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## MEMORANDUM

**TO: BOWMAN-SLOPE COUNTY NORTH DAKOTA**  
**(Via Email: bowsloscd@ndsupernet.com)**

**CC: Brenda Younkin (brenda@y2consultants.com)**

**FROM: KAREN BUDD-FALEN**  
**BUDD-FALEN LAW OFFICES L.L.C.**

**DATE: July 5, 2017**

**RE: PROPOSED LIST OF ANTICIPATED FEDERAL AGENCY DECISIONS IMPACTING BOWMAN AND SLOPE SOIL CONSERVATION DISTRICT, NORTH DAKOTA**

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In preparation to update your local land use plan, below is a list of anticipated federal actions, which can help focus your data collection and policy analysis. As we work through the process, we can add anything new that comes up, but this should be a place to start.

### 1. Forest Service - Schedule of Proposed Actions (SOPA)

The following Schedule of Proposed Actions (SOPA) are listed within the Dakota Prairie Grasslands, Medora Ranger District:

- *Dakota Prairie Oil and Gas RFDS SEIS*. Supplemental EIS prepared to analyze the changed oil and gas development pattern on the Dakota Prairie Grasslands. This project will supplement the 2001 Northern Great Plains Management Plans Revision FEIS. Includes Slope County and the Little Missouri and Cedar River Grasslands Units. Planning is in progress, decision and implementation expected October, 2017.
- *Little Missouri National Grassland Prairie Dog Management Project (Slope County)* (discussed in greater detail below). The Forest Service (NFS) is proposing a program of prairie dog management, including responding to unwanted encroachment onto non-National Forest System land and diverting colonies away from non-NFS land. Adaptive management will allow for future actions.

- *West Rhame Road Repair and Maintenance (Slope County)*. Slope County, with North Dakota Department of Transportation, proposes a roadway reconstruction of aggregate surfacing and culvert replacements on CMC 4417, aka West Rhame Road, to provide a 32-foot wide driving surface. The project crosses 1.5 miles of National Forest Service land. Planning completed, expected implementation April 2017.
- *Greater Sage-Grouse Plan Land and Resource Management Plan Amendment EIS (Slope County)*. Plan amendment to incorporate management direction for greater sage-grouse habitat needs. Planning in progress, decision expected March 2018, expected implementation April 2018.

## 2. U.S. Fish and Wildlife Service

**a. Endangered Species.** According to the North Dakota Game and Fish Department, the following are endangered species:

- *Black-footed Ferret*. Black-footed Ferrets require large complexes of prairie dog colonies, 10,000 acres or more with towns no farther than three miles apart to sustain a viable population of 120 ferrets. However, large prairie dog complexes do not currently exist in North Dakota. Should the Black-Tailed Prairie Dog populations expand, the Little Missouri National Grasslands and the Standing Rock reservation are considered suitable areas for the ferret. There is a recovery plan in place, which provides management recommendations for the recovery of the ferret.
- *Gray Wolf (or Eastern timber wolf)*. Status in North Dakota is “rare” with only “occasional sightings” in North Dakota. In Midwestern states, habitats currently used by wolves range from mixed hardwood-coniferous forests in wilderness and sparsely settled areas, to forest and prairie landscapes dominated by agricultural and pasture lands. The greatest hindrance to recolonization of wolves in North Dakota is their vulnerability to killing by humans.
- *Pallid Sturgeon*. The status in North Dakota is “rare.” However, Pallid Sturgeons are most commonly found in the upper Missouri River upstream of Lake Sakakawea, and in the Yellowstone River near the confluence of the two rivers. A status review and recovery plan has been conducted and developed by the U.S. Fish and Wildlife Service. The Upper Basin Pallid Sturgeon Workgroup was established shortly after the listing of the pallid sturgeon and has implemented a program to reproduce and stock the pallid sturgeon back to the river. The Workgroup meets annually to report and update members; a Governing Board meets 2-3 times a year to update the 10 year recovery strategy for the upper basin, prioritize research, and address specific issues.
- *Whooping Crane*. The Whooping Crane is considered an endangered species known to occur in Bowman and Slope Counties. There is one Habitat Conservation Plan and one Safe Harbor Agreement in place related to the

whooping crane, both within Texas. The Final Third Revision of a Recovery Plan is in place, and implementation in progress.

Endangered Species wherever found, including North Dakota, but not known to occur within Bowman County or Slope County:

- Least Tern (Endangered)
- Poweshiek Skipperling (Endangered)

**b. Threatened Species.** According to the North Dakota Game and Fish Department, the following are threatened species:

- *Northern Long-Eared Bat.* North Dakota was included in the northern long-eared bat range effective April 30, 2015. Shortly after, in May 2015, the long-eared bat was listed as a threatened species in May 2015. The northern long-eared bat is known to or believed to occur in both Bowman County and Slope County.

The Fish and Wildlife Service issued a final Rule 4(d) under the Endangered Species Act in January 2016. The Rule requires that, after May 3, 2016, individuals who wish to capture and handle northern long-eared bats for recovery purposes will need a permit pursuant to section 10(a)(1)(A) of the Endangered Species Act.

The greatest concern related to this species is White-Nose Syndrome (WNS), a fungal disease affecting many hibernating U.S. bat species. The Fish & Wildlife Service is also monitoring incidence of *pseudogymnoascus destructans*, the fungus that causes WNS. The Final Rule 4(d) includes additional provisions for those areas inside the WNS zone. Though the incidence of WNS has been confirmed in 31 states and 5 Canadian provinces, there are no known incidents of WNS within North Dakota as a whole.

Critical habitat has not been designated. On April 25, 2016, the U.S. Fish and Wildlife released a statement indicating that it had determined that designating critical habitat for the northern long-eared bat under the ESA is not prudent.

Threatened Species wherever found, including North Dakota, but not known to occur within Bowman or Slope Counties:

- Red Knot (Threatened)
- Piping Plover (except Great Lakes Watershed) (Threatened)
- Dakota Skipper (Threatened)
- Western Prairie Fringed Orchid (Threatened)

**c. Wildlife Action Plan.** North Dakota’s Wildlife Action Plan focuses on species that are considered Species of Conservation Priority. They are categorized into three (3) levels according to their conservation need:

Level I species have a high level of conservation priority because of declining status either here or across their range or a high rate of occurrence in North Dakota constituting the core of the species breeding range (i.e. “responsibility” species) but are at-risk range wide.

Level II species are those having a moderate level of conservation priority or a high level of conservation priority but a substantial level of non-State Wildlife Grant funding is available to them. Federally threatened and endangered species are classified as Level II because there is other funding available.

