

North Dakota[®]

L E G E N D A R Y

Public Service Commission



Randy Christmann
Chairman



Brian Kroshus
Commissioner



Julie Fedorchak
Commissioner

Period of July 1, 2015
through June 30, 2017

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 46 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.



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 Randy Christmann



Randy Christmann was elected to the North Dakota Public Service Commission in November of 2012. 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 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 when he upset a long-time incumbent Democrat committee chairman, helping Republicans achieve majority status in the North Dakota Senate. He initially focused mostly on energy, taxation, and natural resources issues.

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 Governor John Hoeven and Governor Jack 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.

In 1999 the members of West River Telecommunications (WRT) Cooperative elected Randy to serve on its board of directors. From then through 2012 WRT nearly doubled in size, growing into a \$100 million company with more than 70 employees. They provide telephone and broadband service to part or all of 17 counties in North and South Dakota. West River is also a leader in the development of cellular service in North Dakota. 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.

His portfolios include:

- Business Operations
- Coal mining, reclamation, and abandoned mine lands
- Licensing (grain dealers and auctioneers)
- Telecommunications

Commissioner Brian Kroshus

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

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

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 17 years as enterprise leader of Farm and Ranch Guide, 13 years as division leader of Lee Agri-Media and 10 years as publisher of the Bismarck Tribune. During his private sector career Brian was recognized numerous times for operational excellence, finding new efficiencies and exceptional leadership.

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. In 2008, he participated in a mission trip to Guatemala to help underprivileged citizens in that country.

Commissioner Julie Fedorchak



Julie Fedorchak has served on the Commission since 2012. She heads the transmission pipeline siting, energy conversion siting, electric transmission siting and rail 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.



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 1,396 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 45 formal hearings either in the Commission hearing room at the State Capitol or in the area directly affected.

- 96.78% of all formal cases were processed without the need for a formal hearing
- 29.08% of all formal cases were closed in less than 30 days
- 32% 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				
	2007-2009	2009-2011	2011-2013	2013-2015	2015-2017
Railroad	23	24	17	18	17
Reclamation	59	55	34	34	37
Abandoned Mines	0	0	14	9	10
Grain Elevators	633	603	570	600	430
Gas/Pipeline	180	144	148	233	190
Electric	84	225	246	226	197
Telecommunications	346	244	545	368	319
Auctioneers	91	69	89	57	57
Weights and Measures	1	2	23	131	130
Miscellaneous	28	24	20	74	9
Total	1645	1372	1706	1750	1396

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 grain protein tests 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.

The Commission recorded more than 1,200 informal complaints and inquiries 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 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 currently holds this portfolio and 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 2015 and 2016 public contact report was released showing data and trends relating to complaints and input received for that year. This report will be released annually.
- 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.
- 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 1,006 followers.

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.

2015-2017 Financials

Revenue	General	Federal	Special
Licensing	\$404,263		
Federal Government		\$7,268,567	
Fines	\$94,010		
Interest on Investments			\$35,518
Coal Mining Fees	\$3,200		
Filing Fees*	\$10,750		
Scale Inspection Fees	\$113,664		
Utility Valuation Reimb.			\$22,287
Misc. Revenue	\$1,206		
Trsf. From Hwy Tax. Dist. Fund			\$550,000
Total	\$627,093	\$7,268,567	\$607,805

Note: Information is based on the June 2017 4911AA PeopleSoft Reports.

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

2015-2017 Budget

Expenses by Line Item	Appropriated	Expended	Unexpended
Salaries and Wages	\$9,648,215	\$9,044,716	\$603,499
Operating Expenses	\$1,877,562	\$1,323,918	\$553,644
Capital Assets	\$26,400	\$25,915	\$485
Grants	\$20,000	\$7,925	\$12,075
AML Construction	\$8,000,000	\$3,888,293	\$4,111,707
Rail Fund	\$900,000	\$0	\$900,000
Litigation Fund	\$725,624	\$154,210	\$571,414
Rail Safety Program	\$523,345	\$436,194	\$87,151
Total	\$21,721,146	\$14,881,171	\$6,839,975
Funding Source	Appropriated	Expended	Unexpended
General	\$7,420,571	\$6,735,856	\$684,715
Federal	\$12,752,230	\$7,695,245	\$5,056,985
Special	\$1,548,345	\$450,070	\$1,098,275

Note: Information is based on the June 2017 4310AA PeopleSoft Reports. Appropriated amounts reflect the appropriation after required 6.55% general fund allotment due to state revenue shortfall.

