



— BUREAU OF —
RECLAMATION

DKAO-EA-2024-02

**Finding of No Significant Impact
and
Final Environmental Assessment
for**

Heart Butte Safety of Dams Modification Project

Heart Butte Unit

Pick-Sloan Missouri Basin Program, North Dakota

Missouri Basin and Arkansas-Rio Grande-Texas

Dakotas Area Office
Bismarck, North Dakota

January 2025

This Page Left Blank Intentionally

UNITED STATES DEPARTMENT OF THE INTERIOR

BUREAU OF
RECLAMATION DAKOTAS
AREA OFFICE BISMARCK,
NORTH DAKOTA

FINDING OF NO SIGNIFICANT IMPACT

Of

FINAL ENVIRONMENTAL ASSESSMENT

FOR

Heart Butte Safety of Dams Modification Project
Heart Butte Unit
Pick-Sloan Missouri Basin Program, North Dakota
Missouri Basin and Arkansas-Rio Grande-Texas Gulf Region

NO. DKAO-EA-2024-02

Recommended: ASHLEY PERSINGER Digitally signed by ASHLEY PERSINGER
Date: 2025.01.14 14:14:40 -06'00' Date: _____
Ashley Persinger
Supervisory Natural Resource Specialist
Dakotas Area Office

Concur: ANDREA GUE Digitally signed by ANDREA GUE
Date: 2025.01.14 13:25:35 -06'00' Date: _____
Andrea Gue
Environmental and Resources Division Manager
Dakotas Area Office

Approved: JOSEPH HALL Digitally signed by JOSEPH HALL
Date: 2025.01.15 08:26:34 -06'00' Date: _____
Joseph E. Hall
Area Manager
Dakotas Area Office

Mission Statements

The U.S. Department of the Interior protects and manages the Nation's natural resources and cultural heritage; provides scientific and other information about those resources; and honors its trust responsibilities or special commitments to American Indians, Alaska Natives, and affiliated Island Communities.

The mission of the Bureau of Reclamation is to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public.

Introduction

Issuance of this Finding of No Significant Impact (FONSI) follows the completion of the Environmental Assessment for the Heart Butte Safety of Dams Modification Project Heart Butte Unit, Pick-Sloan Missouri Basin Program, North Dakota Missouri Basin and Arkansas-Rio Grande-Texas Gulf Region.

The FONSI describes the reasons for the finding for the proposed action's anticipated impacts insignificant. This document contains the FONSI and Final Environmental Assessment.

**Finding of No Significant Impact
Of
Environmental Assessment
For
Funding and Construction of the Heart Butte Safety of Dams Modification
Project**

The Bureau of Reclamation (Reclamation) proposes to complete the construction of the Safety of Dams (SOD) Modification Project to ensure the continued safe condition of Heart Butte Dam. 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. Persistent seepage issues into the conduit and in the relic river channel area and the lack of an engineered filter contribute to the risk of dam failure at Heart Butte Dam. 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 Corrective Action Study (CAS) recommendations (Figure 1). 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.

Completion of the SOD Modification Project would serve the following purposes:

- Achieve risk reduction by correcting the existing deficiencies of Heart Butte Dam with the construction of modern state of practice dam safety features.
- Downgrading of the Heart Butte Dam from a DSPR 2 (Urgent Priority) to DSPR 4 (Low to Moderate Priority) or DSPR 5 (Low Priority).
- Continue to meet the primary purposes of Heart Butte Dam, including delivery of irrigation water in accordance with the terms and conditions of Contract No. 149D620001, Repayment Contract between the United States of America and the Western Heart River Irrigation District providing for an irrigation water supply.
- Continue to provide flood control benefits to the lower Heart River valley, including the cities of Mandan and Bismarck.
- Continue to provide fish and wildlife conservation and recreation benefits.



Figure 1. Conceptual Layout of Completed Modification Project.

Scoping and Comments Addressed

General Scoping for the Project was held May 21, 2024, to June 21, 2024, and five (5) agency responses were received. The North Dakota Department of Environmental Quality (DEQ), North Dakota Department of Transportation (DOT), Natural Resources Conservation Service (NRCS), North Dakota State Historical Society (SHPO), North Dakota Parks and Recreation (Parks and Rec), and two (2) private party letters are included on pages 14-25.

The DOT response letter to the scoping dated June 3, 2024, noted that the Project should have no adverse effect on the local highways, however if work would require any detours or other roadway or traffic impacts the DOT should be contacted.

The SHPO response letter to the scoping dated June 13, 2024, concurred with the determination of “No Adverse Effect” to the Heart Butte Dam structure (Site 32GT340) provided the Project takes place as described and all borrow comes from an approved source.

The Parks and Rec and the NRCS responded without any specific comments or recommendations.

The Open House event for the Project was held on October 22, 2024, at the Lake Tschida Welcome Center. Four (4) comments were received concerning recreation access, navigability improvements and vegetation management. These comments were discussed on page 44 of the Final EA.

The Draft EA was open for comment from November 16, 2024, to December 16, 2024. More than 30 days have transpired since the release of the Draft EA, during which time Reclamation received six (6) agency responses. The Federal Highways Administration of North Dakota (NDFWA), United States Fish and Wildlife Service (USFWS), Bureau of Land Management (BLM), North Dakota Department of Water Resources (DWR), North Dakota Department of Environmental

Quality (DEQ), and the State Historical Society of North Dakota (SHPO) letters are included in pages 27-36).

The USFWS response letter to the Draft EA dated December 6, 2024, gave recommendations for the piping plover (*Charadrius melodus*) and the Dakota skipper (*Hesperia dacotae*), which are not on the USFWS Official Species list for the Project Area. Nevertheless, it was recommended if native grasslands are disturbed, these areas be evaluated for Dakota skipper prior to construction. It was also noted that the exposed mud flats of Lake Tschida may provide temporary piping plover foraging or breeding habitat and that surveys may be required if plovers are present within 0.5 mile viewshed of work activity. In addition, consultation would be re-initiated if the action is modified, a new species is listed or up-listed, or new information becomes available. The preservation of native grasslands are discussed in Table 18 Environmental Commitments page 77 and discussed on page 59 of the Final EA.

The DWR response letter to the Draft EA dated December 16, 2024, requested that coordination with the local floodplain administrator be initiated to achieve National Flood Insurance Program and community compliance. In addition, any work below the ordinary high-water mark of the Heart River would require a Sovereign Land Permit, any modifications to a dam requires a construction permit, and all efforts be made to ensure water availability to downstream appropriators during construction. These comments are discussed on page 31 and added to Table 18 Environmental Commitments on page 77 of the Final EA.

The DEQ response letters to the scoping and the Draft EA dated June 11, 2024, and December 26, 2024, noted that a stormwater discharge permit would be required if one or more acre is disturbed, care should be taken to avoid spills when working near the Heart River, and all solid waste materials be managed and transported according to state waste disposal rules. These comments are addressed in Table 18 Environmental Commitments on pages 77 and 78 of the Final EA.

The ND SHPO response letter to the Draft EA dated January 8, 2025, provided concurrence with Reclamation's determination of *No Adverse Effects* to historic properties and noted that Reclamation should ensure avoidance of unevaluated site 32GT151, which is located outside of but adjacent to the contractor use area shown in Figure 4 on page 14 of the Final EA. Procedures for the treatment of sites that are unevaluated for National Register of Historic Places eligibility status are outlined in Table 18 Environmental Commitments on pages 79 and 80 of the Final EA.

The BLM and the NDFWA responded without any specific comments or recommendations.

Agency Decision

No Action.

