

NORTH
Dakota

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Public Service Commission



Brian Kroshus
Chairman



Julie Fedorchak
Commissioner



Randy Christmann
Commissioner

**Period of July 1, 2017
through June 30, 2019**

Biennial Report

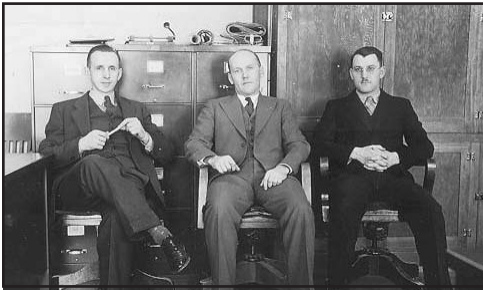
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Introduction

The Public Service Commission is a constitutional agency with varying degrees of statutory authority over electric and gas utilities; telecommunications companies; power plant, transmission line and pipeline siting; railroads; grain elevators; auctioneers and auction clerks; weighing and measuring devices; pipeline safety; coal mine reclamation; and eliminating public hazards from abandoned mine lands.

The Commission typically meets in formal session every two weeks. Special meetings are held to handle special or emergency situations. The agendas for these special meetings are prepared and distributed in the same manner as those for regular meetings. These agendas are distributed to a mailing list, either electronically or by direct mail. Agendas, meeting minutes, and copies of significant orders are also posted on the commission's website at www.psc.nd.gov.



1936 Public Service Commissioners

The Commission is comprised of three commissioners who are elected on a statewide basis to staggered six-year terms. The Commission had 44 authorized full-time employees throughout the biennium.

History of the Public Service Commission

The Commission was established before North Dakota became a state. Lawmakers for Dakota Territory established a Board of Railroad Commissioners in 1885 to oversee railroads, sleeping car companies, express companies, and telephone companies. The North Dakota Constitution retained this board and entrusted it with powers and duties to be prescribed by law. In 1940, the board's name was changed to Public Service Commission.

As the preceding list indicates, the Legislature has broadened the Commission's duties since its early days. However, this trend has been reversed in some areas as technology and a changing regulatory environment at both the federal and state levels have resulted in a greater dependence on competitive market forces to regulate services and rates of what were traditionally monopoly service providers.

We anticipate that some degree of regulatory oversight will remain in most of the Commission's traditional areas of responsibility. The public's needs and legislative policymakers will ultimately decide how much regulation is required in various industries. One change forward into the next biennium is the transfer of authority of the grain licensing and inspection program to the North Dakota Department of Agriculture



1926 Commission Staff

This report outlines the Commission's functions, goals, accomplishments, legislation affecting the agency and future challenges. The following pages contain summary discussions from each of the Commission's regulatory and support divisions. These reports will be presented following a brief biographical profile of each commissioner.

Commissioner Brian Kroshus



Brian was appointed to the Public Service Commission in March 2017 by Governor Doug Burgum and was elected by the voters in 2018. Brian has a background in business, agriculture and energy.

Brian's portfolio at the Public Service Commission includes business operations; electric and gas economic regulation, pipeline safety and damage prevention, and weights and measures.

Born in Fargo and a graduate of North Dakota State University, Brian deeply values his North Dakota heritage. His agricultural upbringing, from time in 4-H and FFA to present day as an owner of a cattle and grain operation in western North Dakota, allow him to fully appreciate and effectively address landowner concerns. He recognizes the importance of creating a balance between responsible infrastructure development, economic growth and environmental stewardship in order to provide safe, reliable and affordable energy to North Dakota citizens and businesses.

Prior to his appointment to the Public Service Commission, Brian spent 30 years in business leadership and management including 20 years (1997-2017) with Lee Enterprises, Bismarck. During his time with Lee Enterprises, he spent 17 years as publisher of Farm and Ranch Guide, 13 years as group publisher of Lee Agri-Media and 10 years as publisher of The Bismarck Tribune. He continues to be involved with his farm and ranching operation in western North Dakota.

Brian has served as a board member and trustee for numerous organizations including United Way, Bismarck-Mandan Chamber, Bismarck-Mandan Development Association, Sanford Health Foundation, Lewis and Clark Fort Mandan Foundation and Bismarck State College Foundation. Brian served as president of the Bismarck State College Foundation in 2012-2013 and co-chaired the United Way Missouri Slope Area Wide Annual Gift Giving Campaign in 2009.

Commissioner Julie Fedorchak

Julie Fedorchak has served on the Commission since 2012. She heads the pipeline, electric transmission and energy conversion siting; railroad; and consumer affairs portfolios and is the agency's lead for issues relating to the Midwest Independent System Operations (MISO).

Whether seeking a solution to mitigate red lights on wind farms that pollute North Dakota's night sky, or pushing for innovative ways to connect rural areas to natural gas service, Julie is constantly seeking to make government more responsive to North Dakota citizens. She led efforts to enhance the Commission's pipeline reclamation program; she developed and received legislative approval for a state rail safety program; and she is a tireless advocate for reliable, affordable utility services. She also reinstated the Commission's consumer affairs portfolio to provide greater public awareness, participation and transparency in the work of the PSC.



Julie is a board member of the Organization of MISO States, vice-chair of the National Association of Regulatory Utility Commissioners (NARUC) Gas Committee, vice chair of the NARUC Task Force on Natural Gas Expansion to Unserved Areas, and serves on the Gas Technology Institute's advisory board. She is a member of the Aspen Institute's Rodel Class of 2015.

Julie was appointed to the Public Service Commission in December 2012 by Gov. Jack Dalrymple. In 2016 she was elected to a full six-year term. Julie is married to Mike Fedorchak of Minot. They have three children and live in Bismarck where they are involved in a number of activities and organizations.

Commissioner Randy Christmann

Randy Christmann was elected to the North Dakota Public Service Commission in November of 2012 and re-elected in 2018 with a majority of votes in 49 of the 53 counties. He brings to the Commission a background in agriculture, telecommunications, and 18 years in the North Dakota Senate representing energy country. Most of all, he brings what the Minot Daily News called a “let’s work together attitude.”

Outside of government service, Randy operated a 113-year-old third-generation cattle ranch west of Hazen, North Dakota. His wife, Bethanie, is a mortgage loan underwriter at American Bank Center. Before graduating from Hazen High School in 1978, Randy enlisted in the North Dakota Army National Guard. He also enrolled at North Dakota State University and graduated from there in 1982 with a bachelor’s degree in business administration.



Randy was elected to the North Dakota Senate in 1994, helping Republicans achieve majority status in the North Dakota Senate. Governor Ed Schafer appointed Randy to serve as one of the two legislative appointees on the Lignite Research Council. He continued to serve in that position under Governors Hoeven and Dalrymple.

Following the statewide general election in 2000, Senate Republicans chose Randy to serve as their Assistant Majority Leader. He was re-elected to that post every two years through 2012. He also served on the Senate Appropriations Committee.

From 1999-2012 the members of West River Telecommunications Cooperative elected Randy to serve as a director. During part of this time, Randy also served as the president of the North Dakota Association of Telecommunications Cooperatives.

Randy now brings his agriculture, telecommunications, and energy industry background to the Public Service Commission. He has led the effort to implement rules for future decommissioning and reclamation of wind farms and solar farms, serves as a PSC representative on the Lignite Research Council, and serves as a PSC representative for the multi-state Southwest Power Pool.

His portfolios include:

- Coal mining, reclamation, and abandoned mine lands
- Auctioneer and auction clerk licensing
- Telecommunications
- Wind and solar reclamation



Public Service Commissioners

Agency Overview

The Legislature has given the Commission broad jurisdiction over several industries. In some cases the Commission functions like a court, in other instances it operates like a licensing board, and sometimes it serves as an environmental regulatory inspection agency.

This biennium there were 864 cases filed with the Public Service Commission to include industry filings, complaint proceedings, and rule making.

Formal hearings are held only when necessary and are used only in more complicated or contested cases, or when required by law. The vast majority of the cases that come before the Commission are handled without the need for a formal hearing. Some of these filings take effect with little more than staff review. More involved cases are typically discussed with the parties and the Commission at informal hearings.

The informal hearing is used by the Commission to give parties an opportunity to meet publicly with the Commission, but without the expense and delay that would be associated with a formal hearing. During this biennium the Commission held 52 formal hearings either in the Commission hearing room at the State Capitol or in the area directly affected.

- 93.98% of all formal cases were processed without the need for a formal hearing
- 27.89% of all formal cases were closed in less than 30 days
- 36.69% of all formal cases were closed in 60 days or less

The following graph summarizes the number and types of cases that were processed by the Commission during the biennium.

	Docketed Cases				
	2009-2011	2011-2013	2013-2015	2015-2017	2017-2019
Railroad	24	17	18	17	13
Reclamation	55	34	34	37	32
Abandoned Mines	0	14	9	10	8
Grain Elevators	603	570	600	430	101
Gas/Pipeline	144	148	233	190	128
Electric	225	246	226	197	188
Telecommunications	244	545	368	319	246
Auctioneers	69	89	57	57	47
Weights and Measures	2	23	131	130	69
Miscellaneous	24	20	74	9	32
Total	1372	1706	1750	1396	864

Executive Secretary

The Executive Secretary, appointed by the Public Service Commissioners, serves as the point of contact for companies and individuals who are seeking information or submitting formal filings.