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

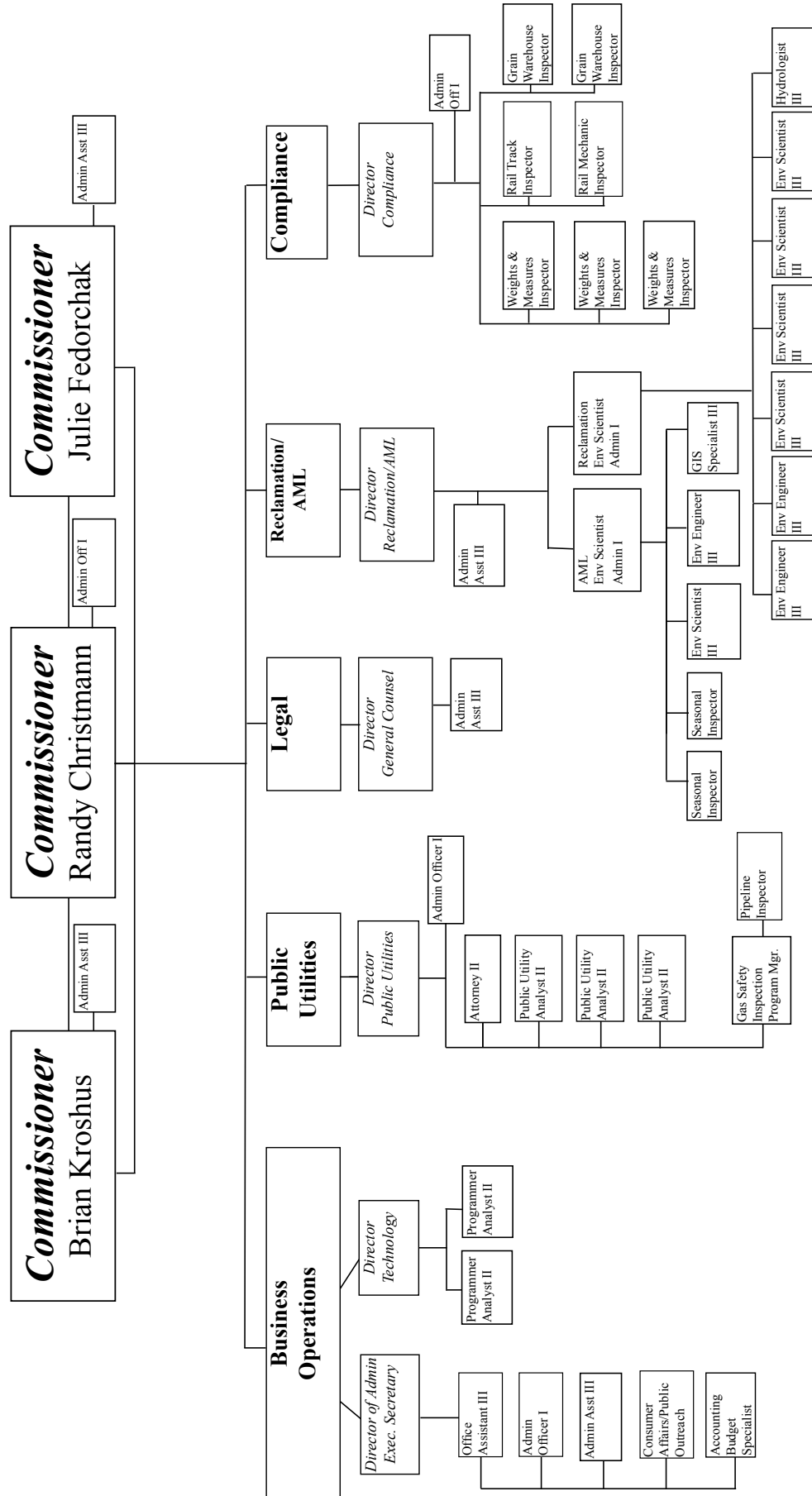
General Counsel

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
2017

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.
- Is responsible for siting facilities such as electric generation, gas processing, oil refining, pipelines, and electric transmission lines.
- Regulates essential services offered by investor-owned phone companies.
- Works with public utility consumers to resolve billing disputes and service complaints.
- 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 just and reasonable rates.

Goals include:

- Establish and maintain a fair and reasonable regulatory environment in which utility services are provided.
- Provide information to consumers and the public to inform them of their rights and responsibilities.
- 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 and federal laws governing gas pipeline safety for intrastate natural gas transmission and distribution systems; and by maintaining liaison with and availability for special inspection assistance to the Pipeline and Hazardous Materials Safety Administration regarding interstate natural gas transmission systems and all hazardous liquids transmission systems.

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
10/14/2016	MDU	Electric Rate Increase	\$13.4	\$7.5	6/16/2017

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

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

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
6/30/2017	NSP (Xcel)	Biomass PPAs	Amend or discontinue purchase power agreements regarding 100.7 MW	pending
6/30/2017	MDU	Thunder Spirit Wind Project	Expansion of the 107.5 MW project by 42 to 48 MW	pending
4/10/2017	Otter Tail	Merricourt Project	Add 150 MW wind generation	pending
4/10/2017	Otter Tail	Astoria Station	Add 250 MW gas-fired electric generation	pending
3/29/2017	NSP (Xcel)	1,550 MW Wind Generation	Add 1,550 MW wind generation from 7 wind projects	pending

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 2015-2017 biennium, the Commission received for approval 10 interconnection agreements and 12 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 357 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, 194, 195, and 199, as of December 31, 2015, Case No. GS-15-187.