The No Action Alternative serves as a baseline from which to measure benefits and impacts to the human environment that may occur as a result of the Proposed Action Alternative. The baseline refers to the existing condition, including past, present, and ongoing activities or actions in the project area. This includes original construction of the Heart Butte Dam and Reservoir to present day activities; either natural or human caused. Under this alternative, no Federal action would be taken to correct safety deficiencies at Heart Butte Dam, and the conduit would remain in its present condition. This alternative would have the lowest present economic cost but would not address the

risks for internal erosion failure. If no action is taken, unfiltered seepage through the embankment or foundation would continue, and the risk of potential failure would remain above Reclamation's Public Protection Guidelines. Over time, the risk of dam failure is likely to increase beyond the present condition.

Due to the risks to public safety and property, this alternative would not satisfy the purpose and need for the project. Therefore, this alternative was rejected.

Proposed Action.

Reclamation has determined that the Proposed Action, Reclamation's preferred alternative, as described in the Environmental Assessment DKAO-EA-2024-02 will not result in significant impacts to the human and natural environment; therefore, an environmental impact statement will not be prepared. A complete description and analysis of the project's anticipated environmental impacts is contained in the Final EA.

Reclamation defines significance relative to context and intensity in accordance with CEQ Regulations, 40 CFR 1508.27.

The reasons for the FONSI determination are summarized as follows:

1. All requirements of the National Environmental Policy Act have been met, including public involvement and coordination with Federal, State, and local agencies.
2. This action will not have significant effect on the quality of the human environment.
3. All stipulations of the Clean Water Act and other applicable Federal laws, regulations, and guidelines concerning wetlands and water resources will be satisfied prior to any construction. Environmental commitments include the coordination with U.S. Army Corps of Engineers and USFWS prior to construction, as necessary.
4. Reclamation has determined the Proposed Action will have no effect on the whooping crane or the northern long-eared bat and is not likely to jeopardize the monarch or western regal fritillary.
5. Reclamation has determined the Proposed Action would have no impacts to migratory birds or eagles. Mitigation and minimization measures have been incorporated into the project's design to eliminate potential impacts to migratory birds.
6. All stipulations of the National Historic Preservation Act (NHPA) and other applicable Federal laws, regulations, and guidelines concerning cultural resources will be satisfied prior to any potential project construction. Avoidance measures will be incorporated into each project's design to reduce or eliminate impacts to historic properties.
7. Reclamation has determined the Proposed Action would have no impacts to Indian Trust Assets.

8. All applicable Federal and State environmental laws, regulations, and executive orders will be adhered to.
9. Reclamation is including a list of environmental commitments as part of the proposed action to be implemented in order to (a) prevent, minimize, or offset the occurrence of potential adverse environmental effects and (b) ensure compliance with applicable Federal and State regulations designed to protect fish and wildlife resources, important habitats and sensitive areas, cultural and paleontological resources, human health and safety, and the public interest.

Environmental Mitigation Commitments

Reclamation would ensure the environmental commitments are implemented during construction. All appropriate environmental commitments would be incorporated into the site-specific design, included in all construction contracts and specifications, and applied before, during, and after construction.

Over the past two decades, Reclamation has conducted public scoping and consultation with state and local governments throughout North and South Dakota which have resulted in development and implementation of proven methods that minimize or avoid adverse environmental effects during construction. Environmental commitments applicable to the Proposed Project Alternative are described in **Table 18** below:

Table 18. Required Environmental Commitments for the Proposed Action Alternative

General Best Management Practices
Comply with all appropriate Federal, State, and Local laws.
Follow the BMPs for construction, restoration, and maintenance listed within the construction specifications from a qualified third-party contractor.
Standard construction, industry measures will be taken to minimize fugitive dust emissions during construction activities. Any complaints that may arise will be dealt with in a timely and effective manner.
Erosion Best Management Practices (BMPs) will be followed to prevent runoff of soil, silt, and other debris.
All solid waste materials must be managed and transported in accordance with the states solid and hazardous waste rules. Efforts to reduce, reuse, and recycle materials are to be used.
Surface Waters and Wetlands
A 404 permit will be completed and submitted to the Corps, as necessary. Section 401 and 402 certification will be completed, as necessary. Wetland impacts will be appropriately mitigated according to the standards and direction of the Corps.
If work occurs below the ordinary high-water mark of the Heart River, a Sovereign Land Permit would be obtained prior to construction taking place.
Work within the National Flood Insurance Program (NFIP) regulatory floodplain may require consultation and compliance with the local floodplain administrator to achieve NFIP and community compliance.
The water discharged from Heart Butte Dam will be monitored and reported as water released for

<p>maintenance or irrigation purposes as appropriate on the Annual Water Use Report for the year the water was released.</p>
<p>The communication strategy discussed in Table 2 would ensure that all appropriators and irrigators would be aware of any changes to water availability in the Heart River.</p>
<p>A construction permit from the DWR would be required for the modification to the dam.</p>
<p>If more than one acre is disturbed, a permit to discharge storm water runoff may be needed through the DEQ.</p>
<p>Care would be taken to avoid spills of toxic materials that may have an adverse effect on ground water quality. Appropriate containment and spill response kits would be available at the work area. All spills would be reported to the DEQ.</p>
<p>Woody species including those bordering wetlands, shelterbelts, riparian woodlands, woody draws, or woodland vegetation will be avoided to the extent possible. For unavoidable impacts to woody habitats, replacement plants at a 2:1 ratio of native speciation would be planted, as appropriate.</p>
<p>Erosion control measures will be employed as appropriate: Stabilization, erosion controls, restoration, and re-vegetation of all streambeds and embankments will be performed as soon as construction across waterbodies is completed and maintained until stable.</p>
<p>Any disruption or displacement of the streambed and banks other than the planned alterations must be restored to pre-project conditions.</p>
<p>Fish and Wildlife Species and Habitats</p>
<p>To the extent possible, construction will avoid:</p> <ul style="list-style-type: none"> - Wetlands - Federal, State, and Local wildlife areas and refuges - Designated critical habitats
<p>The NDGF would commence restocking efforts at Lake Tschida after Project completion</p>
<p>Native prairie will be avoided to the extent possible. However, if native prairie sod must be broken, existing topsoil will be carefully salvaged and replanted with native pollinator mix including grasses in a timely manner, with a seed mix recommended by Reclamation.</p>
<p>Reclamation is responsible for compliance with the Migratory Bird Treaty Act. If work would occur during the grassland ground-nesting migratory bird season (May 1 – July 15), any project area containing suitable habitat would be mowed prior to May 1. Preconstruction nesting surveys are recommended if mowing is not possible. If work would occur during the nesting raptor season (Feb 1-July 15), woody vegetation to be removed would be checked for occupancy prior to construction.</p>
<p>Reclamation is responsible for compliance with the Bald and Golden Eagle Protection Act. Construction within 660 feet of visible (330-feet if visual screen exists) nesting bald eagles will be avoided from February 1- July 15. Construction within 0.5 mile of visible (660-feet if visual screen exists) nesting golden eagles will be avoided February 1 – July 15.</p>
<p>Aquatic Nuisance Species (ANS) regulations enacted by the NDGF will be implemented year-round prior to and during construction including: removing all aquatic vegetation from vessels, motors, trailers, or construction equipment, all water shall be drained from confined spaces on vessels, boat motors, construction equipment, or bilge(s), all species of ANS must be removed from vessels, motors, trailers, or construction equipment (list can be obtained from NDGF website). The contractor must provide the NDGF a reasonable opportunity to inspect any and all vehicles, vessels, pumps, and equipment that will be used for project prior to those items being launched or placed in waters of the state. A minimum 72 hour noticed must be provided to</p>

NDGF for scheduling an inspection. Ben Holen, the NDGF ANS Biologist from Jamestown Office (701-368-8368) is to be contacted for scheduling and additional information.