The Executive Secretary is also responsible to certify, publish, and maintain all official Commission documents and case records; serve as the Commission's personnel and training officer; provide timely recommendations and reports to the Commission on operational and policy matters; coordinate efforts with other agencies; and serve as the main informational liaison with other agencies on operational matters.

The Commission meets in formal session every two weeks. Special meetings are held to handle special or emergency situations.

The Executive Secretary is responsible for ensuring all meetings are noticed and agendas and minutes are prepared and distributed appropriately.

Mission Statement

The mission statement of the Public Service Commission is to fulfill its statutory mandates by protecting the public interest and regulating utilities, mining companies, weights and measures devices, railroad safety and licensees in a fair, efficient, responsive, and cooperative manner. Regulatory initiatives assure that:

- Utility customers receive reliable and safe service at reasonable and just rates.
- Mined coal lands are reclaimed to provide a safe and productive environment now and in the future.
- License and permit holders and operators of commercial weighing and measuring devices operate in a safe and fair manner.
- Railroad safety is enhanced and maintained through inspection and compliance programs.

Public Outreach

The Commission serves as a major resource for consumers who are having problems with the services provided by companies within the agency's areas of responsibility. Complaints or inquiries cover the gamut from utility billings to railroad issues and from gas pumps to ground water near coal mines. In some cases, the Commission has direct jurisdiction over the matters involved, while in other instances the agency has little or no authority to intervene in the matter. In either case, the Commission attempts to provide assistance, either through direct intervention or by disseminating information that will help the parties resolve the problem or by referring to another agency that can assist.

The Commission recorded 1,059 informal complaints, inquiries and public input during the biennium. The majority of incoming calls involved gas/electric utilities, telecommunications, and public comments regarding siting applications submitted to the Commission. The majority of the concerns involve billing disputes, electric disconnects, and quality of service complaints. The Commission also receives a large number of phone calls related to questions about the federal LifeLine Program. Although the PSC does not administer this program, the PSC staff are available to answer general questions about the program and help people with the information they need to get signed up.

The PSC reinstated a Consumer Affairs Portfolio in 2014, which provides additional focus on consumer issues and complaints and on improving communication with the public through traditional public information channels, public meetings and social media. Commissioner Kroshus held the portfolio for most of the biennium until it was transferred to Commissioner Fedorchak in Jan. 2019. Commissioner Fedorchak works closely with the PSC's Public Outreach and Consumer Affairs Specialist to strengthen the Commission's relationship with consumers in North Dakota.

As part of this strengthened focus on communications, the following tools were implemented during this biennium:

- A 2017 and 2018 public contact report was released showing data and trends relating to complaints and input received for that year. This report is released annually. In addition, an internal monthly report was started to keep Commissioners and Directors informed of public contacts being received each month.
- News releases continue to be released before each public siting hearing as another tool to educate people about public hearings and projects before the Commission. News releases have also been incorporated to inform about Commission votes and other important activities.
- The agency continues to maintain and update its website (www.psc.nd.gov), including a series of “You Should Know” brochures. Case information, meeting notices and minutes, along with audio recordings and a link to live webcasting are all available on the site. A “hot topics” section was also added to the website that provides a direct link to case files currently under review to make it easier for the public and reporters looking for that information.
- The agency’s Twitter account is used to educate about public hearings and other newsworthy events. The number of followers continues to increase as the account is used. Currently @NDPSC has 1,147 followers.
- The Consumer Affairs Specialist has been working closely with IT on development of a new public contact recording system and public input system. When implemented, this will allow people to submit comments directly into a case and allow those in the public to view what has been submitted. The system will also allow enhanced reporting and statistics. The system is scheduled to be released early in the next biennium.

Financial Management

Accounting is responsible for processing payments, financial reporting, procurement, asset management, and budgeting for the North Dakota Public Service Commission. Accounting also establishes financial policies and procedures in compliance with OMB policies along with generally accepted accounting principles and state and federal regulations.

2017-2019 Financials

Revenue	General	Federal	Special
Licensing	\$354,608		
Federal Government		\$7,799,456	
Fines	\$146,803		
Interest on Investments			\$71,999
Coal Mining Fees	\$23,818		
Filing Fees*	\$6,100		
Scale Inspection Fees	\$99,710		
Utility Valuation Reimb.			\$2,120
Misc. Revenue	\$75,392		
Trsf. From Hwy Tax. Dist. Fund			\$570,000
Trsf. From SIIF Fund			\$47,182
Total	\$706,430	\$7,799,456	\$691,302

Note: Information is based on the June 2019 4911AA PeopleSoft Reports.

*Does not include fees filed by companies to process large cases like siting or rate cases

2017-2019 Budget

Expenses by Line Item	Appropriated	Expended	Unexpended
Salaries and Wages	\$9,197,284	\$8,737,987	\$459,297
Operating Expenses	\$1,829,826	\$1,391,712	\$438,114
Capital Assets	\$10,000	\$9,988	\$12
Grants	\$20,000	\$15,625	\$4,375
AML Construction	\$6,000,000	\$4,149,243	\$1,850,757
Rail Fund	\$900,000	\$0	\$900,000
Litigation Fund	\$530,000	\$47,182	\$482,818
Rail Safety Program	\$564,668	\$550,468	\$14,200
Total	\$19,051,778	\$14,902,205	\$4,149,573
Funding Source	Appropriated	Expended	Unexpended
General	\$6,630,762	\$6,174,127	\$456,635
Federal	\$10,731,348	\$8,128,396	\$2,602,952
Special	\$1,689,668	\$599,682	\$1,089,986
Total	\$19,051,778	\$14,902,205	\$4,149,573

Note: Information is based on the June 2019 4310AA PeopleSoft Report.

Line Item Funding Sources:

- Grants and AML Construction are 100% federal funds
- Rail Fund and Rail Safety Program are 100% special funds
- All other items are a mix of general, federal and special funds

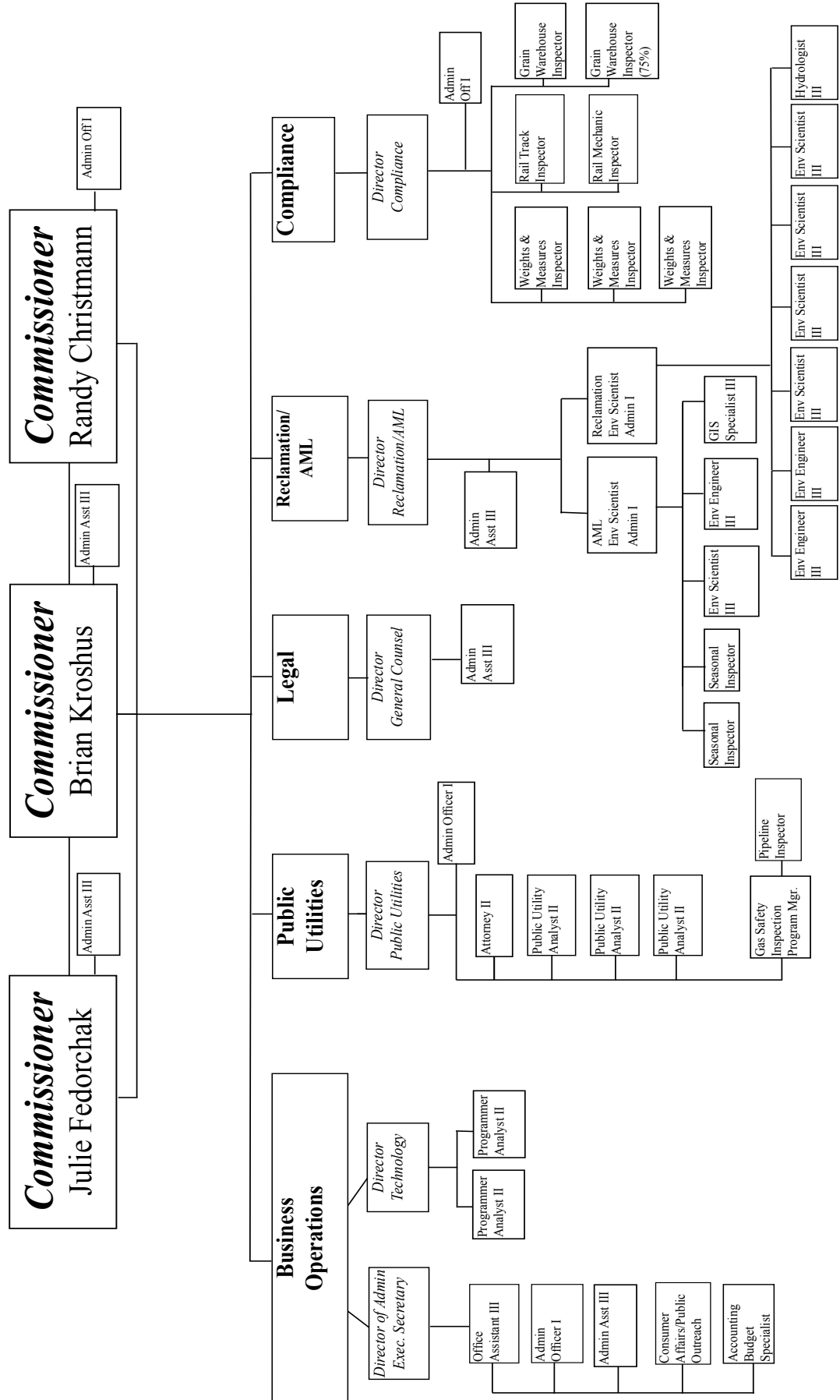
General Counsel

The mission of the Legal Division is to provide high quality legal representation, advice and counsel to the Commission and various divisions and to fulfill staff functions for divisions as situations warrant and time allows. Duties include rate case advocacy, appellate representation of the Commission, representation of the Commission before other state and federal agencies, representation of the Commission in civil proceedings, support for the Commission’s legislative activities, and enforcement of laws, rules, and Commission decisions. The Legal Division also functions as the Commission’s hearing administrator and maintains the Commission’s case docket system. Federal agencies before which the Legal Division represents the Commission include the Department of Energy, Environmental Protection Agency, Surface Transportation Board, Federal Communications Commission, Federal Energy Regulatory Commission, and the Department of Interior.

