

**Minutes of the Meeting of the
Board of University and School Lands
January 12, 2021**

The January 12, 2021 special meeting of the Board of University and School Lands was called to order at 9:00 AM via Microsoft Teams by Chairman Doug Burgum. All Board members and guests were present via Microsoft Teams.

Members Present:

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Wayne Stenehjem	Attorney General
Thomas Beadle	State Treasurer
Kirsten Baesler	Superintendent of Public Instruction

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Dennis Chua	Investment Analyst
Susan Dollinger	Holder Compliance Officer
Scott Giere	Revenue Compliance Auditor
Peggy Gudvangen	Accounting Division Director
Kristie McCusker	Paralegal
Catelin Newell	Administrative Staff Officer
Adam Otteson	Revenue Compliance Director
Michael Shackelford	Investments Director
David Shipman	Minerals Division Director
Lynn Spencer	Mineral Title Specialist

Guests in Attendance:

Dave Garner	Office of the Attorney General
Leslie Bakken Oliver	Governor's Legal Counsel
Reice Haase	Office of the Governor
Mark Hanson	Nilles Law Firm

Additional Guests in Attendance:

Brady Pelton
Craig C. Smith
Don Larson
Fargo Forum
Geoff Simon
JP
Kate Black
Ron Ness
Will Miller

O P E R A T I O N S

Sorum Litigation

Case:	<u>Paul Sorum, et. al. v. State of North Dakota, et. al. – Civ. No. 09-2018-CV-00089</u>
Tribunal:	Cass County District Court
Judge:	John C. Irby
Attorney:	Mark Hanson, Nilles Law Firm
Opposing Counsel:	Terrance W. Moore, Fintan L. Dooley

(01/12/21)

Issues: The Board was named as a defendant in the above reference case which was served on January 10, 2018. Plaintiffs have filed this action to challenge the Constitutionality of S.B. 2134 passed during the last legislative session and codified as N.D.C.C. ch. 61-33.1. Under the new legislation, “[t]he state sovereign land mineral ownership of the riverbed segments inundated by Pick-Sloan Missouri basin project dams extends only to the historical Missouri riverbed channel up to the ordinary high water mark.” N.D.C.C. § 61-33.1-02. S.B. 2134 established a process by which the Department of Mineral Resources is directed to procure a “qualified engineering and surveying firm” to “review the delineation of the ordinary high water mark of the corps survey segments” for the portion of the Missouri River designated as the “historical Missouri riverbed channel.” N.D.C.C. § 61-33.1-03(2), (3). Following a review process, which includes a public hearing and public comments, the North Dakota Industrial Commission must adopt final review findings which “will determine the delineation of the ordinary high water mark for the segment of the river addressed by the findings.” N.D.C.C. § 61-33.1-03(7). Plaintiffs’ complaint requests from the court a declaratory judgment finding that N.D.C.C. ch. 61-33.1 violates the Public Trust Doctrine and the Anti-Gift, Privileges and Immunities, and Local and Special Law Clauses of the North Dakota Constitution. Plaintiffs are also requesting the Court issue an injunction to prevent all state officials from further implementing and enforcing N.D.C.C. ch. 61-33.1.

History: An Answer was filed. Defendants filed a Motion to Dismiss, which was denied in April 2018. Petition for Supervisory Writ and Exercise of Original Jurisdiction was filed by Defendants and denied in May 2018. A Motion for Preliminary Injunction was brought by Plaintiffs and a hearing was held on May 21, 2018. An Order for Preliminary Injunction was filed June 26, 2018. A Scheduling Conference was held on September 6, 2018 and the following briefing deadlines were set: Summary Judgment Motions were filed October 22, 2018. Response Briefs were filed December 10, 2018. Reply Briefs were due December 21, 2018. A hearing on the Motions for Summary Judgment was held on January 4, 2019. The Order on Cross-Motions for Summary Judgment was issued on February 27, 2019, and Defendants were directed to prepare the proposed Judgment. On March 6, 2019, Defendants filed their proposed Judgment. Plaintiff’s filed a letter on March 7, 2019, advising the Court that they felt Defendants’ proposed Judgment was deficient and that they would also be submitting a proposed Judgment. Plaintiff’s proposed Judgment was filed March 8, 2019. Defendants filed a letter on March 8, 2019 advising the Court that they intended to submit a response to Plaintiffs’ proposed Judgment within 14 days. On March 19, 2019, Defendants filed an Objection to Plaintiffs’ Proposed Judgment. Thereafter, Plaintiffs filed a letter asking the Court not to rule on Defendants’ Objection until Plaintiffs have had the opportunity to be heard and further, that Plaintiffs’ intend to bring a Motion for Clarification concerning retroactive royalty refunds within 14 days. Plaintiffs filed their Response to Defendants’ Objection to Proposed Judgment and Request for Clarification and their Amended Proposed Order and Judgment on March 29, 2019. Defendants filed their Objection to Plaintiffs’ Proposed Order and Judgment (Plaintiffs’ Amended Proposed) and Reply to Plaintiffs’ Response to Defendants’ Objection to Proposed Judgment and Request for Clarification on April 8, 2019. On April 25, 2019, Judge Irby entered an Order for Entry of Judgment ordering the Clerk to enter Defendants’ Proposed Order as the Judgment of the Court. Judgment was entered on April 26, 2019. Plaintiffs’ filed a Notice of Motion for Attorney Fees, Costs, and Service Award to Plaintiffs scheduling a hearing for 1:30 p.m. June 10, 2019 in Fargo. The Notice of Entry of Order on Cross-Motions for Summary Judgment, Order for Entry of Judgment, and Judgment was filed by Defendants on May 3, 2019. On May 15, 2019, Plaintiffs filed their Motion for Attorney

Fees, Costs and Service Award to Plaintiffs and the Memorandum in Support of Motion, together with supporting documents. On May 20, 2019, Plaintiffs filed their Amended Motion for Attorneys Fees, Costs and Service Award to Plaintiffs. Defendants filed an Expedited Motion for Extension of Time to Respond to Plaintiffs' Memorandum in Support of Motion for Attorney Fees, Costs and Service Award to Plaintiffs and requested the June 10, 2019 hearing be postponed. Defendants filed, with the District Court, its Response to Plaintiffs' Memorandum in Support of Motion for Attorneys Fees, Costs and Service Award to Plaintiffs on June 12, 2019. Plaintiffs' filed their Reply Memorandum in Support of Motion for Attorney Fees, Costs and Service Award to Plaintiffs on June 19, 2019. A hearing on the motion for attorneys fees was held before the District Court on July 18, 2019. The State Defendants/Appellants filed a Notice of Appeal to the North Dakota Supreme Court (Supreme Court) on June 27, 2019. Plaintiff/Appellees/Cross-Appellants filed a Notice of Cross-Appeal dated July 10, 2019. Appellants' Briefs were due to the Supreme Court on August 6, 2019. On July 18, 2019, the parties filed a Stipulation and Joint Motion for Appellate Briefing Schedule with the Supreme Court to allow for a decision to be rendered in the District Court on the issue of attorneys fees prior to the briefs being due to the Supreme Court. On July 19, 2019, the Joint Motion for Appellate Briefing Schedule was denied and an Order of Remand was entered by the Supreme Court temporarily remanding the case to the trial court for the limited purpose of consideration and disposition of Plaintiffs' Motion for Attorney Fees, Costs and Service Award to Plaintiffs. The briefing schedule for briefs before the Supreme Court is stayed pending the District Court's disposition of the attorneys fees issue. On July 24, 2019, the District Court issued its Order on Plaintiffs' Motion for Attorney Fees, awarding attorney fees to Plaintiffs' attorneys and service awards to Plaintiffs. An Amended Judgment was entered in the District Court on July 31, 2019. On August 1, 2019, State Defendants filed an Amended Notice of Appeal and the Order and Request for Transcript. Also on August 1, 2019, the Supreme Court provided its Notice of Filing Notice of Appeal. On August 7, 2019, the Amended Notice of Cross-Appeal was filed by Plaintiffs. The transcripts requested by the State Defendants of the January 4, 2019 summary judgment hearing and the July 18, 2019 hearing on attorney fees/costs/service award were filed with the North Dakota Supreme Court on October 4, 2019. In light of the filing of those transcripts, the Supreme Court's clerk has advised that the State Defendants' initial appellant brief is to be filed on November 13, 2019. Brief of Defendants, Appellants and Cross-Appellees the State of North Dakota, the Board of University and School Lands of the State of North Dakota, the North Dakota Industrial Commission, the Hon. Douglas Burgum, in his Official Capacity as Governor of the State of North Dakota, and the Hon. Wayne Stenehjem, in his Official Capacity as Attorney General of North Dakota was filed with the Supreme Court on November 13, 2019. A Motion for Leave to File *Amicus Curiae* Brief by the North Dakota Petroleum Council in Support of the Constitutionality of N.D.C.C. ch. 61-33.1 was filed with the Supreme Court on November 13, 2019. The Supreme Court granted the North Dakota Petroleum Council's Motion for Leave to File *Amicus Curiae* Brief on November 14, 2019. Plaintiffs' brief was due to the Supreme Court on or before December 13, 2019. On December 9, 2019, Plaintiff Paul Sorum made a request to the Supreme Court for an extension to file his brief until January 29, 2020. The Supreme Court granted Plaintiff Paul Sorum's request for an extension, giving him until January 21, 2019 to file his brief. On January 29, 2020, Defendants requested an extension of time to file the reply brief until February 14, 2020, due to the amount of information that was filed in the separate briefs and appendixes. On January 30, 2020, an initial letter was issued in which the Supreme Court granted Defendants' request for an extension to file the Reply Brief until February 24, 2020. Thereafter, the Court issued a corrective letter advising reply

