

SUPREME COURT OF NORTH DAKOTA

Jonathan T. Garaas and David Garaas, as Co-Trustees of the
Barbara Susan Garaas Family Trust; Jonathan T. Garaas, as Trustee
of the David and Elizabeth Garaas Family Trust; and David Garaas,
as Trustee of the Jonathan & Jill Garaas Family Trust v. North
Dakota Industrial Commission and Petro-Hunt L.L.C.

2026 ND 25 · No. No. 20250109 · Decided February 5, 2026

SUMMARY

The North Dakota Supreme Court reviewed an appeal concerning the allocation of production from a lease-line spacing unit to an underlying base spacing unit. The Court held that the North Dakota Industrial Commission had statutory authority to allocate production among spacing units under N.D.C.C. § 38-08-04(1)(c), but that the Commission did not regularly pursue its authority in issuing the challenged order. The Court reversed the district court’s judgment and vacated NDIC Order No. 33453.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Daniel J. Crothers; Jerod E. Tufte, Acting Chief Justice; Jon J. Jensen; Douglas A. Bahr; Michael P. Hurly, District Judge, sitting in place of McEvers, Chief Justice
JURISDICTION	Supreme Court of North Dakota
DECIDED	February 5, 2026
DOCKET	No. 20250109
DISPOSITION	reversed
PROCEDURAL POSTURE	Appeal from a district court judgment affirming a North Dakota Industrial Commission order allocating production from a lease-line overlapping spacing unit to an underlying base spacing unit.
STANDARD OF REVIEW	The Court applies the same standard as the district court under N.D.C.C. § 38-08-14(3): an NDIC order is sustained if NDIC regularly pursued its authority and its findings and conclusions are sustained by law and substantial and credible evidence. Questions of law, including statutory interpretation and whether the agency exceeded its statutory

	authority, are fully reviewable. Substantial evidence is less than the greater weight or preponderance of the evidence, and NDIC fact findings receive heightened deference.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of North Dakota
PARTIES	Jonathan T. Garaas and David Garaas, as Co-Trustees of the Barbara Susan Garaas Family Trust, Jonathan T. Garaas, as Trustee of the David and Elizabeth Garaas Family Trust, David Garaas, as Trustee of the Jonathan & Jill Garaas Family Trust v. North Dakota Industrial Commission, Petro-Hunt L.L.C.

TOPICS

oil and gas mineral rights administrative law judicial review of agency action statutory interpretation

PRACTICE AREAS

oil and gas law administrative law mineral rights statutory interpretation appellate procedure

QUESTIONS PRESENTED

1. Whether NDIC had statutory authority to allocate production from a lease-line overlapping spacing unit to an underlying base spacing unit that was not wholly contained within the overlapping unit.
2. Whether NDIC regularly pursued its authority when it approved the allocation without modifying the existing spacing or pooling orders and without the notice and opportunity to participate required for potentially affected interest owners.
3. Whether the Trusts were entitled to attorney's fees under N.D.C.C. § 28-32-50.

HOLDINGS

1. N.D.C.C. § 38-08-08(1) does not authorize NDIC to allocate production from one spacing unit to an owner of an interest in another spacing unit. The statute limits pooling and allocation under a pooling order to interests within the pooled spacing unit.
2. N.D.C.C. § 38-08-04(1)(c) gives NDIC legal authority to limit and allocate oil and gas production from any field, pool, or area, including among spacing units.
3. NDIC did not regularly pursue its authority because its allocation effectively enlarged the spacing unit for the well without an application to modify the existing spacing orders and without providing proper notice and an opportunity for all potentially affected interest owners to participate.
4. The Trusts were not entitled to attorney's fees because the record did not support a finding that NDIC acted without substantial justification.

KEY QUOTATIONS

“NDIC, like all administrative agencies, are creatures of statute and only have the authority expressly granted by the legislature or necessarily implied from the legislature’s express grant of authority.” (¶ 19)

“Proper notice of the action to be taken by NDIC and an opportunity by all potentially affected interest owners to participate is necessary to comply with fundamental notions of due process.” (¶ 41)

FACTUAL BACKGROUND

The Trusts owned mineral interests in portions of Sections 18 and 19 in McKenzie County, North Dakota. Petro-Hunt operated a horizontal well in a four-section lease-line overlapping spacing unit established by NDIC Order No. 30323; the overlapping unit included Section 19 but not Section 20, which was part of an earlier two-section base spacing unit established by Order No. 13922. Petro-Hunt allocated production from the overlapping unit partly to the base unit and then to Section 20, reducing the Trusts' royalty interest. NDIC later issued Order No. 33453 approving the allocation without modifying the existing spacing or pooling orders.

PROCEDURAL HISTORY

The Trusts initially sued Petro-Hunt in district court over the allocation of royalty production, but the case was dismissed because the Trusts had to exhaust administrative remedies before the North Dakota Industrial Commission. Petro-Hunt then applied to NDIC for an order clarifying that production allocated to Section 19 under a lease-line spacing-unit order had to be shared with interests in Section 20 under an earlier base-unit order. NDIC issued Order No. 33453, the district court affirmed it, and the Supreme Court of North Dakota reversed the judgment and vacated the NDIC order.

DISPOSITION

reversed

REMAND INSTRUCTIONS

The district court's judgment is reversed and NDIC Order No. 33453 is vacated. No further remand instruction is stated.

CASES CITED

- Garaas as Co-Trs. of Barbara Susan Garaas Fam. Tr. v. Petro-Hunt, L.L.C., 2024 ND 34, ¶¶ 1, 15-16, 3 N.W.3d 156
- Dominek v. Equinor Energy L.P., 2022 ND 211, ¶¶ 14, 17, 982 N.W.2d 303
- Vogel v. Marathon Oil Co., 2016 ND 104, ¶ 36, 879 N.W.2d 471
- Dominek v. Equinor Energy L.P., No. 1:19-cv-288, 2023 WL 3742825 (D.N.D. May 31, 2023)
- Liberty Petroleum Corp. v. NDIC, 2024 ND 183, ¶ 6, 11 N.W.3d 851
- Kirkpatrick v. N.D. Department of Transportation, 2023 ND 190, ¶¶ 11-12, 996 N.W.2d 640
- First Bank of Buffalo v. Conrad, 350 N.W.2d 580, 584 (N.D. 1984)
- Heier v. N.D. Department of Corrections & Rehabilitation, 2012 ND 171, ¶ 18, 820 N.W.2d 394

- Environmental Law & Policy Center v. N.D. Public Service Commission, 2020 ND 192, ¶ 11, 948 N.W.2d 838
- Matter of Nebraska Public Power District, 330 N.W.2d 143, 149 (N.D. 1983)
- State by and through Workforce Safety & Insurance v. Questar Energy Services, Inc., 2017 ND 241, ¶ 11, 902 N.W.2d 757
- Mosser v. Denbury Resources, Inc., 2017 ND 169, ¶ 13, 898 N.W.2d 406
- Gadeco, LLC v. NDIC, 2012 ND 33, ¶ 4, 812 N.W.2d 405
- Slawson v. NDIC, 339 N.W.2d 772, 774 (N.D. 1983)
- State v. Berkley, 2025 ND 134, ¶ 18, 24 N.W.3d 69
- Reile v. State by and through Workforce Safety & Insurance, 2025 ND 6, ¶ 13, 16 N.W.3d 212

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