Threatened and Endangered Species

If threatened or endangered species are identified and encountered during construction, all construction activities in the immediate area will be stopped until Reclamation can consult with the USFWS to determine appropriate steps to avoid impacting the species.

Northern long-eared bat: Suitable roost tree removal would only occur during the hibernation period (November 15- March 31). A suitable roost tree is defined as any tree with diameter at breast height greater than 3-inches and containing sloughing bark, snags, or crevices.

Whooping crane: If a whooping crane is sighted within 1-mile of the Project Area, Reclamation would be immediately contacted. The viewshed and likelihood of disturbance would be considered before Reclamation would initiate consultation with the Service. Migration periods for whooping crane are March 15-May 15 and September 10-November 15.

Monarch butterfly: Suitable habitat (stands of milkweed) would be avoided.

Western regal fritillary: Suitable habitat (tall grass and wet prairie habitats featuring native violets) would be avoided.

Other Environmental Commitments

All established ground water monitoring wells will be avoided, where practicable. Multiple established piezometers and monitoring wells will be removed in the construction area. Reclamation will re-establish monitoring instrumentation as needed to ensure the continued effective dam safety monitoring program for Heart Butte Dam.

If established survey benchmarks must be removed or should any monuments be dislodged or damaged during construction, the National Geodetic Survey (Attn: N/CG 162, Rockville, Maryland 20852) will be contacted and reestablished.

No above ground structures will be constructed in the floodplain that could interfere with the above ground movement of floodwaters.

In an effort to minimize the visual impact of constructed features, all exterior-facing elements should be finished in non-glossy earth tones

The seepage berm would be capped with topsoil and revegetated using a native seed mix approved by the area office. The seed mix should consist of a minimum of 40% forbs and 60% grasses.

Historic Properties and Culturally Sensitive Areas

All cultural resource investigations will be performed according to the procedures specified Reclamation's Directives and Standards for Cultural Resource Management (LND 02-01), and the guidelines put forward by the North Dakota State Historic Preservation Office (SHPO) for cultural resource inventory projects. Cultural resource inventories will be performed under the direction of an archaeologist that meets the Secretary of the Interior's Professional Qualifications Standards (48 FR 22716, Sept. 1983). All appropriate cultural resource activities will be completed prior to the commencement of ground-disturbing activities, including Class I and Class III surveys and consultation with the SHPO and/or the appropriate Tribal Historic Preservation Office (THPO). All cultural resources will be avoided if their significance cannot be established prior to disturbance. If avoidance is not practicable, Reclamation, in consultation with the SHPO and/or THPO, would determine if the site is eligible for nomination to the National Register of Historic Places (NRHP) [36CFR800.4(c) and 36CFR60.4]. If the site is *Eligible* as a historic property,

initially Reclamation, SHPO, THPO, and other interested parties, depending on the type of property, will consult to determine a plan of mitigation. If an *Adverse Effect* cannot be avoided, the Advisory Council on Historic Preservation (ACHP) will be contacted. If a site is determined to be *Not Eligible* for listing on the NRHP, Reclamation will make management recommendations to the appropriate land management agency, THPO, and/or SHPO. All ensuing activities will comply with the NHPA, as amended, and the Archaeological Resource Protection Act (ARPA) [16 U.S.C. 470aa-470mm; Public Law 96-95 (1979)].

The Tribes will be consulted concerning shareable information on the locations of unmarked burials or cemeteries. All such burials or cemeteries will be avoided to the extent possible. If a burial or cemetery cannot be avoided or is encountered during construction, Reclamation will comply with the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et. seq. [Nov. 16, 1990]) if graves are discovered. Reclamation will comply with North Dakota Century Code 23-06-27: "Protection of Human Burial Sites, Human Remains, and Burial Goods" for graves on private or State-owned lands.

The Tribes will be consulted regarding any shareable information regarding traditional cultural properties that could be impacted. Under the National Park Service National Register Bulletin 38, Guidelines for Evaluating and Documenting Traditional Cultural Properties (TCP), a TCP is an historic property that derives its significance from the role it plays in a community's historically rooted beliefs, customs, and practices. Reclamation will consult with the appropriate THPO(s) to avoid impacts to TCPs and accommodate access to the sites (Executive Order 13007).

In the event cultural resources or traditional cultural properties are encountered during construction, all ground disturbance activity within the area will be stopped, Reclamation and appropriate authorities will be notified, and all applicable stipulations of the NHPA will be followed. Activities in the area will resume only when compliance has been completed and appropriate measures implemented.

Paleontological Resources

Under the Paleontological Resources Preservation Act (PRPA) of 2009 (16 U.S.C. 470aaa – aaa-11), paleontological resources, which includes any fossilized remains, traces, or imprints of organisms, preserved in or on the earth's crust, that are of paleontological interest and that provide information about the history of life on earth, are protected. All previously recorded paleontological resources and paleontologically sensitive zones within the path of the Proposed Action will be inspected by a qualified paleontologist. Avoidance measures will be developed to avoid significant resources and monitoring by qualified personnel will be utilized as necessary.

PRPA does not apply to state, private, or Tribal lands. Therefore, Reclamation, and any other relevant Federal Agency (land manager) would need to be notified of evidence of activities in violation of the PRPA on Federal lands.

Reclamation will devise an enhanced signage plan to inform the public of the prohibition of and penalties for unauthorized collection, excavation, or disturbance to archaeological sites, cultural materials, and fossils on Federal lands. Reclamation will also put notices concerning these prohibitions and penalties on the project website, managing partner website, and send an informational letter to cabin owners annually throughout the project schedule.

Scoping and Responses



United States Department of the Interior



BUREAU OF RECLAMATION
Dakotas Area Office
304 East Broadway Avenue
Bismarck, ND 58501

IN REPLY REFER TO:

DK-5000
2.1.4.17

Subject: Bureau of Reclamation's Preparation of an Environmental Assessment for the Heart Butte Safety of Dams Modification Project

Dear Interested Party:

The Bureau of Reclamation is preparing an Environmental Assessment (EA) for the funding and construction of a Safety of Dams Modification Project for Heart Butte Dam. Reclamation is the lead Federal Agency responsible for ensuring compliance with the National Environmental Policy Act, National Historic Preservation Act, and related Federal environmental and cultural resource legislation. Reclamation will use this EA to evaluate the environmental impacts associated with construction of the project.

Heart Butte Dam is located on the Heart River in southwestern North Dakota, approximately 100 river miles upstream of Mandan (Figure 1). It forms the principal feature of the Heart Butte Unit of the Pick-Sloan Missouri Basin Program (authorized under Section 9 of the Flood Control Act of December 22, 1944, 58 Stat. 887). The dam was constructed in 1948-1949, and the modification project seeks to provide risk reduction by addressing potential internal erosion risks which have been identified through performance monitoring and extensive geologic exploration.

Reclamation has performed a Corrective Action Study to evaluate alternatives to ensure the continued safe condition of the dam. The selected design alternative includes conduit joint repair, a seepage cutoff system, and a seepage blanket filtration system constructed at the downstream toe of the dam. Construction is expected to require up to two years and a reduction of Lake Tschida to the minimum water elevation of 2030 feet. The reduction in reservoir elevation is necessary to reduce the water table in the vicinity of the project and to reduce the potential for uncontrolled spillway flow during the construction period.

We are requesting your input about the proposed action and any potential project effects. If no significant issues are identified during scoping or preparation of the EA, Reclamation would issue a Finding of **No Significant Impact**. Conversely, if any significant issues are identified, Reclamation would consider whether to proceed with the preparation of an Environmental Impact Statement. The Draft EA will be available for review and comment in fall 2024, and, if no significant impacts are identified, construction is expected to begin in 2027. Reclamation defines significance in accordance with 40 CFR 1508.27.