During the 2015-2017 biennium, the gas pipeline safety inspectors conducted inspections of four distribution system operators, six transmission system operators, and six gathering system operators. The total number of inspections is as illustrated in the following table:

PIPELINE INSPECTIONS BY TYPE	Number
STANDARD INSPECTION – RECORDS AUDITS	73
COMPLIANCE FOLLOW-UP	8
DESIGN/TESTING AND CONSTRUCTION	44
INVESTIGATING GAS EXPLOSION INCIDENTS	0
ONSITE OPERATOR TRAINING (seminars)	3
OPERATOR QUALIFICATIONS	33
INTEGRITY MANAGEMENT INSPECTIONS	6
DAMAGE PREVENTION ACTIVITIES	0
TOTAL INSPECTIONS	167

Damage Prevention Program

During the 2015-2017 biennium, 39 third-party complaints were filed with the Commission alleging violations of North Dakota Century Code Chapter 49-23, the One-Call Excavation Notice System. In addition, Commission staff filed 16 formal complaints with the Commission alleging violations of the One-Call Excavation Notice System by 15 excavators and one underground facility operator. In each complaint proceeding, the Commission found violation(s) of the One-Call law and assessed a penalty. The Commission believes these cases bring a greater industry awareness of the One-Call law.

The Commission participated in the U.S. Department of Transportation's One Call Grant in 2015, 2016 and 2017. As a result of the annual grant, approximately 18 to 20 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.

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 24 pipelines, one gas processing plant, six wind farms, and three electric transmission lines. The Commission also received four pipeline and three electric transmission line filings under the abbreviated siting process 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 received a formal request for jurisdictional determination from Montana-Dakota Utilities Co. The Commission has also received filings under the abbreviated siting process defined in North Dakota Century Code section 49-22-03 regarding three wind farms, two electric transmission lines and one gas processing plant.

Energy Conversion and Transmission Facility Siting Activities During the Biennium

Case No.	Applicant	Description	Date of App.	Date of Order	Estimated Investment
PU-15-482	Lindahl Wind Project, LLC	Lindahl Wind Farm Project	July 7, 2015	Dec. 2, 2015	\$248,500,000
PU-15-486	Hiland Crude, LLC	Alexander Tank Farm Crude Oil Pipeline	July 8, 2015	Dec. 16, 2015	\$3,600,000
PU-15-614	Plains Pipeline, L.P.	Highway 1804 Re-Route North Pipeline Project	July 31, 2015	Dec. 16, 2015	\$7,000,000
PU-15-657	Plains Pipeline, L.P.	5.5-mile - Hwy 1804 Re-Route Project- Williams/Siting Exclusion Certification (SEC)	Aug. 25, 2015	N/A	Unknown
PU-15-670	Sacagawea Pipeline Company, LLC	12-inch Crude Oil Pipeline	Sept. 14, 2015	Feb. 10, 2016	\$18,000,000
PU-15-674	NuStar Pipeline Operating Partnership, L.P.	8-Inch Refined Products Pipeline	Sept. 17, 2015	Feb. 24, 2016	\$12,000,000
PU-15-690	Brady Wind, LLC	Brady Wind Energy Center	Dec. 4, 2015	June 16, 2016	\$250,000,000
PU-15-694	ONEOK Bakken Pipeline L.L.C.	16-inch NGL Pipeline	Oct. 16, 2015	Aug. 17, 2016	\$19,520,000

Case No.	Applicant	Description	Date of App.	Date of Order	Estimated Investment
PU-15-720	Tesoro High Plains Pipeline Company, LLC	12-inch Crude Oil Pipeline	Nov. 5, 2015	March 9, 2016	\$8,900,000
PU-15-725	ONEOK Bakken Pipeline L.L.C.	Spring Creek Pump Station Project	Nov. 10, 2015	Feb. 10, 2016	\$8,000,000
PU-15-733	Oasis Midstream Services LLC	10.75-Inch Crude Oil Pipeline	Nov. 16, 2015	March 23, 2016	\$13,000,000
PU-15-744	Sacagawea Pipeline Company, LLC	16-inch Crude Oil Pipeline	Nov. 20, 2016	May 24, 2016	\$22,800,000
PU-15-797	Brady Wind, LLC	230 kV Transmission Line	Dec. 8, 2015	June 16, 2016	\$12,000,000
PU-15-798	Cenex Pipeline, LLC	Cenex Prosper Terminal Project	Dec. 22, 2015	June 8, 2016	\$17,000,000
PU-15-801	ONEOK Bakken Pipeline L.L.C.	8-Inch NGL Pipeline	Dec. 29, 2015	March 23, 2016	\$45,000,000
PU-16-18	Dakota Gasification Company	1.1-Mile Pipe Replacement/SEC	Jan. 7, 2016	N/A	Unknown
PU-16-42	Brady Wind II, LLC	Brady II Wind Energy Center-Hettinger & Stark	Jan. 22, 2016	July 6, 2016	\$250,000,000
PU-16-86	Basin Electric Power Cooperative, Inc.	230 kV Transmission Line/Stark to Bowman Ctys/SEC	Feb. 15, 2016	N/A	Unknown

