.
2. Began an inventory of portions of the UND fossil collection.

STATE FOSSIL COLLECTION

One-Year Plan:

1. Collect, prepare, and curate fossil specimens from public digs and agency digs into the collection.
2. Organize, catalog, and curate the Miocene and Pliocene vertebrate fossils. (518 specimens)
3. Enter 2,000 specimens into the Specify database program. (entered 8,186 specimens)
4. Organize and catalog the remaining portion of the Paleocene vertebrate fossils. (472 specimens)

Added Projects:

1. Initiated a study of the radon concentrations in the fossil cabinets.

STATE ROCK AND MINERAL COLLECTION

One-Year Plan:

1. Collect, prepare, and curate rocks and minerals collected by NDGS staff or from donations.

GEOLOGIC AND PALEONTOLOGIC REVIEWS OF INFRASTRUCTURE PROJECTS

One-Year Plan:

1. Complete environmental reviews of landfill permit applications, coal mine permit applications, wind farms, as well as highway, pipeline, and transmission line corridors in a timely manner.
2. Continue to review siting applications, permits, and NEPA comment solicitations from industry and State agencies and provide assistance and guidance as requested.

REGULATORY ACTIVITIES

One-Year Plan:

1. Continue to evaluate fee and bond amounts for the coal exploration program in additional states.
2. Transfer nonconfidential geophysical coal logs from confidential file to public file.
3. Issue permits for coal exploration in a timely manner.
4. Issue permits for subsurface minerals in a timely manner.
5. Issue permits for geothermal facilities in a timely manner.
6. Issue permits for fossil collecting on State administered lands in a timely manner.
7. Answer inquiries from industry and the public regarding program rules and regulations.

OUTREACH ACTIVITIES

Public Outreach

One-Year Plan:

1. Continue providing educational content to users on Facebook, Twitter, and Instagram.
2. Publish eight geology articles in the DMR newsletter.
3. For the third year in a row, offer a Continuing Education Field Course for ND Teachers.
4. Assist with the 2025 ND Lignite Energy Council Teacher Seminar.
5. Prepare a program for the 2025 National Fossil Day.
6. Prepare a program for the 2025 Earth Day Festival.
7. Assist with the 2025 Science Olympiad.
8. Assist with the 2025 State or Regional Science Fairs.
9. **Create an updated paleontology activity book for kids. (B. Barnes left the agency)**
10. Provide public presentations pertaining to a variety of geologic topics in ND.
11. Prepare a program for the 2025 Girl Scouts Big Event.
12. Publish DMR newsletter in a timely manner.
13. Continue to maintain a wide variety of map products related to North Dakota.

Added Projects:

1. **Six additional newsletter articles. (14 total articles)**

Survey Web Page

One-Year Plan:

1. Continue to investigate webpage formats that functions best on a cell phone.
2. Determine if we can move all existing maps from the original site over to the new website and close down the original site.

Computerized Geologic Database

One-Year Plan:

1. Identify geologic data to be scanned and placed into a Survey database.

Information Dissemination

One-Year Plan:

1. Publish investigation results as NDGS publications, peer-reviewed journal articles, or industry pubs.
2. Place digital copies of maps and reports on Survey website.
3. Place shape files of coal, uranium, landslides maps, etc on the website for download.

North Dakota Department of Mineral Resources

GEOLOGICAL SURVEY

2026 STRATEGIC PLAN

MISSION

To serve as the primary source of geologic information in the state by: 1) interpreting the state's geologic setting; 2) conducting geological investigations that emphasize the state's economic products, geological hazards, and energy resources; 3) establishing a scientific framework from which to base regulatory programs; and 4) operating and maintaining a public repository for fossils, rock specimens, rock cores, well cuttings, and associated geologic data.

OVERVIEW

The 2026 Geological Survey Strategic Plan contains 91 one-year goals and 67 long-term goals. In all likelihood, in the coming months we will be adding projects to the plan in response to shifting priorities as well as delaying some of the projects listed here in order to complete the new, higher priority projects.

SUBSURFACE ASSESSMENTS

One-year Plan:

1. Prepare booth exhibits and manage a booth at 2026 NAPE.
2. Organize and manage the geology section of the 2026 Williston Basin Petroleum Conference.
3. Give two presentations at the 2026 Williston Basin Petroleum Conference.
4. Complete report on the petroleum source rock potential of the Icebox Formation.
5. Publish report on the XRF analysis of the salt/potash layers in the Prairie Formation.
6. Expand the pilot gravity survey project in eastern North Dakota, finish Pembina County.
7. Complete handheld XRF surveys on 15 additional eastern North Dakota Precambrian basement cores.
8. Evaluate production/economics of Bakken-Three Forks wells with three- to four-mile laterals.
9. Publish geochemical data regarding the source rock potential of the Pronghorn Member.
10. Add five formations to the digital stratigraphic column.

Long-Term Plan:

1. Add one subsurface geologist to expedite subsurface studies and review SM permit applications.
2. Develop A.I. to read and search well files for information as well as digitize geologic information into modern formats.
3. Generate stratigraphic information on the subsurface rocks in North Dakota.
4. Generate information on current and future oil and gas plays beneficial to industry and ND citizens.
5. Determine the three-dimensional framework geology (stratigraphy & structure) of the Williston Basin.
6. Continue involvement in the Williston Basin Petroleum Conference.

CORE AND SAMPLE LIBRARY

One-Year Plan:

1. Photograph slabbed core as submitted to the core library and post on DMR website.
2. Complete 10,000 feet of tripod (multi-box) core photography.
3. Complete core inventory of three additional rows of shelving.
4. Review well files for coring records (NDIC numbers 4,000 – 6,000).
5. Fix or replace the Leeds microscope computer, photograph thin sections as they become available and post on the DMR website.
6. Complete 1,000 ft of gamma ray core scans, fulfill core requests from visiting scientists.
7. Continue to assist with janitorial duties at building.

Long-Term Plan:

1. Post all core analyses on website.
2. Photograph all 487,000 feet of core in the core library (prioritize based upon industry interest).
3. Generate a tripod core photography viewer and post tripod core photography to Premium Services.
4. Complete physical inventory of all cores in the core library, review digital records of core.
5. Identify whole core holdings and determine what should remain whole and what should be slabbed.
6. Take a large-view photograph of each thin section and add it to the subscription site.
7. Expand promotional activities of the core library to both industry and academia.
8. Automate core removal from shelving and its return.

GEOHERMAL ASSESSMENTS

One-year Plan:

1. Evaluate temporarily abandoned oil wells to identify good candidates for temperature logging.
2. Evaluate the temperature probe, as well as the probe/data storage software interface.

Long-Term Plan:

1. Publish geothermal maps constructed from downhole temperature logs for all of western North Dakota.
2. Enhance ability to respond quickly to requests for subsurface temperature data.

LIGNITE ASSESSMENTS

One-Year Plan:

1. Interpret lithologies from 200 oil and gas gamma logs and place into coal database.

Long-Term Plan:

1. Evaluate feasibility and usability of a 1:250K series of coal map sheets.
2. Enhance ability to respond quickly to requests for lignite data.
3. Evaluate feasibility of scanning all public coal logs into a web-based system.

GEOLOGIC MAPPING

Detailed Surface or Subsurface Mapping

One-Year Plan:

1. Publish the surface geology of two quadrangles in southwestern North Dakota.
2. Publish the surface geology of one quadrangle in the Fargo area.
3. Publish the surface geology of one quadrangle in the Bismarck area.
4. Complete mapping the Brenna/Argusville Formations in Richland County.
5. Evaluate the applicability of INSAR/NISAR data for future Survey mapping projects.
6. Update quadrangles as new LiDAR flights become available.

Long-Term Plan:

1. Add two surface geologists to assist with the mapping program utilizing federal STATEMAP funds.
2. Complete the surface geology of all 1,472 (24K) quadrangles in North Dakota.
3. Publish isopachs and contour maps of all the shallow subsurface fms. and mappable intervals in ND.
4. Expand investigative resources through the means of a permanent drilling fund.
5. Complete engineering geologic and geotechnical investigations of all major urban areas in ND.
6. Complete statewide mapping of North Dakota's bedrock.
7. Investigate the use of terrestrial LiDAR and shallow geophysical methods for enhancing mapping.

Mineral Resource Mapping

One-Year Plan:

1. Select 50 potential drill sites, obtain county permits, clear sites thru OneCall.
2. Manage a 25-hole critical minerals drilling program.
3. Use a portable XRF to analyze hundreds of intervals within select cores.
4. Plug and reclaim all drill sites and inspect the 2025 drill sites.
5. Publish a report on the 2025/2026 critical minerals drilling project.
6. Publish an outside article on critical minerals in North Dakota lignites.
7. Publish potash cross sections across the entire extent of the Prairie Formation.

Long-Term Plan:

1. Complete mapping of all known nonhydrocarbon mineral deposits in ND at a scale of 1:24,000.
2. Update existing maps, such as uranium, as information becomes available.
3. Digitize all uranium logs in our well files.
4. Compile geochemical type sections for each bedrock formation in ND.
5. Publish paleosol and volcanic ash atlases describing the critical mineral source beds in ND.

Geologic Hazards Mapping

One-Year Plan:

1. Publish 75 Phase III landslide maps (1:24,000) in south-central North Dakota.
2. Publish 75 Phase III landslide maps (1:24,000) in northwestern North Dakota.
3. Complete Phase IV landslide mapping in the Bismarck 100K sheet.
4. Assist Oil & Gas Division in identifying slope stability problems along well pads/infrastructure.
5. Publish landslide compilation maps for two counties in North Dakota.
6. Utilize drone for landslide mapping as needed and assist other agencies.

Long-Term Plan:

1. With the assistance of repeat LiDAR surveys, map active landslides at 1:24,000 across all of ND.
2. Obtain 1938 stereo pair aerial photos of ND.
3. Convert photos to digital database and map landslides on computer.
4. Investigate opportunities to incorporate AI and Machine Learning into the landslide mapping workflow.

PALEONTOLOGICAL ACTIVITIES

One-Year Plan:

1. Conduct two weeks of excavations at the northwestern ND mammoth site.
2. Administer a two-week paleo camp for High School students (Sternberg Camp).
3. Administer Bismarck Public Fossil Dig.
4. Administer the Pembina Gorge Public Fossil Dig.
5. Administer the Dickinson Public Fossil Dig.
6. Conduct one week of excavations at Tyrannosaurus rex site.
7. Assist the Paul Broste Rock Museum in Parshall with repairing and updating their fossil displays.
8. Host the national meeting of the Association of Materials and Methods in Paleontology.
9. Evaluate a public fossil exhibit outside of Bismarck to determine if it needs updating.
10. Complete an inventory of the NDSU rock and fossil collection.
11. Conduct 24 tours of the Corridor of Time Exhibit or the Paleo Lab at the Heritage Center.
12. Prepare 100 field jackets from the backlog in field storage.
13. Complete preparation of the Williston bison.
14. Assess land tracts for development for potential impact on paleo resources for the Land Dept.
15. Interact with federal agencies to ensure effective management of ND paleontological resources.
16. Present lectures on prehistoric life in North Dakota to public and academic groups.
17. Conduct fossil survey of outcrops on ACOE Lands along Missouri River.

Long-Term Plan:

1. Add a paleontology technician to assist with cataloging the State Fossil Collection.
2. Add a paleontology technician to assist with expansion of the digs program.
3. Continue to expand the public fossil dig program with the addition of personnel.
4. Investigate fifty towns and cities in North Dakota for additional paleontology exhibit opportunities.
5. Update the paleontology website with a focus on the Fossil ID, Publications, and Outreach pages.
6. Develop a procedure and associated database for 3D-scanned fossils from North Dakota.
7. Expand public outreach, including tours of the lab and fossil exhibits, public lectures, field trips, identification of fossils for the public, participation in science Olympiads and science fairs, etc.
8. Continue to conduct research to learn more about North Dakota's prehistoric life.
9. Continue publishing technical and non-technical articles about the prehistoric life of North Dakota.
10. Inventory and organize the paleontological reprint collection.
11. Partner with the State Library to compile a searchable inventory of the paleontology research library.
12. Design a mobile fossil preparation lab trailer to use with the Public Fossil Digs and outreach events.
13. Begin accession of the UND fossil collection into the North Dakota State Fossil Collection.

STATE FOSSIL COLLECTION

One-Year Plan:

1. Collect, prepare, and curate fossil specimens from public digs and agency digs into the collection.
2. Print and associate labels with the Paleozoic and Mesozoic vertebrate collections.
3. Enter 2,000 specimens into the Specify database program.
4. Complete a report documenting radon concentrations in the fossil cabinets and identify solutions.

Long-Term Plan:

1. Continue collection and curation of North Dakota fossil specimens.
2. Prepare fossil specimens for scientific study, public display, and educational use.
3. Catalog all vertebrate specimens from the Hell Creek Formation into the Specify database.

STATE ROCK AND MINERAL COLLECTION

One-Year Plan:

1. Collect, prepare, and curate rocks and minerals collected by NDGS staff or from donations.

Long-Term Plan:

1. Continue collection and curation of North Dakota rock and mineral specimens.
2. Prepare rock and mineral specimens for scientific study, public display, and educational use.

3. Incorporate UND rock collection into the State Rock and Mineral Collection.

GEOLOGIC AND PALEONTOLOGIC REVIEWS OF INFRASTRUCTURE PROJECTS

One-Year Plan:

1. Complete environmental reviews of landfill permit applications, coal mine permit applications, wind farms, as well as highway, pipeline, and transmission line corridors in a timely manner.
2. Continue to review siting applications, permits, and NEPA comment solicitations from industry and State agencies and provide assistance and guidance as requested.

Long-Term Plan:

1. Convert the current geologic review IT process into a searchable GIS/database driven format for more efficient and stable program management.

REGULATORY ACTIVITIES

One-Year Plan:

1. Guide the critical mineral rules through the rule-making process.
2. Continue to evaluate fee and bond amounts for the coal exploration program in additional states.
3. Transfer nonconfidential geophysical coal logs from confidential files to public files.
4. Issue permits for coal exploration in a timely manner.
5. Issue permits for subsurface minerals in a timely manner.
6. Issue permits for geothermal facilities in a timely manner.
7. Issue permits for fossil collecting on State administered lands in a timely manner.
8. Answer inquiries from industry and the public regarding program rules and regulations.

Long-Term Plan:

1. Propose the needed statute and rule changes to keep the regulatory programs functioning efficiently.

OUTREACH ACTIVITIES

Public Outreach

One-Year Plan:

1. Continue providing educational content to users on Facebook, Twitter, and Instagram.
2. Publish eight geology articles in the DMR newsletter.
3. Offer a Continuing Education Field Course for ND Teachers.
4. Assist with the 2026 ND Lignite Energy Council Teacher Seminar.
5. Prepare a program for the 2026 National Fossil Day.
6. Prepare a program for the 2026 Earth Day Festival.
7. Assist with the 2026 Science Olympiad.
8. Assist with the 2026 State or Regional Science Fairs.
9. Create an updated paleontology activity book for kids.
10. Provide public presentations pertaining to a variety of geologic topics in ND.
11. Prepare a program for the 2026 Girl Scouts Big Event.
12. Publish the DMR newsletter in a timely manner.
13. Continue to maintain a wide variety of map products related to North Dakota.

