

BEFORE THE INDUSTRIAL COMMISSION
OF THE STATE OF NORTH DAKOTA

CASE NO. 26584
ORDER NO. 31104

ADDENDUM TO
ORDER NO. 29129

IN THE MATTER OF A HEARING CALLED ON
A MOTION OF THE COMMISSION TO
CONSIDER PUBLIC COMMENTS ON THE
REVIEW OF THE DELINEATION OF THE
ORDINARY HIGH WATER MARK OF THE US
ARMY CORP OF ENGINEERS SURVEY
SEGMENTS FROM THE NORTHERN
BOUNDARY OF THE FORT BERTHOLD
INDIAN RESERVATION TO THE SOUTHERN
BORDER OF SECTIONS 33 AND 34, TOWNSHIP
153 NORTH, RANGE 102 WEST, MCKENZIE,
MOUNTRAIL, AND WILLIAMS COUNTIES, ND.

ORDER OF THE COMMISSION

THE COMMISSION FINDS:

- (1) This matter originally came on for hearing on the 26th day of June, 2018.
- (2) Having allowed all interested persons an opportunity to be heard and having heard, reviewed, and considered all testimony and evidence presented, the Commission approved Order No. 29129 on September 27, 2018.
- (3) On June 30, 2020 the Commission received a letter from the North Dakota Department of Trust Lands requesting further review to extend the Ordinary High Water Mark (OHWM) in Section 11, Lot 2 and Section 10, Lot 6, Township 152 North, Range 93 West, McKenzie and Mountrail Counties, North Dakota, and to extend the OHWM in Sections 33 and 34, Township 153 North, Range 102 West, McKenzie and Williams Counties, North Dakota, until a zero accretion point can be determined.
- (4) In consideration of the North Dakota Department of Trust Lands request, the Commission amended the contract with Wenck to provide the OHWM extensions needed to complete the acreage determinations required under North Dakota Century Code 61-33.1-03(8).

IT IS THEREFORE ORDERED:

(1) The September 15, 2020 Wenck Technical Memo together with Figures 1, 2A, and 2B shall be adopted as an Addendum to the 2018 Wenck Study for the determination of the OHWM for US Army Corp of Engineers (USACE) segments V and KK.

(2) For USACE segment KK, the 2018 Wenck Study for the determination of the OHWM shall be completed as described in the September 15, 2020 Wenck Technical Memo together with Figure 1 and shall be determined to be the OHWM for that reach of the Missouri River.

(3) For USACE segment V, the 2018 Wenck Study for the determination of the OHWM shall be completed as described in the September 15, 2020 Wenck Technical Memo together with Figures 2A and 2B and shall be determined to be the OHWM for that reach of the Missouri River.

(4) This order shall remain in full force and effect until further order of the Commission.

Dated this 22nd day of September, 2020.

INDUSTRIAL COMMISSION
STATE OF NORTH DAKOTA

/s/ Doug Burgum, Governor

/s/ Wayne Stenehjem, Attorney General

/s/ Doug Goehring, Agriculture Commissioner