

## FEDERAL FLOOD CONTROL MINERAL LEASE REVENUE ALLOCATION

Federal construction of the Garrison Dam and the resulting creation of Lake Sakakawea required the federal government to acquire rights to thousands of acres of land presently lying along and under Lake Sakakawea. Recent rapid development of oil exploration, drilling, and production in the area and the feasibility of horizontal drilling beneath the lake have made leasing of the mineral rights to those lands from the federal government desirable and valuable. The federal government has leased mineral rights on those lands and collected substantial lease and bonus revenues.

Federal law, contained in 33 U.S.C. 701c-3 ([Appendix A](#)) provides that 75 percent of revenue collected during a fiscal year from leasing of lands acquired by the United States for flood control is to be paid out at the end of the year to the state in which the property is situated. The amount received by the state is to be expended as the state legislature may prescribe for the benefit of public schools and public roads of the county, or counties, in which such property is located, or for any of the expenses of county government. It is significant to note that the language of the federal provision includes bonuses, royalties, and rentals paid to the United States from a mineral lease.

North Dakota has provided for an allocation of flood control revenues by enactment of North Dakota Century Code Section 21-06-10 ([Appendix B](#)). The

statutory provision provides that one-half of the county allocation goes to school districts in the county, one-quarter goes to the county for road purposes, and one-quarter is to be allocated among organized townships that have lost land because of federal land acquisitions and to the county for lands not within an organized township. This allocation method has existed since 1979, so it is likely the Legislative Assembly did not anticipate the amounts of revenue currently being distributed.

Beginning in calendar year 2009, counties along the lake in areas of leasing activity began to receive very substantial payments. Attached as [Appendix C](#) is a printout from the website of the State Treasurer showing flood control payments to counties since September 2007.

Attached as [Appendix D](#) are spreadsheets showing for 2009 and 2010 how the funds received by Mountrail County are allocated within the county according to the statutory formula. During the 17 months of allocations, three townships have each received more than \$1 million, including Liberty Township, which has received more than \$4 million. For those 17 months, the Mountrail County road and bridge fund has received almost \$12.8 million and the New Town School District has received almost \$22.5 million.

ATTACH:4

**§701c-3. Lease receipts; payment of portion to States**

75 per centum of all moneys received and deposited in the Treasury of the United States during any fiscal year on account of the leasing of lands acquired by the United States for flood control, navigation, and allied purposes, including the development of hydroelectric power, shall be paid at the end of such year by the Secretary of the Treasury to the State in which such property is situated, to be expended as the State legislature may prescribe for the benefit of public schools and public roads of the county, or counties, in which such property is situated, or for defraying any of the expenses of county government in such county or counties, including public obligations of levee and drainage districts for flood control and drainage improvements: Provided, That when such property is situated in more than one State or county, the distributive share to each from the proceeds of such property shall be proportional to its area therein. For the purposes of this section, the term "money" includes, but is not limited to, such bonuses, royalties and rentals (and any interest or other charge paid to the United States by reason of the late payment of any royalty, rent, bonus or other amount due to the United States) paid to the United States from a mineral lease issued under the authority of the Mineral Leasing Act for Acquired Lands [30 U.S.C. 351 et seq.] or paid to the United States from a mineral lease in existence at the time of the acquisition of the land by the United States.

**21-06-10. Moneys received through leasing of lands acquired by United States for flood control distributed to counties for schools and roads.** The state treasurer shall pay the moneys allocated to the state under 33 U.S.C. 701(c)(3) to the counties entitled to receive them in proportion to the area of the land in the county acquired by the United States for which compensation is being provided under 33 U.S.C. 701(c)(3) as that area bears to the total of these federal lands in the state. A county receiving an allocation under this section shall disburse the moneys received as follows:

1. One-half must be paid to the school districts in the county which have lost land subject to taxation because of the acquisition of lands by the United States for which compensation is being provided under 33 U.S.C. 701(c)(3) in proportion to the area of these federal lands in each district as that area bears to the total of such lands in all of the school districts in the county. If, however, all of the land in a district has been acquired by the United States, that district's proportionate share of the funds allocated under this subsection must be paid into the county tuition fund and expended according to the law governing that fund.
2. One-quarter must be paid to the county for road purposes to be expended as the county commissioners shall determine.
3. The final quarter must be allocated among the organized townships, if any, which have lost land subject to taxation because of land acquisitions by the United States for which compensation is being provided under 33 U.S.C. 701(c)(3) and the county for road purposes in proportion to the area of these lands in each township as that area bears to the total area of these federal lands in the county. The county must be allocated a similar proportionate share based on the area of these lands in the county not within an organized township.

This section applies to all funds heretofore received or to be received by the counties entitled thereto.

**Tax Distribution Search Results****Payment Date:** 09/1/2007 - 9/2/2010**Distribution Type:** Flood Control

<b>Payment Date</b>	<b>Entity</b>	<b>Tax Type</b>	<b>Amount</b>
01/15/2008	Barnes County	Flood Control	2,613.12
01/15/2009	Barnes County	Flood Control	2,529.29
01/15/2010	Barnes County	Flood Control	2,786.78
<b>Total:</b>			<b>\$7,929.19</b>
01/15/2008	Dunn County	Flood Control	18,044.88
01/15/2009	Dunn County	Flood Control	24,180.23
03/13/2009	Dunn County	Flood Control	3,010,801.49
05/19/2009	Dunn County	Flood Control	427,908.74
09/15/2009	Dunn County	Flood Control	64,947.75
11/16/2009	Dunn County	Flood Control	294.75
01/15/2010	Dunn County	Flood Control	21,581.55
04/14/2010	Dunn County	Flood Control	1,361.24
<b>Total:</b>			<b>\$3,569,120.63</b>
01/15/2008	Emmons County	Flood Control	21,635.10
01/15/2009	Emmons County	Flood Control	7,285.35
01/15/2010	Emmons County	Flood Control	8,198.09
<b>Total:</b>			<b>\$37,118.54</b>
01/15/2008	Griggs County	Flood Control	389.25
01/15/2009	Griggs County	Flood Control	927.00
01/15/2010	Griggs County	Flood Control	889.50
<b>Total:</b>			<b>\$2,205.75</b>
01/15/2008	McKenzie County	Flood Control	19,450.57
01/15/2009	McKenzie County	Flood Control	22,767.03
03/13/2009	McKenzie County	Flood Control	81,352.11
05/19/2009	McKenzie County	Flood Control	1,168,176.79
06/12/2009	McKenzie County	Flood Control	286.14
07/15/2009	McKenzie County	Flood Control	280.06

08/14/2009	McKenzie County	Flood Control	280.19
09/15/2009	McKenzie County	Flood Control	209.77
11/16/2009	McKenzie County	Flood Control	301.83
01/15/2010	McKenzie County	Flood Control	13,019.72
03/12/2010	McKenzie County	Flood Control	408.37
04/14/2010	McKenzie County	Flood Control	1,596.26
08/13/2010	McKenzie County	Flood Control	535.55
<b>Total:</b>			<b>\$1,308,664.39</b>
01/15/2008	McLean County	Flood Control	8,913.60
01/15/2009	McLean County	Flood Control	9,151.25
01/15/2010	McLean County	Flood Control	10,008.69
<b>Total:</b>			<b>\$28,073.54</b>
01/15/2008	Mercer County	Flood Control	1,479.70
01/15/2009	Mercer County	Flood Control	1,295.25
01/15/2010	Mercer County	Flood Control	1,012.50
<b>Total:</b>			<b>\$3,787.45</b>
01/15/2008	Morton County	Flood Control	10,120.80
01/15/2009	Morton County	Flood Control	4,826.63
01/15/2010	Morton County	Flood Control	3,807.15
<b>Total:</b>			<b>\$18,754.58</b>
01/15/2008	Mountrail County	Flood Control	20,330.44
01/15/2009	Mountrail County	Flood Control	37,363.77
03/13/2009	Mountrail County	Flood Control	14,103,085.01
05/19/2009	Mountrail County	Flood Control	5,526,609.42
06/12/2009	Mountrail County	Flood Control	36,542.13
07/15/2009	Mountrail County	Flood Control	9,308,716.84
08/14/2009	Mountrail County	Flood Control	172,427.57
09/15/2009	Mountrail County	Flood Control	633,880.96
11/16/2009	Mountrail County	Flood Control	157,260.54
01/15/2010	Mountrail County	Flood Control	12,173,198.65
03/12/2010	Mountrail County	Flood Control	26,669.39
04/14/2010	Mountrail County	Flood Control	100,428.33
08/13/2010	Mountrail County	Flood Control	535.55

