

Appendix B
USFWS IPaC Official Species List



United States Department of the Interior



FISH AND WILDLIFE SERVICE
North Dakota Ecological Services Field Office
3425 Miriam Avenue
Bismarck, ND 58501-7926
Phone: (701) 250-4481 Fax: (701) 355-8513

In Reply Refer To:

01/03/2025 18:03:22 UTC

Project Code: 2025-0016759

Project Name: Heart Butte Safety of Dams Modification Project

Subject: List of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

To Whom It May Concern:

Section 7 of the Endangered Species Act

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the IPaC system by completing the same process used to receive the enclosed list.

The Act requires that actions authorized, funded, or carried out by Federal agencies not jeopardize federally threatened or endangered species or adversely modify designated critical habitat. To fulfill this mandate, Federal agencies (or their designated non-federal representative) must consult with the Service *if they determine their project and associated actions "may affect" listed species or critical habitat*. If Federal agencies or their non-federal representatives determine their project and associated actions will have "no effect" on listed species, their habitats, or designated critical habitat, consultation is not required. However, if a "no effect" is determined, we recommend that you maintain a written record in support of your conclusion.

Bald and Golden Eagle Protection Act and Migratory Bird Treaty Act

Additionally, while not all are listed as threatened or endangered, eagles and migratory birds

have protections under the Bald and Golden Eagle Protection Act (BGEPA) and the Migratory Bird Treaty Act (MBTA). The BGEPA prohibits take which is defined as, “pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, destroy, molest, or disturb” (50 CFR 22.3). Disturb is defined in regulations as, “to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, 1) injury to an eagle, 2) decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or 3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior.”. The MBTA makes it unlawful without a waiver to pursue, hunt, take, capture, kill, or sell birds listed as migratory birds, including eagles. The statute does not discriminate between live or dead birds and also grants full protection to any bird parts including feathers, eggs, and nests.

Service Property Interests

As part of the National Wildlife Refuge System, the Service administers fee title Refuge and Waterfowl Production Areas, as well as wetland and grassland easements, throughout North Dakota. For exact locations of Service interest lands, please contact the appropriate Wetland Management Districts (WMD) for guidance regarding FWS easements.

Northwest ND WMD Complex: Kyle Flanery, (701) 768-2548

Eastern ND WMD Complex: Dave Azure, (701) 285-3341

Central ND WMD Complex (also covers south and west): Todd Luke, (701) 442-5474

Attachment(s):

- Official Species List
- USFWS National Wildlife Refuges and Fish Hatcheries
- Wetlands

OFFICIAL SPECIES LIST

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

North Dakota Ecological Services Field Office

3425 Miriam Avenue

Bismarck, ND 58501-7926

(701) 250-4481

PROJECT SUMMARY

Project Code: 2025-0016759

Project Name: Heart Butte Safety of Dams Modification Project

Project Type: Dam - Maintenance/Modification

Project Description: The Bureau of Reclamation (Reclamation) is the lead federal agency and owner of Heart Butte Dam and Lake Tschida Reservoir. Heart Butte Dam was constructed in 1948-1949 to provide an irrigation water supply, flood control benefits to the Heart River Valley, and incidental fish, wildlife, and recreation benefits. Heart Butte Dam is located on the Heart River in Grant County (southwestern North Dakota), approximately 18 miles south of Glen Ullin, ND. As of October 2024, Reclamation is scheduled to solicit bids on the project in the spring of 2026 and begin construction in the spring of 2027. The need for corrective actions at Heart Butte Dam arises from Reclamation's duty to ensure that Reclamation dams do not present unreasonable risks to people, property, and the environment. At Heart Butte Dam, the persistent seepage issues, both into the conduit and in the relic river channel area, and the lack of an engineered filter contribute to the risk of dam failure. Currently, the risk of dam failure is at an unsatisfactory level and corrective actions are needed to reduce the risk of dam failure.