Long-Term Plan:

1. Hire a full-time outreach person.
2. Prepare guidebooks for general public field trips in areas of interest in North Dakota.
3. Meet with industry and state and federal agencies to assess study topics, on an as-needed basis.
4. Develop a six-volume educational series on the paleontology of North Dakota.
5. Produce a series of children's books on fossils including coloring books.

Survey Web Page

One-Year Plan:

1. Update and enhance the Survey map viewer.
2. Continue to investigate webpage formats that functions best on a cell phone.
3. Determine if we can move all existing maps from the original site over to the new website and close down the original site.

Long-Term Plan:

1. Continue to place relevant geologic information and related technical material on the website.
2. Scan all the electric and geologic logs from coal and uranium exploration holes.

Computerized Geologic Database

One-Year Plan:

1. Identify geologic data to be scanned and placed into a Survey database.

Long-Term Plan:

1. Complete digitization of existing databases and maintain files.

Information Dissemination

One-Year Plan:

1. Publish investigation results as NDGS publications, peer-reviewed journal articles, or industry pubs.
2. Place digital copies of maps and reports on the Survey website.
3. Place shape files of coal, uranium, landslides maps, etc on the website for download.

Long-Term Plan:

1. Create digital files for all of the Geological Survey's historic documents.
2. Study the feasibility of scanning all stereopair aerial photographs in the Survey collection and, unless prohibited by agreement, provide to the general public.
3. Scan electric and geologic logs from coal and subsurface mineral files and place on website.

**NORTH DAKOTA INDUSTRIAL COMMISSION
DEPARTMENT OF MINERAL RESOURCES
GEOLOGICAL SURVEY**

**CASE NO. 32456
CONSIDERATION OF ORAL AND WRITTEN COMMENTS**

The following is a written record of the Industrial Commissions consideration of all oral and written comments received regarding its proposed creation of North Dakota Administrative Code (NDAC) Chapter 43-02-02.5. The purpose of this record is to comply with North Dakota Century Code (NDCC) Section 28-32-11.

**I.
INTRODUCTION**

On January 20, 2026, a public hearing was held pursuant to NDCC Section 28-32-11. The hearing notice was sent to the North Dakota Newspaper Association and published on ndpublicnotices.com on December 10, 2025. The notice was published in the following North Dakota newspapers between December 10, 2025 and December 16, 2025: Adams County Record, Ashley Tribune, Benson County Farmers Press, Billings County Pioneer, Bismarck Tribune, Bottineau Courant, Bowman County Pioneer, Burke County Tribune, Cavalier Chronicle, Center Republican, Crosby Journal, Devils Lake Journal, Dickey County Leader, Dickinson Press, Emmons County Record, Foster County Independent, Golden Valley News, Grand Forks Herald, Griggs County Courier, Hazen Star, Hettinger County Herald, Hillsboro Banner, Jamestown Sun, LaMoure County Chronicle, Lakota American, Mandan News, McClusky Gazette, McKenzie County Farmer, McLean County Independent, Minot Daily News, Mountrail County Promoter, Mouse River Journal, Napoleon Homestead, Pierce County Tribune, Ransom County Gazette, Renville County Farmer, Sargent County Teller, Steele County Press, Steele Ozone & Kidder County Press, The Forum of Fargo Moorhead, The Herald-Press, Towner County Record Herald, Valley City Times, Wahpeton Daily News, Walsh County Record, Williston Herald. Four newspapers did not run the notice until we made a second request to the North Dakota Newspaper Association. The Carson Press and Grant County News ran the notice on December 25, 2025, the New Rockford Transcript and the Turtle Mountain Star ran the notice on January 5, 2026. Although the latter two newspapers ran the notice only 15 days before the hearing, the notice had been posted on the ND Newspaper Association's website for 41 days, 21 days prior to the 20-day hearing requirement.

No one appeared to give oral testimony regarding the new rules at the hearing on January 20, 2026. However, 16 written comments were received on January 30, 2026 from:

- 1) Joe Heringer (ND Trust Lands Commissioner)
- 2) Jonathan Fortner (Lignite Energy Council President and CEO)

A condensed version of the comments received and the responses to those comments are as follows:

II.
COMMENTS
EXPLORATION AND PRODUCTION OF CRITICAL
MINERALS IN COAL-BEARING FORMATIONS

NDAC Section 43-02-02.5-01. Definitions

1) *ND DEPARTMENT OF TRUST LANDS Comment:*

The DTL believes an expanded definition of “gross proceeds” would clarify its scope and provide guidance in future rulemaking, permitting, reporting, or enforcement contexts.

Action Taken: Removed “gross proceeds” from the definitions section.

Rationale: “Gross proceeds” was removed from the text of the rules late in the rule-making process and we neglected to delete it from the definitions section until now.

2) *LIGNITE ENERGY COUNCIL Comment:*

The Lignite Energy Council recommended we define the term “Commission” as the North Dakota Industrial Commission to avoid potential confusion with the North Dakota Public Service Commission.

Action Taken: We added the definition to 43-02-02.5-01(2): “Commission” means the Industrial Commission.

Rationale: This makes it clear in these rules that the word “commission” always refers to the Industrial Commission and not the Public Service Commission.

3) *ND DEPARTMENT OF TRUST LANDS Comment:*

The DTL believes a revised definition of “waste” would benefit from clarification to ensure its administration is consistent with the Legislature’s stated intent in NDCC 38-12. Comments included suggested amendments.

Action Taken: Keep “waste” definition the same.

Rationale: The proposed definition of “Waste” was copied over from NDAC 43-02-02 (another rule chapter under NDCC 38-12). We wanted to stay consistent with the definitions in the rules under NDCC 38-12.

4) *LIGNITE ENERGY COUNCIL Comment:*

The Lignite Energy Council recommended we define the term “Critical Minerals” and “Rare Earth Minerals” in the rule to promote regulatory consistency.

Action Taken: No action taken.

Rationale: “Critical minerals” and “rare earth elements” are already defined in NDCC 38-12, it would be redundant to define them again in the rules (NDAC 43-02-02.5-01).

NDAC Section 43-02-02.5-02. Scope of chapter

5) *ND DEPARTMENT OF TRUST LANDS Comment:*

The DTL states that North Dakota law distinguishes between rules of general applicability and case-specific orders and the proposed language would benefit from clarification to ensure consistency with NDCC 28-32, the Administrative Agencies Practice Act. Comments included suggested amendments.

Action Taken: No action taken.

Rationale: NDCC 38-12-03 states that “The administrative procedure involved in the adopting of any rules or regulations or the issuance of any orders by the commission under the provisions of this chapter must be in accordance with the provisions of chapter 38-08 governing the procedure in the administration of the Oil and Gas Conservation Act.” NDAC 43-02-02.5-02 is copied verbatim from NDAC 43-02-03-02.

NDAC Section 43-02-02.5-09. Exploration permit

6) *ND DEPARTMENT OF TRUST LANDS Comment:*

The DTL noted the proposed rule does not include an application requirement to document the applicant’s legal right to enter the permit area and conduct operations, including arrangements for compensation to the surface owner for loss of agricultural production, such as found in NDAC 43-02-02.3-10 for small mining operations. The DTL suggested a similar requirement placed in this section would promote consistency across Commission rules and ensure lawful access. Comments included suggested amendments.

Action Taken: No action taken.

Rationale: The proposed language does not appear in NDAC 43-02-01 Coal Exploration, the program under which critical minerals exploration has been taking place up until now. The proposed language also does not appear in NDAC 43-02-02, NDAC 43-02-02.2, or NDAC 43-02-02.4, but does in NDAC 43-02-02.3 Surface Mining (we’ve determined that this language is not warranted and will be removed from NDAC 43-02-2.3-10 via rule-making in the future).

7) *ND DEPARTMENT OF TRUST LANDS Comment:*

The DTL requested clarification of proposed NDAC 43-02-02.5-09 to confirm that the exploration permit exemption within a coal mine permit boundary and the application of coal mining thresholds do not displace the substantive requirements of this chapter applicable to critical mineral activities. Included suggested amendments.

Action Taken: The second paragraph (NDAC 43-02-02.5-09) is amended to read: A critical minerals exploration permit is not required within a coal mine permit boundary, but a permit from the public service commission is required. However ownership and all exploratory data used to determine critical mineral concentrations shall be provided to the commission.

Rationale: We corrected a potential misinterpretation of the rule, emphasizing that exploration holes within a mine permit boundary are under the jurisdiction of the Public Service Commission.

NDAC Section 43-02-02.5-11. Processing facility permit

8) *ND DEPARTMENT OF TRUST LANDS Comment:*

The DTL pointed out a formatting error and also noted NDAC 43-02-02.5-11(4) provides that if there is a fire, leak, spill, or release of fluid that travels offsite of the facility, the responsible party shall notify the surface owner “within a reasonable time”. DTL recommended that this provision be revised to reflect the same timeframe for director notification already specific in this section – within twenty-four hours after discovery. Comments included suggested amendments.

Action Taken: Made the recommended changes by moving “and” from the end of the first bullet point to the second one and replaced “a reasonable time” with “twenty-four hours after the discovery of the incident”.

Rationale: Corrected a formatting error and established a finite timeframe for reporting a spill.

NDAC Section 43-02-02.5-11(5)(c). Processing facility permit

9) *LIGNITE ENERGY COUNCIL Comment:*

The Lignite Energy Council recommended clarification to this subsection regarding compliance with “Article 43-02,” which in their view is extremely broad and does not appear to contain specific “critical mineral performance standards.” Comments included suggested amendments.

Action Taken: Removed NDAC Section 43-02-02.5-11(5)(c).

Rationale: After review, we determined 43-02-02.5-11(5)(c) was confusing and did not give the Industrial Commission any additional regulatory authority beyond what was already provided in 43-02-02.5-11(5) which states. “Unless otherwise approved in the reclamation plan, all buildings and infrastructure must be removed. All disturbed lands must be reclaimed to a condition consistent with prior land use and productive capacity.”

NDAC Section 43-02-02.5-21. Report of production

10) *ND DEPARTMENT OF TRUST LANDS Comment:*

The DTL believes in order to enable mineral owners to verify that statutory royalty obligations are being met, while preserving confidentiality, the Commission should allow mineral interest owners, or their authorized representatives, access to production data. Or at least be shared with other state agencies, upon request, for purposes of administering statutory duties related to mineral ownership, royalty oversight, or trust administration. Comments included suggested amendments.

Action Taken: Changed the language to enable the commission to share production data with other state agencies, upon request, for purposes of administering statutory duties related to mineral ownership, royalty oversight, or trust administration. Such other state agencies shall not share such data with any other entity and shall protect the confidentiality of any such production data subject to the requirements of NDCC ch. 44-04.

Rationale: Requiring the Industrial Commission to report critical minerals production data to individual mineral owners, when requested, would likely be overly burdensome. Additionally, the ability of the mineral owner to check the company’s production records is written into at least some coal leases.

11) *ND DEPARTMENT OF TRUST LANDS Comment:*

The DTL suggests extensions of confidentiality should be limited to a defined duration of two years, supported by a finding of good cause, and structured in a manner consistent with the statutory timing of royalty payment and verification requirements set forth in NDCC 38-12-06(10). Comments included suggested amendments.

Action Taken: No action taken.

Rationale: The need for confidentiality is likely to be greatest at the beginning of a fledgling industry. Therefore, it is best to leave the limit of confidentiality to the commission, where the question can be evaluated, rather than establish a hard stop.

NDAC Section 43-02-02.5-22. Commingled production

12) *ND DEPARTMENT OF TRUST LANDS Comment:*

DTL points out that the century code specifies that production of critical minerals, when extracted and sold, be commingled, but does not specify when commingling must occur. They feel commingling should occur after processing, when recovered critical minerals concentrations can be measured for royalty purposes. Comments included suggested language.

Action Taken: No action taken.

Rationale: The law does not specify the timing of commingling, but it does state in NDCC 38-12-06(10) “An operator shall pay any applicable mineral owner, according to each mineral owner’s respective undivided ownership of coal....”

13) *ND DEPARTMENT OF TRUST LANDS Comment:*

The DTL wants to limit commingling by mined area and calendar year, for purposes of allocation and royalty calculation. Comments included suggested language.

Action Taken: The definition of “mined area” was changed in 43-02-02.5-01 to read: “Mined area” means the area where coal has been mined for its critical mineral content inside the boundaries of a Public Service Commission approved mine permit within one calendar year.

Rationale: This adjustment to the definition adds needed specificity for the purpose of allocating production and payment of royalties.

14) *LIGNITE ENERGY COUNCIL Comment:*

The LEC wants to change “must commingle” to “may commingle” when the coal is sourced from multiple ownership parcels, enabling commingling where it is operationally necessary.

Action Taken: None taken.

Rationale: The law specifically states that “production must be commingled,” so we do not believe we have the authority to change “must” to “may”.

15) *LIGNITE ENERGY COUNCIL Comment:*

LEC notes that the rule does not explain how an operator is expected to accomplish the commingling and allocation. LEC envisioned a process similar to what is used in oil and gas through force pooling or commingling orders issued by the Industrial Commission whereby an operator could apply to the NDIC for a commingling order establishing the method for allocating production and royalties. Suggested we use NDAC 43-02-02-22.3 as a model.

Action Taken: No action taken.

Rationale: Given the variable nature of critical mineral concentrations in coal and the variable recovery of those minerals in the processing (based on pilot plant project results), we struggled to prescribe a standard methodology in these rules. Instead, we decided that it would be best determined on a case-by-case basis through the permit application process and from then on through permit amendments, giving the Industrial Commission flexibility as new processing methods or processing mediums are developed.

16) *LIGNITE ENERGY COUNCIL Comment:*

The Lignite Energy Council is concerned that the language “that owner’s equitable share” could be interpreted to require coal operators to renegotiate terms with each critical mineral interest owner, even where the coal is already subject to an existing coal lease. Comments included suggested amendments.

Action Taken: Changed the language in 43-02-02.5-22 to read “Each such mined area must afford to the owner of each tract or interest within the mined area the opportunity to recover or receive, without unnecessary expense, that owner’s equitable share based on the volume of mined coal.”

Rationale: More closely matches the intent of NDCC 38-12.

