

Introduced by

Senators Bekkedahl, Dwyer, Unruh

Representatives Keiser, Porter

1 A BILL for an Act to amend and reenact sections 61-33.1-04 and 61-33.1-05 of the North  
2 Dakota Century Code, relating to the ownership of mineral rights of land inundated by  
3 Pick-Sloan Missouri basin project dams.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 61-33.1-04 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **61-33.1-04. Implementation. (Retroactive application - [See note](#))**

8 1. Within six months after the adoption of the final review findings by the industrial  
9 commission:

10 a. Any royalty proceeds held by operators attributable to oil and gas mineral tracts  
11 lying entirely above the ordinary high water mark of the historical Missouri  
12 riverbed channel on both the corps survey and the state phase two survey must  
13 be released to the owners of the tracts, absent a showing of other defects  
14 affecting mineral title; and

15 b. Any royalty proceeds held by the board of university and school lands attributable  
16 to oil and gas mineral tracts lying entirely above the ordinary high water mark of  
17 the historical Missouri riverbed channel on both the corps survey and the state  
18 phase two survey must be released to the relevant operators to distribute to the  
19 owners of the tracts, absent a showing of other defects affecting mineral title.

20 2. Upon adoption of the final review findings by the industrial commission:

21 a. The board of university and school lands may contract with a qualified  
22 engineering and surveying firm to analyze the final review findings and determine  
23 the acreage on a quarter-quarter basis or government lot basis above and below  
24 the ordinary high water mark as delineated by the final review findings of the

1 industrial commission. The acreage determination is final upon approval by the  
2 board. After approving the acreage determination, the board shall begin to  
3 implement any acreage adjustments, lease bonus and royalty refunds, and  
4 payment demands as may be necessary relating to state-issued oil and gas  
5 leases. The board shall complete the adjustments, refunds, and payment  
6 demands within two years after the date of adoption of the final review  
7 findings approving the acreage determination.

- 8 b. Operators of oil and gas wells affected by the ~~final review findings~~final acreage  
9 determination immediately shall begin to implement any acreage and revenue  
10 adjustments relating to state-owned and privately owned oil and gas interests.  
11 The operators shall complete the adjustments within two years after the ~~date of~~  
12 ~~adoption of the review findings~~the board approves the acreage determination.  
13 Any applicable penalties, liability, or interest for late payment of royalties or  
14 revenues from an affected oil or gas well may not begin to accrue until the end of  
15 the two-year deadline. The filing of an action under section 61-33.1-05 tolls the  
16 deadline for any oil and gas well directly affected by the action challenging the  
17 review finding or final acreage determination.

18 **SECTION 2. AMENDMENT.** Section 61-33.1-05 of the North Dakota Century Code is  
19 amended and reenacted as follows:

20 **61-33.1-05. Actions challenging review findings or final acreage determinations.**  
21 **(Retroactive application - [See note](#))**

- 22 1. An interested party seeking to bring an action challenging the review findings or  
23 recommendations or the industrial commission actions under this chapter shall  
24 commence an action in district court within two years of the date of adoption of the  
25 final review findings by the industrial commission. The plaintiff bringing an action under  
26 this section may challenge only the final review finding for the section or sections of  
27 land in which the plaintiff asserts an interest. The state and all owners of record of fee  
28 or leasehold estates or interests affected by the finding, recommendation, or industrial  
29 commission action challenged in the action under this section must be joined as  
30 parties to the action. A plaintiff or defendant claiming a boundary of the ordinary high  
31 water mark of the historical Missouri riverbed channel which varies from the boundary

1 determined under this chapter bears the burden of establishing the variance by clear  
2 and convincing evidence based on evidence of the type required to be considered by  
3 the engineering and surveying firm under subsection 3 of section 61-33.1-03.

4 2. An interested party seeking to bring an action challenging the final acreage  
5 determination under this chapter shall commence an action in district court within two  
6 years of the date the acreage determinations were approved by the board of university  
7 and school lands. The plaintiff bringing an action under this section may challenge  
8 only the acreage determination for the section or sections of land in which the plaintiff  
9 asserts an interest. The state and all owners of record of fee or leasehold estates or  
10 interests affected by the final acreage determination challenged in the action under  
11 this section must be joined as parties to the action. A plaintiff or defendant claiming a  
12 determination of the acreage above or below the historical Missouri riverbed channel  
13 which varies from the final acreage determination under this chapter bears the burden  
14 of establishing the variance by clear and convincing evidence based on evidence of  
15 the type required to be considered by the engineering and surveying firm contracted  
16 by the board of university and school lands under subsection 2 of section 61-33.1-04.

17 3. Notwithstanding any other provision of law, an action brought in district court under  
18 this section is the sole remedy for challenging the final review, recommendations, and  
19 determination of the ordinary high water mark, and final acreage determination under  
20 this chapter, and preempts any right to rehearing, reconsideration, administrative  
21 appeal, or other form of civil action provided under law.