Section 49-01-09 of the North Dakota Century Code provides that the Attorney General be ex-officio attorney for the Commission and, personally or through commerce counsel, represents the Commission in any proceeding which the Commission deems proper and expedient. The section also authorizes the Commission to employ additional counsel. Section 54-12-08 of the North Dakota Century Code provides that the Public Service Commission may employ attorneys to represent the agency. The Attorney General appoints the attorneys employed by the Commission as Special and Assistant Attorneys General.

North Dakota Public Service Commission
2019

Organizational Chart



Public Utilities

Statutory and Constitutional Responsibilities

The Commission:

- Regulates investor-owned electric and gas utilities to ensure that consumers receive safe and reliable service at reasonable rates.
- Regulates essential services offered by investor-owned phone companies.
- Works with public utility consumers to resolve billing disputes and service complaints.
- Designates locations for the construction and operation of facilities such as electric generation, gas processing, oil refining, pipelines, and electric transmission lines.
- Enforces the state’s gas pipeline safety standards upon all of North Dakota’s intrastate gas transmission and distribution system operators.
- Enforces violations of the state’s One-Call Excavation Notice System statute.

Mission Statement and Goals

The mission statement of the division is to provide utility customers with reliable and safe service at reasonable and just rates.

Goals include:

- Establish and maintain a fair and reasonable regulatory environment in which utility services are provided.
- Protect North Dakota’s environment and safety by maintaining effective oversight of the construction of energy conversion and transmission facilities.
- Enhance public safety by enforcing state laws governing gas pipeline safety for intrastate natural gas transmission and distribution systems.
- Enhance public safety and reduce environmental impacts that result from damage to underground lines, pipelines, cables and other underground facilities through enforcement action regarding violations of the state’s One Call Excavation Notice System statute.
- Provide information to utility consumers and the public to inform them of their rights and responsibilities.

Major Activities and Accomplishments

Economic Regulation

Rate Cases:

Following are the rate increase requests and increases granted:

Filing Date	Utility Co	Description	Request (Millions)	Granted (Millions)	Decision
07/21/2017	Montana-Dakota Utilities	Gas Rate Increase	\$4.6	\$2.5	09/26/2018
11/02/2017	Otter Tail Power	Electric Rate Increase	\$15.7	\$7.1	09/26/2018
02/03/2017	Great Plains Natural Gas	Gas Utility Rate Review	\$0	\$0.168	01/09/2019

Following are the rate impacts resulting from the Tax Cuts and Jobs Act of 2017:

Filing Date	Utility Co	Description	Customer Impact (Millions)	Decision
03/09/2018	Montana-Dakota Utilities	Electric Utility	\$8.8 rate reduction	09/26/2018
05/15/2018	Northern States Power Co.	Electric Utility	\$9.6 Refund	02/06/2019
05/15/2018	Northern States Power Co.	Gas Utility	\$1.25 annual expense offset	11/08/2019

Regulated public utilities that distribute natural gas to end use customers in North Dakota are Great Plains Natural Gas Co., Montana-Dakota Utilities Co. (MDU), and Northern States Power Company (NSP).

Regulated public utilities that distribute electricity to end use customers in North Dakota are Montana-Dakota Utilities Co., Northern States Power Company (NSP), and Otter Tail Power Company (OTP).

Advance Determination of Prudence (ADP):

In accordance with N.D.C.C. §49-05-16, the investor-owned electric utilities operating in North Dakota may request an advance determination of prudence for certain major capital investments. If the Commission determines a project is prudent, then the utilities can include the costs of that project in future rates. During the biennium, the Commission received the following ADP filings:

Filing Date	Utility Company	Description	Purpose	ADP Decision
10/10/2017	NSP (Xcel)	Dakota Range Wind	Add 302.4 MW wind generation	12/06/18
12/17/2018	NSP (Xcel)	Mankato Energy Center	Add 720 MW combined cycle generation	pending
12/27/2018	NSP (Xcel)	Dakota Range III	Add 151.2 MW wind generation	pending

Public Convenience and Necessity:

During the biennium, the Commission received the following applications for certificates of public convenience and necessity for North Dakota public utility plant or systems:

- Dakota Natural Gas, LLC's June 28, 2018, application regarding a facility to provide natural gas service to parts of the Drayton, ND, community and to a large commercial customer located in the Drayton area. The application was approved (case #PU-18-224).
- Northern States Power Company's October 27, 2017, application regarding the Foxtail Wind Project (150 megawatt nameplate capacity) located 20 miles west of Ellendale, ND. The application was approved (case #PU-17-387).
- Northern States Power Company's August 21, 2017, application regarding a 115-kilovolt electric transmission line between the existing Maple River and Red River substations in Fargo, ND. The application was approved (case #PU-17-332).

Telecommunications

Competition for telecommunications continues to evolve in the state and the Commission continues to receive filings of interconnection agreements negotiated by incumbent local exchange companies and competitive local exchange companies. Interconnection agreements make provisions for wireline and wireless competitors to interconnect to local exchange areas served by incumbent rural telephone companies, and provision of wholesale prices for services that may be resold by competitors. During the 2017-2019 biennium, the Commission received for approval 8 interconnection agreements and 10 interconnection agreement amendments.

The Commission takes a hands-on role in reclaiming telephone numbers that have been allocated to a company but have not been activated by that company within six months. The Commission also assists in the procurement of telephone numbers not otherwise available to a telecommunications company.

Each year the Commission provides to the Federal Communications Commission verification by the rural telephone companies that federal universal service funds are used only for those purposes specified by the Federal Communications Commission and therefore are eligible to receive such federal funding for the next calendar year.

Since 2007, telecommunications companies designated by the Commission as eligible to receive federal universal service funds began filing annual reports of the federal funds received. The report includes the following information: the use made of those federal funds for the provision of universal telephone services in the state, projections for future federal funds, and anticipated projects funded by those future dollars. Federal universal funds are to be used only for those purposes specified by the Federal Communications Commission. This information supports rural company certification to receive future universal service funds.

The Commission continues to provide a web-based electronic self-registration system for telecommunications companies other than incumbent local exchange telecommunications companies. The self-registration process is a streamlined process for non-incumbent telecommunications carriers to obtain the equivalent of a Certificate of Public Convenience and Necessity to provide telecommunications services in North Dakota. Approximately 514 telecommunications companies are self-registered.

Gas Pipeline Safety Program

The Commission amended North Dakota Administrative Code section 69-09-03-02 to adopt by reference changes made by the federal government to gas pipeline safety regulations, Title 49, Code of Federal Regulations Parts 190, 191, 192, 193, 194, 195, and 199, as of December 31, 2017, Case No. GS-17-370.

During the 2017-2019 biennium, the gas pipeline safety inspectors conducted inspections of five distribution system operators, 10 transmission system operators, one liquefied natural gas facility operator, and nine gathering system operators. The total number of inspection days is as illustrated in the following table:

PIPELINE INSPECTIONS BY TYPE	Number
STANDARD INSPECTION – RECORDS AUDITS	72
COMPLIANCE FOLLOW-UP	3
DESIGN/TESTING AND CONSTRUCTION	25
INVESTIGATING GAS EXPLOSION INCIDENTS	0
ONSITE OPERATOR TRAINING (seminars)	2
OPERATOR QUALIFICATIONS	14
INTEGRITY MANAGEMENT INSPECTIONS	1
DAMAGE PREVENTION ACTIVITIES	0
TOTAL INSPECTIONS	117

Damage Prevention Program

During the 2017-2019 biennium, 68 third-party complaints were filed with the Commission alleging violations of North Dakota Century Code Chapter 49-23, the One-Call Excavation Notice System. There were no formal complaints filed during this biennium. The Commission completed 64 complaint proceedings resulting in penalties totaling \$87,000. Of that amount, \$50,500 in penalties were against underground facility operators and \$37,050 in penalties were against excavators. The Commission believes these cases bring a greater industry awareness of the One-Call law.

The Commission has participated in the U.S. Department of Transportation's One Call Grant every year since 2015. As a result of the annual grant, approximately 14 to 18 roadside advertising billboards are placed each year in major markets throughout North Dakota to promote "Call Before You Dig" to reduce third-party damage to underground facilities in the state. The Commission also participates in 811 Day held at the State Fair in Minot.