Level III species have a moderate level of conservation priority but are believed to be peripheral or non-breeding in North Dakota.

North Dakota currently lists the following as <u>Level I</u> :	
Horned Grebe ( <i>Podiceps auritus</i> )	Canadian Toad ( <i>Anaxyrus hemiophrys</i> )
American Bittern ( <i>Botaurus lentiginosus</i> )	Plains Spadefoot ( <i>Spea bombifrons</i> )
Swainson's Hawk ( <i>Buteo swainsoni</i> )	Smooth Green Snake ( <i>Opheodrys vernalis</i> )
Ferruginous Hawk ( <i>Buteo regalis</i> )	Plains Hog-nosed Snake ( <i>Heterodon nasicus</i> )
Greater Sage Grouse ( <i>Centrocercus urophasianus</i> )	Townsend’s Big-eared Bat ( <i>Corynorhinus townsendii</i> )
Yellow Rail ( <i>Coturnicops noveboracensis</i> )	Big Brown Bat ( <i>Eptesicus fuscus</i> )
Long-billed Curlew ( <i>Numenius americanus</i> )	Little Brown Bat ( <i>Myotis lucifugus</i> )
Marbled Godwit ( <i>Limosa fedoa</i> )	Northern Long-eared Bat ( <i>Myotis septentrionalis</i> )
Wilson's Phalarope ( <i>Phalaropus tricolor</i> )	Black-tailed Prairie Dog ( <i>Cynomys ludovicianus</i> )
Franklin's Gull ( <i>Leucophaeus pipixcan</i> )	Sturgeon Chub ( <i>Marcrhybopsis gelida</i> )
Black Tern ( <i>Chlidonias niger</i> )	Sicklefin Chub ( <i>Marcrhybopsis meeki</i> )
Black-billed Cuckoo ( <i>Coccyzus erythrophthalmus</i> )	Northern Pearl Dace ( <i>Margariscus nachtriebi</i> )
Red-headed Woodpecker ( <i>Melanerpes erythrocephalus</i> )	Blue Sucker ( <i>Cycleptus elongatus</i> )
Sprague's Pipit ( <i>Anthus spragueii</i> )	Creek Heelsplitter ( <i>Lasmigona compressa</i> )
Grasshopper Sparrow ( <i>Ammodramus savannarum</i> )	Pink Papershell ( <i>Potamilus ohioensis</i> )
Baird's Sparrow ( <i>Ammodramus bairdii</i> )	Monarch Butterfly ( <i>Danaus plexippus</i> )

North Dakota currently lists the following as <u>Level I</u> :	
Nelson's Sparrow ( <i>Ammodramus nelsoni</i> ) Lark Bunting ( <i>Calamospiza melanocorys</i> ) Chestnut-collared Longspur ( <i>Calcarius ornatus</i> )	Regal Fritillary ( <i>Speyeria idalia</i> )

### 3. Missouri River Recovery Management Plan and Impact Statement

The Missouri River Recovery Management Plan is an effort by the U.S. Army Corps of Engineers to replace lost habitat and avoid a finding of jeopardy to threatened and endangered species (pallid sturgeon, least tern and piping plover). These actions are being taken pursuant to the 2000 Biological Opinion, amended in 2003 (collectively referred to here as the BiOp) and various Water Resource Development Acts currently focused on activities which contribute to jeopardy avoidance. In 2014, there were two genetically confirmed larval pallid sturgeon near the mouth of the Missouri River.

### 4. Stewart Lake National Wildlife Refuge

The Stewart Lake National Wildlife Refuge, located in Slope County, was established by Executive Order on February 3, 1941 as breeding grounds for migratory birds and other wildlife. The refuge is 2,230 acres, with 2,033 acres of native grasslands, tame grasses, and rock outcroppings surrounding Stewart Lake (197 acres). Almost 1,600 acres of the refuge is on privately owned land, but the landowners and U.S. Government work cooperatively to protect the resources. The U.S. Fish and Wildlife Service oversees Stewart Lake National Wildlife Refuge from their offices at Audubon National Wildlife Refuge. Stewart Lake is the largest wetland on the refuge, and a major water bird oasis in the area to ducks, geese, shorebirds, and songbirds, which are attracted to the food, water, shelter, and space provided by the refuge. It is impounded by an earthen dam containing a spillway and a low level outlet.

*Conservation Plan.* A Comprehensive Conservation Plan was approved in 2008 for 12 of the U.S. Fish and Wildlife Service's national wildlife refuges in North Dakota, including Stewart Lake, for a period of 15 years.

*Water Rights:* For Stewart Lake National Wildlife Refuge, the Service recorded a declaration of filing with the North Dakota State Engineer, priority date September 1, 1934, for 1,393.0 acre-feet from Deep Creek, tributary to the Little Missouri River, as a refuge and breeding ground for migratory birds and other wildlife: 802.0 acre-feet for storage and 591.0 acre-feet for seasonal use. Records need to be updated and water rights perfected with the North Dakota State Engineer. The Service acquired Perfected Water Permit Number 4891, priority date April 17, 1995, for 5.0 acre-feet for storage from an unnamed tributary to Deep Creek. For fish, wildlife, and livestock use, 5.0 acre-feet will be used to offset evaporative losses.

## **5. White Lake National Wildlife Refuge**

The White Lake National Wildlife Refuge is also located in Slope County and consists of 1,040 acres. The White Lake National Wildlife Refuge was established in 1941 as an Easement Refuge for the protection and preservation of migratory waterfowl. This entire area is now vested in the United States as White Lake National Wildlife Refuge. White Lake is also managed by the Audubon National Wildlife Refuge Complex. The U.S. Forest Service has closed this refuge to the public.

*Conservation Plan:* White Lake National Wildlife Refuge is also part of the Comprehensive Conservation Plan approved in 2008 for 12 of the U.S. Fish and Wildlife Service's national wildlife refuges in North Dakota.

*Water Rights:* For White Lake National Wildlife Refuge, the Service recorded a declaration of filing with the North Dakota State Engineer, priority date September 1, 1934, for 1,315.0 acre-feet from an unnamed tributary to the Cannonball River in the Missouri River watershed as a refuge and breeding ground for migratory birds and other wildlife: 760.0 acre-feet for storage and 555.0 acre feet for seasonal use. Records need to be updated and water rights perfected with the North Dakota State Engineer

## **6. U.S. Department of Agriculture**

Agriculture is one of North Dakota's top industries. According to the North Dakota Department of Agriculture, nearly 90 percent of North Dakota land area is in farms and ranches. Agriculture is the largest segment of the state's economy and is responsible for almost one-fourth of the state's employment.