briefs are due February 14, 2020. On February 13, 2020, Paul Sorum filed the Reply to Appellant Brief of Defense. Defendants filed the Reply Brief of Defendants, Appellants and Cross-Appellees the State of North Dakota, the Board of University and School Lands of the State of North Dakota, the North Dakota Industrial Commission, the Hon. Douglas Burgum, in his Official Capacity as Governor of the State of North Dakota, and the Hon. Wayne Stenehjem, in his Official Capacity as Attorney General of North Dakota on February 14, 2020. Oral Argument before the Supreme Court is scheduled for 1:30 p.m. on March 4, 2020. Terry Moore filed letter with the District Court on July 28, 2020, concerning issue of injunction and release of funds. On July 29, 2020, the District Court issued a Notice of Hearing scheduling a hearing on Terry Moore’s July 28, 2020 letter for August 17 at 1:30 p.m. On July 30, 2020, the North Dakota Supreme Court issued its Opinion. On July 31, 2020, Mark Hanson filed a letter with the District Court advising of the issuance of the North Dakota Supreme Court Opinion and requesting cancellation of the August 17 hearing. That hearing was cancelled. The Supreme Court’s Opinion was amended on August 4, 2020, and on August 18, 2020. Neither amendment was substantive. Terrance Moore filed with the Supreme Court the Plaintiffs, Appellees, and Cross-Appellants Marvin Nelson, Michael Coachman, Charles Tuttle and Lisa Omlid’s Petition for Rehearing on August 12, 2020. On September 22, 2020, the North Dakota Supreme Court entered an order denying the petition for rehearing.

Current Status:

- **On January 5, 2021, Plaintiffs’ Petition for a Writ of Certiorari was docketed with the United States Supreme Court.**

Motion: The Board proceeds in filing a waiver to submit a formal opposition brief to the petition for a Writ of Certiorari filed with the Supreme Court.

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger			X		
Superintendent Baesler			X		
Treasurer Beadle		X	X		
Attorney General Stenehjem	X		X		
Governor Burgum			X		

Energy Construction Loan Program

At the October 30, 2008 meeting the Board of University and School Lands (Board) approved allocating \$20 million within the Common Schools Trust Fund (CSTF) to an oil impact area construction loan program called the Common Schools Trust Fund Loan Program. The guidelines or principles that were used to administer the program are as follows:

- The Board would participate with North Dakota financial institutions in up to 50% of a first mortgage on any property financed, with a maximum per property of \$2.0 million.
- For ease of administration, all loans made through this program would be funded by the CSTF.
- Loans would be made at current prevailing market rates, with the Board receiving terms and conditions at least as advantageous as other participating financial institutions.
- Loans would be amortized over 20 years, or less.

- Loans would be made only for new construction projects, not the purchase of existing properties.
- Normal lender credit underwriting standards such as loan-to-collateral values, full loan documentation, certified or licensed appraisals, and the requirement for personal guarantees when appropriate would apply.
- The Commissioner and staff will review each loan request with the Bank of North Dakota (BND) and must give final approval to each loan made through the program.

In 2011, the name of the program was changed from the Common Schools Trust Fund Loan Program to the Energy Construction Loan Program (ECLP) and ECLP encompassed the Common Schools Trust Fund Loan Program and loans such as the Williston hotel. All loans approved from the ECLP are funded through by the CSTF.

On June 21, 2011, the Acting Commissioner entered into a Master Participation Agreement with BND outlining the provisions of the governing and control of all loan participations subsequently entered into between BND and the Board.

Per the Department of Trust Lands' (Department) Audited Financial Statements for the year ended June 30, 2020, NOTE 10 – ENERGY CONSTRUCTION LOAN PROGRAM:

The Board approved participation in an energy construction loan program with the BND for the purpose of new construction loans in areas of North Dakota impacted by oil development. The primary focus of the loan program is for multi-family housing and commercial loans. The Board will participate in up to 50% of a first mortgage at market rates: loans must be amortized over 20 years or less. The Board authorized the Commissioner to allocate up to \$20,000,000 to this program. The Common Schools Trust Fund is the only trust participating in this program.

The loan program meets the “exclusive benefit” rule, whereby any investment decision made must be for the sole benefit of the Common School Trust fund. The loan program is administered by the BND who charges an annual fee of one-quarter percent on all outstanding loans.

As of June 30, 2020, the non-current and current portions of the loans were \$892,811 and \$30,597, respectively. As of June 30, 2019, the non-current and current portions of the loans were \$948,850 and \$30,597, respectively.

As of June 30, 2020, and 2019 the program had a net position of \$941,672 and \$1,005,399 respectively. For the same period, the program earned net income of \$46,273 and \$46,810.

Additionally, unaudited updates on the ECLP are provided in the monthly Financial Position. At the December 2020 Board meeting, the Board was provided with the September 2020 Financial Position:

Board of University and School Lands			
Comparative Financial Position (Unaudited)			
Combined Permanent Trusts			
	September 30, 2020	September 30, 2019	
Balance Sheet			
Assets:			
Cash	\$69,975,624	\$44,774,503	
Interest Receivable	8,464,117	9,797,462	
Investments	4,964,690,991	4,847,698,410	
Farm Loans	6,912,781	8,959,194	
Energy Construction Loans	923,408	956,223	
Due from Other Agencies	9,169,502	17,474,357	
Office Building (Net of Depreciation)	351,435	414,051	
Total Assets	\$5,060,487,858	\$4,930,074,200	

(01/12/21)

Over the history of ECLP, four loans were approved for a total funding amount of approximately \$22.3 Million. There is a 5% return on these loans since inception (as of November 30, 2020). Currently, the Board has two outstanding loans that were issued through the ECLP:

Name	Payment Frequency	Payment Amount	Original Loan	Remaining Balance
LSS Housing Parshall LLC	Semi-Annual	\$25,969	\$625,000	\$425,034
Bakken Heights V LLP	Monthly	\$4,627	\$707,477	\$496,314

In December 2020, BND notified the Department that the LLS Housing Parshall LLC loan was in default. The Department is currently working with BND to monitor the loan and work with all creditors involved.

Motion: The Board approves the Bank of North Dakota to buyout the remaining balance on the Energy Construction Loan Program loans for LSS Housing Parshall LLC and Bakken Heights V LLP.

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger			X		
Superintendent Baesler	X		X		
Treasurer Beadle		X	X		
Attorney General Stenehjem			X		
Governor Burgum			X		

Legislative Update

BILL	TITLE	FN PROVIDED	COMMITTEE	STATUS		
				House	Senate	Governor
SB 2013	A BILL for an Act to provide an appropriation for defraying the expenses of the commissioner of university and school lands; and to provide for distributions from permanent funds.		Appropriations		Introduced	
HB 1081	Relating to authority of the game and fish department employees to enforce laws.		Energy & Natural Resources	Introduced		
SB 2048	Revised Uniform Unclaimed Property Act	Yes	Industry, Business & Labor		Introduced	
HB 1080	Relating to the obligation to pay oil and gas royalties on leases owned and managed by the board of university and school lands.	Yes	Finance & Taxation	Introduced		

SB 2065	Relating to the jurisdiction of the industrial commission to regulate the permitting and amalgamation of the underground storage of oil and gas.		Energy & Natural Resources		Introduced	
SB 2070	Relating to the regulated substance response; to amend and reenact sections 11-33-01, 40-47-01, and 58-03-11 of the North Dakota Century Code, relating to the regulated substance response; and to repeal sections 23.1-04-04 and 23.1-10-01 of the North Dakota Century Code, relating to contaminated properties.		Energy & Natural Resources		Introduced	
HB 1202	Relating to funds managed by the state investment board and the investments of the board of university and school lands			Introduced		

A D J O U R N

There being no further business, the meeting was adjourned at 9:43 AM.