Case No.	Applicant	Description	Date of App.	Date of Order	Estimated Investment
PU-16-94	BOE Pipeline, LLC	16-inch Crude Oil Pipeline	Feb. 24, 2016	Aug. 17, 2016	\$55,000,000
PU-16-95	Bakken Oil Express, LLC	Dickinson Bypass Reroute-Stark	Feb. 26, 2016	May 15, 2016	\$400,000
PU-16-122	Oliver Wind III, LLC	230 kV Transmission Line	March 4, 2016	June 22, 2016	\$11,400,000
PU-16-123	Oliver Wind III, LLC Oliver III Wind Energy Center	Wind to Electricity; Wind Energy Conversion Facility	March 4, 2016	June 22, 2016	\$153,000,000
PU-16-140	Plains Terminals North Dakota LLC	24-Inch Crude Oil Pipeline	March 28, 2016	Aug. 17, 2016	\$5,000,000
PU-16-189	Hess North Dakota Export Logistics LLC	12-inch Crude Oil Pipeline	May 6, 2016	Sept. 7, 2016	\$4,500,000
PU-16-305	NST Express, LLC	8-Inch Crude Oil Pipeline	June 16, 2016	Oct. 5, 2016	\$6,800,000
PU-16-420	Caliber Bear Den Interconnect LLC	12.75-Inch Crude Oil Pipeline - McKenzie County	July 5, 2016	Nov. 2, 2016	\$13,000,000
PU-16-539	Glacier Ridge Wind Farm, LLC	Wind to Electricity; Wind Energy Conversion Facility	July 19, 2016	Dec. 7, 2016	\$202,000,000
PU-16-614	Epping Transmission Company, LLC	12.75-Inch Crude Oil Pipeline - Williams County	Aug. 25, 2016	Jan. 18, 2017	\$6,500,000

Case No.	Applicant	Description	Date of App.	Date of Order	Estimated Investment
PU-16-630	Minnkota Power Cooperative, Inc.	Center to Mandan 230 kV Transmission Line Rebuild/SEC	Sept. 6, 2016	N/A	Unknown
PU-16-695	Targa Badlands LLC	8-Inch Crude Pipeline Project - McKenzie	Nov. 15, 2016	May 31, 2017	N/A
PU-16-753	Savage Bakken Connector, Inc.	10-Inch Crude Pipeline Project - Williams	Nov. 22, 2016	March 1, 2017	\$6,000,000
PU-17-15	Hiland Crude, LLC	Crude Oil Pipeline- McKenzie, Williams, Mountrail/SEC	Jan. 3, 2017	N/A	Unknown
PU-17-48	Arrow Field Services, LLC	10-Inch & 8-Inch NGL Pipeline Project - McKenzie	Jan. 23, 2017	June 30, 2017	\$6,200,000
PU-17-51	NuStar Pipeline Operating Partnership, L.P.	Mapleton Terminal - Cass County	Jan. 30, 2017	April 28, 2017	\$8,500,000
PU-17-97	Cenex Pipeline, LLC	10" Refined Fuels Pipeline Williams, Mountrail, Ward	March 2, 2017		\$115,000,000
PU-17-102	Northern States Power Company	230 kV Transmission Line- McHenry & Ward Counties	March 13, 2017		\$50,500,000
PU-17-181	Oasis Midstream Services LLC / Wild Basin Gas Plant- McKenzie Co.	Application for Certificate of Site Compatibility for the Wild Basin Gas Plant Expansion	May 4, 2017	July 26, 2017	\$150,000,000

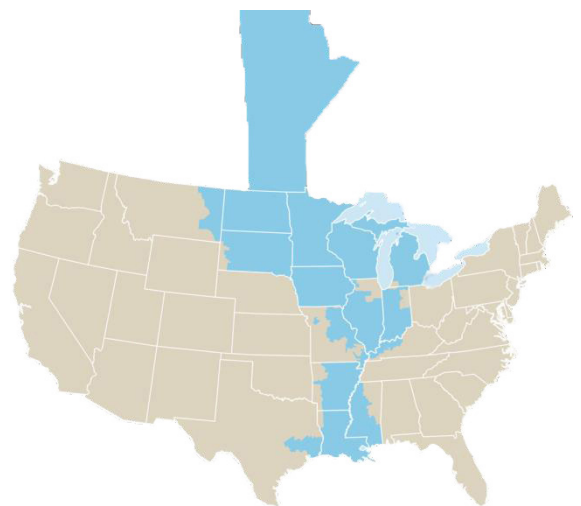
Case No.	Applicant	Description	Date of App.	Date of Order	Estimated Investment
PU-17-188	Basin Electric Power Cooperative, Inc.	115 kV Transmission Line SW Minot to Berthold/ SEC	May 11, 2017	N/A	Unknown
PU-17-192	Montana-Dakota Utilities/Thunder Spirit Wind	Application to Amend Certificate of Site Compatibility	May 10, 2017	Aug. 16, 2017	N/A
PU-17-220	ONEOK Bakken Pipeline, LLC	16-Inch NGL Transmission Pipeline-McKenzie County/SEC	May 23, 2017	N/A	Unknown
PU-17-246	North Dakota Pipeline Company, LLC	8-Inch Crude Oil Pipeline - Williams County/SEC	June 16, 2017	N/A	Unknown