To be most helpful to the preparers of the EA please provide any comments regarding this project by June 14, 2024. Questions or comments regarding the preparation of the EA may be directed to Ms. Ashley Persinger, Natural Resource Supervisor, at (701) 221-1282 or at apersinger@usbr.gov, or in writing to: Area Manager, Bureau of Reclamation, 304 E Broadway Ave, Bismarck, ND 58501. If you are deaf, hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

Sincerely,

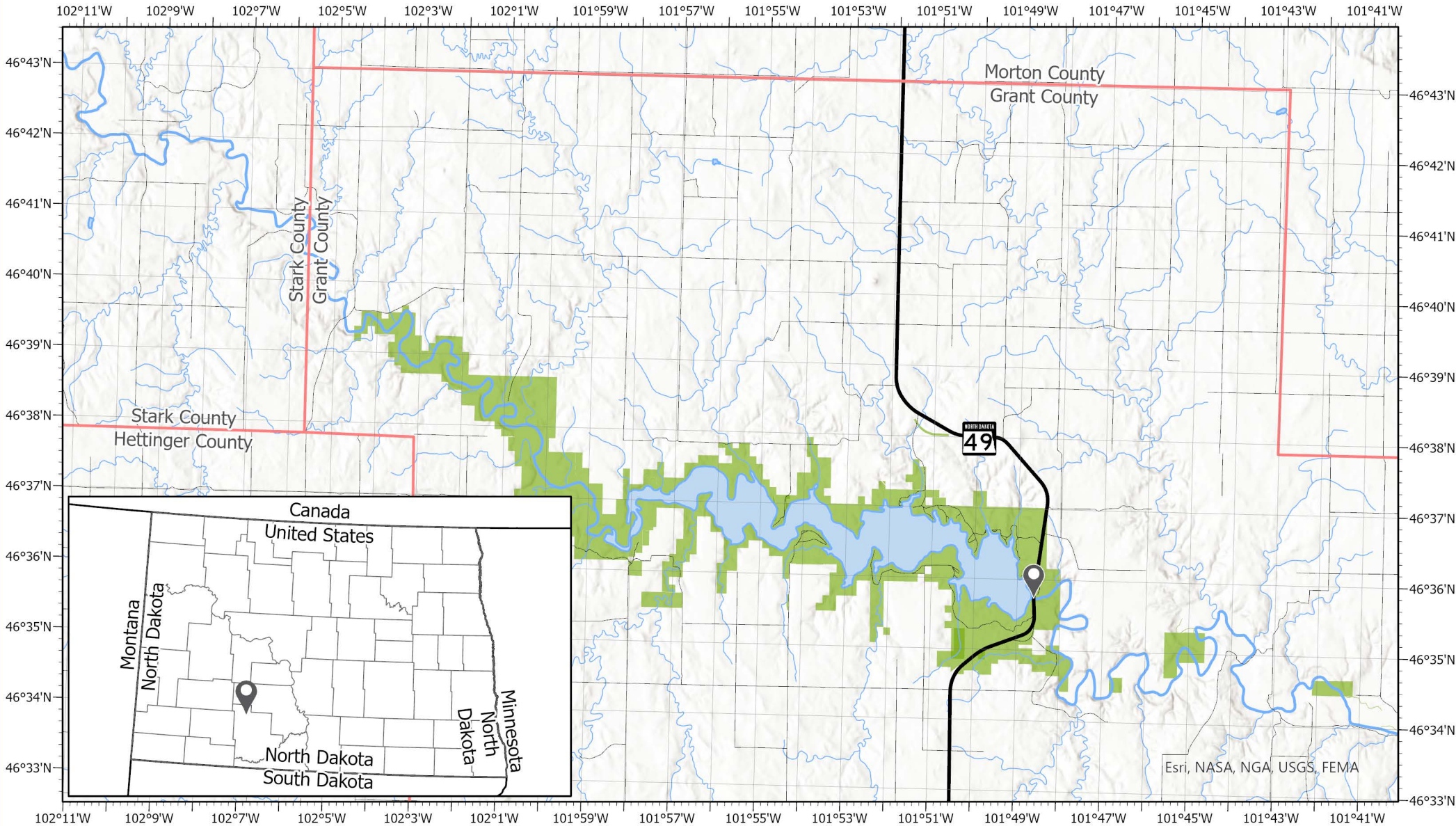
Joseph E. Hall
Area Manager

Enclosure

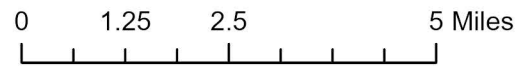


BUREAU OF RECLAMATION

Heart Butte Safety of Dams Modification Project Lake Tschida | Elgin, North Dakota



-  Heart Butte Dam
-  USBR Lands
-  ND Hwy 49
-  ND Counties
-  Lake Tschida
-  Local Roads
-  Heart River



Esri, NASA, NGA, USGS, FEMA

From: [Lon Romsaas](#)
To: [Persinger, Ashley C](#)
Subject: [EXTERNAL] EA Heart Butte Dam
Date: Wednesday, May 22, 2024 8:22:34 AM

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

This 2 year draw down has a significant effect on those of us who pay a fee for a land lease for cabins at the Lake.

The price of the lease (land value) is based on the use of the lake as a recreational use. With the draw down, we basically lose the use of the lake. Boat ramps will not be useable even if there was sufficient water to boat on.

The Bureau of Reclamation has indicated that they will not consider a reduction in our lease while the draw down occurs. That is a financial impact that needs to be considered.

We would prefer not to have to contact our Senators or Congress member during an election year regarding this issue and are hopeful that BOR will step up to this issue and do what is right and fair.

Please respond so we know if we need to move on to the next step.

Lon Romsaas

--

Lon Romsaas

Civil Engineer

email: lromsaas@swensonhagen.com



SWENSON, HAGEN & COMPANY P.C.
CONSULTING ENGINEERS

909 Basin Avenue
Bismarck, North Dakota 58504
Phone (701) 223 - 2600

This e-mail, including attachments, is covered by the Electronic Communications Privacy Act,

18 U.S.C. 2510 et seq., may be confidential, or may contain confidential material. It is intended for use only by the person(s) to whom it is directed. If you are not the intended recipient and/or received it in error, you should (1) reply by e-mail to the sender; (2) delete this e-mail, including deletion of all associated text files from all storage locations including individual and network storage devices; and (3) refrain from disseminating or copying this communication. The media in which any electronic data files are transmitted can deteriorate over time and under various conditions. Swenson, Hagen & Company does not warrant the accuracy of any information contained in electronic data files transmitted by e-mail.



June 13, 2024

Ashley Persinger
Bureau of Reclamation
Great Plains Regions-Dakotas Area Office
304 E Broadway RM 110
Bismarck, ND 58502

ND SHPO Ref: 24-0270 Heart Butte Safety of Dams Modification Project in portions of [T136N R89W Section 13] Grant County, North Dakota

Dear Ashley,

We've reviewed the project ND SHPO Ref: 24-0270 Heart Butte Safety of Dams Modification Project in portions of [T136N R89W Section 13] Grant County, North Dakota as received by our office on May 17, 2024. Our understanding is that the project is to complete repairs on the Heart Butte Dam including conduit joint repair, a seepage cutoff system, and a seepage blanket filtration system.

Heart Butte Dam is recorded as 32GT340 and we concur with a determination of "No Adverse Effect" provided the project takes place as described in the documentation and all borrow comes from an approved source.

Thank you for the opportunity to review this project. Please include the ND SHPO Ref number in future correspondence for this project. If you have any questions please contact Margaret Patton, Research Archaeologist at 701-328-3576 or mmpatton@nd.gov.

