

Paul M. Seby (Colo. State Bar No. 27487)  
Holland & Hart, LLP  
555 Seventeenth Street, Suite 3200  
Denver, CO 80202-3979  
Phone: (303) 295-8430  
Fax: (303) 291-9177  
pmseby@hollandhart.com

*Attorney for Proposed Intervenor – Defendant  
State of North Dakota*

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

WESTERN ORGANIZATION OF )  
RESOURCE COUNCILS and )  
FRIENDS OF THE EARTH, )

*Plaintiffs,* )

v. )

SALLY JEWELL, in her capacity as )  
Secretary of the Interior, )  
DEPARTMENT OF THE INTERIOR, )  
NEIL KORNZE, in his capacity as )  
Director, Bureau of Land Management, )  
BUREAU OF LAND MANAGEMENT, )

*Defendants.* )

Case No. 1:14-cv-01993-RBW

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**DECLARATION OF KELLY SCHMIDT**

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I, Kelly Schmidt, state and declare as follows:

1. My name is Kelly Schmidt. I am over 21 years of age and am fully competent and duly authorized to make this Affidavit. The facts contained in this Affidavit are based on my personal knowledge and are true and correct.

2. I am employed by the Office of North Dakota State Treasurer (“Treasurer’s Office”) as the State Treasurer. I have been employed by the State since January 1, 2005, and have continuously served as the State Treasurer since elected in November, 2004.

3. The Office of North Dakota State Treasurer is a State agency established under Article V, section 2 of the North Dakota State Constitution. It is responsible for overseeing the investment of the State’s general funds, special funds, and several trust funds. The Treasurer’s Office disburses money collected by the State to political subdivisions pursuant to a variety of State programs.

4. In my current position, I am responsible for overseeing disbursements by the State to its subdivisions, including those related to coal mining.

5. In my current position, I am familiar with the above-captioned litigation brought by Western Organization of Resource Councils and Friends of the Earth (collectively, “Plaintiffs”), where Plaintiffs seek to require the Department of Interior and Bureau of Land Management to enjoin federal coal leasing actions until they supplement a 1979 programmatic environmental impact

statement to assess the effect that greenhouse gas emissions from the federal coal management program have on global climate change.

6. Disposing of the litigation in Plaintiffs' favor would impair or impede North Dakota's ability to protect its financial interests in federal coal leasing and to provide disbursements from State accounts to its local governments and subdivisions.

7. North Dakota generates revenue from taxes related to coal severance and coal conversion. N.D. Cent. Code Ann. §§ 57-60-02; 57-61-01. These taxes are collected by The Office of State Tax Commissioner and deposited into State accounts. The Treasurer's Office is responsible for disbursing portions of these moneys from the State accounts to several State funds that benefit communities impacted by coal mining.

8. The Treasurer's Office makes disbursements to the Coal Development Trust Fund (the "Fund"), a permanent trust established by State law pursuant to the North Dakota State Constitution. N.D. Const. art. X, § 21; N.D. Cent. Code Ann. § 57-62-02. Thirty percent of revenue generated by the coal severance tax is deposited into this Fund. The Board of University and School Lands holds this Fund in trust and administers it for loans to counties, cities, and school districts that have been impacted by coal mining, and for general loans to school districts. N.D. Cent. Code Ann. §§ 57-62-03, 15.1-36-03.

9. The balance of the Coal Development Trust Fund as of September 30, 2014 was \$66,806,000. Over each of the past five fiscal years, the State has disbursed \$3.0M - \$3.4M annually into the Coal Development Trust Fund.

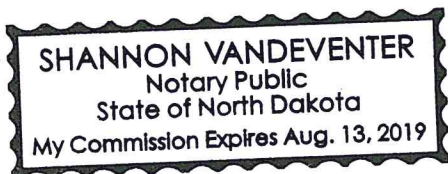
Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 10, 2015.

  
\_\_\_\_\_  
Kelly Schmidt

The foregoing Affidavit of Kelly Schmidt was subscribed and sworn before me by Kelly Schmidt on February 10, 2015.

Witness my hand and official seal.



  
\_\_\_\_\_  
Notary Public

My commission expires:

8/13/2019