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.

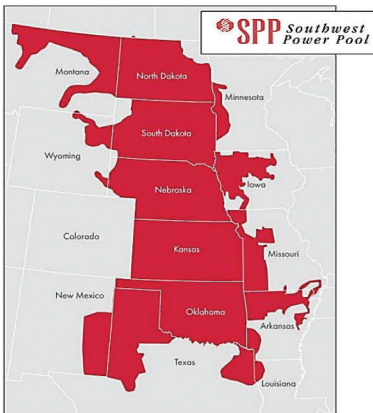
Throughout the biennium, the Commission participated as a member of the Organization of MISO States, Inc. (OMS). The OMS is a nonprofit membership corporation consisting of regulatory agencies (Canadian province of Manitoba, 15 states, and the City of New Orleans) having jurisdiction within the region served by the 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 10 state regulatory agencies having jurisdiction within the region served by the SPP and provides a means for these regulatory agencies to share resources.

Public Convenience and Necessity Filings

In addition to its MISO and SPP activities, the Commission received the following applications for certificates of public convenience and necessity for electric resources:

- Montana-Dakota Utilities Co.'s June 30, 2017, filing for expansion of its 107.5 MW Thunder Spirit Wind Project in Adams County by 42 to 48 MW. MDU's request is pending. (case #PU-17-269)
- Otter Tail Power Company's April 10, 2017, filing for its 150 MW Merricourt wind farm. OTP's request is pending. (case #PU-17-143)
- Northern States Power Company's September 15, 2016, filing for 20 miles of new 230 kV transmission line in Ward and McHenry Counties to facilitate electric load growth in the Minot area. NSP's request was approved. (case #PU-16-644)
- Otter Tail Power Company's September 1, 2016, filing for its 41.6 kV and 12.5 kV Rugby transmission project. OTP's request was approved. (case #PU-16-625)
- Montana-Dakota Utilities Co.'s July 18, 2016, filing for its 115 kV transmission line in Dickey County. MDU's request was approved. (case #PU-16-538)

Major Challenges

Federal Clean Power Plan

In June 2014 the federal Environmental Protection Agency (EPA) proposed a Clean Power Plan rule intended to reduce CO₂ emissions from power plants by 30 percent from 2005 levels by the year 2030. During this biennium, the Commission worked with stakeholders in North Dakota and other states to develop and file comments regarding the proposed rule. The EPA adopted a final rule in August 2015 that is much more stringent for North Dakota than was originally proposed. The Clean Power Plan is on hold with the possibility it will be rescinded under the new presidential administration.

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 is the newest division within the Commission and was established during the 2015-17 biennium. The division's formation was the result of consolidating the licensing division, the weights and measures program, and the rail safety program. The division employs 9 FTEs and houses the majority of the Commission's state inspectors. This restructuring has allowed a more unified approach to regulatory enforcement and compliance within these areas.

Licensing Program

The Licensing Program oversees two areas of licensing: (1) grain elevator and grain buyer licensing, and (2) auctioneer and auction clerk licensing. At the end of the 2015-2017 biennium, the program had 2.6 FTEs.



Mission Statement and Goals

The Licensing Program protects the interests of North Dakota patrons while regulating grain warehouses, grain buyers, auctioneer and auction clerk licensees by licensing, bonding, investigating complaints and inspecting these entities for compliance to laws and rules. This is achieved by:

- Providing education and outreach to producers on the risks associated with selling grain to unlicensed grain warehouses and/or unlicensed grain buyers. Producers and elevators are encouraged to contact the Commission to verify the license status of grain buyers.
- Working with industry and the legislature on updating and modifying public warehouse, grain buyer, auctioneer, and auction clerk laws and rules to best fit the modernization of 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 other agencies and commodity groups on the statutory compliance for grain licensees.

Program Changes

The Commission spearheaded legislation during the 65th Legislative Assembly that paved the way for the online licensing application that was being developed. This same bill also removed interest payments to insolvency trust fund payees, thereby eliminating a possible reason to prolong the insolvency process in hopes of higher interest payments while delaying payments to producers who need their claims finalized. Additionally, legislation was passed repealing the licensing of hay buyers.

