

**2021 SENATE ENERGY AND NATURAL RESOURCES**

**SCR 4013**

# 2021 SENATE STANDING COMMITTEE MINUTES

## Energy and Natural Resources Committee Peace Garden Room, State Capitol

SCR 4013  
2/11/2021

A concurrent resolution urging Congress to pass the North Dakota Trust Lands Completion Act.
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**Chairman Kreun** called the committee to order at 3:16pm  
Senators Piepkorn, Patten, Bell, Schaible, Roers, Kreun were all present

### Discussion Topics:

- Land Trust Completion
- Native American Tribal land ownership
- Conservation
- Size, location, and description of the land
- Transfer of land

**Senator Marcellais**, District 9, introduced the bill and testified in favor #6295 (3:17pm)

**Jodi Smith**, ND Dept. of Trust Lands, Commissioner, testified in favor #6438 (3:18pm)

**Scott Davis**, North Dakota Indian Affairs Division, executive director testified in favor #6457 (3:28pm)

**David Straley**, lobbyist, North American Coal Corporation, testified in favor (3:40pm)

**Senator Patten**, moved DO PASS (4:10)

**Senato Schaible**, seconded DO PASS (4:10)

DO PASS	Vote
Senator Curt Kreun	Y
Senator Jim P. Roers	Y
Senator Dale Patten	Y
Senator Merrill Piepkorn	Y
Senator Donald Schaible	Y
Senator Jessica Unruh Bell	Y

**Chairman Kreun**, decided to hold the vote open until Senator Bell can return but Senator Patten will carry the bill (4:11pm)

**Senator Bell**, returned at 9:07am on 2-12-21 and voted, the motion carries 6-0-0

**Additional written testimony:**

**Yankton Douglas**, Spirit Lake Tribe, Chairman, testified in favor #6452

**Chairman Kreun** called the hearing to a close at 4:11pm

*Dave Owen, Committee Clerk*

**REPORT OF STANDING COMMITTEE**

**SCR 4013: Energy and Natural Resources Committee (Sen. Kreun, Chairman)**  
recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SCR  
4013 was placed on the Eleventh order on the calendar.



**NORTH DAKOTA SENATE**

STATE CAPITOL  
600 EAST BOULEVARD  
BISMARCK, ND 58505-0360



**Senator Richard Marcellais**

District 9  
301 Laite Loop NE  
Belcourt, ND 58316-3877

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**COMMITTEES:**

Education  
Government and Veterans Affairs

***SCR 4013 Testimony***

***Senate Energy & Natural Resources Committee***

***Peace Garden Room 2/11/21 @ 2:00 pm***

*Chairman Kreun members of the Senate Energy & Natural Resources Committee for the record my name is Richard Marcellais Senator from Rolette County District 9.*

*I am here this afternoon as a sponsor of SCR 4013, concurrent resolution urging Congress to pass the North Dakota Trust Lands Completion Act.*

*We have Ms. Jodi Smith, Trust Lands Commissioner testifying today and I will defer to her testimony and stand for questions.*

*I urge a do pass on SCR 4013.*



**TESTIMONY OF JODI SMITH  
COMMISSIONER  
North Dakota Department of Trust Lands**

**Senate Concurrent Resolution 4013**

**Senate Energy and Natural Resources Committee  
February 11, 2021**

Chairman Kreun and members of the Senate Energy and Natural Resources Committee, I am Jodi Smith, the Commissioner and Secretary for the Board of University and School Lands (Board). I am here to testify on Senate Bill 4013.

The Department of Trust Lands (Department) is the administrative arm of the Board, serving under the direction and authority of the Board. The Board is comprised of the Governor, Secretary of State, Attorney General, State Treasurer, and Superintendent of Public Instruction. The Department's primary responsibility is managing the Common Schools Trust Fund (CSTF) and 12 other permanent educational trust funds. The beneficiaries of the trust funds include local school districts, various colleges and universities, and other institutions in North Dakota. The Department manages five additional funds: the Strategic Investment and Improvements Fund, the Coal Development Trust Fund, the Capitol Building Fund, the Indian Cultural Education Trust, and the Theodore Roosevelt Presidential Library and Museum Endowment.

The Department also administers the responsibilities outlined in the Uniform Unclaimed Property Act, N.D.C.C. ch. 47-30.1. In this role the Department collects "unclaimed property" (uncashed checks, unused bank accounts, etc.), and processes owners' claims. This property is held in permanent trust for owners to claim, with the revenue from the investment of the property benefiting the CSTF.

Additionally, the Department operates the Energy Infrastructure and Impact Office (EIIO), which provides financial support to political subdivisions that are affected by energy development. Assistance is provided through both the oil and gas impact grant program and the coal impact loan program. The EIIO also distributes energy and flood grants carried over from prior biennia.

The Department manages over 706,000 surface acres and 2.6 million mineral acres owned by the various trust funds controlled by the Board.

The Board and Department are seeking legislative support urging Congress to pass the North Dakota Trust Lands Completion Act (the Act). This bill in the Senate of the United States would authorize the relinquishment and in lieu selection of land and minerals in the State of North Dakota, to restore land and minerals to Indian Tribes within the State of North Dakota, to conserve the Little Missouri National Grasslands, and for other purposes.