Energy Conversion and Transmission Facility Siting

Prior to beginning construction of an energy conversion or transmission facility, a certificate of site compatibility or route permit must be obtained from the Commission. It is the responsibility of the Commission to assure that such facilities are sited in an orderly manner to ensure that energy needs are met and fulfilled in an efficient manner, continuing system reliability and integrity, while minimizing adverse human and environmental effects.

During the biennium, the Commission received siting applications for 10 pipelines, four gas processing plants, 10 wind farms, and five electric transmission lines. The Commission received three electric transmission line and four wind farm filings under the abbreviated siting process (SECs) defined in North Dakota Century Code section 49-22-03 for construction of facilities wholly within the geographic area for which the utility had previously obtained a certificate or permit or on which a facility was constructed before April 9, 1975. The Commission also received filings under the abbreviated siting process defined in North Dakota Century Code section 49-22.1-01 (SECs) regarding four pipelines and four gas processing plants. The Commission received a formal request for jurisdictional determination from WPX Energy Williston, LLC.

Energy Conversion and Transmission Facility Siting Activities During the Biennium

Case No.	Applicant	Description	Date of Application	Date of Order	Estimated Investment
PU-08-932	EDF Renewable Development, Inc.	Merricourt Wind Energy Project – site plan revisions	3/3/2017	11/16/2017	unknown
PU-10-218	BakkenLink Pipeline, LLC	Pipeline conversion (crude oil to natural gas liquids-42 miles)	6/22/2018	9/5/2018 (amended order)	unknown
PU-16-539	Glacier Ridge Wind Farm, LLC	Glacier Ridge Wind Farm - Phase II	7/19/2016	9/6/2017	\$202,000,000
PU-17-97	Cenex Pipeline, LLC	Cenex Pipeline -150 miles	3/2/2017	3/14/2018 and 9/26/2018 (amended order)	\$115,000,000
PU-17-102	Northern States Power Company	Minot Load Serving Project	3/13/2017	10/4/2017	\$50,500,000

Case No.	Applicant	Description	Date of Application	Date of Order	Estimated Investment
PU-17-181	Oasis Midstream Services, LLC	Wild Basin Gas Plant and Crude Handling Facility Expansion Project	5/4/2017	7/26/2017	\$125,000,000
PU-17-192	Montana-Dakota Utilities Co.	Thunder Spirit Wind Project – increase capacity from 150 MW to 155.5 MW	5/10/2017	8/16/2017	\$86,500,000
PU-17-284	Foxtail Wind, LLC	Foxtail Wind Energy Center	7/17/2017	1/31/2018	\$400,000,000
PU-17-285	QEP Field Services, LLC	Robinson Lake Gas Plant (Siting Exclusion Certification)	7/18/2017	N/A	unknown
PU-17-297	Brady Wind II, LLC	Brady II Wind Energy Center (Siting Exclusion Certification)	7/28/2017	N/A	unknown
PU-17-302	Allete Clean Energy, Inc.	Allete Clean Energy #1 Wind Project – capacity increase from 100 MW to 106 MW	8/3/2017	11/16/2017	unknown
PU-17-318	Basin Electric Power Cooperative	230kV transmission line (Siting Exclusion Certification)	8/7/2107	N/A	unknown
PU-17-321	Tatanka Wind Power, LLC	230kV transmission line (Siting Exclusion Certification)	8/10/2017	N/A	unknown
PU-17-344	Brady Wind II, LLC	Brady Wind II-Wind Energy Center (Siting Exclusion Certification)	9/5/2017	N/A	unknown
PU-17-343	Brady Wind, LLC	Brady Wind Energy Center (Siting Exclusion Certification)	9/5/2017	N/A	unknown

Case No.	Applicant	Description	Date of Application	Date of Order	Estimated Investment
PU-17-359	Hess Corporation	Crude oil pipeline (Siting Exclusion Certification)	9/22/2017	N/A	unknown
PU-17-377	Oliver Wind III, LLC	Oliver III Wind Energy Center (Siting Exclusion Certification)	10/16/2017	N/A	unknown
PU-17-397	Arrow Field Services, LLC	Arrow Bear Den Gas Processing Plant II	11/1/2017	3/14/2018	\$136,000,000
PU-17-483	ONEOK Rockies Midstream, L.L.C.	Cherry Creek Pipeline	12/14/2017	4/30/2018	\$31,000,000
PU-18-21	ONEOK Rockies Midstream, L.L.C.	Bear Creek Gas Plant Expansion Project	1/10/2018	4/11/2018	\$250,000,000
PU-18-24	Hess North Dakota Pipelines, LLC	Keene Oil Gathering System Conversion	1/18/2018	5/29/2018	\$114,000,000
PU-18-72	Andeavor Field Services, LLC	NGL pipelines	2/5/2018	6/13/2018	\$46,000,000
PU-18-94	ONEOK Rockies Midstream, L.L.C.	Gas Processing Plants (Siting Exclusion Certification)	3/13/2018	N/A	unknown
PU-18-93	ONEOK Rockies Midstream, L.L.C.	Lonesome Creek Gas Plant (Siting Exclusion Certification)	3/14/2018	N/A	unknown
PU-18-186	Langdon Wind, LLC	Langdon Wind Energy Center upgrade from 159 MW to 171.72 MW	5/25/2018	9/5/2018	\$113,000,000

Case No.	Applicant	Description	Date of Application	Date of Order	Estimated Investment
PU-18-219	Harmony Solar ND, LLC	Harmony Solar Energy Center 200MW	6/29/2018	2/26/2019	\$250,000,000
PU-18-277	Hiland Partners Holdings, LLC	Roosevelt Gas Plant Expansion	7/17/2018	11/26/2018	\$234,000,000
PU-18-281	Emmons-Logan Wind, LLC	Emmons-Logan Wind transmission line	7/19/2018	2/6/2019	\$10,000,000
PU-18-280	Emmons-Logan Wind, LLC	Emmons-Logan Wind Energy Center	7/19/2018	2/6/2019	\$420,000,000
PU-18-302	Burke Wind, LLC	Burke Wind Transmission Line	8/9/2018	6/12/2019 *Permit Denied	\$19,530,000
PU-18-344	Burke Wind, LLC	Burke County Wind Energy Center	9/14/2018	6/12/2019 *Permit Denied	\$270,000,000
PU-18-351	Aurora Wind Project, LLC	Aurora Wind transmission line	09/28/2018	5/29/2019	\$15,000,000
PU-18-352	Aurora Wind Project, LLC	Aurora Wind Project	09/28/2018	5/7/2019	\$385,000,000
PU-18-399	ONEOK Bakken Pipeline, L.L.C.	Demicks Lake Pipeline	11/28/2018	5/1/2019	\$125,000,000
PU-18-405	Belle Fourche Pipeline Company	Skunk Hill-DPR Pipeline Conversion	12/17/2018	pending	\$10,000,000

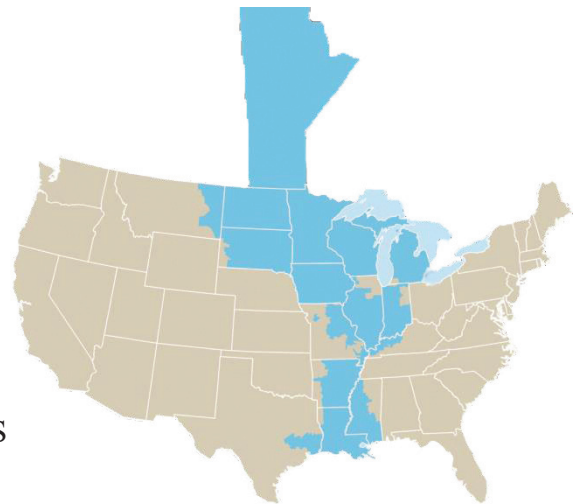
Case No.	Applicant	Description	Date of Application	Date of Order	Estimated Investment
PU-18-404	Belle Fourche Pipeline Company	Wilson-Bowline Pipeline Conversion	12/17/2018	9/4/2019	\$16,000,000
PU-19-28	Ruso Wind Partners, LLC	Ruso Wind Project	1/21/2019	pending	\$280,000,000
PU-19-29	Ruso Wind Partners, LLC	Ruso Wind transmission line	1/21/2019	pending	\$7,000,000
PU-19-85	ONEOK Bakken Pipeline, L.L.C.	Little Missouri Lateral Pipeline	2/27/2019	5/31/2019	\$15,000,000
PU-19-142	Basin Electric Power Cooperative	Antelope Valley Station to Charlie Creek 345kV transmission (Siting Exclusion Certification)	4/24/2019	N/A	unknown
PU-19-175	ONEOK Rockies Midstream, L.L.C.	Cherry Creek Pipeline (Siting Exclusion Certification)	5/8/2019	N/A	unknown
PU-19-181	ONEOK Rockies Midstream, L.L.C.	Lonesome Creek Gas Plant (Siting Exclusion Certification)	5/15/2019	N/A	unknown
PU-19-192	Enbridge Energy, Limited Partnership	Enbridge Energy Line #3 (Siting Exclusion Certification)	6/6/2019	N/A	unknown
PU-19-201	Dakota Access, LLC	Dakota Access Pipeline (Siting Exclusion Certification)	6/19/2019	N/A	unknown
PU-19-204	Dakota Access, LLC	6,000 HP pump station	6/20/2019	pending	\$40,000,000

Electricity

Midcontinent Independent System Operator (MISO)

The Midcontinent Independent System Operator (MISO) is an independent, nonprofit organization responsible for reliable operation of the regional electric grid owned by member utilities in 15 states (Montana, North Dakota, South Dakota, Minnesota, Wisconsin, Michigan, Iowa, Illinois, Indiana, Missouri, Kentucky, Arkansas, Mississippi, Texas and Louisiana) and the Canadian province of Manitoba.