	Mountrail County	Flood Control	56,350.63
<b>Total:</b>			<b>\$42,352,863.68</b>
01/15/2008	Sioux County	Flood Control	118.50
01/15/2009	Sioux County	Flood Control	116.25
01/15/2010	Sioux County	Flood Control	135.00
<b>Total:</b>			<b>\$369.75</b>
01/15/2008	Steele County	Flood Control	42.00
<b>Total:</b>			<b>\$42.00</b>
01/15/2008	Stutsman County	Flood Control	750.00
01/15/2009	Stutsman County	Flood Control	952.50
01/15/2010	Stutsman County	Flood Control	952.50
<b>Total:</b>			<b>\$2,655.00</b>
01/15/2008	Williams County	Flood Control	16,666.21
01/15/2009	Williams County	Flood Control	15,203.19
03/13/2009	Williams County	Flood Control	12,457.88
05/19/2009	Williams County	Flood Control	39,398.25
01/15/2010	Williams County	Flood Control	12,536.29
04/14/2010	Williams County	Flood Control	180.00
<b>Total:</b>			<b>\$96,441.82</b>
12/14/2009	Dunn County	Flood Control	906.74
<b>Total:</b>			<b>\$906.74</b>
10/14/2009	McKenzie County	Flood Control	453.81
12/14/2009	McKenzie County	Flood Control	414.65
02/12/2010	McKenzie County	Flood Control	435.50
05/14/2010	McKenzie County	Flood Control	387.39
06/14/2010	McKenzie County	Flood Control	223.88
07/15/2010	McKenzie County	Flood Control	487.87
<b>Total:</b>			<b>\$2,403.10</b>
10/14/2009	Mercer County	Flood Control	869.62
<b>Total:</b>			<b>\$869.62</b>
10/14/2009	Mountrail County	Flood Control	49,570.08
12/14/2009	Mountrail County	Flood Control	51,057.73

	Mountrail County	Flood Control	8,641,730.35
05/14/2010	Mountrail County	Flood Control	45,285.08
06/14/2010	Mountrail County	Flood Control	48,600.80
07/15/2010	Mountrail County	Flood Control	74,258.99
<b>Total:</b>			<b>\$8,910,503.03</b>
02/12/2010	Williams County	Flood Control	87.75
05/14/2010	Williams County	Flood Control	291.00
<b>Total:</b>			<b>\$378.75</b>
<b>Grand Total:</b>			<b>\$56,343,087.56</b>