In 1889, Congress passed the Enabling Act "to provide for the division of Dakota [Territory] into two states, and to enable the people of North Dakota, South Dakota, Montana, and Washington to form constitutions and state governments, and to be admitted into the union on an equal footing with the original states, and to make donations of public lands to such states." Act of February 22, 1889, Ch. 180, 25 Statutes at Large 676.

Section 10 of this Act granted sections 16 and 36 in every township to the new states "for the support of common schools." In cases where portions of sections 16 and 36 had been sold prior to statehood, indemnity or "in lieu" selections were allowed. In North Dakota, this grant of land totaled more than 2.5 million acres.

Under sections 12, 14, 16 and 17 of the Enabling Act (and other acts referred to therein), Congress provided further land grants to the state of North Dakota for the support of colleges, universities, the state capitol, and other public institutions. These additional grants totaled approximately 668,000 acres; thus the total of Enabling Act land grants was nearly 3.2 million acres.

Prior to the enactment of the North Dakota Enabling Act, the United States, through treaties and Executive orders, including the Treaty between the United States of America and the Sisseton and Wahpeton Bands of Dakota or Sioux Indians, made and concluded at Fort Laramie April 29, 1868, and the Executive order of April 12, 1870, established several reservations of land for multiple Indian Tribes located in the State of North Dakota. Title to various mineral interests underlying the reservations were granted to the State of North Dakota at statehood, yet the minerals remain undeveloped due to the location of the minerals within the reservations. Established in 1960, the Little Missouri National Grasslands occupy more than 1,028,000 acres of land in western North Dakota and encompasses approximately 108,840 surface acres and 149,073 mineral acres of State Land grant parcels fragmented within its boundaries.

The Act would authorize the State of North Dakota to relinquish land grant parcels located within the reservations and the Little Missouri National Grasslands and to select other Federal land or minerals in lieu of not receiving full access to and use of the original land the State of North Dakota attained at statehood and would accomplish the following:

- Provide to the Indian Tribes greater Tribal sovereignty and control of land and minerals within the reservations; and
- Lands or minerals relinquished within a reservation would be held in trust by the Secretary of the Interior on behalf of the Tribe within each reservation; and
- Provide for greater conservation and preservation of the Little Missouri National Grasslands.

Congress, through the enactment of this bill, would authorize the State of North Dakota to:

- Relinquish the land and minerals located within the reservations and the Little Missouri National Grasslands; and
- Select in lieu of the relinquished land other Federal land or minerals in the State of North Dakota of equal value.

The Land conveyed under this Act would be subject to all applicable Federal, State, and Tribal law. The legislation requires consultation with North Dakota's Tribes and all transactions are subject to valid existing rights and are intended to only impact state trust lands and minerals and unappropriated federal

lands and minerals. It is not the intent for these transactions to impact any treaty lands or any possible unceded territory lands.

We look forward to working with the legislature in support of this Act and would be happy to answer any questions.

**North Dakota Department of Trust Lands  
Senate Concurrent Resolution 4013  
Senate Energy and Natural Resources Committee  
February 11, 2021**

**Presented by: Scott Davis, Executive Director, ND Indian Affairs Commission**

Chairman Kreun and members of the Senate Energy and Natural Resources Committee, My name is Scott J. Davis, I am a member of the Standing Rock Sioux Tribe and a descendent of the Turtle Mountain Band of Chippewa and I am proud to serve the great state of North Dakota as the Executive Director of the North Dakota Indian Affairs Commission. As Executive Director, I serve on the Governor's Cabinet. I am here to testify on Senate Bill 4013.

As Executive Director of the ND Indian Affairs and my partnership with The University and School Lands Board are seeking legislative support urging Congress to pass the North Dakota Trust Lands Completion Act (the Act). This bill in the Senate of the United States would authorize the relinquishment and in lieu selection of land and minerals in the State of North Dakota, to restore land and minerals to Indian Tribes within the State of North Dakota, to conserve the Little Missouri National Grasslands, and for other purposes.

In 1889, Congress passed the Enabling Act "to provide for the division of Dakota [Territory] into two states, and to enable the people of North Dakota, South Dakota, Montana, and Washington to form constitutions and state governments, and to be admitted into the union on an equal footing with the original states, and to make donations of public lands to such states." Act of February 22, 1889, Ch. 180, 25 Statutes at Large 676.

Section 10 of this Act granted sections 16 and 36 in every township to the new states "for the support of common schools." In cases where portions of sections 16 and 36 had been sold prior to statehood, indemnity or "in lieu" selections were allowed. In North Dakota, this grant of land totaled more than 2.5 million acres.

Under sections 12, 14, 16 and 17 of the Enabling Act (and other acts referred to therein), Congress provided further land grants to the state of North Dakota for the support of colleges, universities, the state capitol, and other public institutions. These additional grants totaled approximately 668,000 acres; thus the total of Enabling Act land grants was nearly 3.2 million acres.