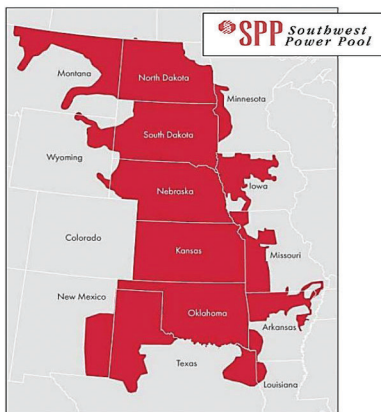
Throughout the biennium, the Commission participated as a member of the Organization of MISO States, Inc. (OMS). The OMS is a nonprofit membership corporation consisting of regulatory agencies (Canadian province of Manitoba, 15 states, and the City of New Orleans) having jurisdiction within the region served by MISO. The OMS provides a means for these regulatory agencies to share resources and to act in concert when deemed to be in their common interest.



Midcontinent ISO Footprint

Southwest Power Pool (SPP)

SPP Footprint



The Southwest Power Pool (SPP) is an independent, nonprofit organization responsible for reliable operation of the regional electric grid owned by member utilities in 14 states (Arkansas, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas and Wyoming). The Basin Electric Power Cooperative/Western Area Power Administration/Heartland Consumer Power District Integrated System (IS) was added to the SPP footprint in 2015.

Throughout the biennium the Commission participated as a member of the SPP Regional State Committee (RSC). Similar to the OMS, the RSC is a nonprofit membership corporation consisting of 11 state regulatory agencies having jurisdiction within the region served by the SPP and provides a means for these regulatory agencies to share resources.

Major Activities

Tax Cuts and Jobs Act of 2017

The Tax Cuts and Jobs Act of 2017 (TCJA) reduced the corporate income tax rate from 35 percent to 21 percent. This created a substantial reduction in costs for North Dakota's investor-owned utilities.

In order to ensure this cost reduction was passed on to customers, the Commission acted quickly, requiring each utility to adjust rates. Montana-Dakota Utilities Co. (natural gas), Otter Tail Power Company and Great Plains Natural Gas Co. already had pending rate cases with the Commission at the time the tax change became effective. Part of those proceedings saw a reduction in the requested customer rates due to the TCJA tax change. For the other utilities, the Commission employed a number of methods to pass the tax savings on to customers. Montana-Dakota Utilities Co. (electric) reduced customer rates and provided customer refunds back to January 1, 2018 (when TCJA became effective). Northern States Power Company (electric) provided a \$9.6 million refund to customers for the 2018 tax savings, and has a provision on years 2019 and 2020 that ensures 100 percent of any North Dakota electric utility overearnings are returned to customers. Northern States Power Company (gas) will use the tax reduction (\$1.25 million per year) to offset the cost of the Fargo manufactured gas plant cleanup.

Telecommunications

At the national level, the Commission will continue to present the challenges unique to a rural state concerning the deployment of broadband and wireless services.

The Commission will voice North Dakota concerns as the Federal Communications Commission determines the appropriate monetary compensation to owners of telecommunications networks used by other companies originating or terminating communications on those networks.

As the number of telecommunications consumers and competition in the state increases, and as types of telecommunications services provided to those consumers expands, the supply of telephone numbers for the 701 area code will dwindle. As noted earlier, the Commission takes a hands-on role in reclaiming telephone numbers that have been allocated to a company but have not been activated by that company within six months.

MISO and SPP Energy Markets

MISO began operating a regional energy market in 2005 that continues to serve the loads of all MISO participants, including the three jurisdictional investor-owned electric utilities providing service in North Dakota. The SPP operates a similar regional energy market. Both provide a centralized generating unit dispatch procedure that co-optimizes the energy and ancillary services markets to ensure that the lowest cost generators are always being used throughout the regions regardless of utility control area boundaries. The markets establish Locational Marginal Prices (LMP's) for electric energy at local pricing nodes. All energy must be provided through the markets. Producers are paid the LMP for their energy at the time and node where it enters the market. The load pays the LMP at the time and node where the energy is delivered.

In order to ensure that North Dakota's interests are represented in decisions that are made by the MISO and SPP, the challenge will be in finding resources to assign to the task.

Compliance Division

The Compliance Division regulates the operations of the following jurisdictions:

- Grain warehouses and grain buyers;
- Auctioneers and auction clerks;
- Weights and measures owners, operators, registered service companies and persons;
- Railroad companies and railroad safety to the extent permitted under federal law.

The division employed 9 FTEs during the biennium and houses the majority of the Commission's state inspectors. Consolidating these regulated jurisdictions under one division has enabled a more unified approach to regulatory enforcement and compliance within these areas.

Licensing Program

Licensing employed 2.6 FTEs during the biennium and oversees two distinct programs:

1. Grain warehouse and grain buyer licensing and inspection, and
2. Auctioneer and auction clerk licensing and regulation



Mission Statement and Goals

The Licensing Programs protect the interests of North Dakota patrons while regulating grain warehouses, grain buyers, auctioneers and auction clerks through licensing, bonding, complaint investigation and inspection of these entities for adherence to state laws and rules. This is achieved through:

- Providing education and outreach to producers on the risks associated with selling grain to unlicensed grain warehouses and grain buyers. Producers and elevators are encouraged to contact the Commission to verify the license status of grain warehouses and grain buyers.
- Working with industry and the Legislature on updating and modifying public warehouse, grain buyer, auctioneer, and auction clerk laws and rules to ensure laws and rules are consistent with emerging trends and advancements within these industries.
- Conducting inspections on grain warehouse and grain buyer licensees to ensure full compliance with laws and rules and follow up on required violation and deficiency remediation.
- Providing education to additional governmental agencies, industry groups, and stakeholders on statutory requirements of licensees.

Facilities and Inspections

At the end of the 2017-2019 biennium North Dakota had:

- 154 companies operating 262 public grain warehouses;
- 19 companies operating 108 facility-based grain warehouses;
- 99 roving grain buyers.

Licensed storage capacity in the state, excluding on farm or privately held storage, totaled just under 500 million bushels, a three percent increase from the 2015-2017 biennium.

Grain warehouse inspectors completed 389 inspections over the course of the biennium. These inspections included facility-based and roving grain buyer document checks.

Insolvencies

Two insolvencies occurred during the biennium, both in November 2018. Hunter Hanson d/b/a Midwest Grain Trading was a roving grain buyer operating out of Devils Lake, ND, and Hunter Hanson d/b/a NoDak Grain operated two licensed public grain warehouses, one at Tunbridge, ND, and the other at Rohrville, ND. Combined, a total of 59 claims were filed with the Commission totaling more than \$11.9 million in losses. The Commission was still processing these insolvencies at the end of the biennium.

Financial Data

Revenues generated for the general fund from grain license fees received during the biennium totaled \$317,037. Additionally, no remittance was collected for the credit-sale contract indemnity fund during the biennium, which had an approximate balance of \$4.49 million at the end of the biennium.