Doug Burgum, Chairman
Board of University and School Lands

Jodi Smith, Secretary
Board of University and School Lands

**Minutes of the Meeting of the
Board of University and School Lands
January 28, 2021**

The January 28, 2021 meeting of the Board of University and School Lands was called to order at 9:00 AM via Microsoft Teams by Chairman Doug Burgum. All meeting attendees were via Microsoft Teams.

Members Present:

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Wayne Stenehjem	Attorney General
Thomas Beadle	State Treasurer
Kirsten Baesler	Superintendent of Public Instruction

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Dennis Chua	Investment Analyst
Christopher Dingwall	Mineral Title Specialist
Scott Giere	Revenue Compliance Auditor
Peggy Gudvangen	Accounting Division Director
Mike Humann	Surface Division Director
Roman Knudsvig	Department Intern
Jacob Lardy	Trust Lands Specialist
Kristie McCusker	Paralegal
Catelin Newell	Administrative Staff Officer
Adam Otteson	Revenue Compliance Director
Rick Owings	EIIO Grants Administrator
Michael Shackelford	Investments Director
David Shipman	Minerals Division Director
Lynn Spencer	Mineral Title Specialist
James Wald	Legal Council

Guests in Attendance:

Dave Garner	Office of the Attorney General
Leslie Bakken Oliver	Governor's Legal Counsel
Reice Haase	Office of the Governor

Additional Guests in Attendance:

Andrew Lasky
Logan Caldwell
Craig C. Smith
Dennis Blank
Geoff Simon
Greg S.
Ron Ness
Ron Rauschenberger
Will

APPROVAL OF MINUTES

A motion to approve the minutes of the December 17, 2020 regular meeting and the January 12, 2021 special meeting was made by Attorney General Wayne Stenehjem and seconded by Secretary Alvin Jaeger and the motion carried unanimously on a voice vote.

(01/28/21)

R E P O R T S**December 2020 Report of Shut-Ins Approved by Land Commissioner**

Granted to: **Slawson Exploration Company, Inc.**
 For the Purpose of: COVID-19
 Date Issued: 12/28/2020
 Trust: A – Common Schools
 Lease: OG-04-01299, OG-04-01300, OG-04-01301, OG-04-01302

December 2020 Report of Encumbrances Issued by Land Commissioner

Granted to: **DUCKS UNLIMITED INC, BISMARCK-ND**
 For the Purpose of: Easement: Flowage
 Right-of-Way Number: RW0007508
 Trust: A - Common Schools
 Legal Description: MOU-157-88-36-SW4

Granted to: **SARGENT COUNTY-WATER RESOURCE DIST., FORMAN-ND**
 For the Purpose of: Easement: Flowage
 Right-of-Way Number: RW0008620
 Trust: A - Common Schools
 Legal Description: SAR-130-57-16-NW4

Granted to: **XTO HOLDINGS, LLC, SPRING-TX**
 For the Purpose of: Permit: Road-Section Line Access Road
 Right-of-Way Number: RW0008641
 Trust: A - Common Schools
 Legal Description: WIL-159-96-16-NW4

Granted to: **CENTRAL POWER ELECTRIC COOP INC, MINOT-ND**
 For the Purpose of: Easement: Pipeline-Potable Water Pipeline
 Right-of-Way Number: RW0008661
 Trust: A - Common Schools
 Legal Description: BRL-139-80-36-SW4 LESS ACRES SOLD

Granted to: **MOUNTRAIL-WILLIAMS ELECTRIC COOP, WILLISTON-ND**
 For the Purpose of: Easement: Electric-Buried Distribution Line
 Right-of-Way Number: RW0008726
 Trust: A - Common Schools
 Legal Description: MOU-150-92-10, MOU-150-92-15-S2SW4, W2SW4

Granted to: **EQUINOR PIPELINES LLC, WILLISTON-ND**
 For the Purpose of: Easement-Amend: Pipeline-Multiple Pipelines
 Right-of-Way Number: RW0008727
 Trust: A - Common Schools
 Legal Description: MCK-151-101-36-NW4, SE4, SW4

Granted to: **MOUNTRAIL-WILLIAMS ELECTRIC COOP, WILLISTON-ND**
 For the Purpose of: Easement: Electric-Above Ground Distribution Line
 Right-of-Way Number: RW0008753
 Trust: A - Common Schools
 Legal Description: MOU-155-91-12-NE4

Granted to: **DIVIDE COUNTY HWY DEPT, CROSBY-ND**
 For the Purpose of: Easement: Road Right-of-Way
 Right-of-Way Number: RW0008782
 Trust: A - Common Schools
 Legal Description: DIV-161-97-36-NE4

Granted to: **MCKENZIE ELECTRIC COOP INC, WATFORD CITY-ND**
 For the Purpose of: Easement-Amend: Drop Line-Electric
 Right-of-Way Number: RW0008787
 Trust: A - Common Schools
 Legal Description: MCK-147-104-36-SE4

Granted to: **CATES EARTH SCIENCE TECHNOLOGIES INC, BISMARCK-ND**
 For the Purpose of: Permit: Temporary Water Layflat Line
 Right-of-Way Number: RW0008804
 Trust: A - Common Schools
 Legal Description: MOU-151-92-36-W2NE4SW4, NW4SW4, S2SW4

Granted to: **STANTEC CONSULTING INC, FARGO-ND**
 For the Purpose of: Permit: Planning & Preconstruction Survey
 Right-of-Way Number: RW0008805
 Trust: A - Common Schools
 Legal Description: All Trust Land in North Dakota

December Unclaimed Property Report

Unclaimed property is all property held, issued, or owing in the ordinary course of a holder's business that has remained unclaimed by the owner for more than the established time frame for the type of property. It can include checks, unpaid wages, stocks, amounts payable under the terms of insurance policies, contents of safe deposit boxes, etc.

An owner is a person or entity having a legal or equitable interest in property subject to the unclaimed property law. A holder can include a bank, insurance company, hospital, utility company, retailer, local government, etc.

Since 1975, the Unclaimed Property Division (Division) of the Department of Trust Lands has been responsible for reuniting individuals with property presumed abandoned. The Division acts as custodian of the unclaimed property received from holders. The property is held in trust in perpetuity by the State and funds are deposited in the Common Schools Trust Fund. The 1981 Uniform Unclaimed Property Act created by the national Uniform Law Commission was adopted by the State in 1985.

For the month of December 2020, the Division received 75 holder reports with a property value of \$413,563 and paid 371 claims with a total value of \$1,333,531.

The Financial Report (Unaudited) for period ending October 31, 2020 was presented to the Board for review and is available at the Department upon request.

Investment Updates

Portfolio Rebalancing Updates

\$25M was liquidated and withdrawn from Harvest MLP account on December 15, 2020. After the withdrawal, the Diversified Inflation Strategies (DIS) asset class has approximately remaining \$96M. The Department staff and RVK will continue to monitor the trigger points set for the DIS.

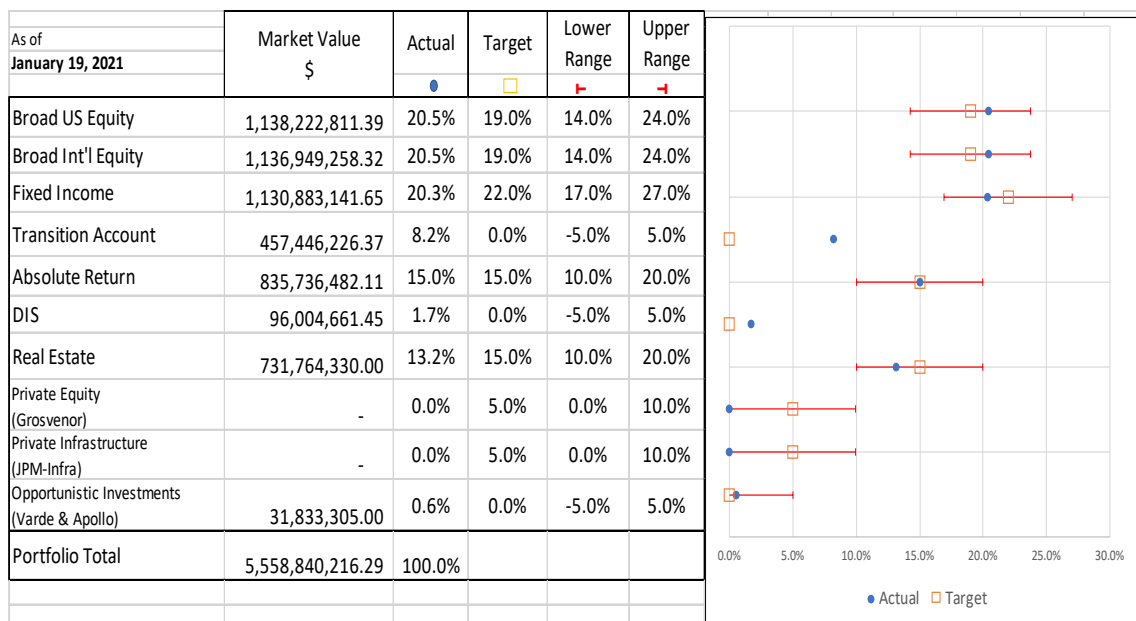
On January 7, 2021, Varde Dislocation Fund IV LP, the other Opportunistic Investment, made a \$10M capital call. The remaining unfunded commitment is \$75M.