Prior to the enactment of the North Dakota Enabling Act, the United States, through treaties and Executive orders, including the Treaty between the United States of America and the Sisseton and Wahpeton Bands of Dakota or Sioux Indians, made and concluded at Fort Laramie April 29, 1868, and the Executive order of April 12,

1870, established several reservations of land for multiple Indian Tribes located in the State of North Dakota. Title to various mineral interests underlying the reservations were granted to the State of North Dakota at statehood, yet the minerals remain undeveloped due to the location of the minerals within the reservations. Established in 1960, the Little Missouri National Grasslands occupy more than 1,028,000 acres of land in western North Dakota and encompasses approximately 108,840 surface acres and 149,073 mineral acres of State Land grant parcels fragmented within its boundaries.

The Act would authorize the State of North Dakota to relinquish land grant parcels located within the reservations and the Little Missouri National Grasslands and to select other Federal land or minerals in lieu of not receiving full access to and use of the original land the State of North Dakota attained at statehood and would accomplish the following:

- Provide the Indian Tribes greater Tribal sovereignty and control of land and minerals within the reservations; and
- Lands or minerals relinquished within a reservation would be held in trust by the Secretary of the Interior on behalf of the Tribe within each reservation; and
- Provide greater conservation and preservation of the Little Missouri National Grasslands.

Congress, through the enactment of this bill, would authorize the State of North Dakota to:

- Relinquish the land and minerals located within the reservations and the Little Missouri National Grasslands; and
- Select in lieu of the relinquished land other Federal land or minerals in the State of North Dakota of equal value.

The Land conveyed under this Act would be subject to all applicable Federal, State, and Tribal law. In closing, Jodi's office and my office has held numerous phone calls and face to face meetings with Tribal leaders and their land department staff. We will continue to communicate, consult and listen to Tribal leaders as we proceed with this process.

This concludes my testimony; I'd stand for any questions.

Thank you.



February 10, 2021

Dear Senate Energy and Natural Resources Committee, Senators and Congressman:

Please accept this letter in support of the Senate Concurrent Resolution No. 4013 which urges Congress to pass the North Dakota Trust Lands Completion Act.

In passing the North Dakota Trust Lands Completion Act will enable tribes within North Dakota such as Spirit Lake Tribe in their continued efforts to diminish a checkerboard land base restoring lands and more control over those acres of lands on Spirit Lake. All lands within the reservation boundaries have cultural and spiritual ties to our Spirit Lake people. These lands were used significantly in ceremonial use and purposes and grow an abundance of foods and medicines that are harvested for cultural use. Furthermore, the passage of the North Dakota Trust Lands Completion Act will allow for Spirit Lake the opportunities to explore future use as the primary beneficiaries of these recovered lands.

This proposed legislation will also provide a much needed boost in financial aid to support North Dakota Public Schools. Currently, there are 5 public schools on or adjacent to the Spirit Lake Reservation supporting education for our tribal members.

The Spirit Lake Tribe fully supports and urges Congress to support and pass the North Dakota Trust Lands Completion Act.

Respectfully,

A handwritten signature in black ink, appearing to read "Douglas Yankton", followed by a horizontal line.

Douglas Yankton  
Tribal Chairman  
Spirit Lake Tribe

**2021 HOUSE ENERGY AND NATURAL RESOURCES**

**SCR 4013**

# 2021 HOUSE STANDING COMMITTEE MINUTES

## Energy and Natural Resources Committee Coteau AB Room, State Capitol

SCR 4013 9:18 AM  
3/18/2021

Urging Congress to pass the ND Trust Lands Completion Act

### 9:18 AM

Chairman Porter opened the hearing. Roll call was taken. Present: Representatives Porter, Anderson, Damschen, Bosch, Devlin, Heinert, Keiser, Lefor, Marschall, Roers Jones, Ruby, Zubke, Guggisberg, and Ista.

### Discussion Topics:

- ND Trust Lands Completion Act
- Restoration of land and minerals control to reservations
- Appraisals and mineral assessments
- Common schools trust fund
- Comparable compensation
- 10-year Federal land leases

### Testimony:

#9592 Sen Marcellais District 9  
#10008 Jodi Smith, Commissioner, ND Dept of Trust Lands  
None David Straley, North American Coal, oral testimony

**9:43 AM** hearing closed.

*Kathleen Davis, Committee Clerk*



## NORTH DAKOTA SENATE

STATE CAPITOL  
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BISMARCK, ND 58505-0360



### Senator Richard Marcellais

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### COMMITTEES:

Education  
Government and Veterans Affairs

## **SCR 4013 Testimony**

### **House Energy & Natural Resources Committee**

### **Coteau AB Room**

*Chairman Porter members of the House Energy & Natural Resources Committee for the record my name is Richard Marcellais Senator from Rolette County District 9.*

*SCR 4013 is seeking legislative support urging U.S. Congress to pass the North Dakota Trust Lands Completion Act. This bill in the Senate of the United States would authorize the relinquishment and in lieu selection of land and minerals in the State of North Dakota, to restore land and minerals to Indian Tribes within the State of North Dakota.*

*The Act would authorize the State of North Dakota full access to and use of the original land the State attained at statehood and would accomplish the following:*