Sincerely,

for William D. Peterson, PhD
State Historic Preservation Officer
(North Dakota)

24-0270



January 8, 2025

Joseph Hall
Bureau of Reclamation, Dakotas Area Office
304 East Broadway Avenue
Bismarck, ND 58501

ND SHPO Ref: 24-0270 Heart Butte Safety of Dams Modification Project in portions of Grant County, North Dakota

Dear Joseph,

We've reviewed project ND SHPO Ref: 24-0270 Heart Butte Safety of Dams Modification Project Draft Environmental Assessment in portions of Grant County, North Dakota as submitted to our office on November 21, 2024. This review includes the reservoir drawdown, contractor use areas, and borrow area.

We concur with a determination of "No Adverse Effect" for the Heart Butte Safety of Dams Modification project, provided 32GT151 is avoided and provided the project takes place in the location and manner described in the documentation.

Thank you for the opportunity to review this project. Please include the ND SHPO Ref number in future correspondence for this project. If you have any questions please contact Margie Patton, Research Archaeologist at 701-328-3576 or mmpatton@nd.gov.

Sincerely,

for William D. Peterson, PhD
State Historic Preservation Officer
(North Dakota)

24-0270

From: [Persinger, Ashley C](#)
To: [Persinger, Ashley C](#)
Subject: Comment Phone Call Heart Butte SOD Project
Date: Friday, June 14, 2024 1:58:53 PM

Comment Call from Mr. Patrick O'Brien- Trailer Area 1

Summary of Call:

Mr. O'Brien has general concerns regarding the following topics:

1. Loss of the fishery and how the fishery will be replaced.
2. Questions on how the seasonal inflows will affect the construction crew at the outlet works.
3. If there are any other alternatives that allow for the repair without a drawdown of Lake Tschida.

[Ashley Persinger](#)

[Supervisory Natural Resource Specialist](#)

Bureau of Reclamation- Dakotas Area Office

304 E Broadway Avenue

Bismarck, ND 58501

Ph: (701) 221-1282



— BUREAU OF —
RECLAMATION

June 3, 2024

Joseph E. Hall
 Area Manager
 US Dept. of Interior
 304 East Broadway Ave
 Bismarck, ND 58501

OFFICIAL FILE COPY RECEIVED		
10 JUN 2024		
REPLY DATE		
INFO. COPY TO:		
DATE	INITIAL	TO
		Ashley
CLASSIFICATION		
PROJECT		
CONTROL NO.		
FOLDER I.D.		

ENVIRONMENTAL ASSESSMENT FOR HEART BUTTE SAFETY OF DAM MODIFICATION PROJECT, GRANT COUNTY, NORTH DAKOTA

We have reviewed your May 21, 2024, letter.

This project should have no adverse effect on the North Dakota Department of Transportation highways; however, if the work involves detours or impacts to our roadway it will be necessary to perform further reviews.

Additionally, if because of this project any work needs to be done on highway right of way, appropriate permits and risk management documents will need to be obtained from the Department of Transportation District Engineer, Larry Gangl at 701-328-6955.



JON KETTERLING, P.E., DIRECTOR OFFICE OF PROJECT DEVELOPMENT

57/jk/js
 c: Larry Gangl, Bismarck District Engineer

OFFICIAL FILE COPY RECEIVED		
14 JUN 2024		
REPLY DATE		
INFO. COPY TO:		
DATE	INITIAL	TO
		Ashley
CLASSIFICATION		
PROJECT		
CONTROL NO.		
FOLDER I.D.		

June 11, 2024

Ashley Persinger
 Natural Resources Supervisor
 Bureau of Reclamation Dakota Area Office
 304 East Broadway Ave.
 Bismarck, ND 58501

Re: Project Code: DK-5000 2.1.4.17, Heart Butte Safety of Dams Modification Project in Grant County

Dear Ms. Persinger:

The North Dakota Department of Environmental Quality (Department) has reviewed the information concerning the above-referenced project received at the Department on May 17, 2024, with respect to possible environmental impacts.

- Care is to be taken during construction activity near any water of the state to minimize adverse effects on a water body. This includes minimal disturbance of stream beds and banks to prevent excess siltation, and the replacement and revegetation of any disturbed area as soon as possible after work has been completed. Caution must also be taken to prevent spills of oil and grease that may reach the receiving water from equipment maintenance and/or the handling of fuels on the site. Guidelines for minimizing degradation to waterways during construction are attached.
- Projects disturbing one or more acres are required to have a permit to discharge stormwater runoff until the site is stabilized by the re-establishment of vegetation or other permanent cover. Further information on the stormwater permit may be obtained from the Department's website or by calling the Division of Water Quality at 701-328-5210. Check with the local officials to be sure any local stormwater management considerations are addressed. Stormwater runoff from the project area discharges to a 303(d) listed water body (Lake Tschida). Extra care should be taken to ensure construction activity does not affect the water body.
- Care should be taken to avoid spills of any materials that may have an adverse effect on groundwater quality. All spills must be immediately reported to this Department and appropriate remedial actions performed.
- All solid waste materials must be managed and transported in accordance with the state's solid and hazardous waste rules. Appropriate efforts to reduce, reuse and/or recycle waste materials are strongly encouraged. As appropriate, segregation of inert waste from non-inert waste can generally reduce the cost of waste management. Further information on waste

management and recycling is available from the Department's Division of Waste Management at 701-328-5166.

These comments are based on the information provided about the project in the above-referenced submittal. The U.S. Army Corps of Engineers may require a water quality certification from this Department for the project if the project is subject to their Section 404 permitting process. Any additional information which may be required by the U.S. Army Corps of Engineers under the process will be considered by this Department in our determination regarding the issuance of such a certification.

The Department owns no land in or adjacent to the proposed improvements, nor does it have any projects scheduled in the area. In addition, we believe the proposed activities are consistent with the State Implementation Plan for the Control of Air Pollution for the State of North Dakota.

If you have any questions regarding our comments, please feel free to contact this office.

Sincerely,



L. David Glatt, P.E., Director
North Dakota Department of Environmental Quality

LDG:ll
Attach.

Construction and Environmental Disturbance Requirements

The following are the minimum requirements of the North Dakota Department of Environmental Quality (Department) for projects that involve construction and environmental disturbance in or near waters of the State of North Dakota. They ensure that minimal environmental degradation occurs as a result of construction or related work which has the potential to affect waters of the state. All projects must be constructed to minimize the loss of soil, vegetative cover, and pollutants (chemical or biological) from a site.

Soils

Prevent the erosion and sediment loss using erosion and sediment controls. Fragile and sensitive areas such as wetlands, riparian zones, delicate flora, and land resources must be prohibited against compaction, vegetation loss and unnecessary damage.

Surface Waters

All construction must be managed to minimize impacts to aquatic systems. Follow safe storage and handling procedures to prevent the contamination of water from fuel spills, lubricants, and chemicals. Stream bank and stream bed disturbances must be contained to minimize silt movement, nutrient upsurges, plant dislocations, and any physical chemicals, or biological disruption. The use of pesticides or herbicides in or near surface waters is allowed under the Department's pesticide application permit with notification to the Department.

Fill Material

Any fill material placed below the ordinary high-water mark must be free of topsoil, decomposable materials, and persistent synthetic organic compounds, including, but not limited to, asphalt, tires, treated lumber, and construction debris. The Department may require testing of fill material. All temporary fills must be removed. Debris and solid waste must be properly disposed or recycled. Impacted areas must be restored to near original condition.



United States Department of Agriculture

OFFICIAL FILE COPY RECEIVED		
4 JUN 2024		
REPLY DATE		
INFO. COPY TO:		
DATE	INITIAL	TO
		Ashley
CLASSIFICATION		
PROJECT		
CONTROL NO.		
FOLDER I.D.		