### **a. Apiary Program - Honey Bees**

North Dakota is the #1 honey producing state in the nation. In 2014, North Dakota bees produced over 42 million pounds of honey valued at over \$84 million. The Apiary Program licenses beekeepers and registers hive locations annually. Hives are inspected when requested by the beekeeper.

Recently, Agriculture Commissioner Doug Goehring announced that approximately \$110,000 is available for finding practical solutions to honey bee health issues; and for honey promotion and outreach projects. Goehring said applicants can submit proposals for any or all of five research priorities: 1) Colony collapse cause, management; 2) Varroa mite control; 3) Understanding honey bee viruses and effects on honey bee health; 4) Correlating pathogen presence to management practices; and 5) Other problem-solving ideas of interest to the beekeeping industry.

## **b. Drought**

*Drought Conditions.* On September 15, 2016, the U.S. Department of Agriculture (USDA) designated Bowman County as a primary disaster area due to losses caused by a drought. Slope County also qualified for natural disaster assistance. With this designation, all qualified farm operators in these counties qualify for low interest emergency loan from the USDA's Farm Service Agency (FSA) (after meeting eligibility requirements) to help cover a portion of their actual losses.

On June 7, 2017, Agriculture Commissioner Doug Goehring announced that North Dakota ranchers needing or selling hay can call a hotline for assistance. Commissioner Goehring noted that part of North Dakota were classified as a D2 (severe drought) already. Unfortunately, the classification must last for at least 8 weeks before the lands can normally be released.

By letter dated June 16 2017 to the Secretary of the U.S. Department of Agriculture Sonny Perdue, Senator John Hoeven, Senator Heidi Heitkamp, and Congressman Kevin Cramer requested the USDA to provide assistance to North Dakota ranchers facing early season drought conditions by allowing emergency haying of Conservation Reserve Program acres. According to the letter, "In North Dakota, the effects of this abnormally dry weather on pastures and hay crops have been devastating. Media accounts of herd liquidation at sales barns are common. Many North Dakota ranchers are being faced with having to decide whether to sell valuable assets of their livestock operators."

North Dakota Governor Doug Burgum, by Executive Order 2017-06 dated June 22, 2017, declared a drought emergency for several counties in North Dakota, including Bowman and Slope Counties. Included in that Order was a directive to the Chief Engineer and Secretary of the North Dakota State Water Commission to administer the North Dakota Drought Disaster Livestock Water Supply Project Assistance Program.

On June 23, 2017, the United States Department of Agriculture (USDA) Secretary Sonny Perdue released acres of Conservation Reserve Program (CRP) in North Dakota for emergency grazing effective immediately through Sept. 30.

In addition to the loss of production of a ranch or farm, persistent drought conditions can have very significant impacts and financial ramifications:

- *Increased Hay Prices.* Rangeland specialists with North Dakota State University have encouraged ranchers to start finding and buying hay now, as prices will increase as drought conditions persist.
- *Increased Nitrogen Content in Crops.* Farmers and ranchers must be aware of the nitrogen content in their crops to avoid poisoning livestock. Farmers may fertilize their crops with nitrates, which are more concentrated in stunted, smaller plants. If nitrogen concentration gets too high, those levels can kill a cow in one day.

- *Livestock.* Ranchers may elect to move their cattle to graze later in the year. Given the widespread drought conditions, individuals interested in moving their cows should begin looking around at options and building trusting relationships now.
- *Grass Conservation Efforts.* Ranchers need to begin culling their herds and weaning early to conserve their grass now.
- *Emergency Crops.* Ranchers and farmers also need to plan emergency crops to plant in case it does rain.

**c. Litigation.** The North Dakota Farm Bureau and other farmers and ranchers filed a federal lawsuit in the U.S. District Court for the District of North Dakota. In January 2017, Judge Daniel Hovland granted a motion to intervene by the North Dakota Farmers Union and the Dakota Resource Center. The parties seek to overturn the state's anti-corporate farming laws. North Dakota law prohibits non-family farm corporations or LLCs from owning farmland or being involved in production agriculture. North Dakota Farmers Union has a long history with the anti-corporate farming law. It drafted the law, which was enacted through an initiated measure in 1932, and has been involved in protecting it ever since.

## **7. Cloud Modification Project**

The North Dakota Cloud Modification Project (“NDCMP” or the “Project”) is an operational program that seeds clouds for hail damage reduction and rain enhancement in western North Dakota. Bowman County currently splits costs for the program with the state, with each putting in approximately \$96,000.

The 2017 the NDCMP began operations for the season on June 1 amid moderate drought conditions. Leading up to June, North Dakota experienced an unusually dry spring. Most locations in western North Dakota have three to five inch (year-to-date) precipitation deficits. In the District 1 operations area, which includes Bowman and part of Slope Counties, aircraft conducted operations for hail suppression on June 5, reconnaissance on June 9, and rain enhancement on June 10. During the first eleven days of June, 5 flights were flown by the two project aircraft.

Despite reports that the Project is effective, local farmers started a petition last fall, which received 358 signatures, to let the people of Bowman County decide whether or not they want to abolish the Cloud Modification Project program.

## **8. Little Missouri National Grassland**

The Little Missouri National Grassland is the largest grassland in the country (1,033,271 acres). Within its borders is Theodore Roosevelt National Park. The national grassland contains significant portions of state-owned and privately owned land, much of it leased by cattle ranchers for grazing.



**a. Little Missouri National Grassland Prairie Dog Management Project**

The Forest Service plans to implement the Dakota Prairie Grasslands Land and Resource Management Plan (LRMP) prairie dog direction to manage the prairie dog population, respond to unwanted encroachments onto the non-National Forest System (NFS) lands, and to divert existing colonies away from non-NFS land. There are an estimated 137 prairie dog colonies within the Little Missouri National Grassland. For prairie dog complexes, the LRMP specifies the development of up to four prairie dog complexes for conservation of prairie dogs and associated species. A complex is defined as having at least 10 prairie dog colonies, a minimum of 1,000 acres. Of three mentioned sites to expand and establish prairie dog complexes, one is in the vicinity of Theodore Roosevelt National Park – South Unit.

According to an article published in the Tri-State Livestock News on September 27, 2016, ranchers are now losing grass from the increased number of prairie dogs on the Little Missouri National Grassland. Landowners within the Little Missouri area face a unique challenge, as federal land is interspersed with private sections. Compared to other regions with large blocks of federal land, here most ranches encompass parcels of Forest Service. Many pastures include both deeded and Forest Service acreage within the same fence line.