- *Provide to the Indian Tribes greater Tribal sovereignty and control of land and minerals within the reservations; and*

- *Lands or minerals relinquished within a reservation would be held in trust by the Secretary of the Interior on behalf of the Tribe within each reservation; and*
- *Provide for greater conservation and preservation of the Little Missouri National Grasslands.*

*I urge a do pass on Senate Concurrent Resolution (SCR) 4013 and stand for any questions.*



**TESTIMONY OF JODI SMITH  
COMMISSIONER  
North Dakota Department of Trust Lands**

**Senate Concurrent Resolution 4013**

**House Energy and Natural Resources Committee  
March 18, 2021**

Chairman Porter and members of the House Energy and Natural Resources Committee, I am Jodi Smith, the Commissioner and Secretary for the Board of University and School Lands (Board). I am here to testify on Senate Bill 4013.

The Department of Trust Lands (Department) is the administrative arm of the Board, serving under the direction and authority of the Board. The Board is comprised of the Governor, Secretary of State, Attorney General, State Treasurer, and Superintendent of Public Instruction. The Department's primary responsibility is managing the Common Schools Trust Fund (CSTF) and 12 other permanent educational trust funds. The beneficiaries of the trust funds include local school districts, various colleges and universities, and other institutions in North Dakota. The Department manages five additional funds: the Strategic Investment and Improvements Fund, the Coal Development Trust Fund, the Capitol Building Fund, the Indian Cultural Education Trust, and the Theodore Roosevelt Presidential Library and Museum Endowment.

The Department also administers the responsibilities outlined in the Uniform Unclaimed Property Act, N.D.C.C. ch. 47-30.1. In this role the Department collects "unclaimed property" (uncashed checks, unused bank accounts, etc.), and processes owners' claims. This property is held in permanent trust for owners to claim, with the revenue from the investment of the property benefiting the CSTF.

Additionally, the Department operates the Energy Infrastructure and Impact Office (EIIO), which provides financial support to political subdivisions that are affected by energy development. Assistance is provided through both the oil and gas impact grant program and the coal impact loan program. The EIIO also distributes energy and flood grants carried over from prior biennia.

The Department manages over 706,000 surface acres and 2.6 million mineral acres owned by the various trust funds controlled by the Board.

The Board and Department are seeking legislative support urging Congress to pass the North Dakota Trust Lands Completion Act (the Act). This bill, currently before the United States Senate, would authorize the relinquishment and in lieu selection of land and minerals in the State of North Dakota, to restore land and minerals to Indian Tribes within the State of North Dakota, to conserve the Little Missouri National Grasslands, and for other purposes.

In 1889, Congress passed the Enabling Act "to provide for the division of Dakota [Territory] into two states, and to enable the people of North Dakota, South Dakota, Montana, and Washington to form constitutions and state governments, and to be admitted into the union on an equal footing with the original states, and to make donations of public lands to such states." Act of February 22, 1889, Ch. 180, 25 Statutes at Large 676.

Section 10 of the Enabling Act granted sections 16 and 36 in every township to the new states "for the support of common schools." In cases where portions of sections 16 and 36 had been sold prior to statehood, indemnity or "in lieu" selections were allowed. In North Dakota, this grant of land totaled more than 2.5 million acres.

Under sections 12, 14, 16 and 17 of the Enabling Act (and other acts referred to therein), Congress provided further land grants to the state of North Dakota for the support of colleges, universities, the state capitol, and other public institutions. These additional grants totaled approximately 668,000 acres; thus the total of Enabling Act land grants was nearly 3.2 million acres.

Prior to the enactment of the North Dakota Enabling Act, the United States, through treaties and Executive orders, including the Treaty between the United States of America and the Sisseton and Wahpeton Bands of Dakota or Sioux Indians, made and concluded at Fort Laramie April 29, 1868, and the Executive order of April 12, 1870, established several reservations of land for multiple Indian Tribes located in the State of North Dakota. Title to various mineral interests underlying the reservations were granted to the State of North Dakota at statehood; 31,583 surface acres and 192,610 gross mineral acres reside within the boundaries of the reservations. See Attachment 1.

Established in 1960, the Little Missouri National Grasslands occupy more than 1,028,000 acres of land in western North Dakota and encompass approximately 108,840 surface acres and 149,073 mineral acres of State Land grant parcels fragmented within its boundaries. See Attachment 2.

The Act would authorize the State of North Dakota to relinquish land grant parcels located within the reservations and the Little Missouri National Grasslands and to select other Federal land or minerals in lieu of not receiving full access to and use of the original land grant parcels the State of North Dakota attained at statehood and would accomplish the following:

- Provide to the Indian Tribes greater Tribal sovereignty and control of land and minerals within the reservations;
- Lands or minerals relinquished within a reservation would be held in trust by the Secretary of the Interior on behalf of the Tribe within each reservation; and
- Provide for greater conservation and preservation of the Little Missouri National Grasslands.

Congress, through the enactment of this bill, would authorize the State of North Dakota to:

- Relinquish the land and minerals located within the reservations and the Little Missouri National Grasslands; and
- Select, in lieu of the relinquished land, other Federal land or minerals in the State of North Dakota of equal value.