Apollo Accord Fund IV LP (Fund), another Opportunistic Investment, made capital calls totaling \$5.5M. The remaining unfunded commitment is \$94.5M. The fund so far had made two distributions equaling \$18,734.59.

The Staff have executed the Agreements for GCM Grosvenor (Private Equity Manager), JP Morgan (Private Infrastructure Manager), and ARES Pathfinder Fund LP (Asset-Focused Credit). Meanwhile the Agreements for Angelo Gordon, JPM Core Bond, and the Loomis & Sayles Multi-Sector are being reviewed by the Attorney General's Office

Asset Allocation

The table below shows the status of the permanent trusts' asset allocation as of January 19, 2021. The figures provided are unaudited.



Upcoming Investment Manager Meetings

There is no upcoming meeting scheduled.

Acreege Adjustment Survey Project

The Sixty-Fifth Legislative Assembly's adoption of Senate Bill 2134 (SB 2134), codified as N.D.C.C ch. 61-33.1, sought to establish state ownership of minerals below the ordinary high water mark of the historical Missouri riverbed channel subject to inundated by Pick-Sloan Missouri Basin project dams.

On behalf of the Board of University and School Lands, the Department of Trust Lands has set in motion the refunding of royalty proceeds that fall within the six-month time frame outlined in N.D.C.C § 61-33.1-04(1). Implementation and release of royalty proceeds is under way as acreage determinations have been calculated on “oil and gas mineral tracts lying entirely above the ordinary high water mark of the historical Missouri riverbed channel on both the corps survey and the state phase two survey . . . absent a showing of other defects affecting mineral title.” N.D.C.C § 61-33.1-04(1)(a)

Currently, 63 Lease Correction and Acreage Stipulation packages have been sent to various operators. Of these 63 packages, 10 have been refunded, 13 are being held by clouded title, 44 are waiting for operator execution, and 3 are in the process of being refunded.

The following provides the status of acreage determination refunds and the amount at issue for those refunds in each stage of the process:



Legislative Update

BILL	TITLE	SPONSORS	COMMITTEE	STATUS		
				House Date of Hearing	Senate Date of Hearing	Governor
HB 1031	Relating to legislative management studies of state agency fees.	Legislative Management	Gov't & Veterans Affairs	Passed		
HB 1054	Relating to bond requirements for abandoned oil and gas wells.	Energy and Natural Resources	Energy & Natural Resources	Defeated		
HB 1080	Relating to the obligation to pay oil and gas royalties on leases owned and managed by the board of university and school lands.	Rep. Dockter	Finance & Taxation	Introduced		
HB 1081	Relating to authority of the game and fish department employees to enforce laws.	Rep. Zubke	Energy & Natural Resources	Introduced		
HB 1202	Relating to funds managed by the state investment board and the investments of the board of university and school lands	Rep. Kempenich, Brandenburg, Delzer, M. Ruby, Schatz, Tveit Sen. Klein, Patten	Gov't & Veterans Affairs	Introduced		
HB 1269	Relating to the state land advisory board.	Rep. Kempenich, Schatz, Zubke	Political Subdivisions	Introduced 1-28-2021		
HB 1322	Relating to the attorney general's review of proposed administrative rules and the authority of the administrative rules committee to object to or void an administrative rule.	Rep. B. Koppelman, K. Koppelman, Pyle, D. Ruby, Steiner Sen. Burckhard, Clemens, Lemm, Meyer, J. Roers	Judiciary	Introduced 1-26-2021		
HB 1340	Relating to prohibiting entry onto private land without permission	Rep. Simons, Ertelt, Hoverson, Jones, Kempenich, Magrum, Skroch Sen. Heitkamp, Hogue	Judiciary	Introduced		

BILL	TITLE	SPONSORS	COMMITTEE	STATUS		
				House Date of Hearing	Senate Date of Hearing	Governor
HB 1349	Relating to open record and meeting laws	Rep. Devlin, Karls Sen. Dwyer, Lee, Oban	Political Subdivisions	Introduced 2-05-2021		
HB 1358	Relating to oil and gas tax revenue hedging	Rep. Kempenich, Christensen, Mock, Steiner, Trottier Sen. Bekkedahl, Dwyer, Schaible	Finance & Taxation	Introduced 1-26-2021		
HB 1385	Relating to the attorney general review of the proposed administrative rules	Rep. Becker, Kasper, Louser, Schauer, Tveit Sen. Meyer, Vedaa, Wobbema	Finance & Taxation Committee	Introduced 02-02-2021		
HB 1392	Relating to the duration of school and public land leases.	Rep. Schatz, Brandenburg, Christensen, D. Johnson, Kempenich, Longmuir, Monson, Simons Sen. Anderson, Elkin, Erbele	Government & Veterans Affairs	Introduced		
SB 2013	A BILL for an Act to provide an appropriation for defraying the expenses of the commissioner of university and school lands; and to provide for distributions from permanent funds.	Appropriations	Appropriations		Introduced	
SB 2036	A BILL for an Act to provide for a legislative management study regarding access to lands and electronic posting.	Legislative Management	Energy & Natural Resources		Passed	
SB 2048	Revised Uniform Unclaimed Property Act	Industry, Business and Labor	Industry, Business & Labor		Introduced	

BILL	TITLE	SPONSORS	COMMITTEE	STATUS		
				House Date of Hearing	Senate Date of Hearing	Governor
SB 2065	Relating to the jurisdiction of the industrial commission to regulate the permitting and amalgamation of the underground storage of oil and gas.	Energy & Natural Resources	Energy & Natural Resources		Introduced	
SB 2070	Relating to the regulated substance response; to amend and reenact sections 11-33-01, 40-47-01, and 58-03-11 of the North Dakota Century Code, relating to the regulated substance response; and to repeal sections 23.1-04-04 and 23.1-10-01 of the North Dakota Century Code, relating to contaminated properties.	Energy & Natural Resources	Energy & Natural Resources		Introduced	
SB 2144	Relating to criminal trespass and electronic posting; and to provide a penalty.	Sen. Erbele, Patten, Bell Rep. Damschen, Dobervich, Tveit	Finance & Taxation		Passed	
SB 2191	Relating to the disposal of abandoned personal property	Sen. Holmberg	Political Subdivisions		Introduced 1-28-2021	
SB 2217	Relating to oil and gas royalty leases, negative royalties, and arm's length transactions; and to provide a penalty	Sen. Bekkedahl, Dwyer, Kannianen Rep. Brandenburg, Kempenich, Zubke	Finance & Taxation		Introduced	
SB 2262	Relating to the authority of the industrial commission	Sen. Kannianen, Bekkedahl, Burckhard Rep. Fegley, Longmuir	Energy & Natural Resources		Introduced 1-28-2021	