**9. National Park Service -- Theodore Roosevelt National Park.**

The Theodore Roosevelt National Park is governed by:

**a. Park-specific Documents.** Individual parks and their management team work within these regulations to determine what is best for the management of a specific park. Below are documents specific to Theodore Roosevelt National Park.

- *Superintendent's Compendium* - This document is drafted by the park management team and signed by the superintendent. It contains regulations specific to the use and protection of Theodore Roosevelt National Park.
- *Long Range Interpretive Plan* - The Division of Interpretation is responsible for providing many of the services offered at a national park. This plan details the long-term goals established by the management team to expand and enhance those visitor services.
- *Foundation Document* - This document provides much of the guidance for the planning and management decisions made for the park. A smaller overview is also available.

**b. Theodore Roosevelt National Park Projects.** According to the Park's website, there are three Park projects currently underway:

- *Replace North Unit Radio Tower.* The new tower would be at the same general location and provide the same functions required to

support the parks current and projected operational needs. Verizon would tear down the old tower and construct the new tower, co-locating both NPS and their equipment on it. The public comment period closed January 9, 2015.

- *Replace North Unit Visitor Center.* After a decision is reached regarding what site to build on, tentatively expected by August of 2015, the NPS will complete the process of designing the visitor center itself and any associated structures. The public comment period closed June 17, 2015.

- *Verizon Wireless Rough Rider Telecommunications Site (right-of-way permit).* An Environmental Assessment (EA) on the proposed issuance of a right-of-way permit by Theodore Roosevelt National Park and the proposed issuance of a Private Road Special Use Permit by the U.S. Forest Service has been prepared and is available for public comment.

**c. Theodore Roosevelt National Park North Scenic Byway.** The 14-mile Theodore Roosevelt North Unit Scenic Byway provides the colorful North Dakota Badlands as a scenic backdrop with its sweeping vistas of one of the last remnants of wilderness in the Northern Great Plains. Theodore Roosevelt National Park memorializes the 26th President for his enduring contributions to the conservation of our natural resources. Visitors are provided a unique opportunity for wildlife viewing. In the park you will find open prairie, hardwood draws, bison, other wildlife, and the Little Missouri River.

**d. Theodore Roosevelt National Park Wildlife Management.** Park Service management philosophy allows for self-regulation of ecosystems within the park whenever possible. With the absence of many natural predators, species such as bison, elk and feral horses must be actively managed by the park. Roundups, culling, and contraception methods are all utilized to manage animal populations. The Park also has active management programs for its several large mammal populations:

1. *Exotic Plant Control.* Theodore Roosevelt National Park efforts to control invasive plants focus on:

- leafy spurge (*Euphorbia esula*)
- spotted knapweed (*Centaurea maculosa*)
- Russian knapweed (*Rhaponticum repens*)
- Canada thistle (*Cirsium arvense*)
- black henbane (*Hyoscyamus niger*)
- absinth wormwood (*Artemisia absinthium*)
- tamarisk or salt cedar (*Tamarix ramosissima*)

2. *Fire Ecology.* The Fire Management Plan of Theodore Roosevelt National Park maintains the processes and benefits of natural wildfires. Prescribed fires help combat invasive plants, control prairie succession, and benefit wildlife grazing. The park utilizes vegetation data to monitor how these fires affect plant species years after a burn. This data is crucial for future fire management decisions. The Plan addresses both the positive and negative aspects of wildfire. The program's successes help maintain ecosystems that reflect the natural landscape, and protect human lives and property from uncontrolled wildfires.
3. *Bison Management.* The park controls the bison population by conducting roundups on a periodic basis, about every 3-5 years. Each bison is weighed, aged, sexed, and assigned an identification number. Based on goals for various age classes and sex ratios, the park biologist decides whether the bison will be released back into the park or culled from the herd.
4. *Elk Management.* In an effort to reestablish the native ecology, Theodore Roosevelt National Park reintroduced elk to the South Unit in 1985 and set an optimal population of 100-400 animals. Within a few years, that number had been exceeded, and roundups of live elk were conducted in 1993 and 2000. A management program was designed with the following goals: (1) Research elk movement and distribution, (2) Manage population dynamics, and (3) Monitor consumption rates. The national park works with North Dakota Game & Fish Department to manage the elk population in southwestern North Dakota.
5. *Feral Horse Management.* Horses numbers have historically been managed at the park through periodic (every three to four years) roundups, utilizing helicopters to herd horses to a handling facility. Removed horses are then sold at public auction. However, the park is exploring alternative methods for herd management, including: contraceptives, low-stress livestock herding, corral trapping, chemical immobilization, adoption program (in partnership with the North Dakota Badlands Horse non-profit), and genetics research. The Park has also implemented a Volunteer in Parks Program that allows private citizens to participate in horse management activities, and works with two non-profit organizations: North Dakota Badlands Horse and Wild in North Dakota.

**10. The North Dakota Greater Sage-Grouse Amendment** is in place throughout Montana, North Dakota, and South Dakota. The Plan was created from the Record of Decision (ROD) and Approved Resource Management Plan Amendments for the Rocky Mountain Region.

- *Possible Litigation.* The North Dakota NDIC is evaluating whether North Dakota needs to intervene in the lawsuit filed by Western Energy Alliance challenging the final plan.
- *Planning Area.* The North Dakota Greater Sage-Grouse RMPA/EIS planning area boundary defines the area assessed in this ARMPA. The planning area encompasses 963,017 acres in Bowman, Slope, and Golden Valley Counties in southwestern North Dakota. The BLM administers 33,030 acres (about 3.4 percent) of the planning area and 396,053 acres of federal mineral estate.
- *Sagebrush Seedling Program.* Because of the high demand for sagebrush for the sage grouse, SGI (in partnership with the NRCS, North Dakota Game and Fish, and Bureau of Land Management) is helping to fund seed collection from the wild, growing plants in nurseries, and planting sagebrush in grasslands. Since 2010, 3000 seedlings have been planted in Bowman and Slope Counties.

**11. The North Dakota Resource Management Plan** has been in effect since 1987. Though the plans are generally written for a period of ten to twenty years, there is no notation within the Bureau of Land Management website to update or amend the North Dakota Resource Management Plan in the future at this point.

## **12. Impaired Waters – Bowman and Slope Counties**

The Clean Water Act contains several sections which require states to report on the quality of their waters. Section 305(b) (State Water Quality Assessment Report) requires a comprehensive biennial report; and Section 303(d) requires, from time to time, a list of a state's water quality-limited waters needing total maximum daily loads.