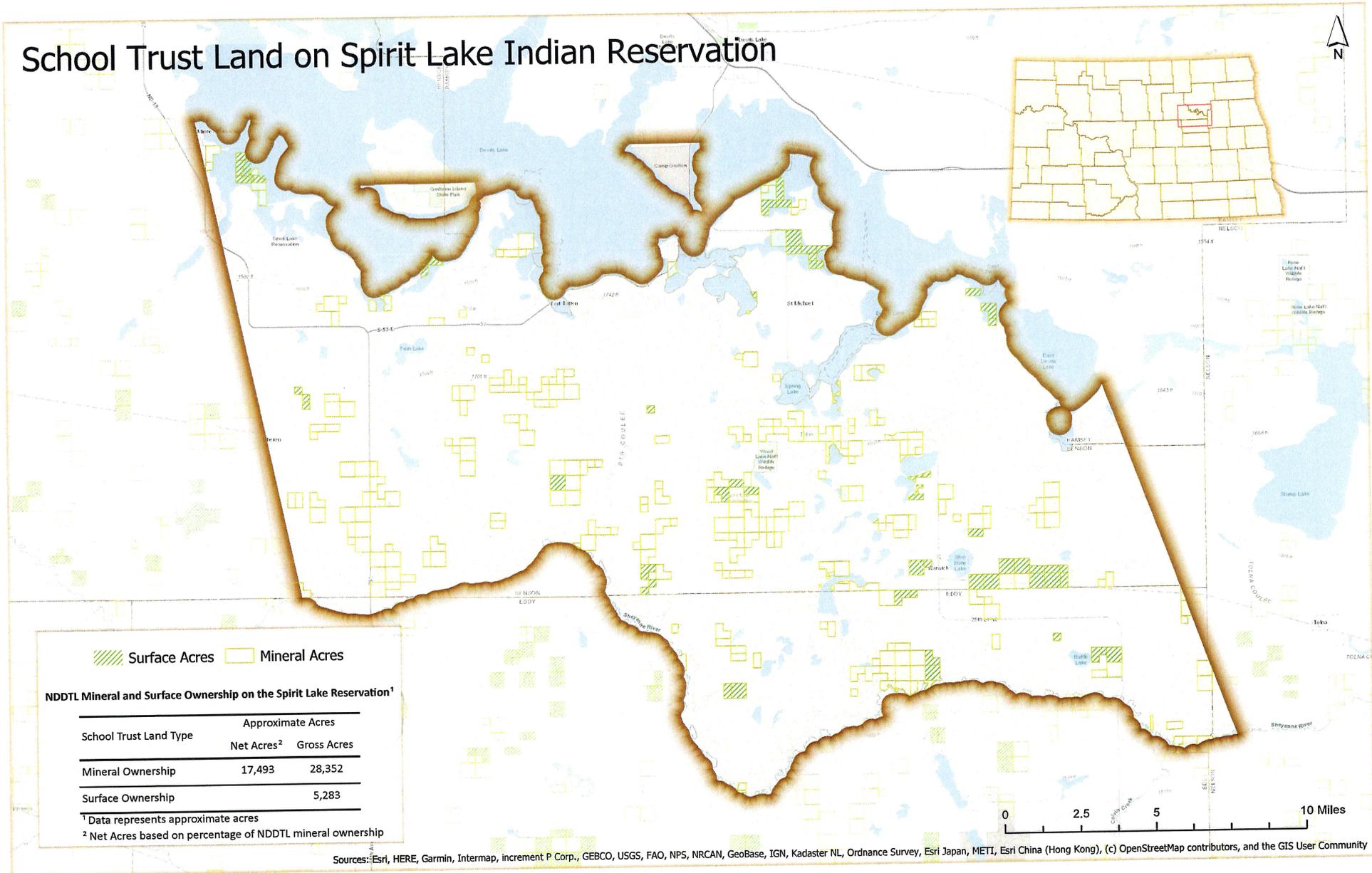
The land conveyed under this Act would be subject to all applicable Federal, State, and Tribal law. The legislation requires consultation with North Dakota's Tribes and all transactions are subject to valid existing rights and are intended to only impact state trust lands and minerals and unappropriated federal

lands and minerals. It is not the intent for these transactions to impact any treaty lands or any possible unceded territory lands.

The Act will essentially allow for the Board to address land management issues as they relate to difficult to manage tracts, minimize the number of tracts that are difficult for the public to access, maximize the opportunity for trust land minerals to be mined, and potentially consolidate tracts to allow for more efficient management of the surface. The land within the boundaries of the reservations and the Little Missouri National Grasslands may have been granted to North Dakota through the Enabling Act, acquired from the Board's farm loan pool pursuant to N.D.C.C. § 15-03-04.1 through foreclosure or deed in lieu of foreclosure, or as all property defined as "nongrant" and "other than original grant lands" in N.D.C.C. §15-07-01.

We look forward to working with the Legislature in support of this Act and would be happy to answer any questions.