NDAC 43-02-02.5

Exploration and Production of Critical Minerals in Coal-Bearing Formations

- 43-02-02.5-01. Definitions.
- 43-02-02.5-02. Scope of chapter.
- 43-02-02.5-03. Enforcement of laws, rules, and regulations.
- 43-02-02.5-04. United States government leases.
- 43-02-02.5-05. Forms upon request.
- 43-02-02.5-06. Authority to cooperate with other agencies.
- 43-02-02.5-07. Organization reports.
- 43-02-02.5-08. Record of permits.
- 43-02-02.5-09. Exploration permit.
- 43-02-02.5-10. Exploration bond.
- 43-02-02.5-11. Processing facility permit.
- 43-02-02.5-12. Processing facility bond.
- 43-02-02.5-13. Mining permit.
- 43-02-02.5-14. Public availability of permit application information.
- 43-02-02.5-15. Confining of water to their original strata.
- 43-02-02.5-16. Method of plugging.
- 43-02-02.5-17. Testholes to be used for freshwater.
- 43-02-02.5-18. Inspections.
- 43-02-02.5-19. Basic data.
- 43-02-02.5-20. Exploration reports.
- 43-02-02.5-21. Report of Production.
- 43-02-02.5-22. Commingled Production.
- 43-02-02.5-23. Investigative powers.
- 43-02-02.5-24. Additional information may be required.
- 43-02-02.5-25. Books and records to be kept to substantiate reports.
- 43-02-02.5-26. Application for hearing.
- 43-02-02.5-27. Hearings - Proceedings.
- 43-02-02.5-28. Investigatory hearings.
- 43-02-02.5-29. Official record.
- 43-02-02.5-30. Petitions and oral arguments prohibited.
- 43-02-02.5-31. Notice of order by mail.
- 43-02-02.5-32. Service and filing.
- 43-02-02.5-33. Designation of examiners.
- 43-02-02.5-34. Powers and duties of examiner.
- 43-02-02.5-35. Report of examiner.
- 43-02-02.5-36. Commission order from examiner hearing.
- 43-02-02.5-37. Prehearing motion practice.

43-02-02.5-01. Definitions.

The terms used throughout this chapter have the same meaning as in North Dakota Century Code chapter 38-12, except:

1. "Certified mail" means any form of service by the United States postal service, federal express, Pitney Bowes, and any other commercial nationwide delivery service that provides the mailer with a document showing the date of delivery or refusal to accept delivery.
2. "Commission" means the industrial commission.
3. "Director" means the director of the department of mineral resources of the industrial commission.
4. ~~"Gross proceeds" means the gross receipts received by an operator from any sale of critical minerals which constitutes an arms-length transaction.~~
5. "Log or well log" means a systematic, detailed, and accurate record of one or more properties as a function of depth in an open or cased well bore. This includes but is not limited to geophysical, petrophysical, image, or engineered/composite logs, or other well bore measurements acquired while drilling or by wireline operations recorded in paper or digital format.
6. "Mined area" means the area where coal has been mined for its critical mineral content from within the boundaries of a public service commission approved mine permit within one calendar year.
7. "Processing facility" means a facility that extracts critical minerals from coal-bearing formations.
8. "Testhole" means any hole drilled for the purpose of gathering information on subsurface minerals.
9. "Waste" means:
 - a. Physical waste;
 - b. Operations which cause or tend to cause unnecessary or excessive surface loss; or
 - c. Operations that do not recover all of the mineral being mined that is technically and economically possible.

History:

General Authority: NDCC 38-12-02

Law Implemented: NDCC 38-12-02

43-02-02.5-02. Scope of chapter.

This chapter contains general rules of statewide application which have been adopted by the industrial commission to conserve the natural resources of North Dakota, to prevent waste, and to provide for operation in a manner as to protect correlative rights of all owners of subsurface minerals. Special rules, regulations and orders have been and will be issued when required and shall prevail as against general rules, regulations, and orders if in conflict therewith. However,

wherever this chapter does not conflict with special rules heretofore or hereafter adopted, this chapter will apply in each case. The commission may grant exceptions to this chapter, after due notice and hearing, when such exceptions will result in the prevention of waste and operation in a manner to protect correlative rights.

History:

General Authority: NDCC 38-12-02

Law Implemented: NDCC 38-12-02

43-02-02.5-03. Enforcement of laws, rules, and regulations.

The commission, its agents, representatives, and employees are charged with the duty and obligation of enforcing all rules and statutes of North Dakota relating to the exploration, development, and production of critical minerals. However, it shall be the responsibility of all owners or operators to obtain information pertaining to the regulation of subsurface minerals before operations have begun.

History:

General Authority: NDCC 38-12-02

Law Implemented: NDCC 38-12-02

43-02-02.5-04. United States government leases.

The commission recognizes that all persons exploring for, producing, or processing critical minerals on United States government land or for United States government minerals shall comply with the federal regulations. Such persons shall also comply with all applicable state rules and regulations.

History:

General Authority: NDCC 38-12-02

Law Implemented: NDCC 38-12-02

43-02-02.5-05. Forms upon request.

Forms for written notices, requests, and reports required by the commission will be furnished upon request. These forms shall be of such nature as prescribed by the commission covering proposed work, work in progress, and the results of completed work.

History:

General Authority: NDCC 38-12-02

Law Implemented: NDCC 38-12-02

43-02-02.5-06. Authority to cooperate with other agencies.

The commission may from time to time enter into arrangements with state and federal government agencies, industry committees, and individuals with respect to special projects, services, and studies relating to critical minerals.

History:

General Authority: NDCC 38-12-02

Law Implemented: NDCC 38-12-02

43-02-02.5-07. Organization reports.

Every person acting as principal or agent for another or independently engaged in the drilling for, or in the production, storage, transportation, refining, reclaiming, treating, marketing, or processing of critical minerals in North Dakota shall immediately file with the state geologist the name under which such business is being conducted and operated; the name and post-office address of such person; the business or businesses in which the person is engaged; the plan of organization, and in case of a corporation, the law under which it is chartered; and the names and post-office addresses of any person acting as trustee, together with the names and post-office addresses of any officials on an organization report. If such business is conducted under an assumed name, such organization report shall show the names and post-office addresses of all owners in addition to the other information required. A new organization report shall be filed when and if there is a change in any of the information contained in the report.

History:

General Authority: NDCC 38-12-02

Law Implemented: NDCC 38-12-02

43-02-02.5-08. Record of permits.

The state geologist shall maintain an official permit list in which shall be entered:

1. The name of the permitholder.
2. The permit number.
3. The date the permit was issued, and
4. The location (county) of the permit.

History:

General Authority: NDCC 38-12-02

Law Implemented: NDCC 38-12-02

43-02-02.5-09. Exploration permit.

A permit shall be required prior to commencement of operations for the exploration and evaluation of critical minerals. A permit shall be granted for one year upon receipt of a permit application, on a form provided by the commission, and the furnishing of a bond, as set out in this chapter, and the payment of a fee of one hundred dollars per permit. A permit shall be valid for one permit area only.

A critical minerals exploration permit is not required within a coal mine permit boundary, but a permit from the public service commission is required. ~~However~~ ownership and all exploratory data used to determine critical mineral concentrations shall be provided ~~upon request.~~ to the commission.

No coal shall be extracted for commercial sale during a critical mineral exploration operation. No other coal shall be extracted except for cores and samples necessary for testing and analysis. The removal of more than two hundred fifty tons [226.80 metric tons] of coal from an area shall be considered a surface coal mining operation and shall be subject to the requirements of North Dakota Century Code chapter 38-14.1 and the regulations of the public service commission promulgated thereunder.

The permit application shall include:

1. The name, address, and telephone number of the person seeking to explore.
2. The name, address, and telephone number of the representative who will be present at and responsible for conducting the exploration activities.
3. A precise description of the exploration area.
4. A statement of the period of intended exploration.
5. A description of the practices proposed to be followed to protect the environment from adverse impacts as a result of the exploration activities.
6. Any other information required by the commission.

History:

General Authority: NDCC 38-12-03

Law Implemented: NDCC 38-12-03

43-02-02.5-10. Exploration bond.

Any person engaged in critical mineral exploration and evaluation, or who proposes to do so, shall submit to the commission and obtain its approval of a surety bond or cash bond. An alternate form of security may be approved by the commission after notice and hearing, as provided by law, and such bond shall be required for each permit area. The bond shall be in the amount of one hundred dollars for each testhole drilled in the permit area. Each such surety bond shall be executed by a responsible surety company, authorized to transact business in the state of North Dakota. A blanket bond in the amount of ten thousand dollars, conditioned as above provided, may be submitted to cover any number of testholes drilled in one or more permit areas. The blanket bond shall cover all permits issued in one year commencing on the date the first permit covered by the bond is issued.

Any person providing a blanket bond in lieu of several individual bonds is required to comply with the rules, regulations, and orders of the commission in the same manner as if the person had provided several individual bonds. Violation shall result in forfeiture of the blanket bond in its entirety, if the violation would have resulted in forfeiture had the action in question been covered by an individual bond.

For the purposes of the commission the bond required is a performance bond, as well as a plugging bond, and is to endure up to and including receipt by the state geologist of all basic exploration data required by law and approved plugging of all holes drilled.

The commission will in writing advise the principal and sureties on any surety bond as to whether the provisions of statutes and rules have been satisfied, and that liability under the bond may be formally terminated.

The state geologist is vested with the power to act for the commission as to all matters within this section.

Any state or federal agency engaged in critical mineral exploration or evaluation shall be exempt from providing the bond.

History:

General Authority: NDCC 38-12-02

Law Implemented: NDCC 38-12-02

43-02-02.5-11. Processing facility permit.

A processing facility permit application is required prior to commencement of operations to create or construct a processing facility. The application for a processing facility permit must be filed with the director, together with a permit fee. The amount of the permit fee is determined by the state geologist based upon the cost for the commission to review, investigate, and process the application. No activity may commence until such application is approved and a permit is issued by the director. Upon successful review of the application, the amount of the facility bond will be determined. The permit application will not be approved until the facility bond is in effect.

Permit applications for a processing facility shall address the following:

1. Identification of interests to include:
 - a. The name and address of the operator responsible for the processing facility operations and reclamation of the site.
 - b. The name and address of the surface landowners of all land within the permit boundary of the processing facility.
2. Project location description and maps plotted at a scale to accurately identify locational landmarks and operational details, to include:
 - a. A legal description of the proposed processing facility permit area.
 - b. The general location as shown on a topographic map which gives the location the following: perennial, intermittent and ephemeral streams; springs and seeps; wetlands, riparian areas, lakes and other water bodies; residences, businesses, and other structures; existing and proposed roads; other access routes; support facilities; cemeteries; burial grounds; cultural resources listed on the national register of historic places; electrical transmission and communication lines; pipelines; and oil, gas, and water wells on and within one-half mile of the permit area.
 - c. An operations map that identifies:
 - (1) All buildings, structures, tanks, pits, vats, pipelines, access roads, and other types of infrastructure; a surface facilities map which identifies the locations of buildings; processing equipment; roads; underground utilities; power lines; proposed drainage control structures; the location of topsoil and subsoil storage areas, if warranted; tailings or processed waste facilities; and solid and liquid wastes and wastewater discharge treatment and containment facilities;
 - (2) Any dikes or berms or other structures that are meant to contain processing fluids onsite.
3. Operation plan. A brief narrative description of the proposed processing facility plan of operation. The description must include the following information:
 - a. A general description and list of the critical minerals sought and the methods of extraction. Any chemicals to be used onsite must be identified, where and how they will be stored, and where and how they will be disposed. Any forms of disposal will need to comply with the rules and regulations of the North Dakota Department of Environmental Quality.

- b. A geological cross-section across the permit application area to a depth of 100 feet.
 - c. An estimate of depth to ground water and general water chemistry.
 - d. Estimated width and length of any new roads to be constructed.
 - e. An estimate of the total number of surface acres to be disturbed by the processing facility.
 - f. A description of the plans for any structures that will be used for managing runoff from the site, if warranted.
 - g. A contingency plan to mitigate impacts to wildlife when there has been an emergency or accidental discharge of toxic substances that may impact wildlife.
 - h. A description of measures which will be undertaken to control sedimentation from the permit area and a plan for the monitoring of nonpoint source sediment pollution from the disturbed area.
4. Impact assessment. The operator shall provide a general narrative description identifying potential surface and subsurface impacts. At a minimum, this description is to include:
- a. Projected impacts to surface and groundwater systems; ~~and~~
 - b. Actions which are proposed to mitigate any of the above referenced impacts; and
 - c. A plan for the management of waste streams in accordance with chapters 33.1-25-01, 33.1-20-01.1, 33.1-20-09, and 33.1-16-01, as applicable.

All persons controlling or operating any processing facility shall verbally notify the director within twenty-four hours after discovery of any fire, leak, spill, or release of fluid. If any such incident occurs or travels offsite of a facility, the persons, as named above, responsible for proper notification shall within ~~a reasonable time~~ twenty-four hours after the discovery of the incident also notify the surface owners upon whose land the incident occurred or traveled.

5. Reclamation plan. Each application shall include a reclamation plan, including maps or drawings as necessary, consisting of a narrative description of the proposed reclamation, including:
- a. A detailed description of any surface facilities that are proposed to be left at closure, including buildings, utilities, roads, pads, ponds, pits, and surface equipment.
 - b. A description of the treatment, location, and disposition of any toxic-forming or acid-forming materials generated and left onsite, including a map showing the location of such materials upon the completion of reclamation.
 - ~~c. A statement by the permit applicant that the applicant will comply with all of the critical mineral performance standards of article 43-02 for all processing, mining and reclamation which substantially disturbs the natural land surface.~~

The reclamation plan shall be updated as necessary and submitted for approval prior to the commencement of final reclamation activities.

Unless otherwise approved in the reclamation plan, all buildings and infrastructure must be removed. All disturbed lands must be reclaimed to a condition consistent with prior

land use and productive capacity.

The commission shall review the facility permit at least once every five years to determine whether it should be amended, modified, or revoked.

History:

General Authority: NDCC 38-12-03

Law Implemented: NDCC 38-12-03

43-02-02.5-12. Processing facility bond.

Before any person receives a permit to conduct processing facility operations for critical minerals, the person shall submit to the commission, and obtain its approval of a surety bond, executed by a responsible surety company authorized to transact business in North Dakota, or a cash bond. An alternate form of security may be approved by the commission after notice and hearing, as provided by law. The operator of a processing facility shall be the principal on the bond covering such activity. The amount of the bond shall be specified by the commission and will be based upon the estimated reclamation costs.

Processing facility bond requirements.

1. Bond terms. Bonds shall be conditioned upon full compliance with North Dakota Century Code chapter 38-12, and all administrative rules and orders of the commission, and continues until any of the following occurs:
 - a. The lands disturbed by any method of processing of critical minerals have been restored and approved by the director.
 - b. The liability on the bond has been transferred to another bond and such transfer approved by the commission.
2. Transfer of property under bond. Transfer of property does not release the bond. In case of transfer of property or other interest in a processing facility and the principal desires to be released from the bond covering the facility, the principal must proceed as follows:
 - a. The principal must notify the director in writing of all proposed transfers of property at least thirty days before the closing date of the transfer. The director may, for good cause, waive this requirement.

The principal shall submit to the commission on a transfer form reciting that a certain property, or properties, describing each by quarter-quarter, section, township, and range, is to be transferred to a certain transferee, naming such transferee, for the purpose of ownership or operation. The date of assignment or transfer must be stated and the form signed by a party duly authorized to sign on behalf of the principal.