BILL	TITLE	SPONSORS	COMMITTEE	STATUS		
				House Date of Hearing	Senate Date of Hearing	Governor
SB 2282	Relating to membership of the board of university and school lands	Sen. Schaible, Klein, Luick Rep. D. Johnson, Schmidt	Government & Veterans Affairs		Introduced 02-04- 2021	
SB 2291	Relating to social investments made by the state investment board and the boycott of energy or commodities companies	Sen. Bell	Energy & Natural Resources		Introduced 02-04- 2021	
SB 2307	Relating to the abandoned oil and gas well plugging and site reclamation fund; and to provide an effective date	Sen. Heckaman Rep. Boschee	Finance & Taxation		Introduced 02-01- 2021	
SB 2319	Relating to oil and gas agreements; and to provide an effective date	Sen. Kannianen	Finance & Taxation		Introduced	
SB 2327	Relating to school district bonded indebtedness grants	Sen. Heitkamp, O. Larsen Rep. Louser, Magrum, D. Ruby	Education		Introduced 02-03- 2021	
SB 2342	Relating to healthy soil grant and healthy soil assessment and education programs	Sen. Piepkorn, Elkin, Hogan, Mathern Rep. Dobervich, Simons	Agriculture		Introduced 02-04- 2021	
HCR 3016	Relating to the membership of the board of university and school lands	Rep. Schmidt, D. Anderson, Brandenburg, D. Johnson, Kempenich, Schatz, Weisz Sen. Klein, Luick, Myrdal, Vedaa	Government & Veterans Affairs	Introduced 02-04- 2021		
SCR 4007	Relating to the membership of the board of university and school lands	Sen. Schaible, Klein, Luick Rep. D. Johnson, Schmidt	Government & Veterans Affairs		Introduced 02-04- 2021	

E N E R G Y I N F R A S T R U C T U R E & I M P A C T O F F I C E

Reallocation of Funding Request – G200004

In April 2020, the Board of University and School Lands (Board) awarded nine contingency grants totaling \$1.2M from the Oil and Gas Impact Grant Fund as appropriated by the Sixty-Sixth Legislative Assembly. The Tolley Fire Department was awarded \$355,172 for a 50 x 50 building addition, to be primarily used for vehicle storage, monthly meetings, and trainings. Additionally, the Tolley Fire Department intends to use the building as an emergency shelter for area residents, to host community events, to provide informational meetings, and to provide temporary shelter for those who have been involved in an emergency situation but do not require medical attention at a hospital.

The grant application included a construction and site preparation bid in the amount of \$555,000. In June 2020, the Tolley Fire Department re-bid the project to modify the project to a 50 x 62 building. The bids were significantly less at \$330,000.

To date EIIO has awarded the Tolley Fire Department funds in the amount of \$294,701, with \$60,471 remaining. If 100% of the invoices are submitted to the EIIO Oil and Gas Impact Fund, then 100% of the cost of the construction would have been paid, which was not a part of the original grant application.

The Tolley Fire Department is requesting the remaining funding be reallocated to stock the new building with pots, pans, utensils, small kitchen appliances, washer and dryer, bedroom furniture, tables and chairs, generator and hook up, television for emergency medical services and fire training, etc. (Attachment 1 and 2)

Motion: The Board approves the reallocation of funds for G200004 for the Tolley Fire Department to use the grant funds as awarded with the remaining funds to be used to stock the new building addition.

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger	X		X		
Superintendent Baesler			X		
Treasurer Beadle			X		
Attorney General Stenehjem		X	X		
Governor Burgum			X		

A copy of the Tolley Fire Department Reallocation Request and Tolley Fire Department Budget Analysis were provided to the Board for review and are available at the Department upon request.

M I N E R A L S M A N A G E M E N T D I V I S I O N

Acreage Adjustment Survey - T153N, R102W Sections 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 34, and 36

Under North Dakota law, the Board of University and School Lands (Board) is vested with the authority to manage state-owned minerals including the oil, gas, and related hydrocarbons within the beds of the State’s navigable waters. On behalf of the State, the Board oversees the Strategic Investment and Improvements Fund (SIIF) which collects the revenues from these sovereign minerals.

Timeline of State Activity Related to Sovereign Lands

- The 1977 Legislature defined “sovereign lands” as “those beds, islands, accretions, and relictions lying within the ordinary high watermark of navigable lakes and streams.” 1977 N.D. Sess. Laws, ch. 144, § 1, codified as N.D.C.C. § 15-08.2-02 (repealed 1989 N.D. Sess. Laws, ch. 552, § 4).
- From 1977 to 1989, the Board had authority over both the surface and subsurface of sovereign lands, including the power to convey interests.
- In 1989, the Legislature again defined state title as “those beds, islands, accretions, and relictions lying within the ordinary high watermark of navigable lakes and streams.” 1989 N.D. Sess. Laws, ch. 552, § 3, codified as N.D.C.C. § 61-33-01.
- The 1989 Legislature gave the State Engineer’s Office authority to manage the surface and the Board authority over the oil, gas, and related hydrocarbons within the subsurface, with each agency having the power to convey interests.
- In 2007, the Office of the State Engineer issued the North Dakota Sovereign Land Management Plan and Ordinary High Water (OHWM) Mark Delineation Guidelines.
- In 2009, the Board and the State Engineer engaged Bartlett & West, a private engineering company, to undertake a comprehensive study of the OHWM along the Yellowstone River and the Missouri River from the Montana border to river mile marker 1549 near Williston (Phase I Delineation).
- In 2010, the Board again contracted with Bartlett & West to approximate the location of the OHWM for the historic Missouri River under Lake Sakakawea from river mile marker 1574 near the Furlong Loop to river mile marker 1482, the border of the Fort Berthold Reservation (Phase II). This study was completed using historical aerial photography, elevation data, and topographic maps.
- In 2010, the Board authorized Phase III to investigate specific and isolated sections of the Missouri and Yellowstone Rivers between Williston to the Montana border that could not be fully completed under Phase I due to location and complexity (this includes the Trenton Lake area.)
- In 2012, the Board initiated the review of the estimated historic OHWM between the Four Bears Bridge and the Garrison Dam (Phase IV) using the same techniques as Phase II.
- In 2013, the North Dakota Supreme Court issued decisions in *Reep v. State* and *Brigham v. State* holding that the State owns the mineral interests up to the ordinary high water mark of navigable rivers and water bodies.
- In 2017, the Sixty-Fifth Legislative Assembly’s adoption of Senate Bill 2134 (SB 2134), codified as N.D.C.C. ch. 61-33.1, sought to establish state ownership of minerals below the ordinary high water mark of the historical Missouri riverbed channel (Historical OHWM) inundated by Pick-Sloan Missouri basin project dams.
- In 2019, the Sixty-Sixth Legislative Assembly amended N.D.C.C. ch. 61-33.1 relating to the ownership of mineral rights of land subject to inundation by Pick-Sloan Missouri basin project dams. Under N.D.C.C. § 61-33.1-03(8), the Board contracted with Kadmas, Lee & Jackson, Inc. (KLJ) “to analyze the final review findings and determine the acreage on a quarter-quarter basis or government lot basis above and below the [Historical OHWM] as delineated by the final review findings of the industrial commission.”

On June 25, 2020, the Board formally requested the North Dakota Industrial Commission complete further review of T153N, R102W Sections 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 34, and 36. The North Dakota Industrial Commission entered Order No. 31104 providing the Department of Trust Lands (Department) with necessary information to complete the acreage adjustment survey in T153N, R102W Sections 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 34, and 36.

The Department has consulted with the State Engineer as to the State’s sovereign land ownership in Sections 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 34, and 36 of Township 153 North, Range

102 West, Williams/McKenzie Counties, North Dakota (more commonly referred to as the Trenton Lake area.)

L I T I G A T I O N

Continental Resources, Inc. - Interpleader

Case: Continental Resources, Inc. v. North Dakota Board of University and School Lands, et al., Case No. 1:17-cv-00014
Date Filed: December 23, 2016
Court: Federal District Court, 8th Circuit
Judge: Honorable Daniel Hovland
Attorney: Charles Carvell, David Garner, and Jen Verleger
Opposing Counsel: Lawrence Bender, David Ogden, Paul Wolfson, Shaun Pettigrew

Issues: In December 2016, Continental Resources, Inc. (Continental) brought an interpleader action against the Board of University and School Lands and the United States regarding certain public domain lands underlying Continental operated wells located in McKenzie, Mountrail, and Williams Counties. This case involves a disagreement between the State and United States over the location of the ordinary high watermark—and consequently title to underlying minerals—on federally owned land along the now inundated historic Missouri River. Continental is requesting the Court determine title to the disputed lands so that Continental can correctly distribute the proceeds from the affected wells. Continental has claimed that there is “great doubt as to which Defendant is entitled to be paid royalties related to the Disputed Lands.” Currently, Continental is paying the United States its full royalty based on the acreage it claims. The remaining royalty, over and above what is due the United States, is being escrowed with the Bank of North Dakota.

History: The United States removed this action to federal district court on January 11, 2017. The Board filed its answer to the complaint on February 13, 2017. The United States filed its answer to the complaint on May 12, 2017. An Amended Complaint was filed by Continental Resources on September 14, 2017. The United States filed a Motion to Dismiss for Lack of Subject Matter Jurisdiction on October 18, 2017. In support of its motion, the United States alleges that it has not waived its sovereign immunity under the Quiet Title Act and that the interpleader action is moot under S.B. 2134.