During the last half of the biennium, the Licensing Program collaborated with the Commission's Technology Division to complete one of the program's major goals by allowing licensees the ability to apply for and renew licenses online. The Licensing Application and Renewal system (LARs) allows the Commission to efficiently process applications and get required license documentation to licensees in a very timely manner and allows the flexibility to pay with a credit card. This process enables efficient application processing and was received well by the industry. The Commission plans on implementing a version for auctioneers and auctions clerks to use in time for the 2018 renewal season. LARs was 100 percent developed and programmed in-house by staff of the Licensing Program and Technology Division.

Facilities and Inspections

At the end of the 2015-2017 biennium North Dakota had:

- 162 grain warehouses operating at 273 locations.
- 21 facility-based grain buyers operating at 116 locations.
- 98 roving grain buyers.

Total storage capacity in the state, not including on farm or privately held storage, totaled just under 485 million bushels.

Grain warehouse inspectors completed 574 inspections over the course of the biennium. These inspections included facility-based and roving grain buyer compliance document checks. Some changes have been made to the program, such as documentation and inspection requirements, and more changes are to come. Inspectors are focusing on conversion requirements and educating industry on the waiver for trust fund benefits implemented by the 64th Legislative Assembly. This waiver allows a producer an opportunity to waive their rights to trust benefits if undecided about when to take payment for a grain sale, thereby relieving a licensee of the statutory obligation to timely convert a scale ticket.

Insolvencies

No insolvencies occurred during the biennium. The Earth Harvest Mills, Inc. insolvency had one valid credit-sale contract claimant whose claim was pending at the end of the 2013-2015 biennium. This claimant was paid early in the 2015-2017 biennium.

The Grand Forks Bean Company, Inc. insolvency, which began during the 2013-2015 biennium, was still pending at the end of the biennium. The Commission liquidated the dry edible bean inventory with a value of \$767,650. District Court heard the case and judgment was issued July 22, 2016. Multiple parties appealed this judgment to the North Dakota Supreme Court and the hearing was held early in the 2017-2019 biennium.

Financial Data

During this biennium, one payment totaling \$280,000 was paid from the credit-sale contract indemnity fund for an insolvency initiated during the 2013-2015 biennium. At the end of the biennium, the credit-sale contract indemnity fund balance was approximately \$4.7 million. Revenues generated for the general fund from grain license fees received during the biennium total \$365,138.

Auctioneers/Auction Clerks

At the end of the biennium, the Commission had 347 licensed auctioneers and 164 licensed auction clerks. Revenues generated for the general fund from auctioneer and auction clerk license fees received during the biennium total \$39,125.



Railroad Safety Program

The North Dakota 64th Legislative Assembly approved funding for a state-run railroad safety pilot program intended to supplement federal oversight of railroad safety. The program authorized the hiring of two railroad safety inspectors (1 FTE & 1 temporary) as part of the Commission's oversight responsibility on railroad safety. Both inspectors were hired, fully trained and certified in just a little over one year. The track inspector was hired on August 17, 2015, and achieved certification on March 7, 2016. The mechanical inspector was hired on December 1, 2015, and achieved certification on August 8, 2016. During the 65th Legislative Assembly the mechanical inspector position was reclassified from a temporary position to an FTE.



“First Responders Train During Derailment Simulation”

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 injuries, death and property damage 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.

		2015-2017 Biennium
Mechanical Inspector	Inspection Days	112
	Units Inspected*	16,033
	Defects	859
	Violations	32

Track Inspector	Inspection Days	183
	Units Inspected**	4,027
	Defects	1,705
	Violations	19

* 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.

Additional Responsibilities

State law provides that the Public Service Commission is the state agency charged with representing North Dakota's railroad interests before federal agencies and in direct negotiations with railroad carriers. The Commission, to the extent consistent with federal law, has jurisdiction over certain railroad activities in intra-state commerce. The Commission's jurisdiction includes some specific safety and landowner rights matters.

The Public Service Commission also responds to railroad complaints, including the following in 2015-17:

Rail Complaints	2015-2017
Blocked Crossings	9
Diesel Fuel Spill	1
Rail Car Supply	0
Damage Claims	0
Land Purchase	0
Rail Crossings	15
Rail Fences	3
Replacement Under Pass	0
Rail Right of Way/Easement	1
Rail Drainage	0
Sales and Leases	0
Services	0
Train Whistle	0
Abandonment	1
Total	30

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, 2017, there were 23,617 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 58 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	14,017	4,956	0	22,736
Counter/Platform Scale	4,079	5,963	0	3,192
Pipeline/Transport Meter	208	30	0	806
Motor Truck Scale	1,049	0*	236	2,036
Hopper Scale	1,007	0*	100	1,804
Deck/Dormant Scale	845	0*	169	1,562
Auxiliary Beam	17	0*	7	29
Livestock Scale	76	0*	10	130
Track/Hanging Scale	77	130	0	39
Onboard Weigh System	1	0	0	6
Ag Chemical	157	0	0	307
Anhydrous Meter	155	0	0	288
Compressed NG	2	0	0	2
LPG Meters	462	0	0	894
Bulk Delivery	1,424	0	0	2,122
RR Track Scale	41	0	0	131
Total:	23,617	11,079	522	36,084

*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

For the 2015-2017 biennium, the Commission deposited a total of \$113,664 to the general fund generated from weights and measures inspection fees.