On said transfer form the transferee shall recite the following: "The transferee has read the foregoing statement and accepts such transfer and the responsibility of such property under the transferee's processing facility bond". Such acceptance must be signed by a party authorized to sign on behalf of the transferee and the transferee's surety.

- b. When the commission has approved the transfer and acceptance and accepted it under the transferee's bond, the transferor shall be released from the responsibility

of site reclamation.

- c. The transferee (new operator) of any processing facility shall be responsible for the site reclamation of any such property. For that purpose, the transferee shall submit a new bond or, in the case of a surety bond, produce the written consent of the surety of the original or prior bond that the latter's responsibility shall continue. The original or prior bond shall not be released as to the reclamation responsibility of any such transferor until the transferee submits to the commission an acceptable bond to cover such facility. All liability on bonds shall continue until all structures are removed and the reclamation of such property is completed and approved.
3. Bond review. The director shall periodically review the amount of bond and, with the commission's approval, may require adjustments to the amount of bond to reflect inflationary increases or increases in the anticipated costs of reclamation. An operator may request a hearing to dispute an adjustment.
4. Bond termination. The commission shall, in writing, advise the principal and any sureties on any bond as to whether the reclamation is approved. If approved, liability under such bond may be formally terminated upon receipt of a written request by the principal. The request must be signed by an officer of the principal or a person authorized to sign for the principal.
5. Director's authority. The director is vested with the power to act for the commission as to all matters within this section, except requests for alternative forms of security, which may only be approved by the commission.

The commission may refuse to accept a bond if the operator or surety company has failed in the past to comply with statutes, rules, or orders; if a civil or administrative action brought by the commission is pending against the operator or surety company; or for other good cause.

History:

General Authority: NDCC 38-12-02

Law Implemented: NDCC 38-12-02

43-02-02.5-13. Mining permit.

Mining of non-coal rock for its critical mineral content will need to follow North Dakota Administrative Code chapters 43-02-02.2, 43-02-02.3 or 43-02-02.4, as applicable.

History:

General Authority: NDCC 38-12-02

Law Implemented: NDCC 38-12-02

43-02-02.5-14. Public availability of permit application information.

1. Except as provided in subdivisions a, b, and c, all information submitted to the commission with a permit application for critical mineral exploration shall be made available for public inspection and copying at the office of the state geologist.
 - a. The state geologist shall not make information submitted with a critical mineral exploration permit application available for public inspection, if the person submitting it requests in writing, at the time of permit application submission, that it not be

disclosed and the state geologist determines that the information is confidential. However, such information shall remain confidential only for the time period specified in North Dakota Century Code section 38-12-02.

- b. The state geologist shall determine that permit application information is confidential only if it concerns trade secrets or is privileged commercial or financial information which relates to the competitive rights of the person intending to conduct critical mineral exploration.
 - c. Information requested to be held as confidential under this subsection shall not be made publicly available until after proper notice and hearing before the commission.
2. The director can withhold specific information in a processing facility application if releasing the information would reveal trade secrets or in other ways cause the applicant financial harm.
 3. The permitholder may waive the holder's right to confidentiality by providing written notice of the waiver to the state geologist.

History:

General Authority: NDCC 38-12-02

Law Implemented: NDCC 38-12-02

43-02-02.5-15. Confining of water to their original strata

During the drilling of any testhole, all freshwaters and waters of present or probable value for domestic, commercial, or stock purposes encountered shall be confined to their respective strata and shall be adequately protected by methods approved by the state geologist. Special precautions shall be taken in drilling and abandoning of testholes to guard against any loss of artesian water from the strata in which it occurs, and to prevent contamination of artesian water by objectionable water.

History:

General Authority: NDCC 38-12-02

Law Implemented: NDCC 38-12-02

43-02-02.5-16. Method of plugging.

Before any testhole is abandoned, all of the cuttings possible must be returned to the testhole, and it shall be plugged in such a manner as to prevent the intrusion of any foreign material. Any cuttings not returned to the hole must be spread at the surface, if approved by the landowner, or properly disposed of off the testhole site, if approved by the owner of the disposal site. The plugging shall be accomplished immediately when all desired information has been obtained.

If a testhole penetrates water bearing sands it shall be plugged with cement or some other method approved by the state geologist, in such a manner as to permanently confine the water to its original stratum.

History:

General Authority: NDCC 38-12-02

Law Implemented: NDCC 38-12-02

43-02-02.5-17. Testholes to be used for freshwater.

When a testhole to be plugged may safely be used as a freshwater well, and such utilization is desired by the landowner, the testhole need not be filled above a sealing plug set below the freshwater aquifer; provided, that written authority and assumption of liability for such use and plugging shall be secured from the landowner and filed with the state geologist. The person conducting the critical mineral exploration shall be relieved of that person's responsibility under this chapter.

The landowner assuming ownership and liability for the testhole shall comply with the rules for water well construction and water well pump installation pursuant to North Dakota Century Code chapter 43-35.

History:

General Authority: NDCC 38-12-02

Law Implemented: NDCC 38-12-02

43-02-02.5-18. Inspections.

The state geologist or the state geologist's representative shall have access to all drilling or exploration sites, mines, and processing facilities regulated under this chapter for the purpose of inspection and sampling. The state geologist may require the aid of the permitholder if the state geologist finds such aid necessary, and if the state geologist requests such aid.

If samples are to be collected by the state geologist, details relating to the starting date of the collection of such samples and the drill site locations shall be worked out between the state geologist or the state geologist's agents and the permitholder or the permitholder's agents prior to the starting date of such collection.

History:

General Authority: NDCC 38-12-02

Law Implemented: NDCC 38-12-02

43-02-02.5-19. Basic data.

Basic data developed by or for the person conducting critical mineral exploration or evaluation, consisting of testhole locations, testhole elevations, total depths, driller's logs, radioactivity, resistivity, or other types of electrical or mechanical logs, as well as laboratory analyses, or any other pertinent data collected during the project shall be delivered free of charge to the state geologist.

When requested by the operator, the data submitted shall be confidential for a period of one year commencing on the expiration date of the permit. Such period may be further extended upon approval of the commission. As long as the operator is exploring, developing, or producing critical minerals, the basic data may remain confidential. The industrial commission and the state geologist shall have access to all confidential data. The director may release such confidential completion and production data to health care professionals, emergency responders, and state, federal, or tribal environmental and public health regulators if the state geologist deems it necessary to protect the public's health, safety, and welfare.

Sample cuts, portions of cores not required for analysis, and core analyses developed by or for the person conducting the critical mineral exploration or evaluation shall also be submitted free of cost to the state geologist if requested.

History:

General Authority: NDCC 38-12-02

Law Implemented: NDCC 38-12-02

43-02-02.5-20. Exploration Reports.

Quarterly progress reports, listing locations of testholes completed and plugged, shall be filed by the twenty-fifth day of January, April, July, and October by all permit holders. If no drilling occurred during the quarter, a report so stating shall be filed.

Completion reports shall also be filed upon completion of the exploration or evaluation, or upon the expiration of the permit, whichever occurs first, by all permit holders. The completion reports shall include all progress on exploration and evaluation and any other information requested by the state geologist.

History:

General Authority: NDCC 38-12-02

Law Implemented: NDCC 38-12-02

43-02-02.5-21. Report of production.

The operator of a processing facility shall, on or before the first day of the second month succeeding the month in which production occurs, file with the state geologist a report containing the following information.

1. The volume of coal that is processed.
2. The volume and chemical makeup of the critical mineral concentrate.
3. The volume of the concentrate shipped, and
4. The shipping destination.

The report shall be signed by both the person responsible for the report and the person witnessing the signature. The printed name and title of both the person signing the report and the person witnessing the signature shall be included.

Production data submitted to the state geologist shall be kept confidential for a period of one year when so requested by the operator. Such period may be further extended upon approval by the commission. The commission may share production data with other state agencies, upon request, for purposes of administering statutory duties related to mineral ownership, royalty oversight or trust administration. Such other state agencies shall not share such data with any other entity and shall protect the confidentiality of any such production data subject to the requirements of NDCC ch. 44-04.

History:

General Authority: NDCC 38-12-02

Law Implemented: NDCC 38-12-02

43-02-02.5-22. Commingled production.

~~After coal from differing mineral ownership parcels has been mined, the coal must be commingled prior to processing provided the volume produced has been recorded.~~

When two or more separately owned tracts are embraced within a mined area, or when there are separately owned interests in all or a part of the mined area, then the critical minerals therefrom must be commingled by the operator for the purpose of allocating production and payment of royalties. Each such mined area must afford to the owner of each tract or interest within the mined area the opportunity to recover or receive, without unnecessary expense, that owner's equitable share: based on the volume of mined coal.

History:

General Authority: NDCC 38-12-06

Law Implemented: NDCC 38-12-06

43-02-02.5-23. Investigative powers.

Upon receipt of a written complaint from any surface owner or lessee, royalty owner, mineral owner, local, state, or federal official, alleging a violation of the subsurface mineral conservation statutes or any rule, regulation, or order of the commission, the director shall within reasonable time reply in writing to the person who submitted the complaint stating that an investigation of such complaint will be made or the reason such investigation will not be made. The person who submitted the complaint may appeal the decision of the director to the commission. The director may also conduct such investigations on the director's own initiative or at the direction of the commission. If, after such investigation, the director affirms that cause for complaint exists, the director shall report the results of the investigation to the person who submitted the complaint, if any, to the person who was the subject of the complaint and to the commission. The commission shall institute such legal proceedings as, in its discretion, it believes necessary to enjoin further violations.

History:

General Authority: NDCC 38-12-02

Law Implemented: NDCC 38-12-02

43-02-02.5-24. Additional information may be required.

This chapter shall not be taken or construed to limit or restrict the authority of the commission to require the furnishing of such additional reports, data, or other information relative to exploration, production, or processing as may appear to be necessary or desirable, either generally or specifically, for the prevention of waste, protection of correlative rights, and the conservation of natural resources.

History:

General Authority: NDCC 38-12-02

Law Implemented: NDCC 38-12-02

43-02-02.5-25. Books and records to be kept to substantiate reports.

All producers within North Dakota shall make and keep appropriate books and records for a period not less than six years, covering their operations in North Dakota from which they may be able to make and substantiate the reports required by this chapter.

History:

General Authority: NDCC 38-12-02

Law Implemented: NDCC 38-12-02

43-02-02.5-26. Application for hearing.

In any proceeding instituted upon application, the application shall be signed by the applicant or by the applicant's attorney. An application shall state (1) the name and general description of the common source or sources of supply affected by the order, rule, or regulation sought, if any, unless same is intended to apply to and affect the entire state, in which event the application shall so state, and such statement shall constitute sufficient description; and (2) briefly the general nature of the order, rule, or regulation sought in the proceedings.

History:

General Authority: NDCC 38-12-04

Law Implemented: NDCC 38-12-04

43-02-02.5-27. Hearings - Proceedings.

1. Except as more specifically provided in North Dakota Century Code section 38-12-04, the rules of procedure established in subsection 1 of North Dakota Century Code section 28-32-21 apply to proceedings involving a complaint and a specific-named respondent.
2. For proceedings that do not involve a complaint and a specific-named respondent, the commission shall give at least fifteen days' notice (except in an emergency) of the time and place of hearing thereon by one publication of such notice in a newspaper of general circulation in Bismarck, North Dakota, and in a newspaper of general circulation in the county where the land affected or some part thereof is situated, unless in some particular proceeding a longer period of time or a different method of publication is required by law, in which event such period of time and method of publication shall prevail. The notice shall issue in the name of the commission and shall conform to the other requirements provided by law.
3. In case an emergency is found to exist by the commission which in its judgement requires the making of a rule or order without first having a hearing, the emergency rule or order shall have the same validity as if a hearing with respect to the same had been held after notice. The emergency rule or order permitted by this section shall remain in force no longer than fifteen days from its effective date, and in any event, it shall expire when the rule or order made after due notice and hearing with respect to the subject matter of such emergency rule or order becomes effective.
4. Any person moving for a continuance of a hearing, and who is granted a continuance, shall submit a twenty-five dollar fee to the commission, or if the cost or republication exceeds fifty dollars the commission may bill the applicant, to pay the cost of republication of notice of the hearing.

History:

General Authority: NDCC 38-12-04

Law Implemented: NDCC 38-12-04

43-02-02.5-28. Investigatory hearings.

The commission may hold investigatory hearings upon the institution of a proceeding by application or by a motion of the commission. Notice of the hearing must be served upon all parties personally or by certified mail at least five days before the hearing.

History:

General Authority: NDCC 38-12-04

Law Implemented: NDCC 38-12-04

43-02-02.5-29. Official record.

The evidence in each case heard by the commission, unless specifically excluded by the hearing examiner, includes all subsurface mineral basic data and production records on file with the commission.

Any interested party may submit written comments on or objections to the application prior to the hearing date. Such submissions must be received no later than five p.m. on the last business day prior to the hearing date and may be part of the record in the case if allowed by the hearing examiner. Settlement negotiations between parties to a contested case are only admissible as governed by North Dakota Century Code section 28-32-24, although the hearing examiner may strike such testimony from the record for good cause.

History:

General Authority: NDCC 28-32-06

Law Implemented: NDCC 28-32-06

43-02-02.5-30. Petitions and oral arguments prohibited.

Neither petitions for review of a recommended order nor oral arguments following issuance of a recommended order and pending issuance of a final order are allowed.

History:

General Authority: NDCC 28-32-13

Law Implemented: NDCC 28-32-13

43-02-02.5-31. Notice of order.

The commission may give notice of an order, and findings and conclusions upon which it is based, to all parties provided it files an affidavit of service indicating upon whom the order was served.

History:

General Authority: NDCC 28-32-13

Law Implemented: NDCC 28-32-13

43-02-02.5-32. Service and filing.

All pleadings, notices, written motions, requests, petitions, briefs, and correspondence to the commission or commission employees from a party (or vice versa) relating to a proceeding after its commencement, must be filed with the director and entered into the commission's official record of the procedure provided the record is open at the time of receipt. All parties shall receive copies upon request of any or all of the evidence in the record of the proceedings. The commission may charge for the actual cost of providing copies of evidence in the record. Unless otherwise provided by law, filing shall be complete when the material is entered into the record of the proceeding.

History:

General Authority: NDCC 28-32-13

Law Implemented: NDCC 28-32-13

43-02-02.5-33. Designation of examiners.

The commission may by motion designate and appoint qualified individuals to serve as examiners. The commission may refer any matter or proceeding to any legally designated and appointed examiner or examiners.

History:

General Authority: NDCC 38-12-04

Law Implemented: NDCC 38-12-04

43-02-02.5-34. Powers and duties of examiner.