# School Trust Land on Spirit Lake Indian Reservation



Mineral Acres
  Surface Acres

### NDDTL Mineral and Surface Ownership on the Spirit Lake Reservation<sup>1</sup>

School Trust Land Type	Approximate Acres	
	Net Acres <sup>2</sup>	Gross Acres
Mineral Ownership	17,493	28,352
Surface Ownership		5,283

<sup>1</sup> Data represents approximate acres

<sup>2</sup> Net Acres based on percentage of NDDTL mineral ownership

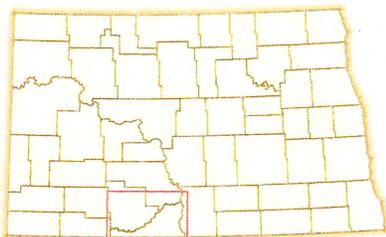
# School Trust Land on Standing Rock Indian Reservation

## NDDTL Mineral and Surface Ownership on the Standing Rock Reservation<sup>1</sup>

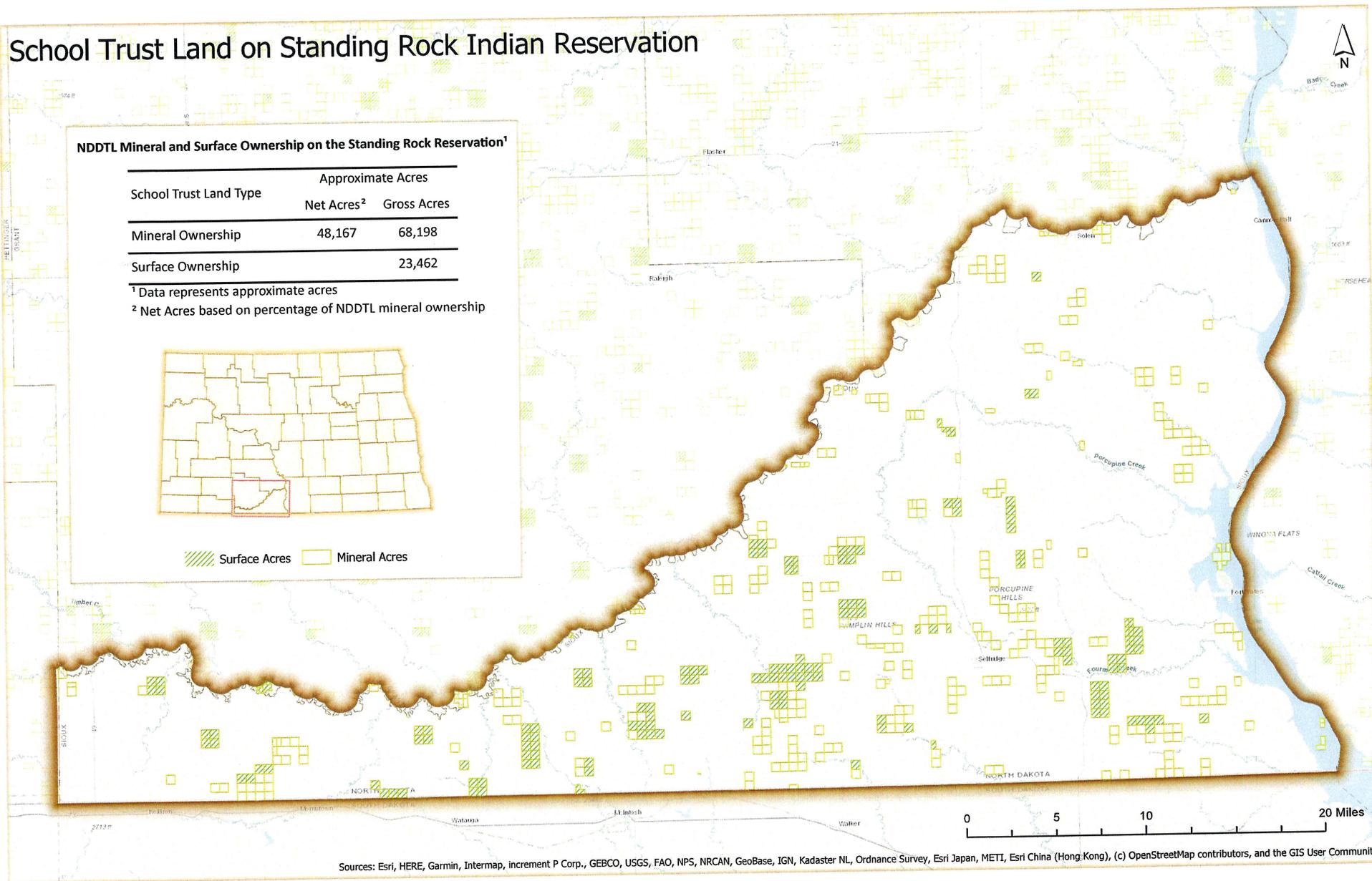
School Trust Land Type	Approximate Acres	
	Net Acres <sup>2</sup>	Gross Acres
Mineral Ownership	48,167	68,198
Surface Ownership		23,462