Natural Resources Conservation Service

Bismarck State Office
PO Box 1458
Bismarck, ND
58502-1458

Voice 701.530.2000
Fax 855-813-7556

May 30, 2024

Joseph E. Hall, Area Manager
U.S. Department of the Interior
Bureau of Reclamation
Dakotas Area Office
304 East Broadway Avenue
Bismarck, ND 58501

Dear Mr. Hall:

The Natural Resources Conservation Service (NRCS) has reviewed your letter received on May 22, 2024, concerning Bureau of Reclamation's Environmental Assessment for the Heart Butte Safety of Dams Modification in Grant County, North Dakota.

NRCS has a major responsibility with the Farmland Protection Policy Act (FPPA) in documenting conversion of farmland (i.e., Prime, Statewide Importance and/or Local Importance) to non-agricultural use. Your proposed project is exempted from FPPA (Part 658) since this is a rehabilitation of an existing structure built in 1948-49, and acquisition of land occurred at that time, prior to 1984 FPPA legislation. FPPA does not apply and no further action is needed.

If you have additional questions pertaining to FPPA, please contact Wade Bott, State Soil Scientist, NRCS, Bismarck, North Dakota at (701) 530-2021.

Sincerely,

WADE BOTT

Digitally signed by WADE BOTT
Date: 2024.05.31 07:35:57 -05'00'

WADE D. BOTT
State Soil Scientist

Helping People Help the Land

An Equal Opportunity Provider, Employer, and Lender

Ashley Persinger
Bureau of Reclamation
304 E. Broadway Ave
Bismarck, ND 58501

Re: Heart Butte Dam

Dear Ashely ,

The North Dakota Parks and Recreation Department (NDPRD) has reviewed the above-referenced proposed Construction of a Safety of Dams Modification project for Heart Butte Dam in Grant County North Dakota.

NDPRD's scope of authority and expertise covers properties that NDPRD owns, leases, or manages; properties protected under Section 6(f) of the Land and Water Conservation Fund (LWCF); rare plants; and ecological communities established through the Natural Heritage Program.

The project does not appear to affect properties NDPRD owns, leases, or manages.

The project does not appear to affect any properties protected under Section 6(f) of the LWCF.

A North Dakota Natural Heritage biological conservation database query determines if any current or historical plant or animal species of concern or other significant ecological communities are known to occur within an approximate one-mile radius of the project area. Based on this review, no known plant and animal species of concern or significant ecological communities are documented within or immediately adjacent to the project site.

We appreciate your commitment to rare plant, animal, and ecological community conservation, management, and inter-agency cooperation. For additional information, please contact Kathy Duttenhefner at 701-328-5370, 701-220-3377 (cell), or kgdutzenhefner@nd.gov.

Thank you for the opportunity to comment on the proposed project.

Sincerely,

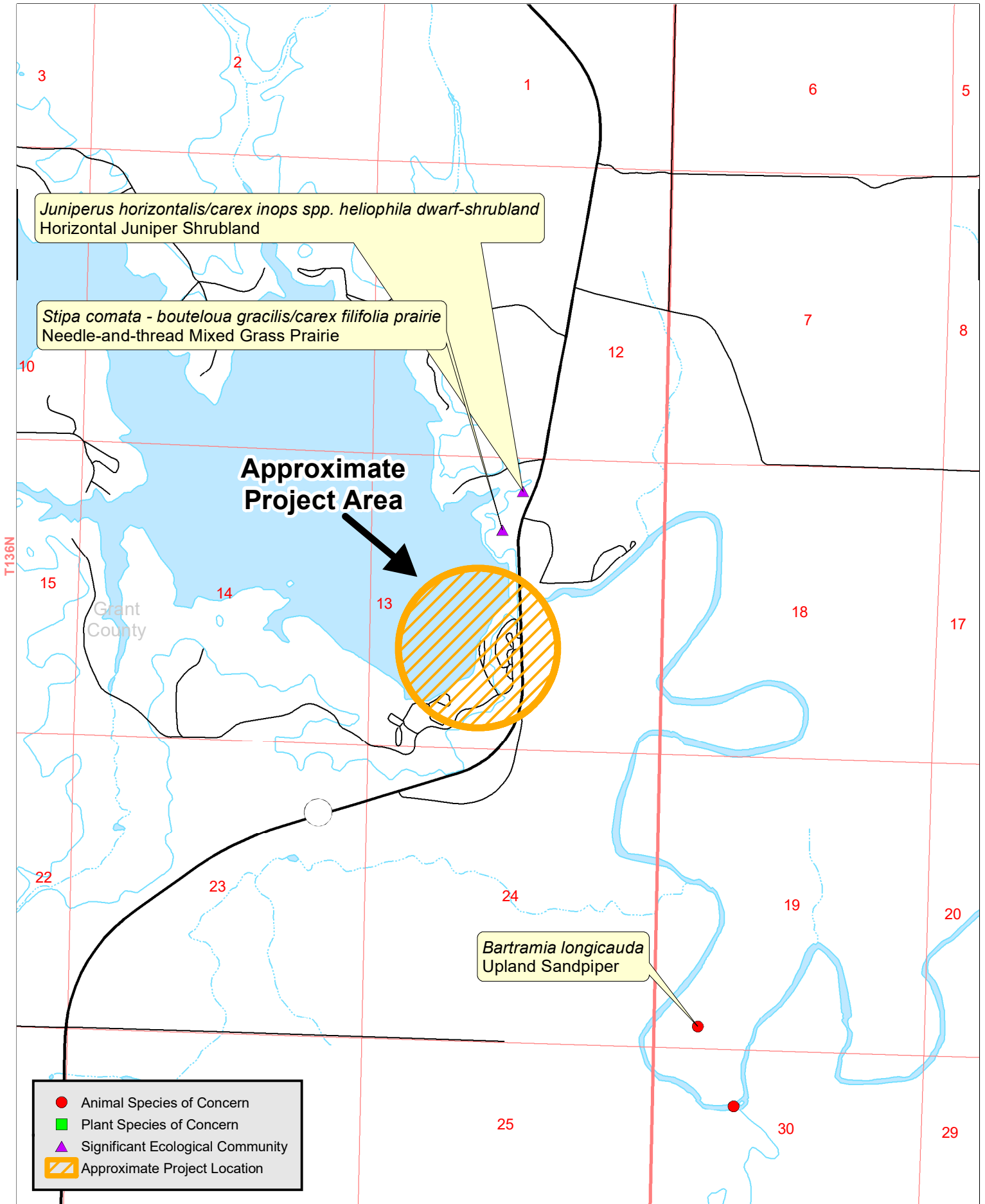


Kathy Duttenhefner, Chief Natural Resources Division

North Dakota Natural Heritage Inventory
Rare Animal and Plant Species and Significant Ecological Communities

State Scientific Name	State Common Name	State Rank	Global Rank	Federal Status	Township Range Section	County	Last Observation	Estimated Representation Accuracy	Precision
<i>Bartramia longicauda</i>	Upland Sandpiper	SNRB	G5		136N088W - 19; 136N088W - 20; 136N089W - 26; 136N089W - 36; 136N088W - 18; 136N089W - 23; 136N088W - 31; 136N088W - 17; 136N089W - 25; 136N089W - 13; 136N089W - 24; 136N088W - 30; 136N088W - 29	Grant	1994-06		M
<i>Juniperus horizontalis/carex inops</i> spp. <i>heliophila</i> dwarf-shrubland	Horizontal Juniper Shrubland	S3	GNR		136N089W - 13	Grant	1990-06-06		S
<i>Stipa comata</i> - <i>bouteloua gracilis/carex filifolia</i> prairie	Needle-and-thread Mixed Grass Prairie	S2	GNR		136N089W - 13	Grant	1990-06-06		S

North Dakota Parks and Recreation Department North Dakota Natural Heritage Inventory





United States Department of the Interior



BUREAU OF RECLAMATION
Dakotas Area Office
304 East Broadway Avenue
Bismarck, ND 58501

IN REPLY REFER TO:

DKAO-EA-2024-02

2.1.4.17

Subject: Bureau of Reclamation's Preparation of an Environmental Assessment for the Heart Butte Safety of Dams Modification Project, Heart Butte Dam, Grant County, North Dakota

Dear Interested Party:

The Bureau of Reclamation (Reclamation) Dakotas Area Office has prepared a Draft Environmental Assessment (EA) for Heart Butte Safety of Dams Modification Project. 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. Persistent seepage issues into the conduit and in the relic river channel area and the lack of an engineered filter contribute to the risk of dam failure at Heart Butte Dam. Currently, the risk of dam failure is at an unsatisfactory level and corrective actions are needed.