The commission may, by motion, limit the powers and duties of any examiner in any particular case to such issues or to the performance of such acts as the commission deems expedient; however, subject only to such limitation as may be ordered by the commission, the examiner or examiners to whom any matter or proceeding is referred under this chapter shall have full authority to hold hearings on such matter or proceeding in accordance with and pursuant to this chapter. The examiner shall have the power to regulate all proceedings before the examiner and to perform all acts and take all measures necessary or proper for the efficient and orderly conduct of such hearing, including ruling on prehearing motions, the swearing of witnesses, receiving of testimony and exhibits offered in evidence, subject to such objections as may be imposed, and shall cause a complete record of the proceedings to be made and retained.

History:

General Authority: NDCC 38-12-04

Law Implemented: NDCC 38-12-04

43-02-02.5-35. Report of examiner.

Upon the conclusion of any hearing before an examiner, the examiner shall promptly consider the proceedings in such hearings, and based upon the record of such hearing, the examiner shall prepare a report and recommendations for the disposition of the matter or proceeding by the commission. The report and recommendations shall either be accompanied by a proposed order or shall be in the form of a proposed order, and shall be submitted to the commission.

History:

General Authority: NDCC 38-12-04

Law Implemented: NDCC 38-12-04

43-02-02.5-36. Commission order from examiner hearing.

After receipt of the report and recommendation of the examiner, the commission shall enter its order disposing of the matter or proceeding.

History:

General Authority: NDCC 38-12-04

Law Implemented: NDCC 38-12-04

43-02-02.5-37. Prehearing motion practice.

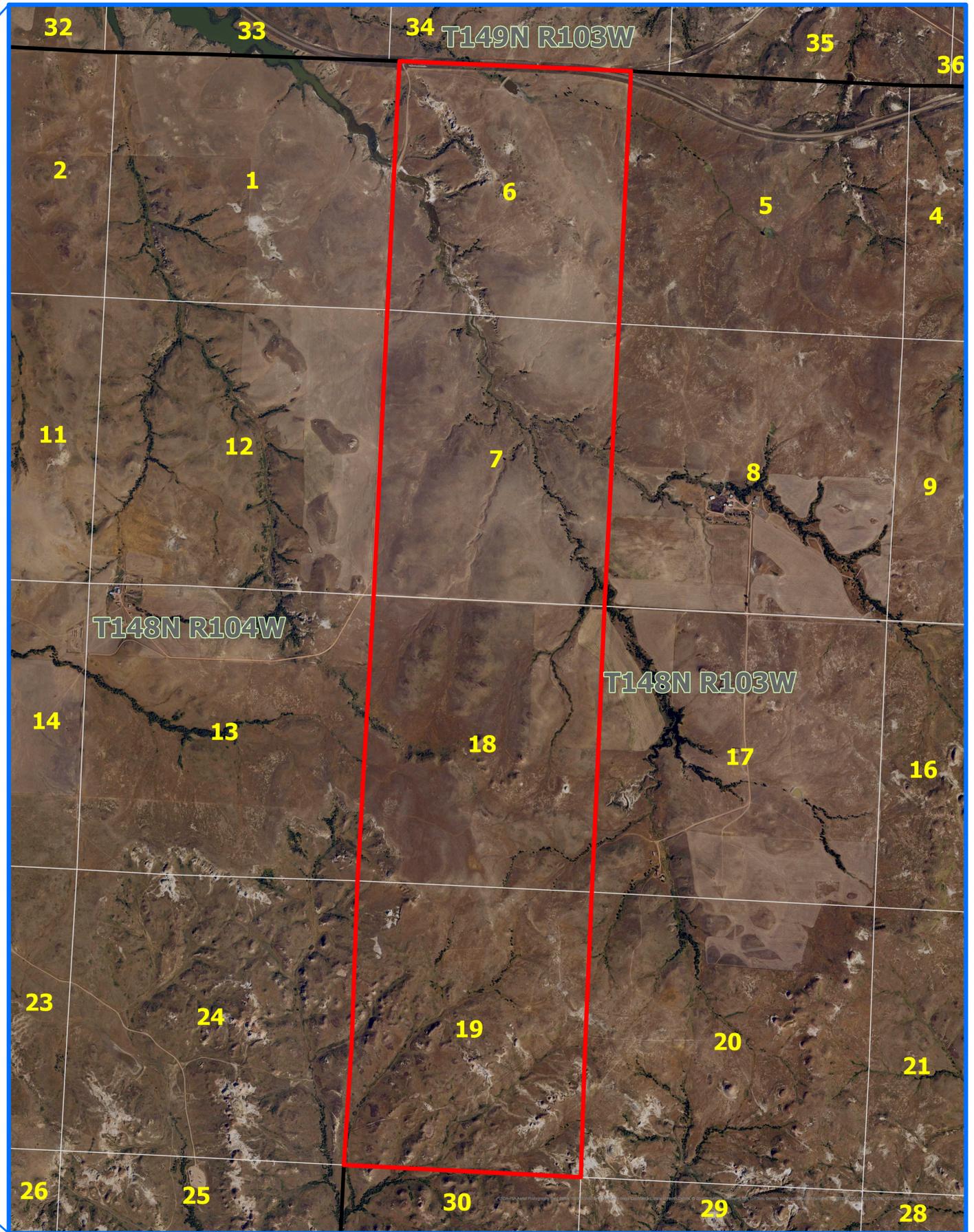
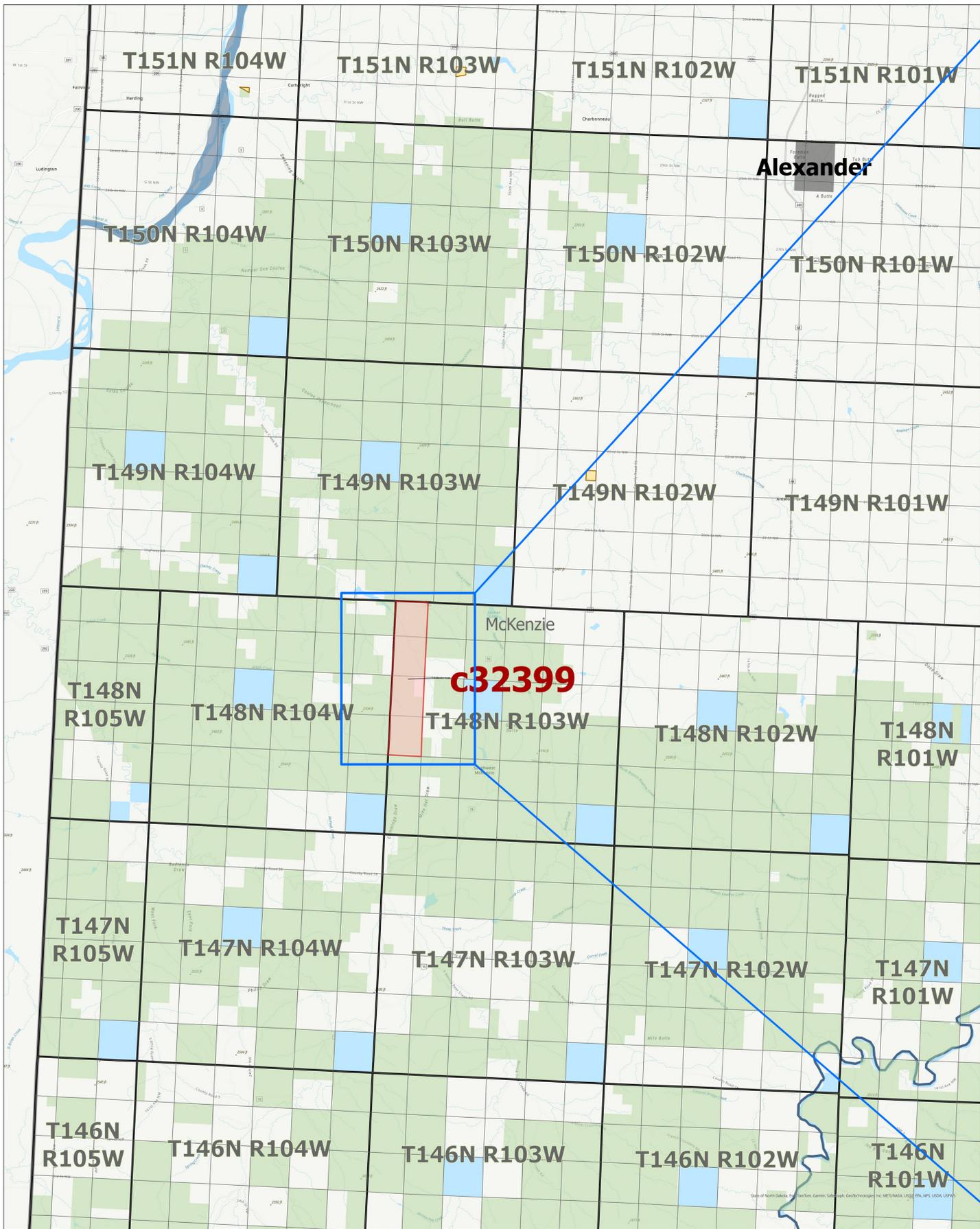
In a matter pending before the commission, all prehearing motions must be served by the moving party upon all parties affected by the motion. Service must be upon a party unless a party is represented by an attorney, in which case service must be upon the attorney. Service must be made by delivering a copy of the motion and all supporting papers in conformance with one of the means of service provided for in rule 5(b) of the North Dakota Rules of Civil Procedure. Proof of service must be made as provided in rule 4 of the North Dakota Rules of Civil Procedure or by certificate of an attorney showing that service has been made. Proof of service must accompany the filing of a motion. Any motion filed without proof of service is not properly before the commission.

History:

General Authority: NDCC 38-12-04

Law Implemented: NDCC 38-12-04

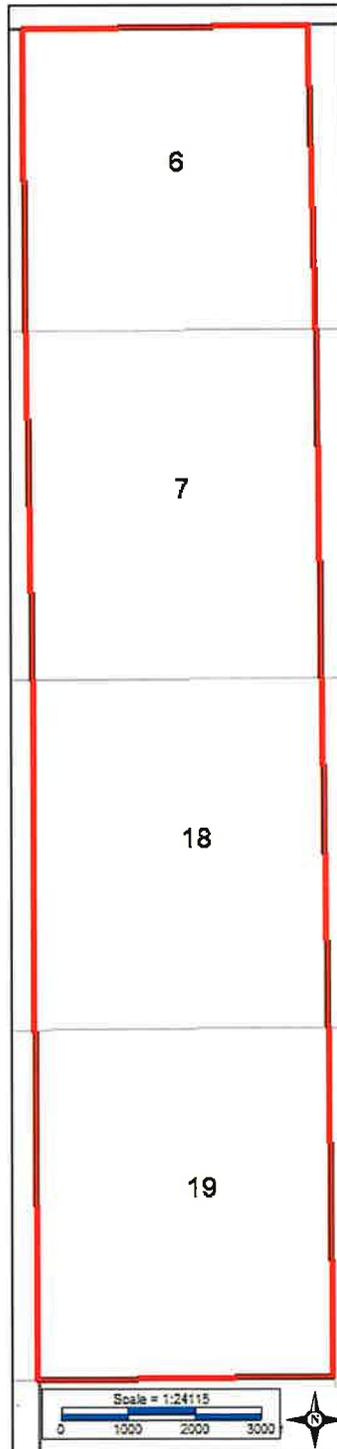
Industrial Commission c32399





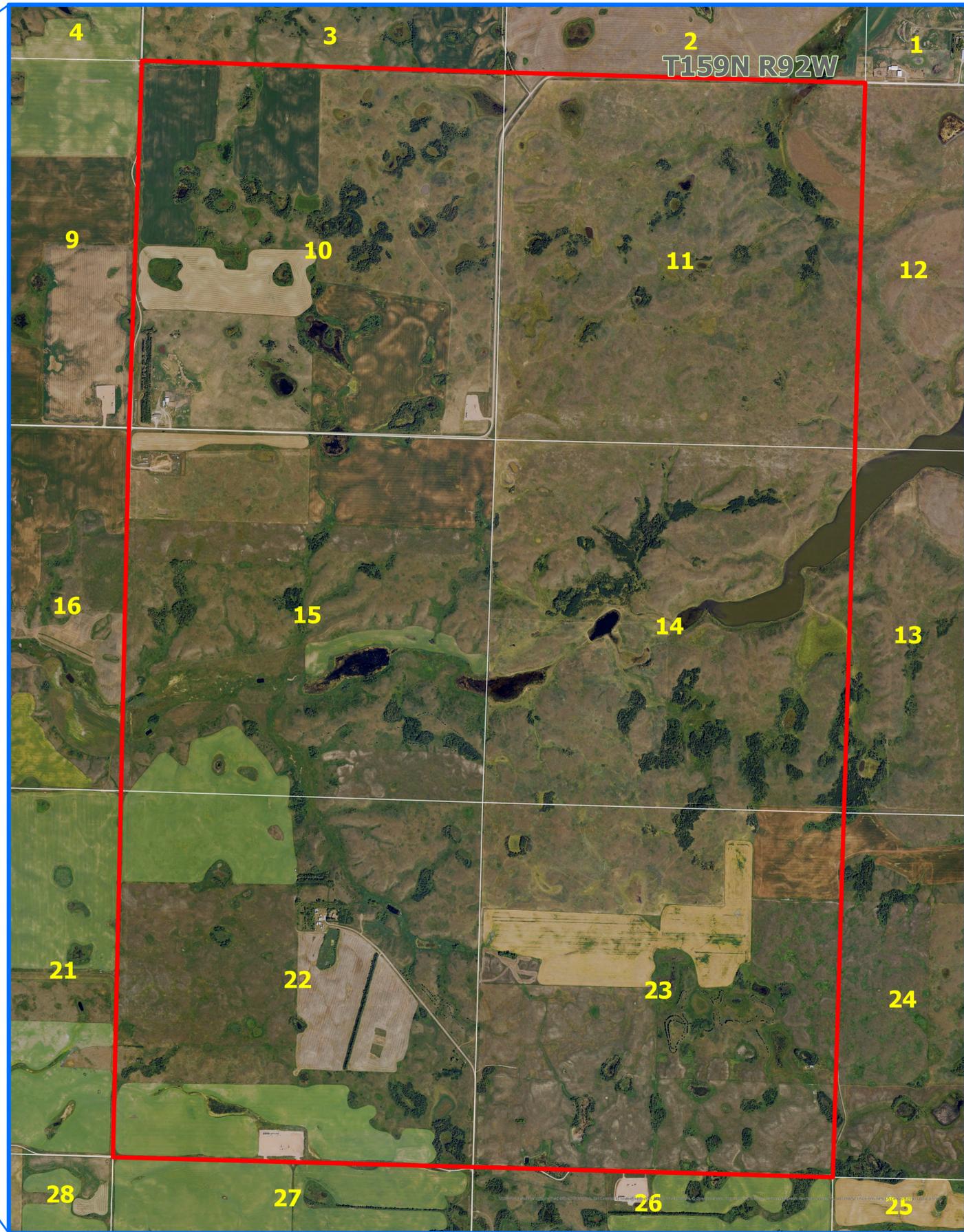
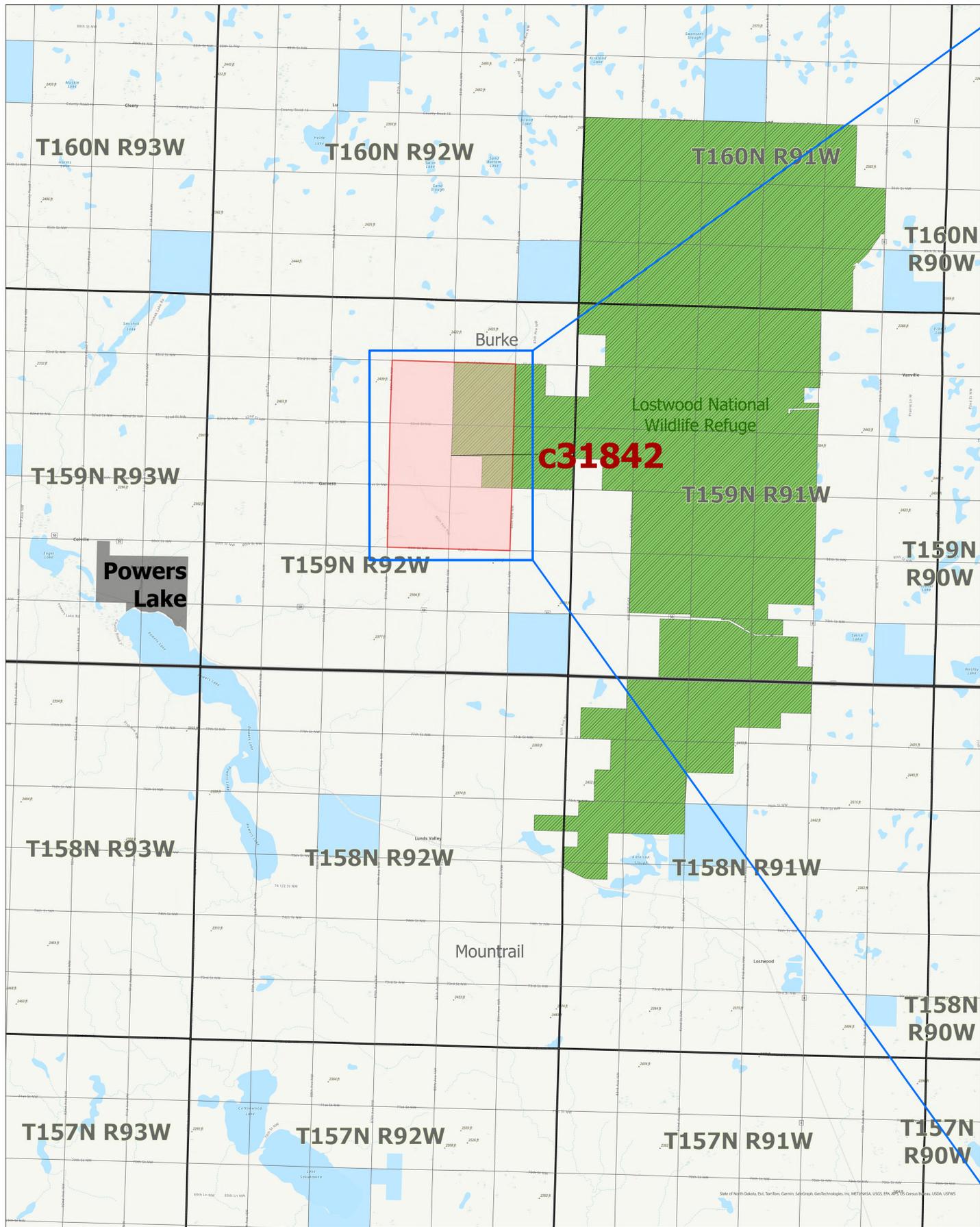
Proposed Spacing Unit – 2560 acres