<sup>1</sup> Data represents approximate acres

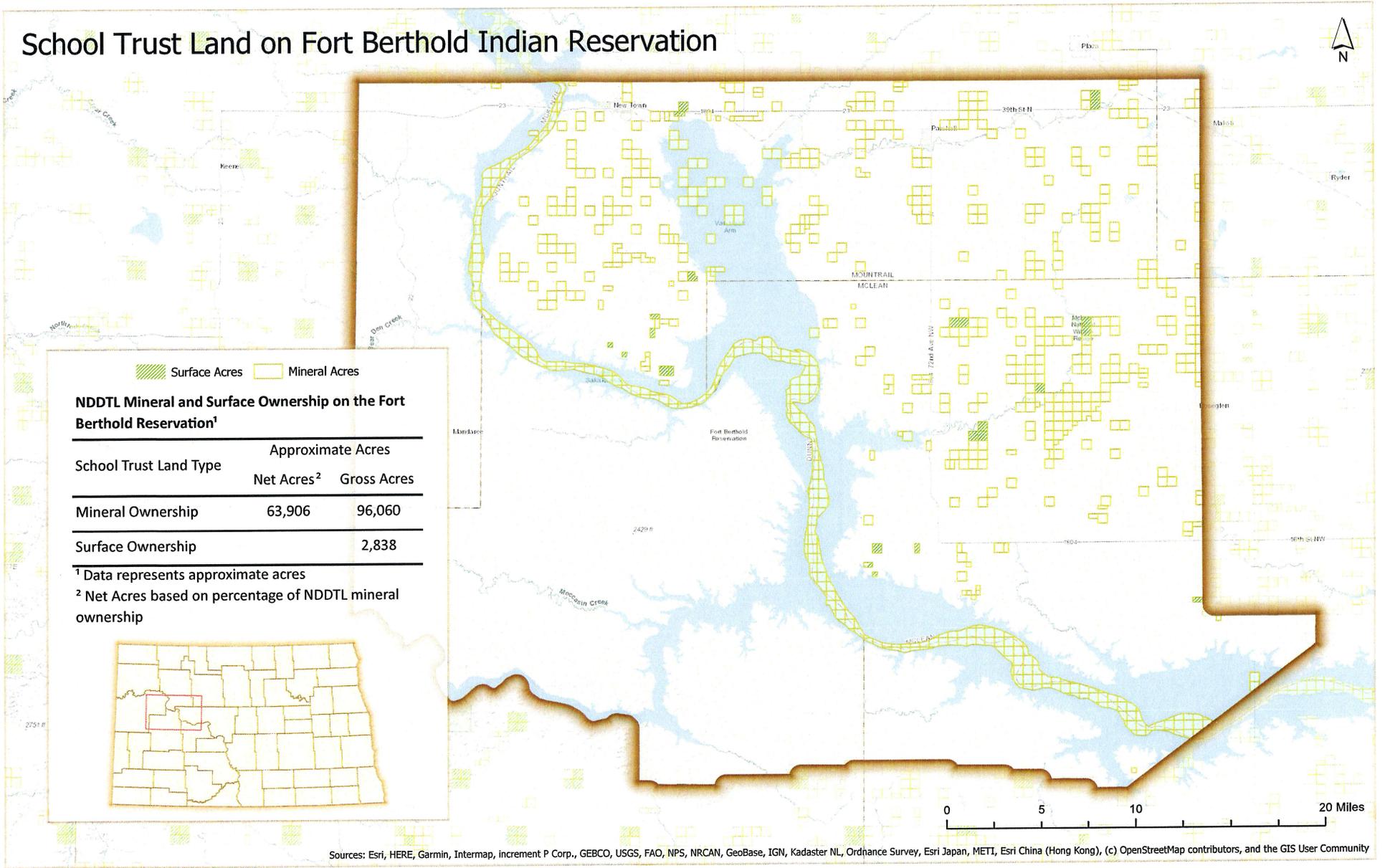
<sup>2</sup> Net Acres based on percentage of NDDTL mineral ownership



 Surface Acres
  Mineral Acres



# School Trust Land on Fort Berthold Indian Reservation



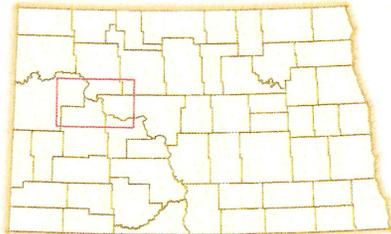
Surface Acres
 Mineral Acres

## NDDTL Mineral and Surface Ownership on the Fort Berthold Reservation<sup>1</sup>

School Trust Land Type	Approximate Acres	
	Net Acres <sup>2</sup>	Gross Acres
Mineral Ownership	63,906	96,060
Surface Ownership		2,838