Auctioneers/Auction Clerks

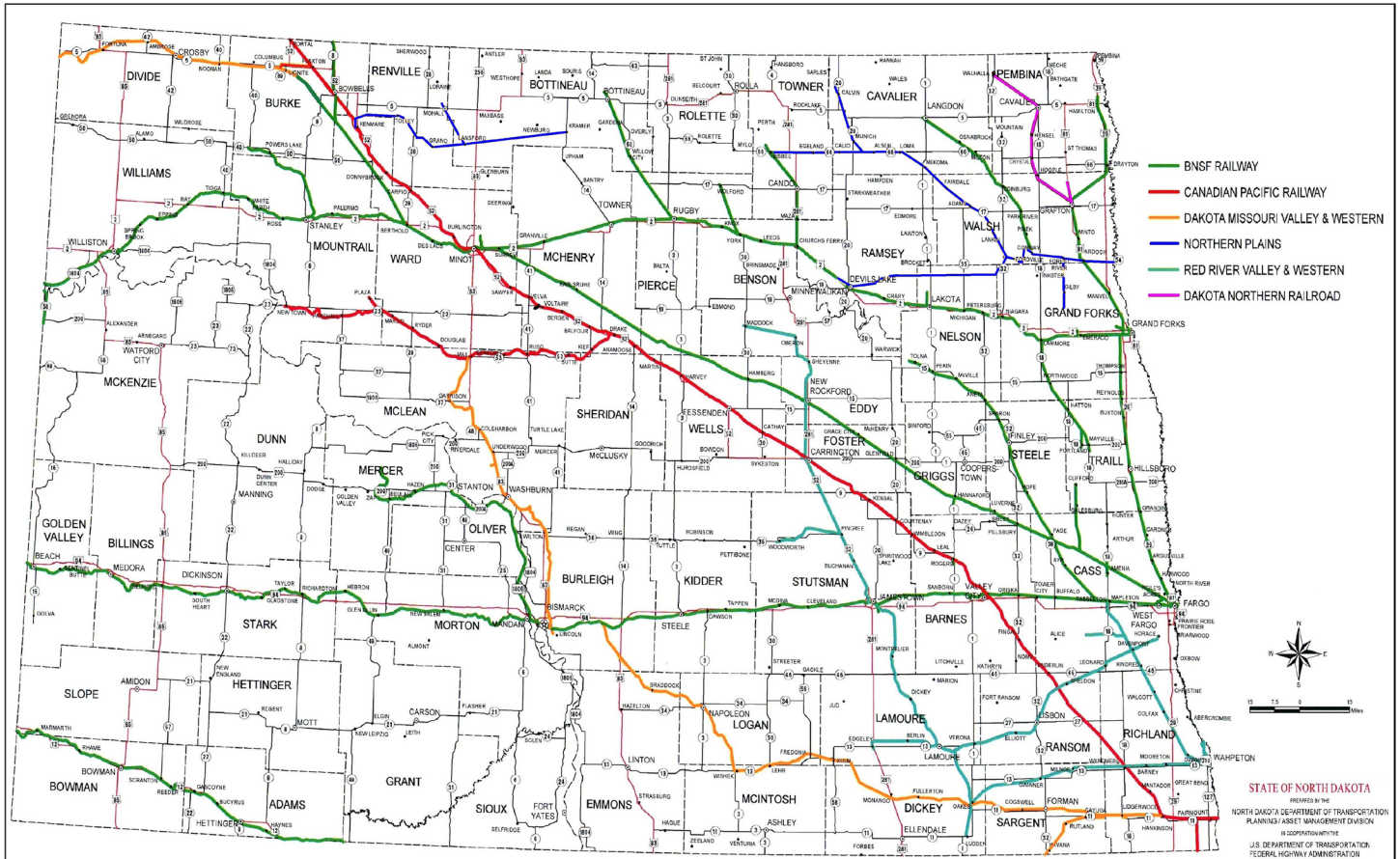
At the end of the biennium, the Commission had 334 licensed auctioneers and 153 licensed auction clerks. Revenues generated for the general fund from auctioneer and auction clerk license fees received during the biennium totaled \$37,570. Additionally, the Commission received and investigated three informal complaints. Upon investigation, no violations were found and no formal complaints were filed as a result.

Program Changes

Collaboration between the Compliance Division and Commission's Information Technology Division led to the implementation of the Licensing and Application Renewal System (LARS) for grain warehouse and grain buyer licenses along with auctioneer and auction clerk licenses. LARS allows the Commission to efficiently process applications and get required license documentation to licensees in a timely manner, in addition to allowing users the flexibility to pay with a credit card. Furthermore, LARS begins the process of converting the Commission's paper based application and renewal system to a digital process and digital archive creating efficiencies and reducing costs on consumables, postage, etc. LARS was 100 percent developed and programmed in-house by staff of the Technology and Compliance Divisions.

Going forward, the 66th Legislative Assembly transferred authority over the grain licensing and inspection program and management of the credit-sale contract indemnity fund to the Department of Agriculture effective July 1, 2019. While the grain portions of LARS will be moved to the Department of Agriculture, the sections that deal with auctioneers and auction clerks will still be used and maintained by the Commission.

Railroad Programs



The Railroad Programs employ 2.6 FTEs and oversee two areas:

1. Operating class 1 and short line railroad regulation to the extent permitted under federal law, and
2. Railroad safety and inspection.

Railroad Regulation

While the Commission's regulatory authority over railroads narrowed as a result of the enactment of the Staggers Rail Act in 1980 and the Interstate Commerce Commission Termination Act in 1995, the Commission is the state agency that is charged with representing North Dakota's rail interests before federal agencies and in direct negotiations with rail carriers. The Commission, to the extent consistent with federal law, has jurisdiction over certain railroad activities in intrastate commerce and works on behalf of North Dakotans to resolve railroad related issues. Some of these jurisdictions and issues include:

- Pasture fencing issues along railroad right of ways.
- Private grade crossings.
- Grade crossing designation (public or private).
- Close clearance issues.
- Railroad abandonment.
- Grade crossing separation.
- Blocked crossings.

With respect to blocked crossings, frequency and duration of blocked crossings has been on the rise nationally and North Dakota is no exception. The Commission does not have authority to formally enforce blocked crossing issues with railroads. However, when blocked crossing complaints are received, staff works with the railroad company to promote a healthy symbiotic relationship between the railroads and the local communities they serve and travel through.

The Commission responded to the following railroad complaints, during the biennium:

Rail Complaints	2017-2019
Abandonment	1
Blocked Crossings	14
Damage Claim	1
Permit Delay	1
Rail Crossing	7
Rail Fences	1
Right of Way	2
Sales and Leases	1
Train Horns	1
Train Speeds	1
Utility Crossing	1
Weed Control	1
Total	32

Additionally, the Commission takes a proactive approach to safety and stakeholder concerns. Once a year the Commission hosts a Railroad Safety and Stakeholder Discussion. Railroad officials, along with stakeholders from around the state, are invited to participate in the roundtable discussion about performance, shipping, safety, and various other concerns in an effort to keep the lines of communication open and to understand various challenges that may be coming. These meetings are also open to the general public.

Railroad Safety Program

The Commission's Railroad Safety pilot program has operated for two bienniums with great success. The four-year pilot program was established by the North Dakota 64th Legislative Assembly and subsequently extended for an additional biennium by the North Dakota 66th Legislative Assembly.



“First Responders Train During Derailment Simulation”

The Rail Safety Program works in cooperation with the Federal Railroad Administration

(FRA) under the U.S. Department of Transportation. The program employs 2.6 FTEs in two of the six FRA inspection disciplines: track and motor power and equipment (mechanical). The other four inspection disciplines include: operating practices, signal and train control, hazardous materials, and grade crossing. The Commission's inspectors are state employees who are trained and certified by the FRA to inspect to and enforce federal law and are authorized to inspect all equipment and track utilized by class 1 and short line railroads operating in North Dakota.

Mission Statement and Goals

The Railroad Safety Program serves the public, railroad employees and railroad customers by implementing inspection and compliance programs that reduce the potential for property damage, injuries, and deaths in and along railroads throughout North Dakota. The program's goal is to reduce the number of accidents, derailments and other equipment failures experienced within the state of North Dakota. The intent is to directly reduce fatalities and injuries in addition to economic losses and environmental impacts. This is achieved through the following strategies:

- Expand safety inspections of track infrastructure to include main line, sidings and industrial spurs, railroad equipment and cars.
- Utilize enforcement actions to include education, notification, and penalties in regards to compliance with safety standards.
- Work with railroads and shippers to upgrade safety and community relations.
- Ensure crude oil/HAZMAT routes are inspected regularly, as well as components and equipment used to transport/carry commodities.
- Serve as a safety resource and provide guidance regarding federal and state laws for private industry terminals and switching yards.

Inspections

State railroad safety inspectors have jurisdiction within their respective disciplines throughout North Dakota. They conduct inspections on all 3,000+ miles of track, class 1 and short line locomotives and rolling stock. These inspections are conducted on a notice and no notice basis. Inspectors work with railroad personnel to establish working relationships and gain cooperation. Railroads have been very receptive to state inspectors and understand the goal is to increase and sustain rail safety not only for the general public, but also railroad employees.



Inspectors categorize their findings as follows:

- Informational – Informational may be used for a condition that meets the minimum requirements but may need additional monitoring or for a condition that is not covered under regulation.
- Defect – Defects are conditions that do not meet the minimum requirements prescribed by the Federal Railroad Administration and do not pose imminent danger but, if not addressed, could develop into a more serious problem.
- Violation – A violation is a more serious problem that requires more immediate attention. Violations trigger various compliance strategies depending on the severity such as fines, reduced speeds or taking equipment out of service.

In two years, the state rail inspectors have been able to cover a lot of ground. They have inspected more than 18,000 cars, more than 5,300 miles of track and in the process, found thousands of defects that the railroads subsequently corrected.

		2017-2019 Biennium
Mechanical Inspector	Inspection Days	301
	Units Inspected*	18,163
	Defects	3,319
	Violations	46

Track Inspector	Inspection Days	306
	Units Inspected**	7,835
	Defects	2,299
	Violations	16

* Units inspected consist of all rolling stock. Each car can consist of multiple units or regulations inspected.

** One unit consists of one mile of track, a switch or turnout, and/or a single derail.

Weights and Measures Program

The Public Service Commission is responsible for ensuring the equitable operation of commercial weighing and measuring devices in the state. This is accomplished through inspections, documentation review, licensing of service companies and registered service persons, and quality assurance testing. In addition to devices, the Commission also maintains all working standards used to inspect the accurate operation of weighing and measuring devices.