Township 148 North, Range 103 West, Sections 6, 7, 18 and 19 (All)
McKenzie County, North Dakota



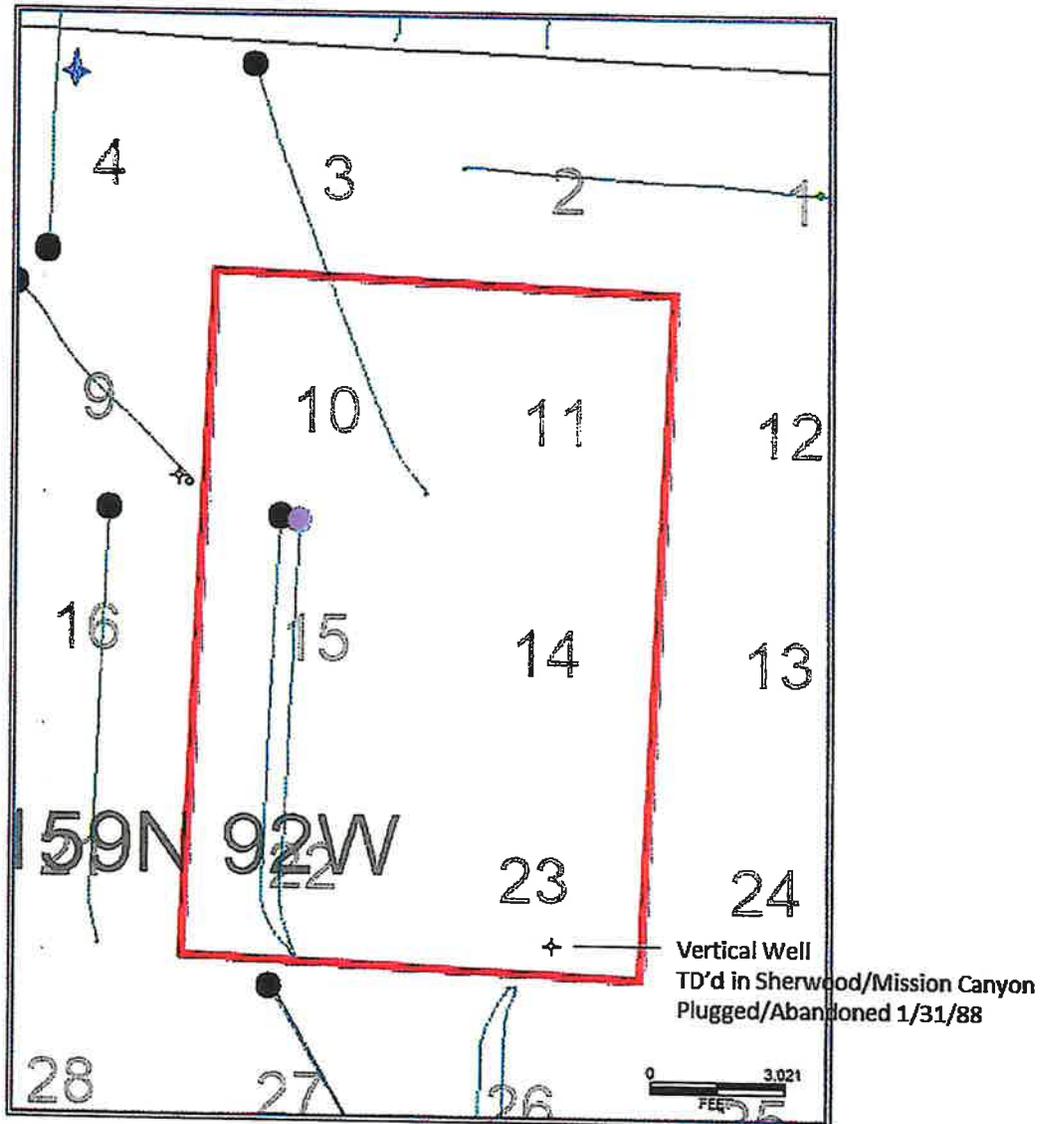
INDUSTRIAL COMMISSION
STATE OF NORTH DAKOTA
DATE 12/11/25 CASE NO. 32399
Introduced By Phoenix
Exhibit 2
Identified By Johnson

Proposed Spacing Unit WI: Phoenix = 0.0%





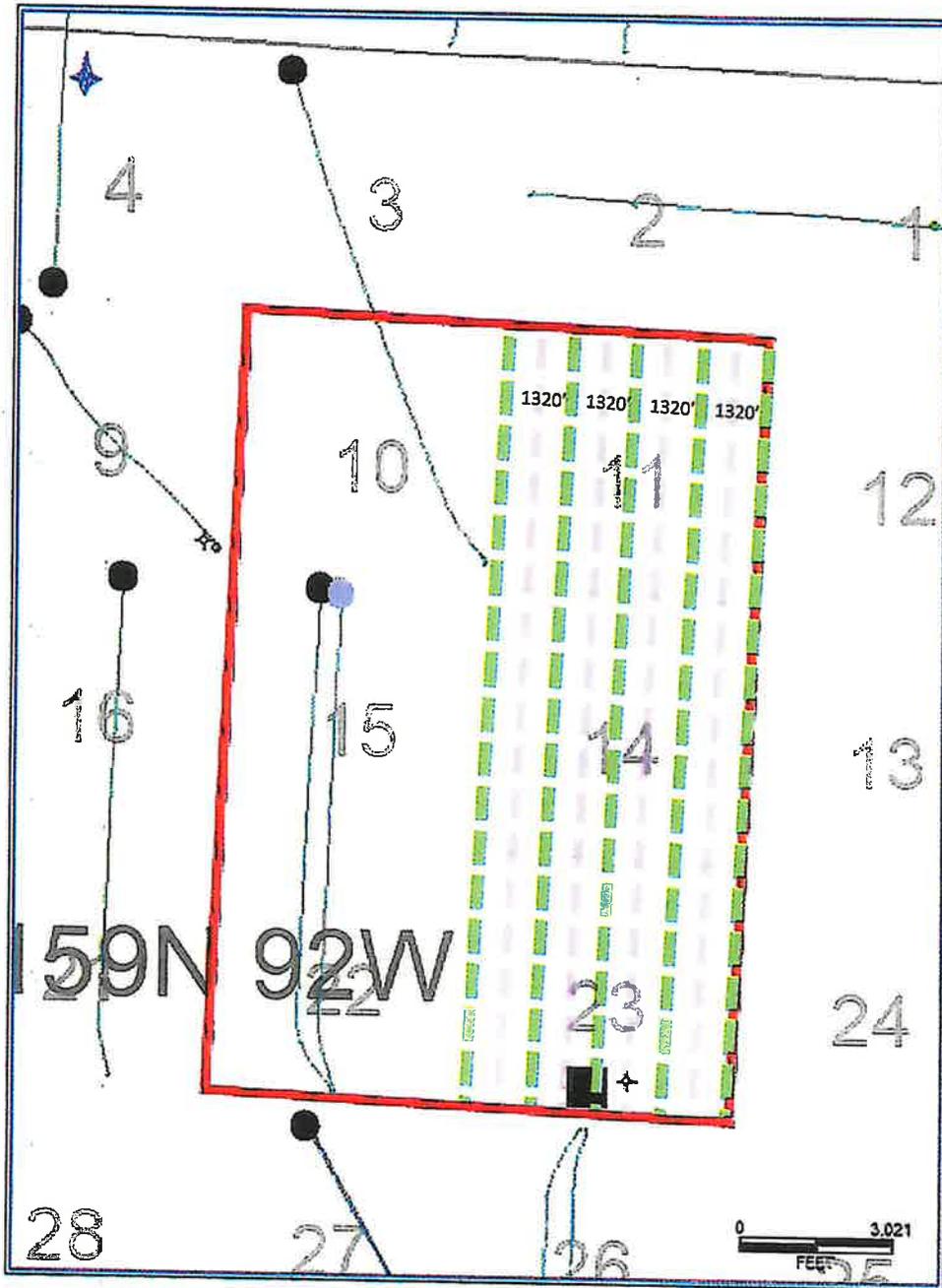
Proposed Spacing Unit – 3840 acres (approximate)
Township 159 North, Range 92 West, Sections 10, 11, 14, 15, 22, and 23 (All),
Burke County, North Dakota



- Proposed 3840-acre Spacing Unit
- Middle Bakken Horizontal Wells
- Three Forks Horizontal Wells

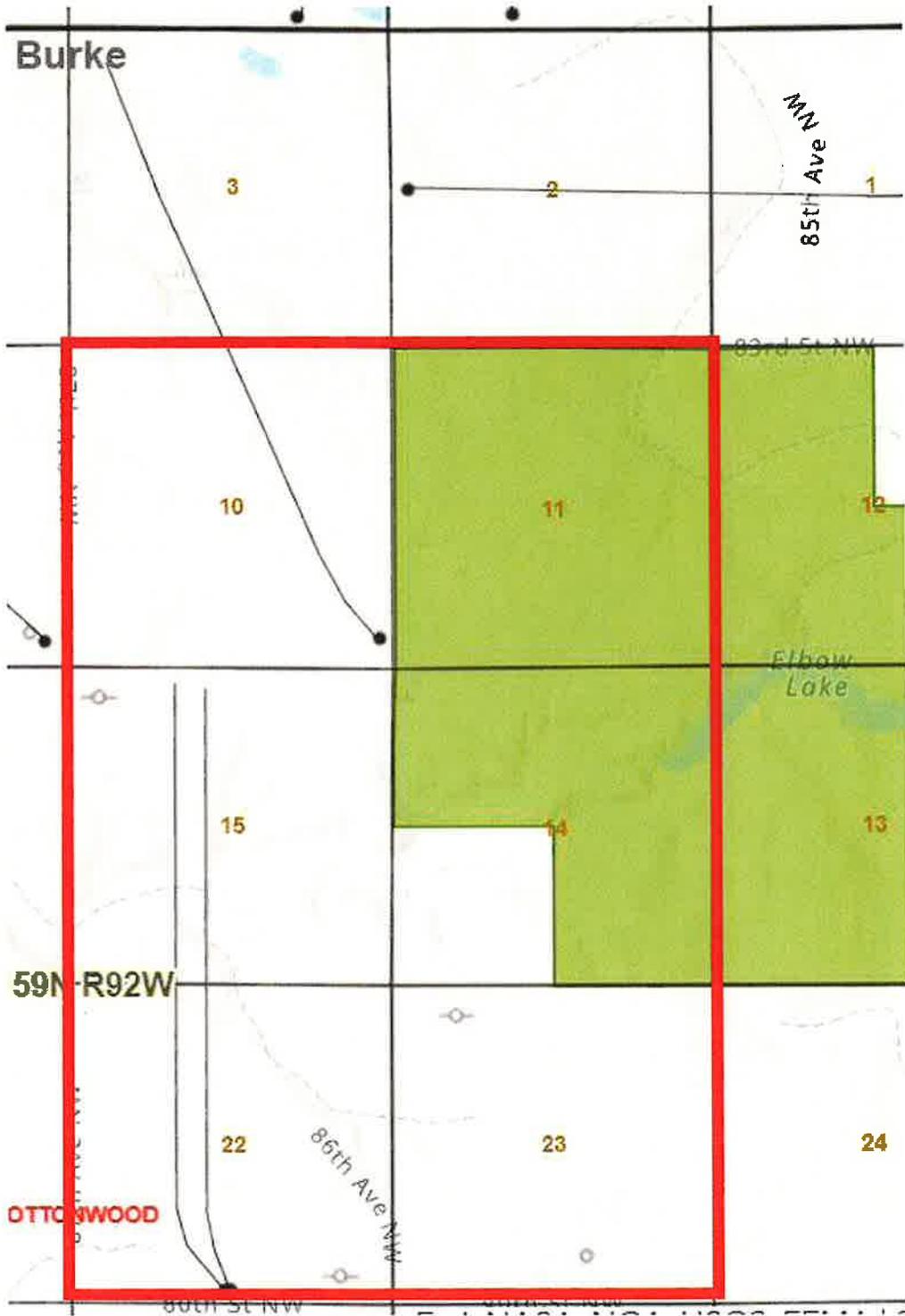
INDUSTRIAL COMMISSION
STATE OF NORTH DAKOTA
DATE 12/17/25 CASE NO. 31842
Introduced By Phoenix
Exhibit 3
Identified By Johnson