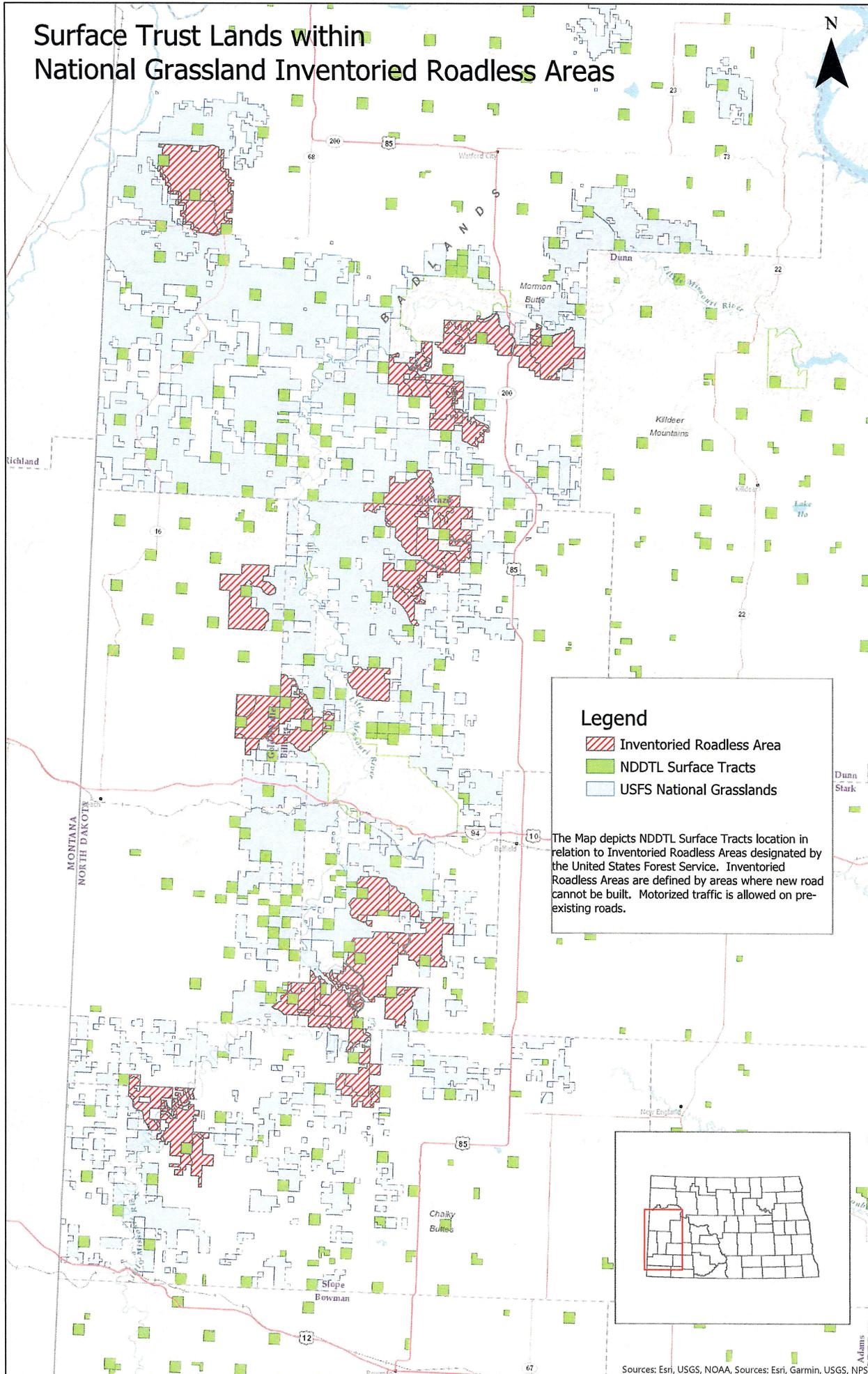
<sup>1</sup> Data represents approximate acres

<sup>2</sup> Net Acres based on percentage of NDDTL mineral ownership



0 5 10 20 Miles

# Surface Trust Lands within National Grassland Inventoried Roadless Areas



# 2021 HOUSE STANDING COMMITTEE MINUTES

## Energy and Natural Resources Committee Coteau AB Room, State Capitol

SCR 4013 11:36 AM  
3/18/2021

Urging Congress to pass the North Dakota Trust Lands Completion Act
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### 11:36 AM

Chairman Porter opened the hearing. Roll call was taken. Present: Representatives Porter, Damschen, Anderson, Bosch, Devlin, Heinert, Lefor, Marschall, Roers Jones, Ruby, Zubke, Guggisberg, and Ista. Absent: Rep Keiser

### Discussion topics:

Committee work

Rep Zubke moved a Do Pass and Place on the Consent Calendar, seconded by Rep M Ruby. Roll call vote:

Representatives	Vote
Representative Todd Porter	Y
Representative Chuck Damschen	Y
Representative Dick Anderson	Y
Representative Glenn Bosch	Y
Representative Bill Devlin	Y
Representative Ron Guggisberg	Y
Representative Pat D. Heinert	Y
Representative Zachary Ista	Y
Representative George Keiser	AB
Representative Mike Lefor	Y
Representative Andrew Marschall	Y
Representative Shannon Roers Jones	Y
Representative Matthew Ruby	Y
Representative Denton Zubke	Y

Motion carried. 13-0-1 Rep M Ruby is carrier.

11:37 AM hearing closed.

*Kathleen Davis, Committee Clerk*

**REPORT OF STANDING COMMITTEE**

**SCR 4013: Energy and Natural Resources Committee (Rep. Porter, Chairman)** recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SCR 4013 was placed on the Tenth order on the calendar.