Reclamation is the lead Federal agency responsible for ensuring compliance with the National Environmental Policy Act, National Historic Preservation Act, and related federal environmental and cultural resource legislation. The draft EA presents the Proposed Action Alternative and evaluates the potential impacts to the human and natural environment associated with the Proposed Action Alternative in comparison with the No Action Alternative.

Reclamation will use this draft EA and any reviewer comments to determine whether the project will have any significant impacts on the human and natural environment. If no significant issues are identified, Reclamation would issue a Finding of No Significant Impact (FONSI). If any significant issues are identified, we may consider the preparation of an Environmental Impact Statement.

Reclamation defines significant in accordance with 40 CFR 1508.27.

We would appreciate your review and comments on the draft EA. A digital copy is available at https://www.usbr.gov/gp/dkao/heart_butte/index.html. The review period will be open for 30 days until December 16, 2024. Questions or comments may be directed to Ms. Ashley Persinger, Supervisory Natural Resource Specialist at (701) 221-1282 or at APersinger@usbr.gov, or in writing to: Area Manager, Bureau of Reclamation, 304 East Broadway Avenue, Bismarck, North Dakota 58501. If you are deaf, hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

Sincerely,

JOSEPH HALL Digitally signed by JOSEPH HALL
Date: 2024.11.18 11:23:02 -06'00'

Joseph E. Hall
Area Manager

INTERIOR REGION 5 • MISSOURI BASIN
INTERIOR REGION 6 • ARKANSAS-RIO GRANDE-TEXAS GULF

COLORADO*, KANSAS, MONTANA*, NEBRASKA, NORTH DAKOTA*, OKLAHOMA, SOUTH DAKOTA*, TEXAS*, WYOMING*

* PARTIAL

From: [Carson, Melissa \(FHWA\)](#)
To: [Persinger, Ashley C](#)
Subject: [EXTERNAL] DKAO-EA-2024-02
Date: Tuesday, December 17, 2024 10:24:17 AM

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Good Morning Ashley,

I am responding to your letter about the EA for Heart Butte Dam. Our office has no comments but I wanted to make sure your office is notified that Wendall Meyer is no longer the DA in our office. Future correspondence should be address to Lee Potter who is our current DA.

Thank you!

Melissa Carson

Environmental Program Manager

ROW Program Manager

FHWA - North Dakota Division

4503 Coleman Street, Suite 205

Bismarck, North Dakota 58503

Office: (701) 221-9470



United States Department of the Interior



FISH AND WILDLIFE SERVICE

North Dakota Ecological Services
3425 Miriam Avenue
Bismarck, North Dakota 58501-7926
(701) 250-4481, ndfieldoffice@fws.gov

IN REPLY REFER
TO:
BOR Draft EA for
Heart Butte

December 6, 2024

Ms. Ashley Persinger
Environmental Coordinator
Bureau of Reclamation -Dakotas Area Office
304 East Broadway Avenue
Bismarck, North Dakota 58501

Dear Ms. Persinger:

Thank you for the email communication dated November 19, 2024, requesting US Fish and Wildlife Service (FWS) concurrence for the Bureau of Reclamation (BOR) Draft Environmental Assessment for the Heart Butte Dam Safety project. The project is a repair of the existing dam structure near Glen Ullin, North Dakota.

Section 7(a) (2) of the Endangered Species Act as amended, (16 USC 1531 et eq., [Act]) requires that each Federal agency, in consultation with the Secretary, ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat. In fulfilling these requirements, each agency is to use the best scientific and commercial data available to assess the impacts of their action and make an effects determination. In this case, BOR is the federal action agency that has the responsibility of making effects determinations under 7(a)(2) of the Act.

There is no requirement under the implementing regulations of the Act (50 CFR Part 402) for action agencies to receive FWS concurrence with “no effect” determinations, therefore the responsibility for “no effect” determinations remain with the BOR. Accordingly, we recommend the BOR retain the documentation for the endangered whooping crane (*Grus americana*) and threatened northern long-eared bat (*Myotis septentrionalis*) in your decisional record for this federal action.

With the scope of the proposed project, native grasslands may be impacted. FWS would recommend habitat surveys in these areas prior to construction to determine if Dakota skipper suitable habitat is present. In addition, the drawdown of the Heart Butte Dam reservoir pool may create temporary Piping plover habitat. Surveys may be warranted if construction is within 0.5 miles of this newly created temporary habitat along the shorelines.

Pursuant to the implementing regulations of the Act (50 CFR 402.13), this letter concludes informal consultation. This consultation should be re-initiated if: (1) new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not considered in this consultation; (2) the action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in this consultation; or (3) a new species is listed, or critical habitat is designated that may be affected by this action.

We appreciate your efforts to ensure the conservation of listed and proposed species as part of our joint responsibilities under the Act. If you have any questions on these comments, please contact Jerry Reinisch at (701) 425-2133 or me at (720) 793-6797.

Sincerely,

**LUKE
TOSO**

Digitally signed
by LUKE TOSO
Date: 2024.12.06
14:42:40 -06'00'

Luke Toso, Deputy Field Office Supervisor
for
Chris Swanson, Project Leader

December 16, 2024

Ms. Ashley Persinger
Bureau of Reclamation
Dakotas Area Office
304 East Broadway Avenue
Bismarck, North Dakota 58501
apersinger@usbr.gov
701-221-1282

Dear Ms. Persinger

This is in response to your request for a review of the environmental impacts associated with the Heart Butte Safety of Dams Modification Project.

The proposed project has been reviewed by Department of Water Resources (DWR), and the following comments are provided:

- There is a FEMA National Flood Insurance Program (NFIP) regulatory floodplain identified or mapped where this proposed project is to take place. Impacted areas are designated to be in NFIP Zone A. The State of North Dakota has no formal NFIP permitting authority, as all NFIP permitting decisions are considered by impacted NFIP participating communities, which is the community with zoning authority for the area in question. Please work directly with the local floodplain administrator of the zoning authority impacted to achieve NFIP and community compliance.
- Any work above or below the Heart Butte Dam within the ordinary high water mark (OHWM) of the Heart River requires prior authorization from DWR; therefore, an Authorization To Construct a Project Within Sovereign Lands permit may be necessary prior to construction of this project. For more information, feel free to contact DWR's Sovereign Land Manager, Jerry Heiser at 701-328-4935 or gheiser@nd.gov You can also contact our Sovereign Land Specialist at 701-328-4988 or awinkelman@nd.gov.
- The DWR implemented the North Dakota Dam Safety Standards Policy, REG 05.2024a (Standards) on January 1, 2024. Standard's Section 2.2 EXISTING DAMS states, "Modifications to existing dams requiring a construction permit from the Department must comply with the Standards." According to North Dakota Century Code §61-16.1-38, any new construction of or construction modifications to dams, ponds, or other devices which are capable of retaining, obstructing, or diverting more than 50 acre-feet at top of dam, or 25 acre-feet with a high or medium hazard potential, requires a construction permit. Please contact the DWR Regulatory Division at 701-328-4956 if you have any questions.
- Initial review indicates the project does not require a conditional or temporary permit for water appropriation. However, if surface water or groundwater will be diverted for construction of any future projects identified in the plan, a water permit will be required per North Dakota Century Code § 61-04-02. Additionally, it is critical and thus the expectation that water will be available for any downstream senior appropriators during the construction of the project. Efforts should be made to minimize any impact on water availability for these users during construction. This may include careful management of water release schedules, flow rates, and potential mitigation measures to ensure downstream water rights are preserved. Please consult with the DWR Water Appropriation Division if you have any questions at (701) 328-2754 or appropinfo@nd.gov.