Proposed Spacing Unit WI: (today) Phoenix = 12.3%



-  Proposed Multi-well Pad Location
-  Proposed Middle Bakken Horizontal Well
-  Proposed Three Forks Horizontal Well
-  Proposed Spacing Unit

INDUSTRIAL COMMISSION
 STATE OF NORTH DAKOTA
 DATE 12/17/25 CASE NO. 31842
 Introduced By Phoenix
 Exhibit 7b
 Identified By Shirey



Requested 3840 Acre WI Summary

T159N-R92W - Sections 10, 11, 14, 15, 22, 23

Map Depiction	DSU	DSU Size	Chord WI
INDUSTRIAL COMMISSION STATE OF NORTH DAKOTA	T159N-R92W - Sections 10, 11, 14, 15, 22, 23	3840	52.13%

DATE 12/11/25 CASE NO. 31842
 Introduced By Oasis
 Exhibit L-2
 Identified By Roberts

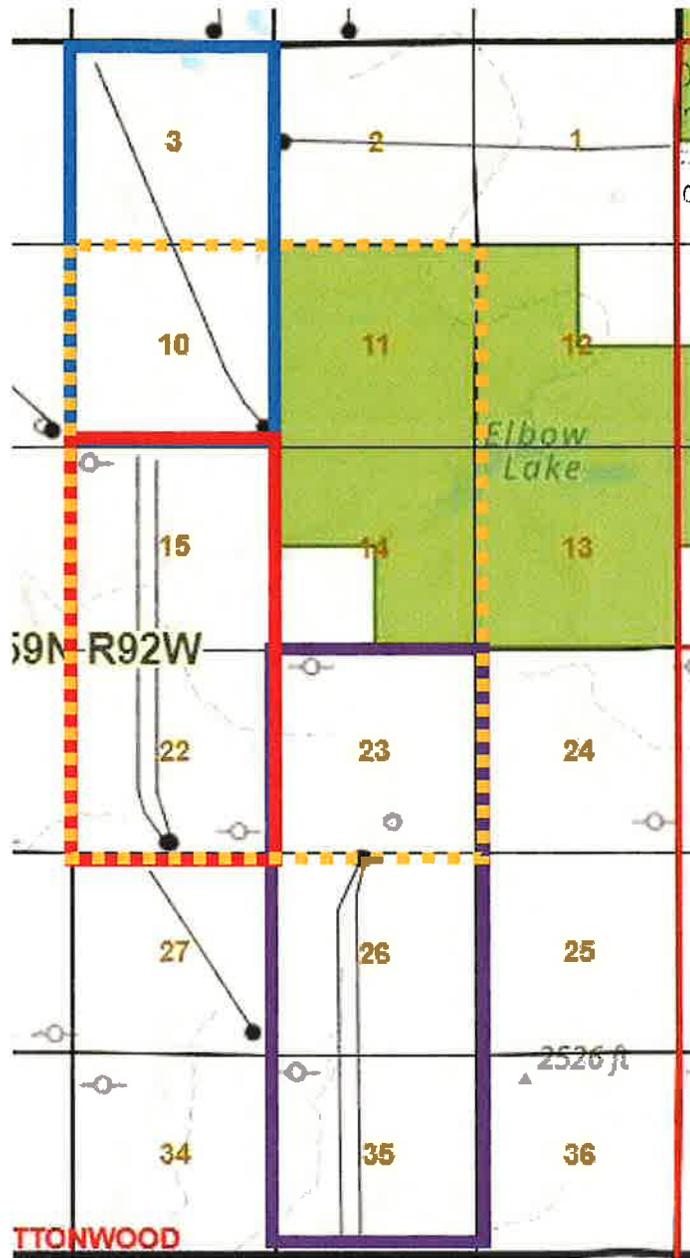
Case 31842
 December 17, 2025
 Exhibit L-2

DATE: 12/17/25 CASE NO. 318

Introduced By: OASIS

Exhibit: L-3

Identified By: Roberts

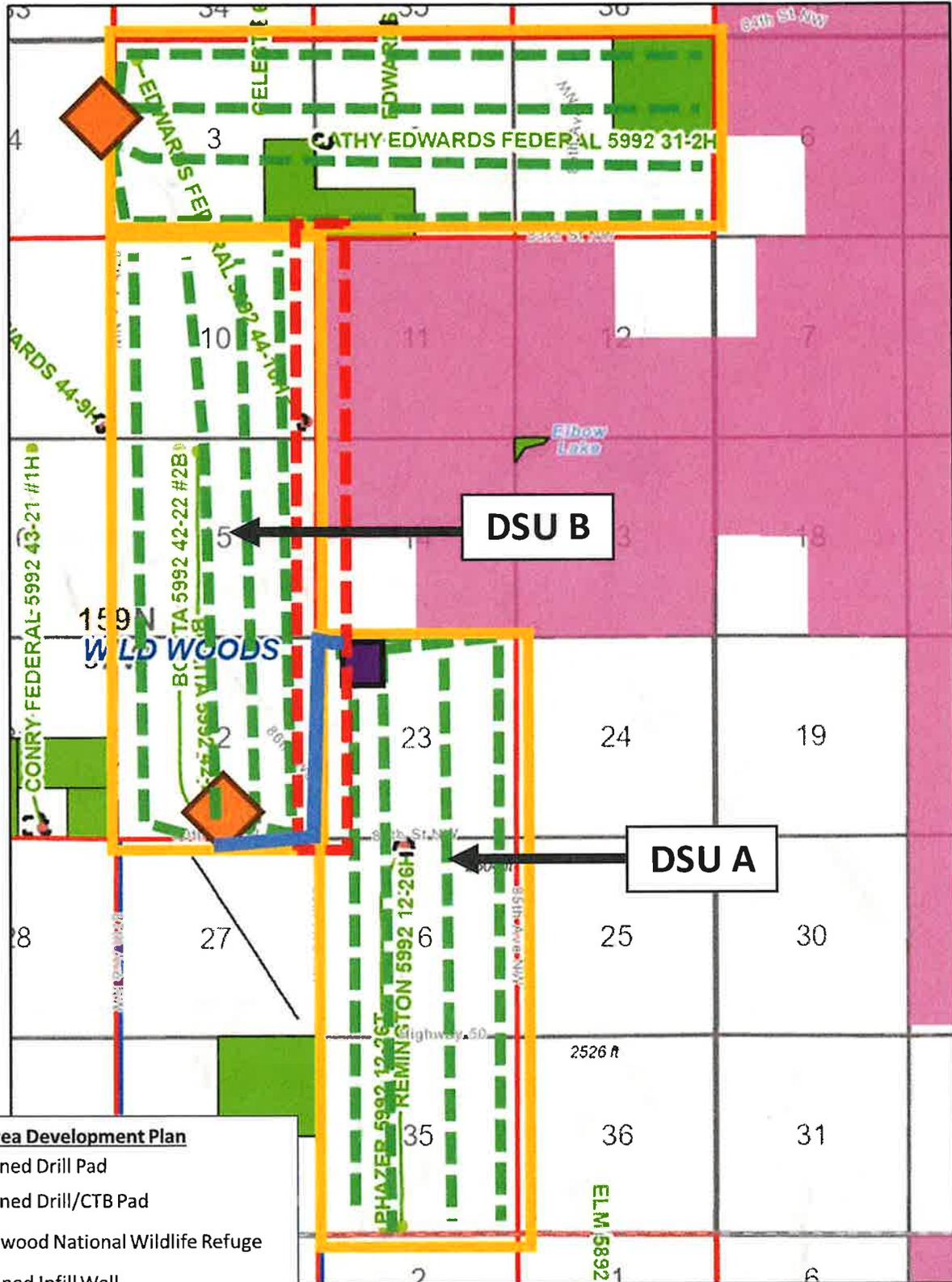


Existing Spacing Unit Summary

T159N-R92W - Sections 10, 11, 14, 15, 22, 23

Map Depiction	DSU	DSU Size	Chord Working Interest
	T159N-R92W- Section 3 & 10	1280	72.9%
	T159N-R92W- Section 15 & 22	1280	52.6%
	T159N-R92W- Section 23, 26, & 35	1920	58.3%

Oasis Petroleum Planned Development Impacted by Case 31842



Chord Area Development Plan

- Planned Drill Pad
- Planned Drill/CTB Pad
- Lostwood National Wildlife Refuge
- Planned Infill Well
- Planned Flowline Corridor
- Planned DSUs
- Phoenix Proposed Overlapping 3840

INDUSTRIAL COMMISSION
STATE OF NORTH DAKOTA

DATE 12/17/25 CASE NO. 31842
 Introduced By Oasis
 Exhibit E-1
 Identified By Rutledge

Case 31842
December 17, 2025
Exhibit E-1

Oasis Petroleum Planned Development Impacted by Case 31842

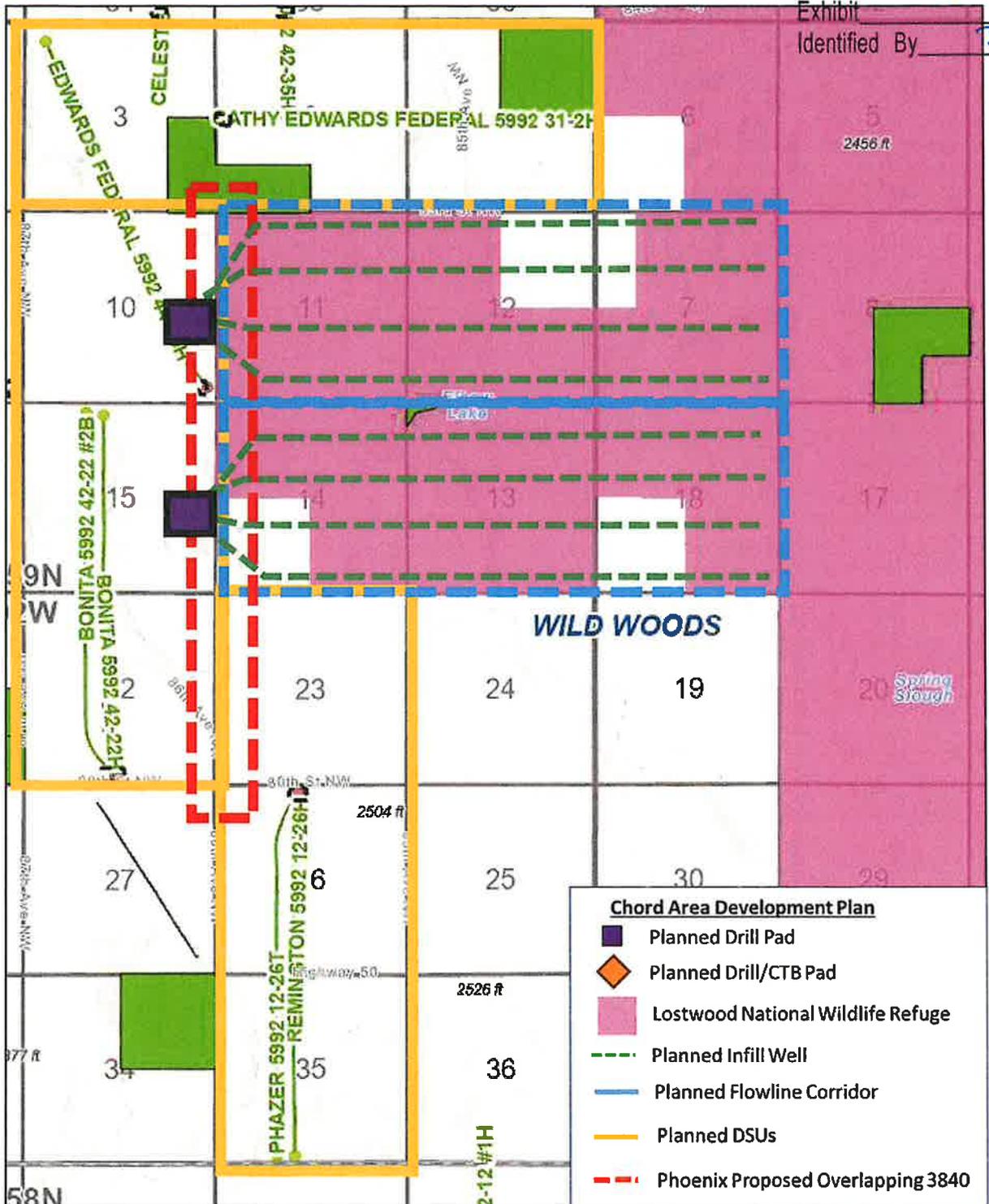
INDUSTRIAL COMMISSION
STATE OF NORTH DAKOTA