As of June 30, 2019, there were 24,193 commercial devices operated in North Dakota. These devices were tested for accuracy, at a minimum of every 15 months, by three state inspectors employed by the PSC and 183 registered service persons employed by 60 registered service companies. In addition to testing devices, the Commission also has a quality assurance (QA) program for the entire state of North Dakota that is currently being implemented with one of the three full-time state inspectors. The QA program reviews new installations for compliance, monitors the processes and test results of registered service persons, and performs on-site reviews prior to the approval of a permanent variance. The following table includes tests and inspections completed by both the PSC and private inspectors:

<i>Device Type</i>	<i>Total Devices</i>	<i>State Testing</i>	<i>State QA</i>	<i>Private Testing</i>
Gas Pump	14,344	4,030	0	21,395
Counter/Platform Scale	3,947	5,588	0	3,158
Pipeline/Transport Meter	215	25	0	684
Motor Truck Scale	1,087	0*	120	2,102
Hopper Scale	1,103	0*	50	1,780
Deck/Dormant Scale	967	0*	64	1,647
Auxiliary Beam	16	0*	2	30
Livestock Scale	82	0*	1	139
Track/Hanging Scale	77	110	1	48
Onboard Weigh System	1	0	0	0
Ag Chemical	162	0	0	290
Anhydrous Meter	163	0	0	337
LPG Meters	491	0	0	827
Bulk Delivery	1,496	0	0	2,032
RR Track Scale	42	0	0	118
Total:	24,193	9,753	238	34,587

*Zero tests are a result of the change to the large scale program

Note: Some devices are tested at a higher frequency than required by law

The Commission deposited a total of \$99,710 to the general fund generated from weights and measures inspection fees. Note: All fee amounts are set by law and not by the Commission.

Reclamation Division

Statutory and Constitutional Responsibilities

The Reclamation Division administers and enforces North Dakota's law and rules governing surface coal mining and reclamation operations under North Dakota Century Code Chapter 38-14.1.

North Dakota's reclamation law is based on the federal Surface Mining Control and Reclamation Act of 1977 (P.L. 95-87) and the federal Office of Surface Mining Reclamation and Enforcement (OSMRE) provided 64 percent of the funding needed to run this regulatory program during the 2017-19 biennium.



Mining and reclamation activities at the Freedom Mine, northwest of Beulah

Prior to issuing a mining permit, the Commission also ensures certain requirements of the Surface Owner's Protection Act, North Dakota Century Code Chapter 38-18, are met.

Mission Statement and Goals

The mission of the Reclamation Division is to administer the surface coal mining and reclamation program mandated by state and federal law to achieve optimum results in a cost effective and fair manner; and to ensure that mining operations subject to this program are conducted in such a way that they:

- 1) Are environmentally sound and minimize adverse effects;
- 2) Protect public interests and the rights of property owners;
- 3) Return mined lands to beneficial uses; and,
- 4) Restore the productivity of mined lands having agricultural uses to premine levels.

Related goals are to:

- Continually carry out the mine permitting, inspection and bond release activities in a manner that provides the required protection to the environment and property owners while being responsive to needs of the mining industry;
- Continually evaluate and adjust the regulatory program to achieve the optimum balance among environmental protection, least-cost industry operations and landowner pursuit of agricultural interests;
- Continue to explore the scientific, engineering and statistical underpinnings of the regulatory program and make every effort to see that improvements resulting from that exploration are made at both the state and federal level;
- Promote public awareness of the regulatory program through increased contact with relevant organizations and potentially affected landowners; and,
- Maintain maximum staff effectiveness by providing training and other opportunities for professional growth.

Key 2019 Legislation

There were no legislative bills passed during the 2019 session that directly affected the coal regulatory program.

Major Accomplishments and Activities

Significant coal mine permitting activities during the 2017-19 biennium:

- 1) One new permit application was received – none were approved during the biennium.
- 2) 11 significant permit revisions were approved and 2,645 acres were added to the permits with these significant revisions. Significant revisions are subject to the same public notice and comment period as new permit applications.
- 3) 24 insignificant permit revisions were approved.
- 4) 8 permit renewals were approved.
- 5) As of June 30, 2019, there were 134,919 acres under permit for surface coal mining and reclamation operations.
- 6) At the end of the biennium, permits were held by eight companies for eight mines. Of the eight mines, seven are active and the other one was inactive and in a reclamation status. The active lignite mining companies are: BNI Coal, Ltd. which owns and operates the Center Mine; The Coteau Properties Company which owns and operates the Freedom Mine; The Coyote Creek Mining Company, LLC, which owns and operates the Coyote Creek Mine; Dakota Westmoreland Corporation which owns and operates the Beulah Mine; and The Falkirk Mining Company which owns and operates the Falkirk Mine. Two small mines that produce leonardite, an oxidized lignite, are also active. These are American Colloid Company's Perkins/Tompkins Mine and the Stony Creek Mine owned by Leonardite Products, LLC. Reclaimed acreage is also still under permit at the former Gascoyne Mine that was owned and operated by the Knife River Corporation.

Routine mine inspections are conducted and reported based on inspectable units. Each permit is considered an inspectable unit and a single mine may have more than one mining permit. The following inspections were conducted during the 2017-19 biennium:

- 1) 1,260 inspections were conducted on the inspectable units that currently total 27.
- 2) 218 complete inspections were conducted (complete inspections cover all aspects of the mining and reclamation operations being conducted).
- 3) 1,042 partial inspections were conducted.

One Notice of Violation (NOV) was issued to a mining company during the 2017-19 biennium and \$3,000 in civil penalties were assessed and collected for the violation.

Seven final bond release applications were approved during the 2017-19 biennium whereby the Commission terminated its jurisdiction on 1,167 acres that had been under permit for surface coal mining.

Two new permit applications were pending at the beginning of the 2017-19 biennium – one was subsequently withdrawn and one was still in a pending status at the end of the biennium. One new permit application was filed during the biennium. The following new permit applications were pending as of June 30, 2019:

- 1) An application from South Heart Coal, LLC, to permit 4,581 acres for a proposed mine southwest of South Heart (Stark County) was filed in March 2010. The Reclamation Division is waiting for the applicant to respond to its second technical review letter that was sent in July 2012. An informal conference was also held on this application on June 28, 2011. This conference needs to be reconvened after the applicant satisfactorily addresses all technical items identified by the Reclamation Division. The permit applicant has indicated that they will withdraw the permit application; however, that has not yet happened.
- 2) The Otter Creek Mining Company, a subsidiary of the North American Coal Corporation, filed an application in December 2008 to permit 5,490 acres for a new proposed mine northwest of Center (Oliver County). The company submitted a response to our second technical review letter in March 2017. A third technical review letter was sent to the applicant in April 2017. The applicant formally withdrew the permit application in July 2017.
- 3) The Coteau Properties Company filed an application for a new permit in December 2018. This new permit application consolidates five existing “paper” permits into a single electronic permit consisting of 5,272 acres. No previously unpermitted acreage is proposed to be permitted with this permit application. The permit application is still in the completeness review phase.



Dragline at the Freedom Mine northwest of Beulah

Additional information was added to the Reclamation Division’s Geographic Information System (GIS) for storing and managing much of the data received from mining companies. GIS has become an important tool for tracking mining and reclamation activities and for the technical analysis of permit applications. Information entered into the GIS includes recent high altitude air photos, permit boundaries, roads, stockpile locations, ponds and related features. Information from annual mine maps and bond releases are also entered. GIS data is then loaded onto tablet computers and iPads equipped with Global Positioning System (GPS) receivers that inspectors use when carrying out mine inspections. This allows for accurate tracking and recording of activities during mine inspections.

The Commission continued to receive excellent evaluation reports from OSMRE’s Casper Field Office during the biennium on its implementation of North Dakota’s coal regulatory program.

Staff attended numerous OSMRE sponsored training classes, local training courses and technical conferences during the biennium.

Major Challenges

Permitting Federal Coal:

Leasing and permitting of federal coal have become much more time consuming and uncertain processes in recent years. Approximately 15 percent of the permitted acreage in North Dakota contains federal coal. The mining companies must first obtain the federal coal lease from the Bureau of Land Management and once they obtain the coal lease, federal mine plan approval must be obtained from OSMRE prior to actually mining the federal coal. Both the leasing and mine plan approval actions are subject to National Environmental Policy Act (NEPA) analysis and the processes for the two actions are somewhat duplicative of each other and the Commission's permitting actions. In an effort to streamline the federal coal leasing and mine plan approval process, the Department of Interior implemented a pilot project for a federal coal lease application at the Coyote Creek Mine in the fall of 2018. The project consists of completing one NEPA analysis for both federal actions with the goal of obtaining the lease and mine plan approval within six months. The Commission serves as a cooperating agency for the required NEPA analysis and prepares the draft mine plan decision documents.

Mining Company Bankruptcy:

During the past biennium, Westmoreland Coal filed for Chapter 11 bankruptcy. Dakota Westmoreland Corporation, a subsidiary of Westmoreland Coal, operates the Beulah Mine. Commission staff monitored the bankruptcy filings and proceedings to ensure that the state's interests were protected. This included making sure that adequate reclamation bonds were in place in the event of bond forfeiture. Although this was the first mining company bankruptcy in North Dakota, there have been numerous other mining company bankruptcies in other states in recent years.