	A	B	C	D	E	F	G	H	I	J	K	L	M
1	FLOOD AID - 2009 YEAR-TO-DATE												
2													
3	FUND #		Feb '09	Apr '09	May '09	July '09	July '09	Aug '09	Sept '09	Oct'09	Nov'09	Dec'09	TOTALS
4				Acreage Update									
5													
6	937	RAT LAKE 154-93	99.28	56.41	22.12	0.15	37.23	0.70	2.54	0.20	0.63	0.21	219.47
7	918	KNIFE RIVER 153-92	126.23	52,012.18	20,382.14	134.77	34,330.55	635.91	2,337.75	182.81	579.98	188.30	110,910.62
8	946	VAN HOOK 152-91	406.91	381,724.67	149,587.36	989.08	251,956.71	4,667.05	17,157.10	1,341.70	4,256.53	1,381.97	813,469.08
9	929	OSBORN 152-92	493.71	262,461.94	102,851.58	680.06	173,237.55	3,208.92	11,796.68	922.51	2,926.66	950.20	559,529.81
10	919	LIBERTY 151-91	1,271.97	1,168,507.58	457,905.84	3,027.66	771,271.41	14,286.44	52,520.04	4,107.12	13,029.78	4,230.37	2,490,158.21
11	914	HOWIE 151-92	524.75	367,124.46	143,865.93	951.25	242,319.86	4,488.55	16,500.87	1,290.38	4,093.73	1,329.11	782,488.89
12	904	BIG BEND 151-93	375.52	210,953.95	82,667.02	546.60	139,239.79	2,579.17	9,481.59	741.47	2,352.30	763.72	449,701.13
13	913	FERTILE	10.57										10.57
14	932	PARSHALL	57.52										57.52
15													
16	953	UNORG. 154-94	648.51	315,038.24	123,454.78	816.29	207,940.44	3,851.73	14,159.79	1,107.31	3,512.93	1,140.54	671,670.56
17	952	UNORG. 153-93	986.42	333,086.66	130,527.46	863.05	219,853.27	4,072.39	14,971.00	1,170.75	3,714.18	1,205.88	710,451.06
18	952	UNORG. 153-94		113,885.94	44,628.75	295.09	75,170.22	1,392.40	5,118.75	400.29	1,269.92	412.30	242,573.66
19	951	UNORG. 152-93	1,292.47	285,964.73	112,061.68	740.96	188,750.52	3,496.27	12,853.05	1,005.12	3,188.73	1,035.28	610,388.81
20	949	UNORG. 150-92	1,510.38	32,063.36	12,564.75	83.08	21,163.37	392.01	1,441.13	112.70	357.53	116.08	69,804.39
21	950	UNORG. 150-93	1,536.70	2,891.13	1,132.95	7.49	1,908.29	35.35	129.95	10.16	32.24	10.47	7,694.73
22													
23	214	CO. RD. & BRIDGE	9,340.94	3,525,771.25	1,381,652.36	9,135.53	2,327,179.21	43,106.89	158,470.24	12,392.52	39,315.14	12,764.43	7,519,128.51
24													
25	888	NEW TOWN SD	16,493.92	6,191,811.11	2,426,399.72	16,043.44	4,086,894.19	75,702.51	278,298.76	21,763.22	69,043.57	22,416.36	13,204,866.80
26	891	PARSHALL SD		1,881.05	737.13	4.88	1,241.59	23.00	84.55	6.61	20.98	6.81	4,006.60
27	896	TIOGA SD	2,187.97	857,850.35	336,167.85	2,222.75	566,222.64	10,488.28	38,557.17	3,015.21	9,565.71	3,105.70	1,829,383.63
28													
29		<b>TOTALS</b>	<b>37,363.77</b>	<b>14,103,085.01</b>	<b>5,526,609.42</b>	<b>36,542.13</b>	<b>9,308,716.84</b>	<b>172,427.57</b>	<b>633,880.96</b>	<b>49,570.08</b>	<b>157,260.54</b>	<b>51,057.73</b>	<b>30,076,514.05</b>
30													
31		2,312,583.21	Total Unorganized Townships - 2009 Year										
32		7,519,128.51	Total County Road & Bridge - 2009 Year										
33		<b>9,831,711.72</b>	<b>GRAND TOTAL UNORG. &amp; ROAD</b>										
34													
35		COE Real Est. Leases											
36		Leasing					9,298,658.61		562,090.87				
37		Royalites					10,058.23		71,790.09	49,570.08			
38		Total	-	-	-	-	9,308,716.84	-	633,880.96	49,570.08	-	-	-