DATE 12/17/25 CASE NO. 31842

Introduced By Oasis

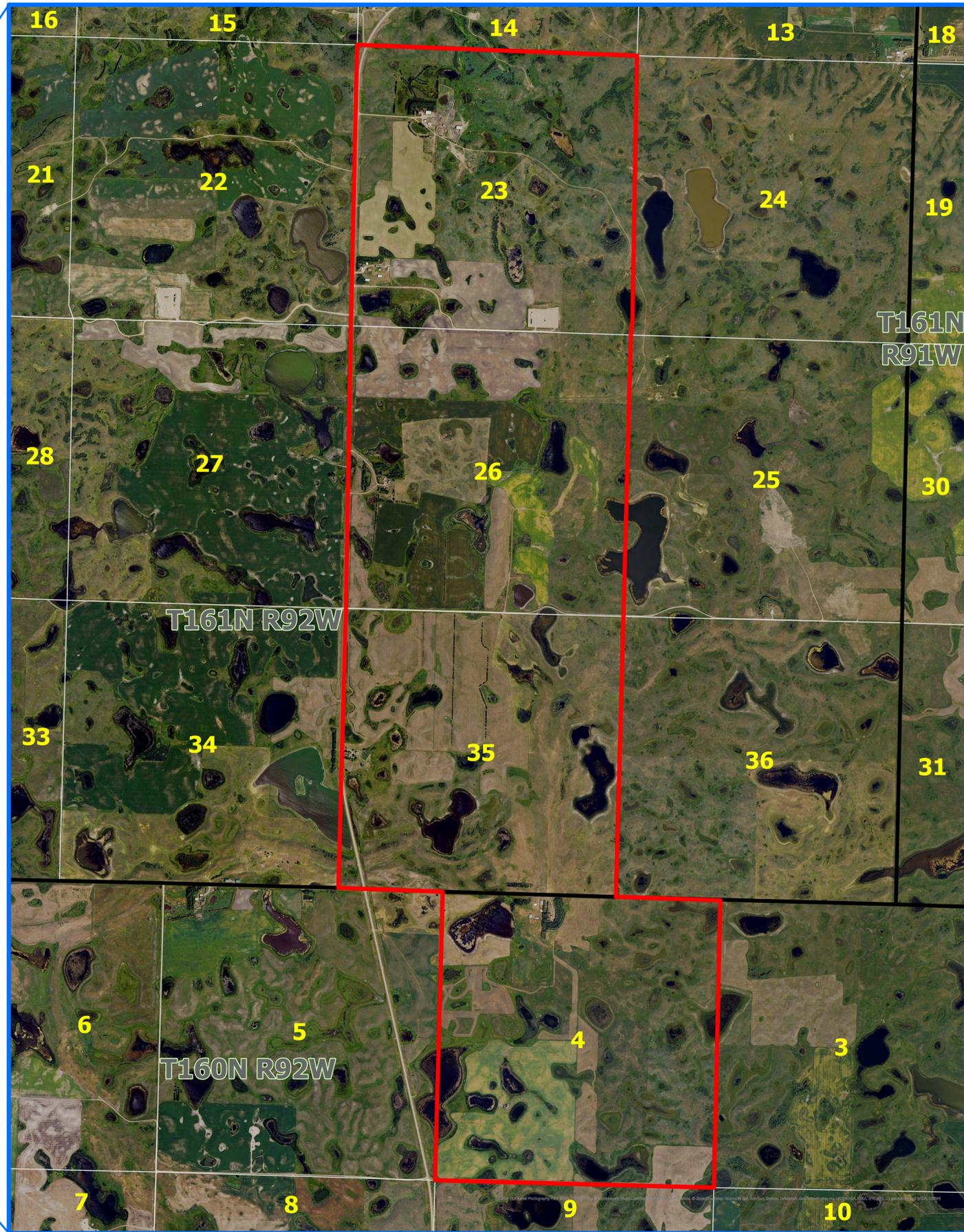
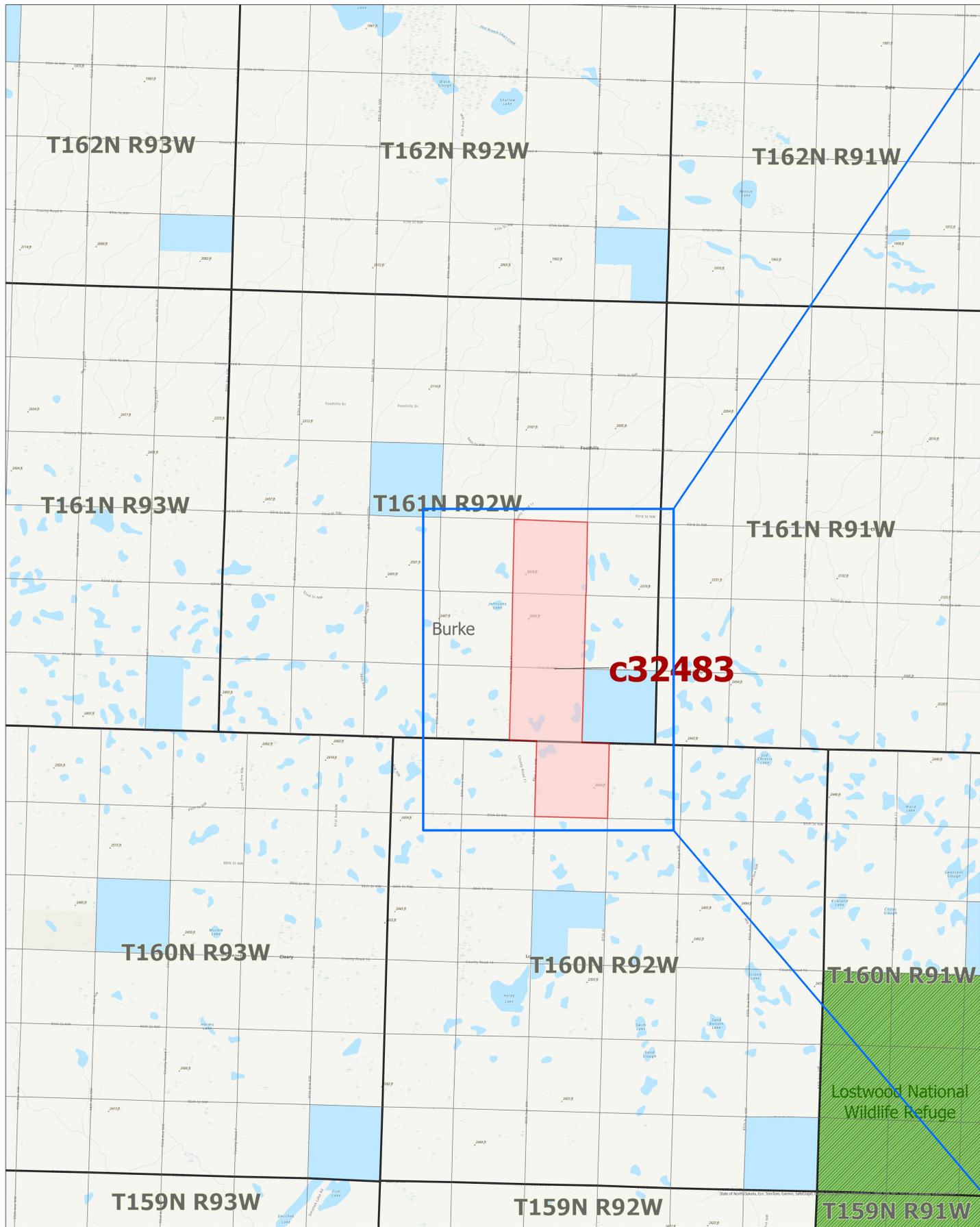
Exhibit E-2

Identified By Rutledge

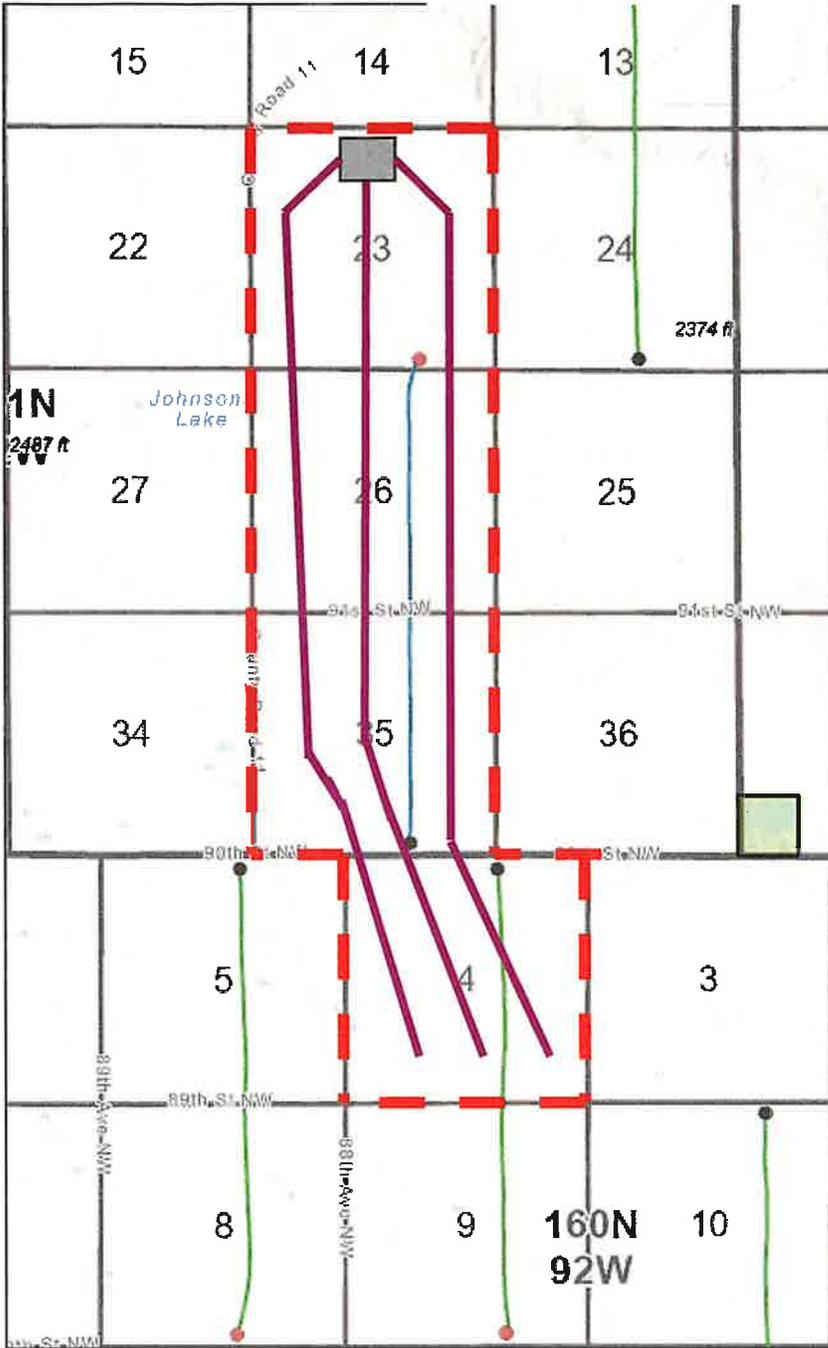


- Oasis believes the most efficient development plan for the lands in the Lostwood National Wildlife refuge would be lay down 1920s, not a stand up 1280s. The proposed lease line well would disrupt that laydown pattern.
- It would allow for greater access to resource while keeping surface off of the Wildlife refuge lands
- This assumes these unleased federal lands could be leased at some point in the future to allow development in these sections.

Industrial Commission c32483



Development Plan



Proposed Development

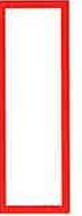
2560 ac unit
 T161N-R92W-Sections 23/26/35
 T160N-R92W-Sections 4
 Heart Butte Field
 Bakken Pool

Proposed MB wellbores

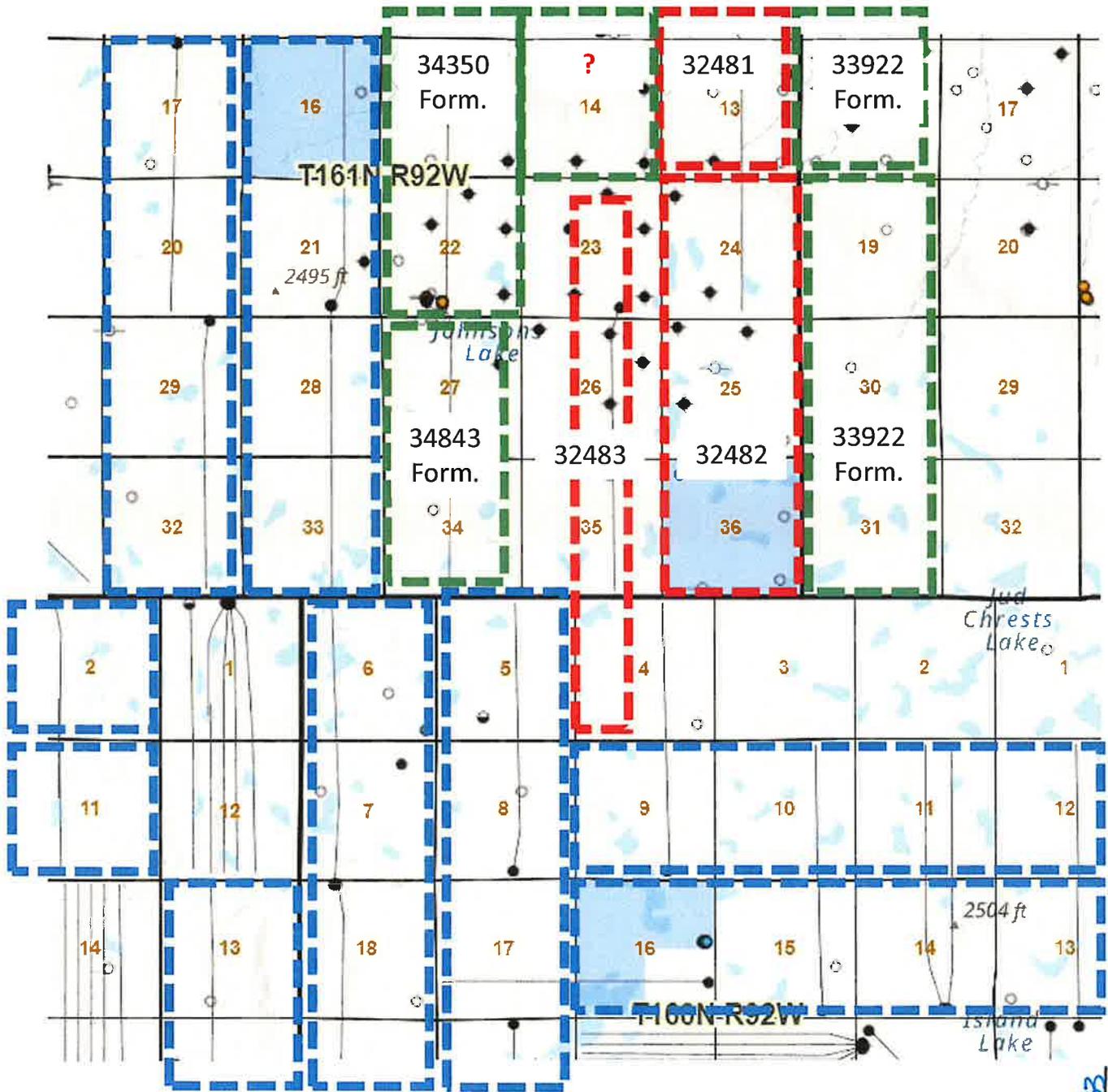
Existing Chord MB wellbores

Existing Chord TF wellbores

Planned Surface Location



INDUSTRIAL COMMISSION
 STATE OF NORTH DAKOTA
 DATE 1/21/26 CASE NO. 32483
 Introduced By Cass
 Exhibit e-1
 Identified By Smith



Map Depiction	Order Status
	Approved Orders
	Pending Orders
	Future Spacing Applications by Chord

INDUSTRIAL COMMISSION
 STATE OF NORTH DAKOTA
 DATE 1/21/26 CASE NO. 32483
 Introduced By MNU
 Exhibit L-4
 Identified By Roberts