Federal Funding:

An ongoing concern is the amount of federal funding that the Commission receives to cover the federal share of the coal regulatory program costs. OSMRE currently covers 64 percent of the program costs and the remaining 36 percent is paid with state general funds. However, as part of OSMRE budget requests for the past several years, the administration has proposed reducing the amount of federal dollars nationwide for states to administer their coal regulatory programs. While the proposed reductions have not been enacted by Congress, the adequacy of future federal funding continues to be a major concern. In addition, the amount of federal grant monies allocated to the program has remained nearly the same for several years. While this amount has been adequate, it is imperative that at some point the federal grant amount will have to increase to account for inflation and other increased program costs.

Bond Release Reviews:

Staff spends considerable time reviewing and evaluating final bond release applications that are submitted by the mining companies. Staff must ensure all reclamation requirements have been met since the Commission's jurisdiction over the reclaimed lands ends once final bond release becomes effective. A number of bond release applications are expected during 2019-21 biennium for reclaimed lands at the large active mines and at the former Gascoyne Mine.

Trends

The Reclamation Division plans to continue to add more data to the GIS to manage data and carry out its permit review and inspections more efficiently and effectively.

The Reclamation Division developed and implemented an electronic file transfer system during the 2017-2019 biennium. This system allows companies to upload permit and revision applications, monitoring

reports, and requests resulting in less “transit time” than using the more traditional mail system.

Final bond release activity is expected to increase as additional reclaimed lands become eligible for release, especially at the four large active mines.

Major Cases

There were no significant cases involving the Reclamation Program during the 2017-19 biennium.

Abandoned Mine Lands (AML) Division

Statutory and Constitutional Responsibilities

The Abandoned Mine Lands (AML) Division is responsible for administering North Dakota’s abandoned mine land reclamation law, North Dakota Century Code Chapter 38-14.2, for eliminating hazards associated with abandoned mines.

This program covers lands that were mined prior to the federal Surface Mining Control and Reclamation Act (P.L. 95-87) that was enacted in 1977.

The program receives all of its funding from the federal Office of Surface Mining Reclamation and Enforcement (OSMRE) within the Department of the Interior.

Mission Statement and Goals

The Abandoned Mine Lands Division seeks to enhance the public’s safety by using available funds in an efficient and effective manner to prioritize and reclaim abandoned coal mine sites that pose health, safety, and general welfare hazards. Projects are selected based on public input and an analytical review of all known abandoned mine sites. Projects are completed using the most cost-effective manner possible to ensure maximum returns for the monies expended.

Related goals were to:

- 1) Reclaim abandoned mine land sites found on the North Dakota AML Inventory;
- 2) Reclaim hazardous abandoned mine sites not currently on the AML Inventory but discovered through investigation, exploratory drilling, or reports from the public;
- 3) Respond rapidly to AML emergencies as the AML Division’s highest work priority and to promptly reclaim emergency sites to eliminate imminent mine-related hazards;
- 4) Use AML funds as efficiently as possible and to seek additional funding sources, engage in



Sinkhole on Game & Fish property near Beulah. Visible sinkholes are part of the same room that is collapsing.

partnerships, increase public awareness, and maintain professional contacts through continued membership in organizations such as the National Association of Abandoned Mine Lands and Interstate Mining Compact Commission;

- 5) Maintain funds in our state reclamation set-aside account for use after the federal program ends to address abandoned mine land hazards.

Key 2019 Legislation

No legislation was passed during the 2019 legislative session that affected the Abandoned Mine Lands Program.

Major Accomplishments and Activities

The Commission received two annual grants from the federal Office of Surface Mining Reclamation and Enforcement (OSMRE) during the 2017-19 biennium for North Dakota's AML program. In March 2018, the Commission received a grant in the amount of \$2,802,000 and, in 2019, the grant amount was \$2,814,000. As a minimally funded state, North Dakota should have received grants of \$3,000,000 for each of these years. The state grant amounts were reduced by sequestration of federal funds. Congress passed legislation in late 2006 that amended the Surface Mining Control and Reclamation Act of 1977 to re-authorize the AML Program and extended the collection of the federal reclamation fee that is used to fund it until September 30, 2021. This will provide funding for North Dakota's AML Program through 2022. The Commission is scheduled to receive minimum funding for state AML Programs, or \$3 million per year, for the remaining life of the program (less the amount of future sequestration).

During the 2017-19 biennium, major drilling and grouting projects were conducted to inject cementitious grout into underground mine voids beneath public roads and both residential and commercial sites near Wilton (Burleigh County), Parshall (Mountrail County), and Williston (Williams County). The goal is to stabilize the mine and prevent a collapse that could endanger people and damage property. Major construction projects to backfill dangerous surface mine highwalls and eliminate spoil piles were conducted at five abandoned surface mines in Morton County.



Emergency sinkhole near Highway 36 about three miles east of Wilton.

Sinkhole filling projects were conducted during the 2017-19 biennium to fill approximately 340 hazardous sinkholes caused by underground mine collapse at numerous sites in western North Dakota. An emergency project was conducted to fill extremely hazardous sinkholes caused by an underground mine collapse along North Dakota Highway 36 near Wilton.

Funds are being held in a set-aside account that will be available for use when the state no longer receives any AML funding from OSMRE. The balance in this interest-bearing account was approximately \$2.75 million on June 30, 2019. (States are no longer allowed to place additional federal grant funds into the set-aside account as the result of federal legislation enacted in December 2006 that re-authorized and extended the AML Program.)

Progress was made on adding and improving available abandoned mine data to the AML Division's Geographic Information System (GIS). The public has access to this data through the North Dakota GIS Hub and the Commission's website.

The AML Division continued to receive excellent evaluation reports from OSMRE's Casper Field Office during the 2017-19 biennium.

Staff attended several OSMRE sponsored training classes and technical conferences during the biennium. One AML staff member also serves as a co-instructor for the AML drilling and grouting course that is included in the OSMRE suite of classes.

Major Challenges

The collection of the federal reclamation fee that funds the AML Program is scheduled to end in late 2021. Unless re-authorization of the fee is enacted by Congress, it is expected that about \$40 million of reclamation work will not be completed at sites on the current inventory of abandoned coal mines in North Dakota. The current inventory does not include all of the abandoned mines in North Dakota.

As reclamation at larger AML sites is completed, the mines eligible for reclamation become smaller and project managers will need to design and manage more projects each year.

Work will continue to update and complete a GIS-based inventory of abandoned coal mine information and to include detailed mine information on the North Dakota GIS Hub and the Commission's website.

Trends

As construction work is completed at the larger AML sites, staff will need to design and manage more reclamation projects each year to use the available funds. Also, contractor prices for some AML earthmoving reclamation work have decreased in recent years, primarily due to a slowdown in the oil-producing areas in western North Dakota.

The AML Division continues to increase its use of technology on AML reclamation projects. Currently the AML Division uses an Unmanned Aerial Vehicle (UAV or drone) to aid in site investigations, surveying, and recording pre- and post-reclamation site conditions.

Major Cases

There no significant cases involving the AML Program during the 2017-19 biennium.

Former Commissioners

1. Bartlett, David	1889-1890
2. Underhill, T.S.	1889-1890
3. Walsh, Geo. H	1891-1892
4. Sletten, Andrew	1891-1892
5. Stevens, Ben	1893-1894
6. Cameron, Peter	1893-1894
7. Rasmussen, Nels P.....	1893-1894
8. Keyes, Geo. H.	1895-1898
9. Wamberg, John	1895-1896
10. Currie, John W.....	1895-1896
11. Gibson, J.R.	1897-1898
12. Erickson, Henry.....	1899-1900
13. Simons, John	1899-1900
14. Walton, L.L.....	1897-1900
15. Youngblood, J.....	1901-1902
16. Shea, J.F.....	1901-1904
17. Schatz, A.....	1903-1904
18. Lord, O.J.....	1901-1904
19. Christianson, John	1905-1906
20. Diesem, C.S.....	1905-1908
21. Stafne, Erick	1905-1908
22. Westby, Simon.....	1907-1908
23. Mann, William H.....	1909-1916
24. Anderson, O.P.N.....	1909-1916
25. Stutsman, W.H.....	1909-1916 & 1921-1922
26. Johnson, N.P.	1917-1918
27. Bleick, Chas	1917-1918
28. Aandahl, S.J.....	1917-1920
29. Dupuis, C.F.....	1919-1920
30. Milhollan, Frank.....	1919-1932
31. Harding, Fay	1923-1934
32. McDonnell, G.W.	1921-1936 & 1940-1950
33. McDonald, S.S.	1937-1948
34. Larkin, Ben G.....	1928-1949
35. Cart, Elmer W.....	1935-1940 & 1949-1954
36. Brant, E.H.....	1951-1954
37. Anderson, Anson J.....	1955-1960
38. Nelson, Ernest D.	1949-1961
39. Vaaler, Martin	1954-1962
40. Thompson, Richard J.....	1961-1966
41. Wolf, Ben J.	1963-1980
42. Elkin, Richard.....	1967-1983
43. Sandstrom, Dale	1983-1992
44. Hagen, Bruce E.	1961-2000
45. Reinbold, Leo M.	1981-2003
46. Wefald, Susan E.	1993-2008
47. Clark, Tony	2001-2012
48. Cramer, Kevin	2003-2012
49. Fetch, Bonny (<i>temporary appointment</i>)	2012
50. Kalk, Brian P.	2009-2017