Thank you for the opportunity to provide review comments. Should you have further questions, please contact me at 701-328-4970 or kyrkoski@nd.gov.

Sincerely,

A handwritten signature in black ink that reads "Kyle Yrkoski". The signature is written in a cursive style and is positioned to the left of a vertical line.

Kyle Yrkoski
Planner III

KY:mg/1570

OFFICIAL FILE COPY RECEIVED		
- 2 JAN 2025		
REPLY DATE		
INFO. COPY TO:		
DATE	INITIAL	TO
		Ashley
CLASSIFICATION		
PROJECT		
CONTROL NO.		
FOLDER I.D.		

December 26, 2024

Ashley Persinger
 Bureau of Reclamation
 304 East Broadway Ave.
 Bismarck, ND 58501

Re: Project Code: DKAO-EA-2024-02 2.1.4.I7, Heart Butte Safety of Dams Modification Project
 Heart Butte Dam in Grant County

Dear Ms. Persinger:

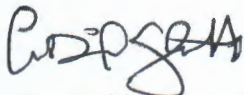
The North Dakota Department of Environmental Quality (Department) has reviewed the information concerning the above-referenced project received at the Department on November 21, 2024, with respect to possible environmental impacts.

- Projects disturbing one or more acres are required to have a permit to discharge stormwater runoff until the site is stabilized by the re-establishment of vegetation or other permanent cover. Further information on the stormwater permit may be obtained from the Department's website or by calling the Division of Water Quality at 701-328-5210. Also, cities may impose additional requirements and/or specific best management practices for construction affecting their storm drainage system. Check with the local officials to be sure any local stormwater management considerations are addressed.
- The construction project is within three non-community source water protection areas. Care should be taken to avoid spills of any materials that may have an adverse effect on groundwater quality. All spills must be immediately reported to this Department and appropriate remedial actions performed.
- All solid waste materials must be managed and transported in accordance with the state's solid and hazardous waste rules. Appropriate efforts to reduce, reuse and/or recycle waste materials are strongly encouraged. As appropriate, segregation of inert waste from non-inert waste can generally reduce the cost of waste management. Further information on waste management and recycling is available from the Department's Division of Waste Management at 701-328-5166.

The Department owns no land in or adjacent to the proposed improvements, nor does it have any projects scheduled in the area. In addition, we believe the proposed activities are consistent with the State Implementation Plan for the Control of Air Pollution for the State of North Dakota.

If you have any questions regarding our comments, please feel free to contact this office.

Sincerely,



L. David Glatt, P.E., Director
 North Dakota Department of Environmental Quality

LDG:ll
 Attach.

Construction and Environmental Disturbance Requirements

The following are the minimum requirements of the North Dakota Department of Environmental Quality (Department) for projects that involve construction and environmental disturbance in or near waters of the State of North Dakota. They ensure that minimal environmental degradation occurs as a result of construction or related work which has the potential to affect waters of the state. All projects must be constructed to minimize the loss of soil, vegetative cover, and pollutants (chemical or biological) from a site.

Soils

Prevent the erosion and sediment loss using erosion and sediment controls. Fragile and sensitive areas such as wetlands, riparian zones, delicate flora, and land resources must be prohibited against compaction, vegetation loss and unnecessary damage.

Surface Waters

All construction must be managed to minimize impacts to aquatic systems. Follow safe storage and handling procedures to prevent the contamination of water from fuel spills, lubricants, and chemicals. Stream bank and stream bed disturbances must be contained to minimize silt movement, nutrient upsurges, plant dislocations, and any physical chemicals, or biological disruption. The use of pesticides or herbicides in or near surface waters is allowed under the Department's pesticide application permit with notification to the Department.

Fill Material

Any fill material placed below the ordinary high-water mark must be free of topsoil, decomposable materials, and persistent synthetic organic compounds, including, but not limited to, asphalt, tires, treated lumber, and construction debris. The Department may require testing of fill material. All temporary fills must be removed. Debris and solid waste must be properly disposed or recycled. Impacted areas must be restored to near original condition.

From: [McKenzie, Chelsie J](#)
To: [Persinger, Ashley C](#)
Subject: Re: Heart Butte Safety of Dams Modification Project
Date: Monday, December 16, 2024 3:21:50 PM

Ashley,

Thank you. I did a quick review BLM does not have any comments at this time.

Chelsie McKenzie
Realty Specialist
Bureau of Land Management
North Dakota Field Office
99 23rd Avenue West, Suite A
Dickinson, ND 58601
Office: 701-227-7702
Cell: 701-502-1271

From: Persinger, Ashley C <apersinger@usbr.gov>
Sent: Monday, December 16, 2024 1:56 PM
To: McKenzie, Chelsie J <cmckenzie@blm.gov>
Subject: RE: Heart Butte Safety of Dams Modification Project

Hi Chelsie!

https://www.usbr.gov/gp/dkao/heart_butte/index.html

Try this fresh link, thanks for taking a look!

Ashley Persinger
Supervisory Natural Resource Specialist
Bureau of Reclamation- Dakotas Area Office
304 E Broadway Avenue
Bismarck, ND 58501
Ph: (701) 221-1282



From: McKenzie, Chelsie J <cmckenzie@blm.gov>
Sent: Monday, December 16, 2024 2:52 PM
To: Persinger, Ashley C <apersinger@usbr.gov>

Subject: Heart Butte Safety of Dams Modification Project

Ashley,

I was going to review the draft EA for this project, but the link in the letter we received did not work and when I just went to the Reclamation's website and found the project list, I still did not find the draft EA. I do not believe the BLM would really need to leave comments however, I thought I would look it over once just in case there is something. Please let me know if I am just not looking in the right spot.

Thank you

Chelsie McKenzie
Realty Specialist
Bureau of Land Management
North Dakota Field Office
99 23rd Avenue West, Suite A
Dickinson, ND 58601
Office: 701-227-7702
Cell: 701-502-1271



— BUREAU OF —
RECLAMATION

SOUTHWEST WATER
AUTHORITY



Heart Butte Safety of Dams Modification Public Open House

October 22, 2024

4:00 p.m. to 7:00 p.m. MDT

Lake Tschida Visitors Center

5675 North Dakota Highway 49, Elgin, North Dakota 58533

Please join us to ask questions and learn about the importance of the Project. Information stations for the following resources will be available:

- Recreation
- Fisheries (Hosted by North Dakota Game and Fish)
- Engineering and Project Construction
- Environmental and Cultural Resources
- Southwest Water Authority

Questions or comments regarding the public meeting may be directed to Ashley Persinger, Supervisory Natural Resource Specialist at (701) 221-1282 or at apersinger@usbr.gov, or in writing to: Area Manager, Bureau of Reclamation, 304 East Broadway Avenue, Bismarck, North Dakota 58501. If you are deaf, hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services.



For more information about this project, please visit:

<https://www.usbr.gov/gp/dkao/index.html>