



**US Army Corps
of Engineers®**

PUBLIC NOTICE

Applicant:
Casey Einrem
Burleigh County

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**Omaha District
Permit Application No. NWO-2025-01190-BIS**

TO WHOM IT MAY CONCERN: The Omaha District of the U.S. Army Corps of Engineers (Corps) has received an application for a Department of the Army permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. §1344). The purpose of this public notice is to solicit comments from the public regarding the work described below:

APPLICANT: Casey Einrem
Burleigh County
8100 – 43rd Avenue NE
Bismarck, North Dakota 58503

AGENT: Nic Cullen
Houston Engineering
3712 Lockport Street
Suite A
Bismarck, North Dakota 58503

WATERWAY AND LOCATION: The project would affect waters of the United States associated with Hay Creek. The project/review area is located in Section 15, Township 139 North, Range 80 West; at Latitude 46.866610° North and Longitude -100.751491° West; in Bismarck, Burleigh County, North Dakota.

EXISTING CONDITIONS: The proposed project is located immediately northeast of Bismarck, North Dakota just beyond the City boundaries. North 26th Street is currently a paved 2-lane road between 43rd Avenue NE and Deadwood Drive, but it does not continue north beyond Deadwood Drive; 57th Avenue NE is currently a rural gravel road between Centennial Road and Flatrock Drive, but it is an unmaintained section line west of Flatrock Drive. Both routes have since been identified in Metropolitan Planning Organization Plans, the U.S. Highway 83 Corridor Study Plan, the Fringe Road Area Plan, and public input as routes that need to be constructed to help decongest regional traffic. Future long-term growth is anticipated in the unimproved areas adjacent to these routes and to the east of Centennial Road.

The adjacent property immediately to the west of North 26th Street and north of 57th Avenue NE is undeveloped private land; the immediate area to the west of North 26th Street and south of 57th Avenue NE consists primarily of residential developments.

PROJECT PURPOSE:

Basic: Road Construction.

Overall: Two-lane road construction of North 26th Street NE from Deadwood Drive to Moonstone Lane and two-lane road construction of 57th Avenue NE from 26th Street NE to Centennial Road.

PROPOSED WORK: The project would include two-lane road construction to continue North 26th Street NE from Deadwood Drive to Moonstone Lane and to continue 57th Avenue NE from 26th Street NE to Centennial Road. Proposed work would result in permanent discharges of fill material into 3.55 acres of Waters of the United States (WOUS), an unnamed tributary system to Hay Creek.

AVOIDANCE AND MINIMIZATION: The applicant provided an alternatives analysis that included No Action, Alternative A (proposed alternative), and Alternative B. See enclosed alternatives location map. A copy of the alternatives analysis is also available on request.

COMPENSATORY MITIGATION: The applicant is proposing onsite permittee responsible mitigation at a 1:1 ratio to offset the loss of aquatic resources associated with the project.

CULTURAL RESOURCES: The Corps is evaluating the undertaking for effects to historic properties as required under Section 106 of the National Historic Preservation Act. This public notice serves to inform the public of the proposed undertaking and invites comments including those from local, State, and Federal government Agencies with respect to historic resources. Our final determination relative to historic resource impacts may be subject to additional coordination with the State Historic Preservation Officer, federally recognized tribes and other interested parties.

The District Engineer's final eligibility and effect determination will be based upon coordination with the SHPO and/or THPO, as appropriate and required, and with full consideration given to the proposed undertaking's potential direct and indirect effects on historic properties within the Corps-identified permit area.

ENDANGERED SPECIES: The Corps has performed an initial review of the application, using the U.S. Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC) website to determine if any threatened, endangered, proposed, or candidate species, as well as the proposed and final designated critical habitat may occur in the vicinity of the proposed project. Based on this initial review, the Corps has made a preliminary determination that the proposed project may affect the endangered Northern long-eared bat (*Myotis septentrionalis*), the threatened Piping plover (*Charadrius melodus*), and the threatened Rufa red knot (*Calidris canutus rufa*). No other ESA-listed species or critical habitat will be affected by the proposed action.

Consultation with the U.S. Fish and Wildlife Service was completed using their IPaC website; a concurrence letter was received for may affect, not likely to adversely affect determinations on the Northern long-eared bat, Piping plover, and Rufa red knot.

SECTION 408: The applicant will not require permission under Section 14 of the Rivers and Harbors Act of 1899 (33 USC 408) because the activity, in whole or in part, would not alter, occupy, or use a Corps Civil Works project.

WATER QUALITY CERTIFICATION: Water quality certification, or a waiver, as required under Section 401 of the Clean Water Act is required for this project from the North Dakota Department of Environmental Quality (NDDEQ). The applicant has obtained this certification.

NOTE: This public notice is being issued based on information furnished by the applicant. This information has not been verified or evaluated to ensure compliance with laws and regulation governing the regulatory program. The geographic extent of aquatic resources within the proposed project area that either are, or are presumed to be, within the Corps jurisdiction has been verified by Corps personnel.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including cumulative impacts thereof; among these are conservation, economics, esthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food, and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people. Evaluation of the impact of the activity on the public interest will also include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act or the criteria established under authority of Section 102(a) of the Marine Protection Research and Sanctuaries Act of 1972. A permit will be granted unless its issuance is found to be contrary to the public interest.

COMMENTS: The Corps is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other Interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this determination, comments are used to assess impacts to endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment (EA) and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act (NEPA). Comments are

also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

The Omaha District will receive written comments on the proposed work, as outlined above, until March 9, 2026. Comments should be submitted electronically via the Regulatory Request System (RRS) at <https://rrs.usace.army.mil/rrs> or to Amber Inman at Amber.L.Inman@usace.army.mil. Alternatively, you may submit comments in writing to the Commander, U.S. Army Corps of Engineers, Omaha District, Attention: Amber Inman, 3319 University Drive Bismarck, North Dakota 58504. Please refer to the permit application number in your comments.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Requests for a public hearing will be granted, unless the District Engineer determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing.

A. Project Description

Highway: 26th Street NE and 57th Avenue NE

County: Burleigh

Limits: Deadwood Drive to Moonstone Lane and 26th Street NE to Centennial Road

Figure 1 – Project Location Map