### **a. Clean Water Act Section 303(d) Total Maximum Daily Load (TMDL) Waterbody List- Reservoirs, Dams, and Rivers**

The United States Environmental Protection Agency (Region 8) approved North Dakota's 2016 303(d) list on February 21, 2017. The list includes the following reservoirs, dams, and rivers within Bowman and Slope Counties:

- *Bowman-Haley Reservoir.* On July 22, 2016, North Dakota State officials issued a blue-green algae warning for Bowman-Haley Reservoir after high levels of a hazardous toxin produced by the algae were detected in the water. The release stated that the cyanotoxin—specifically known as microcystin—is dangerous for both people and animals, and that swimming in or drinking water from the reservoir should be halted until further notice. Ingestion of microcystin can damage the liver and can be fatal if ingested. However, even if not ingested, the cyanotoxins produced by blue-green algae can cause health problems with any physical contact. Symptoms of microcystin poisoning can include diarrhea and vomiting, numb lips, tingling fingers and toes, dizziness, hives or skin blisters. The toxin can also cause cold-like symptoms.

- *Bowman-Haley Dam.* Approximately 1750 acres were classified as TMDL Low Priority. Impairment Nutrient/Eutrophication Biological Indicators.
- *Little Missouri River from its confluence with 77.52 Miles Little Beaver Creek downstream to its confluence with Deep Creek.* Located in Slope County. TDML High Priority. Impairment fecal coliform. Category 5A.
- *Little Missouri River from its confluence 48.85 Miles with Deep Creek, downstream to its confluence with Andrew's Creek.* Located in Billings and Slope Counties. TMDL High Priority. Impairment- Escherichia coli.
- *Cedar Creek. Approximately 31.84 miles of Cedar Creek from its confluence with South Miles Fork Cedar Creek, downstream to Cedar Lake, Located in Slope and Bowman County.* TMDL Low Priority. Impairment- Sedimentation/Siltation. Category 5A.
- *North Fork Cedar Creek, including all 14.81 Miles tributaries.* Located in Slope County. TDML Low Priority. Impairment Sedimentation/Siltation. Category 5A.
- *Unnamed tributaries to Cedar Creek (ND- 84.74 Miles 10130205-042-S\_00).* Located in Slope and Bowman counties. TMDL Low Priority. Impairment Sedimentation/Siltation. Category 5A.
- *South Fork Cedar Creek, including all 22.2 Miles tributaries.* Located in Bowman County. TDML Low Priority. Impairment Sedimentation/Siltation. Category 5A.
- *Cedar Creek upstream from its confluence with 50.03 Miles South Fork Cedar Creek, including all tributaries.* Located in Bowman and Slope Counties. TMDL Low Priority. Impairment Sedimentation/Siltation. Category 5A.
- *North Cedar Creek, including all tributaries.* 116.42 Miles Located in Slope County. TMDL Low Priority. Impairment Sedimentation/Siltation. Category 5A.

Beginning with the 2010 Integrated Report and Section 303(d) list of impaired waterbodies needing TMDLs, the department has identified a subcategory to Category 5 waterbodies. This subcategory, termed Subcategory 5A, includes rivers, streams, lakes or reservoirs that were assessed and listed in earlier Section 303(d) lists, but where the original basis for the assessment decision and associated cause of impairment is questionable. These waterbodies remain on the 2016 Section 303(d) list, but will be targeted for additional monitoring and assessment during the next two to four years.

## **b. Lake and Reservoir Classification- Bowman and Slope Counties**

The following reservoirs and lakes have been labeled as “*Classification 3.*” Classification 3 means that it is a “Warm Water Fishery,” with waters capable of supporting natural reproduction and growth of warm water fishes (e.g., largemouth bass and bluegill) and associated aquatic biota. Some cool water species may also be present.

- Bowman-Haley Dam (Bowman County)
- Gascoyne Lake (Bowman County)
- Kalina Dam (Bowman County)
- Spring Lake (Bowman County)
- Cedar Lake (Slope County)
- Stewart Lake (Slope County)

The following reservoirs and lakes have been labeled as “*Classification 2.*” Classification 2 means that it is a “Cold Water Fishery,” with waters capable of supporting natural reproduction and growth of cool water fishes (e.g., northern pike and walleye) and associated aquatic biota. These waters are also capable of supporting the growth and marginal survival of cold water species and associated biota.

- Lutz Dam (Bowman County)
- Davis Dam (Slope County)

## **c. Applicable Regulations.**

*United States Environmental Protection Agency- Waters of the United States.* The Environmental Protection Agency (EPA) signed the “Waters of the United States” final rule on May 27, 2015, which was published in the Federal Register on July 29, 2015, and became effective in 37 states on August 28, 2015. North Dakota, Alaska, Arizona, Arkansas, Colorado, Idaho, Missouri, Montana, Nebraska, New Mexico, Nevada, South Dakota, and Wyoming filed a lawsuit in U.S. District Court, claiming the final rule would harm states as regulators of the waters and lands. On August 27, 2015 Federal District Judge Erickson granted a preliminary injunction preventing enforcement of the rule in the 13 states. The North Dakota case will now be subject to appeal, but no schedule has been set at this time.

On October 9, 2015 the United States Court Of Appeals for the Sixth Circuit granted a nationwide stay of the WOTUS rule pending jurisdiction determinations. Finally, on February 28, 2017 President Trump signed an executive order directing the EPA to take action. North Dakota plans to continue active participation in the litigation of this rule until the EPA takes final action eliminating the rule.

In a news release dated June 27, 2017, the Environmental Protection Agency, Department of Army, and Army Corps of Engineers indicated that they are proposing a rule to rescind the Clean Water Rule and re-codify the regulatory text that existed prior to 2015 defining “waters of the United States” or WOTUS.

*Clean Water Act, Safe Drinking Water Act, Clean Air Act, and Endangered Species Act.* The North Dakota Legislature passed HB1432 which creates a council to address Clean Water Act, Safe Drinking Water Act, Clean Air Act, and Endangered Species Act issues: BIA has published a new final rule to update the process for obtaining rights of way on Indian land. The rule was published November 19, 2015 and became effective December 21, 2015.