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
1	FLOOD AID - 2010 YEAR-TO-DATE														
2															
3	FUND #		Jan '10	Feb '10	Mar '10	Apr '10	May '10	Jun '10	Jul '10	Aug '10	Sept '10	Oct '10	Nov. '10	Dec. '10	TOTALS
4									Unofficial						
5															
6	937	RAT LAKE 154-93	48.69	34.58	0.11	0.40	0.19	0.20	0.30						84.47
7	918	KNIFE RIVER 153-92	44,894.76	31,870.70	98.36	370.38	167.01	179.24	273.86						77,854.31
8	946	VAN HOOK 152-91	329,488.92	233,903.56	721.85	2,718.27	1,225.72	1,315.47	2,009.95						571,383.74
9	929	OSBORN 152-92	226,546.27	160,824.76	496.32	1,869.00	842.77	904.47	1,381.97						392,865.56
10	919	LIBERTY 151-91	1,008,607.32	716,008.41	2,209.69	8,320.96	3,752.08	4,026.81	6,152.70						1,749,077.97
11	914	HOWIE 151-92	316,886.62	224,957.20	694.24	2,614.30	1,178.84	1,265.15	1,933.09						549,529.44
12	904	BIG BEND 151-93	182,086.71	129,263.00	398.92	1,502.21	677.37	726.97	1,110.77						315,765.95
13															
14	953	UNORG. 154-94	271,927.95	193,041.13	595.75	2,243.39	1,011.59	1,085.66	1,658.82						471,564.29
15	952	UNORG. 153-93	287,506.61	204,100.39	629.88	2,371.92	1,069.54	1,147.85	1,753.85						498,580.04
16	952	UNORG. 153-94	98,301.62	69,784.13	215.36	810.98	365.69	392.46	599.66						170,469.90
17	951	UNORG. 152-93	246,832.91	175,226.21	540.77	2,036.36	918.23	985.47	1,505.74						428,045.69
18	949	UNORG. 150-92	27,675.77	19,646.97	60.63	228.32	102.96	110.49	168.83						47,993.97
19	950	UNORG. 150-93	2,495.51	1,771.55	5.47	20.59	9.28	9.96	15.21						4,327.57
20															
21	214	CO. RD. & BRIDGE	3,043,299.66	2,160,432.59	6,667.35	25,107.08	11,321.27	12,150.20	18,564.75						5,277,542.90
22															
23	888	NEW TOWN SD	5,344,514.80	3,794,060.79	11,708.91	44,092.00	19,881.94	21,337.67	32,602.63						9,268,198.74
24	891	PARSHALL SD	1,623.65	1,152.62	3.56	13.40	6.04	6.48	9.90						2,815.65
25	896	TIOGA SD	740,460.88	525,651.76	1,622.22	6,108.77	2,754.56	2,956.25	4,516.96						1,284,071.40
26															
27															
28		<b>TOTALS</b>	12,173,198.65	8,641,730.35	26,669.39	100,428.33	45,285.08	48,600.80	74,258.99	-	-	-	-	-	21,110,171.59
29															
30		1,620,981.46		Total Unorganized Townships - 2010 Year											
31		5,277,542.90		Total County Road & Bridge - 2010 Year											
32		6,898,524.36		<b>GRAND TOTAL UNORG. &amp; ROAD</b>											
33															
34	COE REAL ESTATE LEASES		21,538.10												
35	LEASING (RENTS & BONUSES)		12,082,573.86	8,601,809.62	1,236.37	3,172.50	-	1,116.00	884.24						
36	ROYALTIES & INTEREST		69,086.69	39,920.73	25,433.02	97,255.83	45,285.08	47,484.80	73,374.75						
37	Total		12,173,198.65	8,641,730.35	26,669.39	100,428.33	45,285.08	48,600.80	74,258.99						