The Board filed a response on December 20, 2017 opposing the motion to dismiss. Continental filed a response and the United States filed its reply. The United States filed a reply on March 16, 2018. The Board filed a Surreply to the Motion to Dismiss on April, 16, 2018. The Order Denying the United States’ Motion to Dismiss for Lack of Subject Matter Jurisdiction was entered on December 31, 2018. The Order provided that North Dakota and the United States confer and submit a proposed scheduling order to the Court no later than sixty days from the date of the order. On January 8, 2019 the United States filed its Motion to Stay Action Due to Lapse of Appropriations. On January 10, 2019, the Court granted the United States’ Motion and cancelled the January 24, 2019 scheduling conference. The Order stated the “action is stayed until [federal] appropriations are restored and Department attorneys and the Bureau of Land Management personnel are permitted to resume their usual civil litigation functions.” The United States filed a Notice of Restoration of Appropriations on January 28, 2019, which requested the Court set a new scheduling conference date. On January 30, 2019, the Court issued an order

(01/28/21)

granting the motion for scheduling conference, requiring the parties submit a revised scheduling/discovery plan by March 15, 2019, and setting a telephonic scheduling conference for 10:00 a.m., March 18, 2019. The parties filed a Joint Motion for Extension of Time to File Scheduling Proposal and Participate in Scheduling Conference on March 12, 2019. The Court entered an Order granting the extension to April 12, 2019 and a scheduling conference was reset for April 15, 2019. The Scheduling Conference was held on April 15, 2019. On June 14, 2019, the Board of University and School Lands filed its Amended Answer to Amended Complaint with Statement of Claim. By August 13, 2019, the United States shall assert its claims, if any, to the disputed stake. After the August 13, 2019 filing, the proceedings will be stayed until September 19, 2019 or another date set by the Court. During the stay, the United States and the Board are to discuss whether the dispute that gave rise to the litigation can be resolved. By no later than September 19, 2019, the United States and Board shall inform the Court of the status of their discussions and the Court will consider a schedule for the case. A Status Conference was set for September 20, 2019 before Magistrate Judge Clare R. Hochhalter. On August 1, 2019, the Status Conference previously set for September 20 was reset to October 11, 2019 at 10 a.m. before Magistrate Judge Clare R. Hochhalter. On August 13, 2019, the United States filed a Motion for Extension of Time to Plead and Assert Affirmative Claims and the Motion was granted on the same day, giving the United States until August 27, 2019 to file. The United States filed their Answer to Amended Complaint on August 27, 2019. On October 3, 2019, Defendants filed a joint motion and memorandum for postponement of the October 11, 2019 status conference by 90 days. On October 4, 2019, the Court entered an Order granting the motion to continue status conference. Status conference was reset to January 13, 2020, at 9 a.m. via telephone before Magistrate Clare R. Hochhalter. United States Department of Justice advised it will be working with the United States Department of Interior – Bureau of Land Management regarding a settlement proposal. On November 8, 2019, the Board received an email from the US DOJ in response to the Board's request that the federal government start settlement discussions by making a proposal to the Board. The email states the federal government believes its OHWM surveys are accurate, and cited N.D.C.C. § 61-33.1-06, which states: "Notwithstanding any provision of this chapter to the contrary, the ordinary high water mark of the historical Missouri riverbed channel abutting . . . public domain lands . . . must be determined by the branch of cadastral study of the [BLM] in accordance with federal law." Relying on this statute, US DOJ suggests that the federal surveys are presumptively accurate, and then states: "we respectfully suggest that the best and most appropriate path forward would be for representatives of North Dakota to identify the specific areas where it believes the agency erred in identifying the OHWM and proffer the evidence on which it bases that belief. BLM would then assess that evidence in good faith to ascertain if a compromise, aimed at reducing litigation risk, is possible." Status conference was held January 13, 2020 and another status conference was set for April 7, 2020.

Current Status:

- **On April 7, 2020, an Order RE: Briefing Scheduled was issued by the court setting the following deadlines: Motions for Summary Judgment due simultaneously on May 7, 2020; Responses are due June 5, 2020; and Replies are due June 12, 2020.**
- **On December 8, 2020, the Court issued its Order Granting the United States' Motion for Partial Summary Judgment.**

(01/28/21)

EXECUTIVE SESSION

Under the authority of North Dakota Century Code Sections 44-04-19.1 and 44-04-19.2, the Board close the meeting to the public and go into executive session for purposes of attorney consultation relating to:

- **Continental Resources Case No. 1:17-cv-00014**
- **Legislative Update**
- **Acreage Adjustment Survey – T153N, R102W Sections 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 34 and 36**

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger			X		
Superintendent Baesler			X		
Treasurer Beadle		X	X		
Attorney General Stenehjem	X		X		
Governor Burgum			X		

EXECUTIVE SESSION

Members Present:

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Wayne Stenehjem	Attorney General
Kirsten Baesler	Superintendent of Public Instruction via Teams
Thomas Beadle	State Treasurer

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Catelin Newell	Administrative Staff Officer
Kristie McCusker	Paralegal
Adam Otteson	Revenue Compliance
David Shipman	Minerals Division Director via Microsoft Teams
Christopher Dingwall	Mineral Title Specialist

Guests in Attendance:

Leslie Bakken Oliver	Governor’s Legal Counsel
Dave Garner	Office of the Attorney General
Charles Carvell	Office of the Attorney General (Continental Interpleader only)
Reice Haase	Governor’s Policy Advisor

The executive session adjourned at 11:10 AM and the Board returned to the open session Teams meeting to rejoin the public. During the executive session Teams meeting, the Board was provided information and no formal action was taken.

A D J O U R N

There being no further business, the meeting was adjourned at 11:12 AM.

Doug Burgum, Chairman
Board of University and School Lands

Jodi Smith, Secretary
Board of University and School Lands

**Minutes of the Meeting of the
Board of University and School Lands
February 2, 2021**

The February 2, 2021 special meeting of the Board of University and School Lands was called to order at 4:33 PM via Microsoft Teams by Chairman Doug Burgum. All meeting attendees were via Microsoft Teams.

Members Present:

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Wayne Stenehjem	Attorney General
Thomas Beadle	State Treasurer
Kirsten Baesler	Superintendent of Public Instruction

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Kristie McCusker	Paralegal
Catelin Newell	Administrative Staff Officer
Adam Otteson	Revenue Compliance Director

Guests in Attendance:

Leslie Bakken Oliver	Governor's Legal Counsel
Dave Garner	Office of the Attorney General
Troy Seibel	Office of the Attorney General

EXECUTIVE SESSION

Under the authority of North Dakota Century Code Sections 44-04-19.1 and 44-04-19.2, the Board close the meeting to the public and go into executive session for purposes of attorney consultation relating to:

- HB 1080

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger		X	X		
Superintendent Baesler			X		
Treasurer Beadle			X		
Attorney General Stenehjem	X		X		
Governor Burgum			X		

EXECUTIVE SESSION

Members Present:

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Wayne Stenehjem	Attorney General
Kirsten Baesler	Superintendent of Public Instruction via Teams
Thomas Beadle	State Treasurer

Members Present:

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Wayne Stenehjem	Attorney General

(02/02/21)

Thomas Beadle
Kirsten Baesler

State Treasurer
Superintendent of Public Instruction

Department of Trust Lands Personnel present:

Jodi Smith
Kristie McCusker
Catelin Newell
Adam Otteson

Commissioner
Paralegal
Administrative Staff Officer
Revenue Compliance Director

Guests in Attendance:

Leslie Bakken Oliver
Dave Garner
Troy Seibel

Governor's Legal Counsel
Office of the Attorney General
Office of the Attorney General

The executive session adjourned at 5:14 PM and the Board returned to the open session Teams meeting to rejoin the public. During the executive session Teams meeting, the Board was provided information and no formal action was taken.

A D J O U R N

There being no further business, the meeting was adjourned at 5:15 PM.

Doug Burgum, Chairman
Board of University and School Lands

Jodi Smith, Secretary
Board of University and School Lands

**Minutes of the Meeting of the
Board of University and School Lands
February 25, 2021**

The February 25, 2021 meeting of the Board of University and School Lands was called to order at 9:03 AM via Microsoft Teams by Chairman Doug Burgum. All meeting attendees were via Microsoft Teams.