### 13. Oil and Gas

**a. Oil and Gas Production.** According to the North Dakota State Industrial Commission Oil and Gas Production Report for April 2017, the following statistics apply to Bowman County, ND:

<b>Bowman County</b>	
<b>March 2017</b>	<b>April 2017</b>
<ul style="list-style-type: none"> <li>• 526 wells producing</li> <li>• 540,603 adjusted oil production in BBLs for March</li> <li>• 887,975 adjusted gas production in MCF for March</li> </ul>	<ul style="list-style-type: none"> <li>• 468 wells producing</li> <li>• 521 wells capable of production</li> <li>• 521,078 preliminary oil production in BBLs</li> <li>• 798,962 preliminary gas production in MCF</li> </ul>
<b>Slope County</b>	
<b>March 2017</b>	<b>April 2017</b>
<ul style="list-style-type: none"> <li>• 16 wells producing</li> <li>• 29,581 adjusted oil production in BBLs</li> <li>• 7,958 adjusted gas production in MCF</li> </ul>	<ul style="list-style-type: none"> <li>• 16 wells producing</li> <li>• 18 wells capable of production</li> <li>• 27,812 preliminary oil production in BBLs</li> <li>• 7,099 preliminary gas production in MCF</li> </ul>

**b. Oil & Gas Lease Auctions (Bowman County).** According to the Department of North Dakota Trust Lands, there are 18 oil and gas lease auctions scheduled between July 25, 2017 and August 1, 2017, which total 923.80 mineral acres. All of the leases are by Nominator Skyworld Oil ND Ltd. There are no scheduled auctions in Slope County.

**c. Oil Spills.** North Dakota has an extremely high number of oil spills. According to the North Dakota Department of Health Environmental Incidents Reports logged 745 oil spills in just one year, ending in May 1, 2017.

1. On May 24, 2017, a hose leak on a vacuum truck owned and operated by Plains Marketing caused 20 gallons of crude oil to spill. The spill occurred 8 miles south of Rhame, North Dakota, in Bowman County, and impacted soils in the area.

According to the General Environmental Incident Report, the release is contained but will require follow up.

2. In April 2017, a 1,050-gallon oil pipeline spill in Bowman County polluted a tributary of the Little Missouri River. Fortunately, it was prevented from flowing into the larger waterway. An estimated 756 gallons of oil and 294 gallons of saltwater, a drilling byproduct, leaked from a pipeline in Bowman County operated by Continental Resources, which is based in Oklahoma City.
3. A report submitted by Plains Marketing indicates that 1 barrel of crude oil spilled at the Rhame station, 8 miles south of Rhame. The spill was caused by a tank overflow into secondary containment.
4. In January 2017, a produced water spill resulting from a pipeline leak was discovered approximately 11 miles south of Bowman in Bowman County. Initial reports estimated that 300 barrels of water were released from a buried pipeline affecting rangeland.
5. On December 1, 2016, a pipeline leak caused approximately 2,000 barrels (84,000 gallons) of source water to flow into Skull Creek in Bowman County. Ranchers were cautioned to allow their cattle to drink from the creek, as chloride readings were slightly higher.
6. There have been a number of issues associated with the well site operated by Denbury Onshore LLC in Bowman County, most recently with the spill of around 4,000 barrels of source water in August 2016. On May 18, 2016, a tank overflow spilled an estimated 400 barrels of oil and 2,500 barrels of produced water at a site operated by Denbury Onshore LLC. On February 6, 2016, about 200 barrels of source water used for enhanced oil recovery leaked from a pipeline near a well operated by Denbury Onshore.

#### **d. Applicable Regulations and Litigation.**

1. *National Park –9B Regulations.* On October 20, 2016, the National Park Service revised 36 CFR Part 9, Subpart B (the “9B regulations”) which govern non-federal oil and gas production occurring, or likely to occur in the foreseeable future, within the boundaries of units of the National Park System. The NPS has prepared a final environment impact statement (FEIS) analyzing potential impacts associated with a range of alternatives for regulating non-federal oil and gas development impacts on park resources, including wildlife, threatened and endangered species, vegetation, and wetlands.
2. *Venting and Flaring Regulation- 43 CFR Parts 3100, 3160, and 3170.* The BLM published a new final rule to update and replace its regulations on venting and flaring of natural gas effective January 17, 2016. North Dakota, Wyoming, Montana, Western Energy Alliance, and IPAA filed for motions for preliminary injunction, which were denied. On February 3, 2017, the U.S. House of Representatives voted 221-191 to approve a Congressional Review Act resolution



against the rule. On March 28, 2017 President Trump issued an executive order which, in part, states that “The Secretary of the Interior shall review the following final rules, and any rules and guidance issued pursuant to them, for consistency with the policy set forth in section 1 of this order and, if appropriate, shall, as soon as practicable, suspend, revise, or rescind the guidance, or publish for notice and comment proposed rules suspending, revising, or rescinding those rules...”. This rule is included in the list as item (iv). North Dakota is a party to Case No. 2:16 CV 285-SWS, which is currently pending in the U.S. District Court for the District of Wyoming before Judge Skavdahl.

3. *Demand for More Regulations to the EPA Drilling and Fracking Waste.* On August 26, 2015 a coalition of environmental organizations filed a 60 day legal notice with the U.S. Environmental Protection Agency demanding more regulation of drilling and fracking waste. Several environmental groups filed suit on May 4, 2016 in the District Court for the District of Columbia. North Dakota filed a motion to intervene, which was denied. On January 31, 2017 North Dakota filed an appeal of the decision(s), consent decree, and federal reimbursement of plaintiffs’ legal costs. As part of the appeal process, North Dakota filed a statement of issues and the other administrative filings: (1) whether the District Court erred in denying North Dakota’s motion to intervene in order to represent its sovereign interests in a case in which the Plaintiffs-Appellees seek to compel the U.S. Environmental Protection Agency (“U.S. EPA”) to review and revise solid waste management regulations under Subtitle D of the Resource Conservation and Recovery Act; (2) whether the District Court erred in concluding that North Dakota did not have Article III standing in this case; (3) whether the District Court erred in concluding that North Dakota should be held to a different, and more stringent, standard for Article III standing than the Plaintiffs-Appellees; and (4) whether the District Court erred in entering a Consent Decree that violates Subtitle D of RCRA because it omits statutory nondiscretionary duties with which U.S. EPA must comply, and would impose new nondiscretionary duties on U.S. EPA that are not contained in the statute. North Dakota filed its opening appeal brief in the U.S. Court of Appeals for the District of Columbia Circuit Court on May 23, 2017. The next scheduled dates in the appeal involve EPA and the NGOs briefs are due June 21st and North Dakota’s Reply Brief is due July 5th. North Dakota anticipates that an oral argument will be scheduled once briefing is completed.
4. *Environmental Protection Agency- Changes to Clean Air Act.* The final rule proposing a suite of changes to Clean Air Act permitting requirements for new and modified emissions sources in the oil and natural gas industry was published in the Federal Register in June 2016. Shortly after, the North Dakota Industrial Commission filed a Petition for Review with the U.S. Appeals Court for the District of Columbia to defend North Dakota’s sovereign jurisdiction over oil and gas regulation. Thirteen other states have joined this effort. North Dakota declined the standard offer to explore settlement through the court’s mediation program.