Reclamation Division

Statutory and Constitutional Responsibilities



Topsoil Being Spread on Reclaimed Land at the Freedom Mine

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 (OSM) provided 64 percent of the funding needed to run this regulatory program during the 2015-17 biennium.

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 2017 Legislation

There were no legislative bills passed during the 2017 session that directly affected the coal regulatory program. However, North Dakota Century Code Chapter 38-14.1 was amended to change two references from the “Department of Health” to the “Department of Environmental Quality” to reflect changes to North Dakota Century Code Chapter 23.1-01 that establishes the Department of Environmental Quality. These changes do not become effective until the transfer of authority, powers, and duties from the State Department of Health to the Department of Environmental Quality have been finalized, which is expected to take several years.



Reclaimed Hayland at the Center Mine

Major Accomplishments and Activities

Significant coal mine permitting activities during the 2015-17 biennium:

- 1) No new permit applications were received or approved.
- 2) 13 significant permit revisions were approved; however, no acreage was 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) 33 insignificant permit revisions were approved.
- 4) 12 permit renewals were approved.
- 5) As of June 30, 2017, there were 134,094 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 under reclamation. 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 Page/Perkins Mine and the Stony Creek Mine owned by Leonardite Products, LLC. Reclaimed acreage was 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 2015-17 biennium:

- 1) 1,391 inspections were conducted on the inspectable units that currently total 27.
- 2) 224 complete inspections were conducted (complete inspections cover all aspects of the mining and reclamation operations being conducted).
- 3) 1,167 partial inspections were conducted.

Four Notices of Violation (NOV) were issued to mining companies during the 2015-17 biennium and \$4,000 in civil penalties were assessed and collected for three of these violations. There has not yet been a penalty assessment for an NOV issued in April 2017.

One final bond release application was approved during the 2015-17 biennium whereby the Commission terminated its jurisdiction on 28 acres that had been under permit for surface coal mining.

Two new permit applications were pending at the beginning of the 2015-17 biennium and were still in a pending status at the end of the biennium. No new permit applications were filed during the biennium. The following new permit applications were pending as of June 30, 2017:

- 1) An application from South Heart Coal, LLC, to permit 4,581 acres for a proposed mine southwest of South Heart was filed in March 2010. The Reclamation Division was waiting for the applicant to respond to its second technical review letter that was sent in July 2012 as the 2013-15 biennium ended. 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.
- 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 proposed mine northwest of Center. The Reclamation Division sent a second technical review letter to the applicant in April 2012 and the applicant responded to that letter in March 2017. This response was reviewed and a third technical review letter was sent to the applicant in April 2017. The applicant formally withdrew the permit application in July 2017.

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 OSM's Casper Field Office during the biennium on its implementation of North Dakota's coal regulatory program.

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

Major Challenges

Stream Protection Rule:

A major challenge during the 2015-17 biennium was dealing with the "Stream Protection Rule" that had been proposed and subsequently adopted by the federal Office of Surface Mining (OSM). OSM published the final rule in December 2016 and it became effective in January 2017. The final rule would have required significant changes to our state's regulations in order for our coal regulatory program to be as stringent and effective as the federal regulations. The final rule greatly increased the amount of baseline hydrologic information that

would be required in permit applications, added requirements for more detailed hydrologic impacts assessments prepared by mining companies and regulatory agency staff, limited mining activities in any perennial or intermittent stream and other waterways, changed land use and vegetation requirements, and added protections for fish and wildlife. The Commission filed a legal challenge to the Stream Protection Rule shortly after it was issued. In February 2017, Congress invalidated the Stream Protection Rule through the Congressional Review Act. Had the Stream Protection Rule not been invalidated, the Commission would have been required to make significant changes to our mining and reclamation rules.

Biological Opinion:

At the same time the Stream Protection Rule was issued, OSM and the U.S. Fish and Wildlife Service also issued the 2016 Biological Opinion and Memorandum of Understanding. The Biological Opinion provides details on how regulatory authorities are to deal with threatened and endangered species in the permitting and mining process and sets out the various agency responsibilities. The 2016 Biological Opinion and Memorandum of Understanding superceded the 1996 Biological Opinion and Memorandum of Understanding. Much of the 2016 Biological Opinion referenced the Stream Protection Rule and since the Stream Protection Rule had been invalidated, OSM formally withdrew the 2016 Biological Opinion and Memorandum of Understanding.