Members Present:

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Wayne Stenehjem	Attorney General
Thomas Beadle	State Treasurer
Kirsten Baesler	Superintendent of Public Instruction

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Dennis Chua	Investment Analyst
Christopher Dingwall	Mineral Title Specialist
Susan Dollinger	Unclaimed Property
Scott Giere	Revenue Compliance Auditor
Peggy Gudvangen	Accounting Division Director
Roman Knudsvig	Department Intern
Kristie McCusker	Paralegal
Catelin Newell	Administrative Staff Officer
Adam Otteson	Revenue Compliance Director
Rick Owings	EIIO Grants Administrator
Michael Shackelford	Investments Director
David Shipman	Minerals Division Director
Lynn Spencer	Mineral Title Specialist
James Wald	Legal Council

Guests in Attendance:

Dave Garner	Office of the Attorney General
Leslie Bakken Oliver	Governor's Legal Counsel
Reice Haase	Office of the Governor

Additional Guests in Attendance:

Brady Pelton (NDPC)
Josh Kevan (RVK)
Louis Bennett
Robert Lukens
Ron Nesslies
Shane Goettle
Adam Willis

A P P R O V A L O F M I N U T E S

A motion to approve the minutes of the January 28, 2021 regular meeting and the February 2, 2021 special meeting was made by Secretary Alvin Jaeger and seconded by Treasurer Thomas Beadle and the motion carried unanimously on a voice vote.

R E P O R T S

Extension Report

In January 2020, North Dakota Administrative Code § 85-06-01-06 was enacted. It provides the petroleum industry the option to request an extension of their lease.

Northern Oil and Gas, Inc. of Minnetonka, Minnesota received a six-month extension on four leases in Section 28-154N-96W, McKenzie County. They have a permit to drill the Kestrel 154-96-33-28-1H Well.

Ninepoint Energy, LLC of Denver, Colorado received a six-month extension on two leases in Section 4-152N-103W, Williams County. They have a permit to drill the Missouri W 152-103-4-8-13H Well.

Summary of Oil and Gas Lease Auction

On behalf of the Board of University and School Lands (Board), the Department of Trust Lands conducted an oil and gas lease auction on www.energynet.com which concluded on February 2, 2021.

There were 6 tracts offered, and all received competitive bids (if the Board does not receive a competitive bid, the lease is awarded to the nominator). The highest bid per acre was \$130.00 (\$10,272.60 for 79.02 acres) in Burke County. Half of the tracts offered benefit the Common Schools Trust Fund, and the other half benefit the Strategic Investment and Improvements Fund (SIIF).

County	Tracts/County	Net Mineral Acres	Total Bonus	Average Bonus/Acre
Burke	3	239.02	\$27,472.60	\$115.00
McKenzie	3	480.00	\$13,280.00	\$27.67
GRAND TOTAL	6	719.02	\$ 40,752.60	\$71.33

There was a total of 7 bidders who submitted 50 bids on the 6 tracts. The bidders were from 6 states (ND, CO, MN, MT, TX and WY).

A total of \$40,752.60 of bonus was collected from the auction.

January 2021 Report of Encumbrances Issued by Land Commissioner

Granted to: ONEOK ROCKIES MIDSTREAM LLC, SIDNEY-MT
 For the Purpose of: Easement: Drop Line-Gas Gathering Pipeline
 Right-of-Way Number: RW0008793
 Trust: A – Common Schools
 Legal Description: MCK-150-98-36-SW4

Granted to: SELECT ENERGY SERVICES LLC, WILLISTON-ND
 For the Purpose of: Permit: Temporary Water Layflat Line
 Right-of-Way Number: RW0008814
 Trust: A – Common Schools
 Legal Description: MCK-152-95-16-NE4

(02/25/21)

Granted to:	ND GAME & FISH DEPT, BISMARCK-ND
For the Purpose of:	Aggr. Lease: Borrow
Right-of-Way Number:	RW0008802
Trust:	I – Youth Correctional Center
Legal Description:	LOG-136-71-4-LOT 2

January Unclaimed Property Report

Unclaimed property is all property held, issued, or owing in the ordinary course of a holder's business that has remained unclaimed by the owner for more than the established time frame for the type of property. It can include checks, unpaid wages, stocks, amounts payable under the terms of insurance policies, contents of safe deposit boxes, etc.

An owner is a person or entity having a legal or equitable interest in property subject to the unclaimed property law. A holder can include a bank, insurance company, hospital, utility company, retailer, local government, etc.

Since 1975, the Unclaimed Property Division (Division) of the Department of Trust Lands has been responsible for reuniting individuals with property presumed abandoned. The Division acts as custodian of the unclaimed property received from holders. The property is held in trust in perpetuity by the State and funds are deposited in the Common Schools Trust Fund. The 1981 Uniform Unclaimed Property Act created by the national Uniform Law Commission was adopted by the State in 1985.

For the month of January 2021, the Division received 29 holder reports with a property value of \$432,770 and paid 510 claims with a total value of \$626,691.

Since inception in 1975, the Board has received \$183,571,178 and paid \$76,445,164 in claims. Currently, there is \$107,126,013 maintained by the Board of University and School Lands from Unclaimed Property, the revenue earned from these funds benefits the Common Schools Trust Fund.

The Financial Report (Unaudited) for period ending November 30, 2020 was presented to the Board for review and is available at the Department upon request.

Investment Updates

Portfolio Rebalancing Updates

The Department of Trust Lands (Department) staff and RVK continue to monitor the trigger points set for the remaining Harvest MLP in the Diversified Inflation Strategies (DIS) and will complete the liquidation when appropriate.

ARES Pathfinder Fund LP made an initial capital call on February 3, 2021, for \$6.2M of the \$100M commitment.

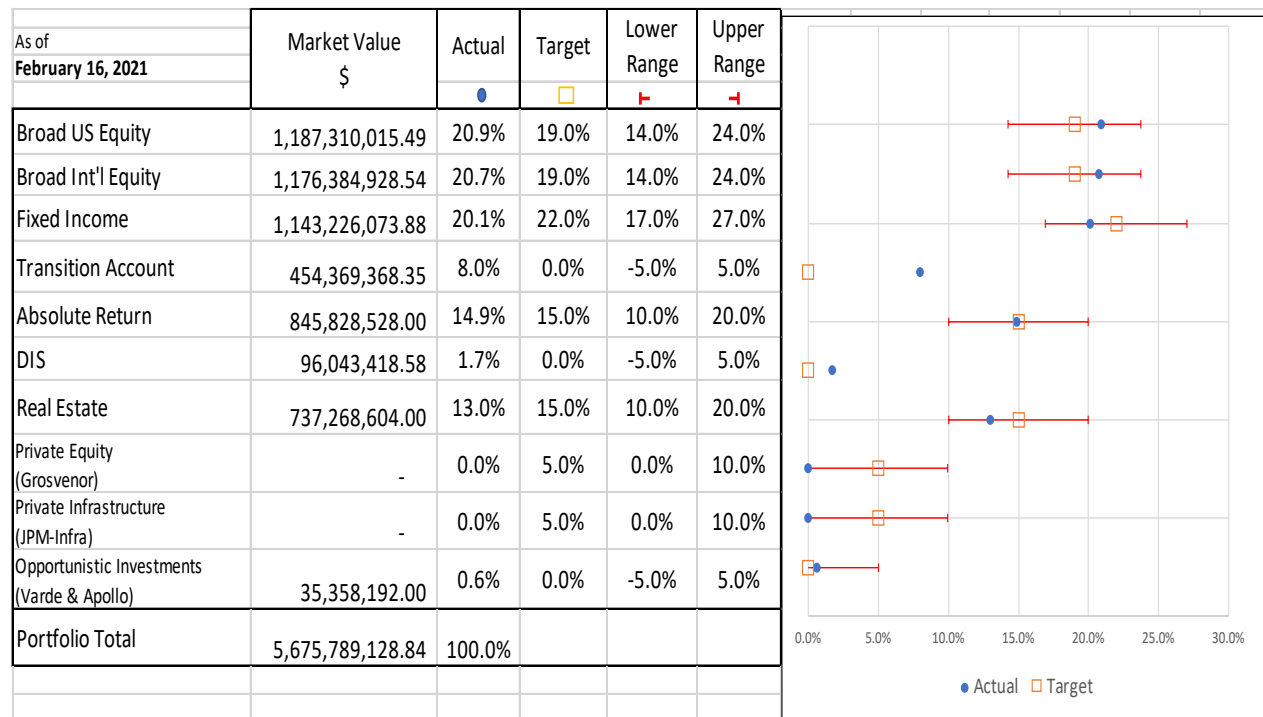
Varde Dislocation Fund IV LP, Opportunistic Investment, made a capital call on February 17, 2021, for \$12.5M. With the funding this brings the cumulative capital drawn to \$37.5M with remaining unfunded commitment is now at \$62.5M.

Apollo Accord Fund IV LP (Fund), Opportunistic Investment, has a remaining unfunded commitment totaling \$94.5M.