On March 28, 2017 President Trump issued an executive order which states, in part: "The Administrator shall review the final rule entitled "Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources," 81 Fed. Reg. 35824 (June 3, 2016), and any rules and guidance issued pursuant to it, for consistency with the policy set forth in section 1 of this order and, if appropriate, shall, as soon as practicable, suspend, revise, or rescind the guidance, or publish for notice and comment proposed rules suspending, revising, or rescinding those rules." Shortly after, on April 7, 2017, the EPA filed a motion to hold the cases in abeyance.

NGO environmental groups have filed a new case in the D.C. Circuit Court, challenging the EPA's decision to issue 90 day stay of the Rule's upcoming implementation dates on June 5, 2017. NGOs have also filed an emergency motion asking the Court to immediately vacate EPA's decision. North Dakota is considering participating in the new case through an amicus brief or motion to intervene.

The EPA published an advanced notice of proposed rule-making to seek comments on the information that should be reported or disclosed for hydraulic fracturing chemical substances and mixtures and the mechanism for obtaining this information. The proposed rule-making is in response to a petition from Earthjustice and 114 other groups who are opposed to the use of the GWPC-IOGCC FracFocus website process of chemical disclosure and any type of trade secret protection for hydraulic fracturing fluid mixtures. These groups are requesting EPA regulation of chemical disclosure under the federal Toxic Substances Control Act.

5. *PHMSA Revisions to Hazardous Materials Regulations - PHMSA-2016-0077 (HM-251D)*. The Pipeline and Hazardous Materials Safety Administration (PHMSA) is considering revising the Hazardous Materials Regulations (HMR) to establish vapor pressure limits for unrefined petroleum-based products and (potentially) all Class 3 flammable liquid hazardous materials that would apply during the transportation of the products or materials by any mode.

The PHMSA is currently assessing the merits of a petition for rulemaking submitted by the Attorney General of the State of New York, which requests that PHMSA implement a Reid Vapor Pressure (RVP) limit less than 9.0 pounds per square inch (psi) for crude oil transported by rail. The North Dakota Industrial Commission (NDIC) believes the rule making could substantially interfere with NDIC oil conditioning regulations and plans will submit comments.

6. *U.S. Fish and Wildlife Service- Revisions to Management of Non-Federal Oil and Gas Rights*. The U.S. Fish and Wildlife Service (Service) announced a final rule to revise existing regulations governing the management of non-federal oil and gas activities on National Wildlife Refuge System lands. The final rule implements a higher and more consistent level of protection for Refuge System resources and uses from the effects of non-federal oil and gas-related activities. This effort is part of the Service's ongoing commitment to avoid or minimize

adverse effects on natural and cultural resources and wildlife-dependent recreation associated with oil and gas activities, ensure a consistent and effective regulatory environment for oil and gas operators and protect public health and safety. The final rule was published in the Federal Register on November 14, 2016, and become effective on December 14, 2016. The final rule is being published concurrently with the record of decision (ROD) completing the National Environmental Policy Act (NEPA) process. On March 28, 2017 President Trump issued an executive order which in part directs “The Secretary of the Interior shall review the following final rules, and any rules and guidance issued pursuant to them, for consistency with the policy set forth in section 1 of this order and, if appropriate, shall, as soon as practicable, suspend, revise, or rescind the guidance, or publish for notice and comment proposed rules suspending, revising, or rescinding those rules:”. This rule is included in the list as item (iii). North Dakota plans to continue monitor potential participation in litigation of this rule until the USFWS takes final action eliminating the rule.

7. *Environmental Protection Agency- Impacts from Hydraulic Fracturing Activities on Drinking Water.* The EPA published a news release on December 13, 2016, which states that hydraulic fracturing activities can impact drinking water resources under some circumstances, and identifies factors that influence those impacts. A core element of the Safe Drinking Water Act's (SDWA) Underground Injection Control (UIC) program is setting requirements for proper well siting, construction, and operation to minimize risks to underground sources of drinking water. The Energy Policy Act of 2005 excluded hydraulic fracturing, except when diesel fuels are used, for oil, gas or geothermal production from regulation under the UIC program. This statutory language caused regulators and the regulated community alike to raise questions about the applicability of permitting practices. Earthjustice and 114 other groups sent a petition to the EPA, indicating their opposition to the use of the GWPC-IOGCC FracFocus website process of chemical disclosure and any type of trade secret protection for hydraulic fracturing fluid mixtures. These groups are requesting EPA regulation of chemical disclosure under the federal Toxic Substances Control Act.
8. *Office of Surface Mining Reclamation and Enforcement- Stream Protection Rule.* The Office of Surface Mining Reclamation and Enforcement issued the Stream Protection Rule, which went into effect on January 19, 2017. These regulations implement Title V of the 1977 Surface Mining Control and Reclamation Act (SMCRA), the focus of which were the conditions for issuing permits to begin a mining operation. North Dakota believes the rule not only steps on its regulatory primacy but gives the federal government power over surface coal mining and reclamation operations “beyond the limits established under [the Surface Mining Control and Reclamation Act], other federal laws including the Clean Water Act and the U.S. Constitution.” The House passed a measure to repeal the rule as part of a package of laws to remove President Obama’s rule legacy. North Dakota filed suit on December 20, 2016. State of North Dakota v. United States Department of the Interior et al., case number 1:16-CV-02478 is pending in the U.S. District Court for the District of Columbia.

9. *Environmental Protection Agency- Toxic Substances Control Act/ Frank R. Lautenberg Chemical Safety for the 21<sup>st</sup> Century Act.* The Toxic Substances Control Act of 1976 provides EPA with authority to require reporting, record-keeping and testing requirements, and restrictions relating to chemical substances and/or mixtures. Certain substances are generally excluded from TSCA, including, among others, food, drugs, cosmetics and pesticides. On June 22, 2016, President Obama signed the Frank R. Lautenberg Chemical Safety for the 21<sup>st</sup> Century Act, which updates the Toxic Substances Control Act. On June 1, 2017 the EPA issued the final significant new use rules (SNURs) for 37 chemical substances which were the subject of pre-manufacture notices (PMNs). Applicable review periods for the PMNs submitted for these 37 chemical substances all ended prior to June 22, 2016 (i.e., the date on which the President signed into law the Frank R. Lautenberg Chemical Safety for the 21<sup>st</sup> Century Act which amends TSCA).