Under the Proposed Action Alternative, Heart Butte Dam would be modified to correct safety deficiencies in accordance with the SOD program guidance and CAS recommendations. The Proposed Action would combine two traditional approaches for seepage remediation in embankment dams. This alternative would use both seepage cutoff elements and seepage filtration elements to address the risk of internal erosion. Additionally, the proposed action includes chemical grouting of the conduit joints and foundation void grouting performed from within the conduit. The need for all of these project features is driven largely by the unique single penetrating conduit layout and the potential need for flood management operations during the modification construction period.

Water operations coordination is a critical component of the SOD modification project. The project would be phased with distinct periods of discharge and no-discharge throughout construction because the spillway conduit is the only method to release water through Heart Butte Dam. Some construction aspects can occur with spillway discharge while others require spillway shutdown or reservoir drawdown.

Construction is currently estimated to require two to three construction seasons depending on future schedule refinement and the conditions that are experienced during the project. Major spring flood conditions, high reservoir inflow during the late summer, or contracting delays are factors

that could affect the schedule during construction. Reclamation has developed two and three-year construction schedules and is engaging with prospective contractors during the design process to further refine the proposed project schedule. The project would be phased and specified in an effort to reduce the duration of the impacts to irrigation delivery and recreation to the greatest extent possible.

In spring 2027, the spring inflow would be discharged as quickly as possible based on the downstream flow conditions. The maximum gated outlet works release is approximately 700 cfs and the discharge capacity decreases as the lake elevation decreases. Releases are expected to occur until mid-summer 2027 and the 2027 drawdown would target an elevation of 2030 feet. Once the target reservoir elevation is reached, the gates would be closed, and the lake level would fluctuate in response to the evaporation and inflow conditions that are experienced. If the reservoir rises above a specified threshold for each aspect of construction, additional periods of reservoir discharge may be required.

Project Location:

The approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@46.597080649999995,-101.81982175953202,14z>



Counties: Grant County, North Dakota

ENDANGERED SPECIES ACT SPECIES

There is a total of 4 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

-
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

MAMMALS

NAME	STATUS
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/9045	Endangered

BIRDS

NAME	STATUS
Whooping Crane <i>Grus americana</i> Population: Wherever found, except where listed as an experimental population There is final critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/758	Endangered

INSECTS

NAME	STATUS
Monarch Butterfly <i>Danaus plexippus</i> There is proposed critical habitat for this species. Your location does not overlap the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/9743	Proposed Threatened
Western Regal Fritillary <i>Argynnis idalia occidentalis</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/12017	Proposed Threatened

CRITICAL HABITATS

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

YOU ARE STILL REQUIRED TO DETERMINE IF YOUR PROJECT(S) MAY HAVE EFFECTS ON ALL ABOVE LISTED SPECIES.

USFWS NATIONAL WILDLIFE REFUGE LANDS AND FISH HATCHERIES

Any activity proposed on lands managed by the [National Wildlife Refuge](#) system must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

THERE ARE NO REFUGE LANDS OR FISH HATCHERIES WITHIN YOUR PROJECT AREA.

WETLANDS

Impacts to [NWI wetlands](#) and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local [U.S. Army Corps of Engineers District](#).

Please note that the NWI data being shown may be out of date. We are currently working to update our NWI data set. We recommend you verify these results with a site visit to determine the actual extent of wetlands on site.

FRESHWATER EMERGENT WETLAND

- PEM1C
- PEM1Ah
- PEM1Fh
- PEM1Ch
- PEM1A

FRESHWATER POND

- PABFh
- PUBFx

FRESHWATER FORESTED/SHRUB WETLAND

- PFOA
- PSSA
- PSSCh
- PSSAh
- PFOAh

RIVERINE

- R5UBH
- R4SBC
- R2UBG
- R2USA
- R4SBA

LAKE

- L1UBHh
- L2ABGh
- L2ABFh

IPAC USER CONTACT INFORMATION

Agency: Bureau of Reclamation
Name: Ashley Persinger
Address: 304 East Broadway Avenue
City: Bismarck
State: ND
Zip: 58501
Email: apersinger@usbr.gov
Phone: 7012211282