Permitting Federal Coal:

Leasing and permitting of federal coal have become much more time consuming and uncertain processes. 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 OSM 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 are somewhat duplicative. Obtaining federal mine plan approval for some previously leased federal coal tracts at the Freedom Mine during the 2015-2017 biennium became a major challenge. Mine plan approval was finally obtained in December 2016, but only after North Dakota's congressional delegation became involved. Mining companies have indicated that if federal coal leases and mine plan approval cannot be obtained in a more timely manner, certain federal coal tracts will be bypassed (not mined) or mining of the federal coal will be delayed resulting in increased production costs.

Federal Funding:

An ongoing concern is the amount of federal funding that the Commission will receive to cover the federal share of the coal regulatory program costs. OSM currently covers 64 percent of the program costs and the remaining 36 percent is paid with state general funds. However, as part of OSM 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.

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 2017-19 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.

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

A formal hearing was held in late 2014 and early 2015 on the Commission's October 2014 decision to issue the 8,091-acre mining permit to the Coyote Creek Mining Company. The issues brought up at the hearing were primarily related to the pre-application alluvial valley floor determination and some of the proposed reclamation practices that will be used. In April 2015, the Commission issued an order affirming its earlier decision to grant the mining permit. That decision was then appealed to State District Court. In January 2016, the State District Court affirmed the Commission's conditional approval of Permit NACC-1302. The determination that an alluvial valley floor does not exist along Coyote Creek was then appealed to the North Dakota Supreme Court. Oral arguments in the case were heard before the North Dakota Supreme Court in September 2016 and a decision upholding the Commission's alluvial valley floor determination and permit issuance was issued in March 2017. This decision was not appealed.

Abandoned Mine Lands (AML) Division

Statutory and Constitutional Responsibilities



Sinkhole southeast of Dickinson

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 surface and underground coal 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 is totally funded by the federal Office of Surface Mining Reclamation and Enforcement (OSM) 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 and 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 on the AML Inventory but discovered through investigation, exploratory drilling, or reports from the public;
- 3) Ensure rapid response to AML emergencies and prompt reclamation of emergency sites to eliminate imminent mine-related hazards as the AML Division's highest work priority;
- 4) Use AML funds as efficiently as possible, seek additional funding sources, engage in partnerships, increase public awareness, and maintain professional contacts through continued membership in organizations such as the National Association of Abandoned Mine Lands, Interstate Mining Compact Commission, and the Interstate Group on Abandoned Underground Mines.
- 5) Maintain funds in our state reclamation set-aside account so that when the federal program is over, the state will have financial resources to address abandoned mine lands hazards.

Key 2017 Legislation

No legislation was passed during the 2017 legislative session that affected the Abandoned Mine Land Program.

Major Accomplishments and Activities

The Commission received two annual grants from the federal Office of Surface Mining during the 2015-17 biennium for North Dakota's AML program. In March 2016, the Commission received a grant in the amount \$2,796,000 and, in 2017, the grant amount was \$2,793,000. The Commission should have received grants of \$3,000,000 for each of these years, but state grant amounts were reduced due to the sequestering 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 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).



Large sinkholes caused by collapse of abandoned mine workings near Bowman

During the 2015-17 biennium, major drilling and grouting projects were conducted to inject cementitious grout into underground mine voids beneath public roads and residential and commercial sites near Reeder (Adams County), Scranton (Bowman County), Bowman (Bowman County), and Wilton (Burleigh County), in order to stabilize them and prevent a mine collapse that could endanger people and damage property. Major construction projects to backfill dangerous surface mine highwalls and eliminate spoil piles were conducted at abandoned surface mines south of Columbus (Burke County) and north of Bowman (Bowman County).

Sinkhole filling projects were conducted during the 2015-17 biennium to fill approximately 345 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 200 near Beulah. Maintenance work for erosion control was conducted at previously reclaimed sites near Glen Ullin and Velva.

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 OSM. The balance in this interest bearing account was approximately \$2.75 million on June 30, 2017. (States are no longer allowed to place additional federal grant funds into the set-aside account as the result of the 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 division's Geographic Information System (GIS) for all known abandoned mine sites in North Dakota. The AML Division posts abandoned mine information on the North Dakota GIS Hub and the Commission's website so it is readily available to the public.

The AML Division continued to receive excellent evaluation reports from OSM's Casper Field Office during the 2015-17 biennium. In 2016, the AML Division received the "Small Project Award" for the 2015 Halleck Mine AML Project from OSM.

Staff attended several OSM 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 and soils and revegetation courses that are included in the OSM 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 over \$20 million of reclamation work will not be completed at sites on the current inventory of abandoned coal mines in North Dakota.

As work at the larger AML sites is completed, the number of smaller projects will increase and project managers will need to design and manage more projects.

Work will continue to update and complete a GIS based inventory of abandoned coal mine information and post detailed mine information on 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.

Major Cases

There no significant cases involving the AML Program during the 2015-17 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. Sandstorm, 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