**e. Benzene Exposure.** Soil and groundwater oil contamination is a serious issue considering the harmful effects of benzene on the human body. The most common pathway of benzene exposure is by inhalation, but the chemical can easily be absorbed through the skin. Benzene exposure has been linked to life-threatening illnesses such as Acute Myeloid Leukemia (AML), Myelodysplastic Syndrome (MDS), and lymphomas.

#### **14. North Dakota Department of Trust Lands**

##### **a. Noxious Weed Program**

North Dakota Law (NDCC § 4.1-47-02) requires every person to do all things necessary and proper to control the spread of noxious weeds. The North Dakota Department of Agriculture coordinates the efforts of county and city weed boards and state and federal land managers to implement integrated weed management programs. The Department of Trust Lands uses chemical control, flea beetle program, and grazing of leafy spurge to control noxious weeds.

As of February 2017, the following noxious weeds were listed:

*Bowman:* Scotch thistle, baby's breath, houndtongue, black henbane

*Slope:* houndstongue, black henbane

##### **b. Oil and Gas Leases**

According to the North Dakota Department of Trust Lands website:

- Most private leases are for three years.
- State school land leases managed by the ND Department of Trust Lands are for five years.

- Federal leases are managed by the US Bureau of Land Management (whether under US Forest Service surface, another federal agency, or private land) and are for 10 years.
- Leases must be drilled and producing to hold a lease. The difference in lease terms explains much of the ferocity and speed of Bakken development.

There were four (4) lease auctions listed for Bowman County for Spring 2017- each for one term, same Lessee for all. There were no leases listed in Slope County.

## **15. Southwest Pipeline Project**

Since 1986, the Southwest Pipeline Project has been constructing an efficient network of pipelines, pump stations, reservoirs, and treatment facilities to bring quality water to the region. Southwest Pipeline is operated and maintained by the Southwest Water Authority, and serves a population of more than 58,000 people in southwest North Dakota in 33 communities, with over 5,575 rural service locations, 23 raw water customers, 28 contract customers including three crew camps and two raw water depots for the oil and gas industry.

Portions of Bowman and Slope Counties are being served by the pipeline, while others are in the “No Capacity” areas.

Based on the Southwest Water Authority website, there were several easements negotiated as part of this project. In addition, Section 61-24.3-20 of the North Dakota Century Code requires prior approval before crossing of the Southwest Pipeline Project (SWPP).

## **16. Keystone XL Pipeline Project**

President Trump invited TransCanada to reapply for a presidential permit and directed federal agencies to provide an expedited review of the Keystone XL Pipeline Project. He also verbally called for the pipes used in the Keystone XL, and similar pipelines, to be made in the United States. That could potentially jeopardize the existing pipes stockpiled by TransCanada on the east side of Bowman County. Gascoyne, North Dakota has been storing about 230 miles worth of heavy steel pipe since 2011.

President Trump approved TransCanada’s application for a permit for the construction of the pipeline in March of this year. The pipeline is anticipated be able to move up to 830,000 barrels of oil per day, including 100,000 barrels from the Bakken region, and provide approximately 20,000 direct jobs. When completed, the Keystone XL will extend down from Canada, navigate to the southeast directly through Baker, Montana, and join the existing Keystone pipeline in Nebraska. It would narrowly miss the southwestern corner of Bowman County.

According to Bowman’s mayor, Lyn James, Bowman County Emergency Management, along with surrounding counties in Montana and South Dakota, started a working plan to deal with any protest after watching one against the Dakota Access Pipeline near the Standing Rock Sioux Reservation, James said.

## 17. Abandoned Mine Lands (AML)

**a. Lignite.** The North Dakota Geological Survey estimates that western North Dakota contains about 1.3 trillion (1,300,000,000,000) tons of lignite, the largest deposit of lignite in North America.

Slope County hosts The Burning Coal Vein, an underground vein of lignite coal that has been burning on and off since the 1880s. The vein was ignited by a prairie fire or lightning strike over 130 years ago.

Once the coal has been removed, the land needs to be reclaimed. The Public Service Commission administers the Abandoned Mine Lands (AML) Program on behalf of the State of North Dakota. The State AML Program was approved by the U.S. Department of the Interior in 1981 under authority of the Surface Mining Control and Reclamation Act of 1977 (P.L. 95-87, Title IV). Program funding comes from a federal reclamation fee on coal that has been mined in the United States since the late 1970's. These fees are placed into the AML fund and the money that North Dakota receives from this fund is used to eliminate existing and potential public hazards resulting from abandoned surface and underground coal mines.

**b. Halleck Mine Project.** The Halleck Mine was an underground mine in Bowman County that operated from about 1919 to 1944. The coal seam at this mine was 30 to 40 feet thick and the top of the coal seam was only 10 to 50 feet below the surface. Sinkholes were common in the area and previous exploratory drilling had located mine voids near public roads and a large 30-inch diameter high-pressure natural gas pipeline. In 2014, emergency repairs had to be completed due to several large sinkholes that severed a fiber optic telecommunications cable and were within 90 feet of the pipeline.

The reclamation project primarily involved drilling and grouting to locate and fill underground mine voids along public roads and near the pipeline. Special safety measures had to be taken during the drilling and grouting to prevent any damage to the pipeline while ensuring the voids were filled. In July 2016, the project was recognized as “one of the highest quality coal mine reclamation projects in the nation” by the Office of Surface Mining Reclamation and Enforcement.

**c. Bowman Foxhole Project.** The Bowman Foxhole Project was a ten-acre project eliminated about 1100 feet of dangerous highwalls at an abandoned surface mine site located on either side of a public road (78th Street SW) about six miles north of Bowman, ND (near the Bowman-Slope County border). The contract cost was \$90,447.

**d. 2017-2018 Sinkhole Filling AML Project (Current).** The 2017-2018 Sinkhole Filling AML Project will be conducted to backfill hazardous sinkholes caused by collapse of underground mines. Some funds may be used to conduct maintenance work on reclaimed sites. If necessary, some of these funds may also be used for emergency projects. Work will be conducted as needed during the two-year contract period. The estimated project cost is \$200,000. An Environmental Assessment has been completed for the project.

## **18. Wind Farms**

According to an article published in the Dickinson Press, in the past decade, there have been more than 400 wind turbines placed on the western side of the state with an additional 550 proposed to be constructed by 2018.

Apex Clean Energy is proposing the “Bowman Wind” project, which will consist of up to 100 turbines near Rhame, North Dakota in Bowman County. According to its website, Apex anticipates that commercial operations will begin in 2020. The project site was selected by Apex Clean Energy after a thorough examination of many candidate sites in North Dakota for the following reasons:

- Verified wind resource
- Existing high-voltage power lines
- Expansive private land
- Proximity to state highways