The Department staff have executed the agreements for GCM Grosvenor (Private Equity Manager), JP Morgan (Private Infrastructure Manager), ARES Pathfinder Fund LP (Asset-Focused Credit), Angelo Gordon, and JPM Core Bond. Still under review is the Loomis & Sayles Multi-Sector agreement.

Asset Allocation

The table below shows the status of the permanent trusts' asset allocation as of Feb. 16, 2021. The figures provided are unaudited.



Upcoming Investment Manager Meetings

There is no upcoming meeting scheduled.

Legislative Update

BILL	TITLE	SPONSORS	COMMITTEE	STATUS		
				House Date of Hearing	Senate Date of Hearing	Governor
HB 1031	Relating to legislative management studies of state agency fees.	Legislative Management	Gov't & Veterans Affairs	PASSED	Introduced 02-12-2021 10:00 AM	
HB 1080	Relating to the obligation to pay oil and gas royalties on leases owned and managed by the board of university and school lands.	Rep. Dockter	Finance & Taxation	PASSED	Introduced Ref – Eng and Nat Resources	

(02/25/21)

BILL	TITLE	SPONSORS	COMMITTEE	STATUS		
				House Date of Hearing	Senate Date of Hearing	Governor
HB 1081	Relating to access to and activities on trust lands; and to provide a penalty.	Rep. Zubke	Energy & Natural Resources	PASSED		
HB 1322	Relating to the attorney general's review of proposed administrative rules and the authority of the administrative rules committee to object to or void an administrative rule.	Rep. B. Koppelman, K. Koppelman, Pyle, D. Ruby, Steiner Sen. Burckhard, Clemens, Lemm, Meyer, J. Roers	Judiciary	DEFEATED		
HB 1340	Relating to prohibiting entry onto private land without permission	Rep. Simons, Ertelt, Hoverson, Jones, Kempenich, Magrum, Skroch Sen. Heitkamp, Hogue	Judiciary	DEFEATED		
HB 1349	Relating to open record and meeting laws	Rep. Devlin, Karls Sen. Dwyer, Lee, Oban	Political Subdivisions	PASSED		
HB 1358	Relating to oil and gas tax revenue hedging	Rep. Kempenich, Christensen, Mock, Steiner, Trottier Sen. Bekkedahl, Dwyer, Schaible	Finance & Taxation	PASSED		
HB 1392	Relating to the duration of school and public land leases.	Rep. Schatz, Brandenburg, Christensen, D. Johnson, Kempenich, Longmuir, Monson, Simons Sen. Anderson, Elkin, Erbele	Government & Veterans Affairs	DEFEATED		

BILL	TITLE	SPONSORS	COMMITTEE	STATUS		
				House Date of Hearing	Senate Date of Hearing	Governor
SB 2013	A BILL for an Act to provide an appropriation for defraying the expenses of the commissioner of university and school lands; and to provide for distributions from permanent funds.	Appropriations	Appropriations	Appropriations – 03/05	PASSED	
SB 2036	A BILL for an Act to provide for a legislative management study regarding access to lands and electronic posting.	Legislative Management	Energy & Natural Resources	Received - 01/19	PASSED	
SB 2048	Revised Uniform Unclaimed Property Act	Industry, Business and Labor	Industry, Business & Labor	Judiciary – 03/03	PASSED	
SB 2065	Relating to the jurisdiction of the industrial commission to regulate the permitting and amalgamation of the underground storage of oil and gas.	Energy & Natural Resources	Energy & Natural Resources	Received - 02/09	PASSED	
SB 2070	Relating to the regulated substance response; to amend and reenact sections 11-33-01, 40-47-01, and 58-03-11 of the North Dakota Century Code, relating to the regulated substance response; and to repeal sections 23.1-04-04 and 23.1-10-01 of the North Dakota Century Code, relating to contaminated properties.	Energy & Natural Resources	Energy & Natural Resources	Received - 02/12	PASSED	

BILL	TITLE	SPONSORS	COMMITTEE	STATUS		
				House Date of Hearing	Senate Date of Hearing	Governor
SB 2144	Relating to criminal trespass and electronic posting; and to provide a penalty.	Sen. Erbele, Patten, Bell Rep. Damschen, Dobervich, Tveit	Finance & Taxation	Received - 01/19	PASSED	
SB 2191	Relating to the disposal of abandoned personal property	Sen. Holmberg	Political Subdivisions	Received - 02/02	PASSED	
SB 2217	Relating to oil and gas royalty leases, negative royalties, and arm's length transactions; and to provide a penalty	Sen. Bekkedahl, Dwyer, Kannianen Rep. Brandenburg, Kempenich, Zubke	Finance & Taxation	Received - 02/22	PASSED	
SB 2282	Relating to membership of the board of university and school lands	Sen. Schaible, Klein, Luick Rep. D. Johnson, Schmidt	Government & Veterans Affairs	Received - 02/18	PASSED	
SB 2291	Relating to social investments made by the state investment board and the boycott of energy or commodities companies	Sen. Bell	Energy & Natural Resources	Received - 02/18	PASSED	
SB 2317	Relating to a coal mine performance bonding pilot program and the authority of the Bank of North Dakota; and to provide for an energy development and transmission committee report	Sen. Bell Rep. Porter	Energy & Natural Resources	Received - 02/17	PASSED	
SB 2319	Relating to oil and gas agreements; and to provide an effective date	Sen. Kannianen	Finance & Taxation	Received = 02/23	PASSED	
HCR 3016	Relating to the membership of the board of university and school lands	Rep. Schmidt, D. Anderson, Brandenburg, D. Johnson,	Government & Veterans Affairs	DEFEATED		

BILL	TITLE	SPONSORS	COMMITTEE	STATUS		
				House Date of Hearing	Senate Date of Hearing	Governor
		Kempenich, Schatz, Weisz Sen. Klein, Luick, Myrdal, Vedaa				
SCR 4007	Relating to the membership of the board of university and school lands	Sen. Schaible, Klein, Luick Rep. D. Johnson, Schmidt	Government & Veterans Affairs	Received – 02/18	PASSED	
SCR 4013	A concurrent resolution urging Congress to pass the North Dakota Trust Lands Completion Act.	Sen Marcellais, Heckaman, Kannianen, Schaible Rep. Trottier	Energy & Natural Resources	Received – 02/23	PASSED	

I N V E S T M E N T S

March Investment Reports – 4th Quarter 2020

Josh Kevan from RVK reviewed the performance of the Board of University and School Land's (Board) investment program for the period ending December 31, 2020 and discuss current market conditions.

The first report reviewed was prepared by RVK to enable the Board to monitor and evaluate the collective performance of the permanent trusts' investments and the performance of individual managers within the program. In order to provide an overview of the program and highlight critical information, an executive summary has been incorporated into the Board report.

Next, Josh presented on the performance of the Ultra-Short portfolio in which the Strategic Investment and Improvements Fund, the Coal Development Trust Fund and the Capitol Building Fund are invested.

The following items were presented to the Board and are available at the Department upon request: RVK Permanent Trust Fund Performance Analysis Report and RVK Ultra-short Performance Report.

L I T I G A T I O N

Sorum Litigation

Case: Paul Sorum, et. al. v. State of North Dakota, et. al. – Civ. No. 09-2018-CV-00089
Tribunal: Cass County District Court
Judge: John C. Irby
(02/25/21)

Attorney: Mark Hanson, Nilles Law Firm
Opposing Counsel: Terrance W. Moore, Fintan L. Dooley

Issues: The Board was named as a defendant in the above reference case which was served on January 10, 2018. Plaintiffs have filed this action to challenge the Constitutionality of S.B. 2134 passed during the last legislative session and codified as N.D.C.C. ch. 61-33.1. Under the new legislation, “[t]he state sovereign land mineral ownership of the riverbed segments inundated by Pick-Sloan Missouri basin project dams extends only to the historical Missouri riverbed channel up to the ordinary high water mark.” N.D.C.C. § 61-33.1-02. S.B. 2134 established a process by which the Department of Mineral Resources is directed to procure a “qualified engineering and surveying firm” to “review the delineation of the ordinary high water mark of the corps survey segments” for the portion of the Missouri River designated as the “historical Missouri riverbed channel.” N.D.C.C. § 61-33.1-03(2), (3). Following a review process, which includes a public hearing and public comments, the North Dakota Industrial Commission must adopt final review findings which “will determine the delineation of the ordinary high water mark for the segment of the river addressed by the findings.” N.D.C.C. § 61-33.1-03(7). Plaintiffs’ complaint requests from the court a declaratory judgment finding that N.D.C.C. ch. 61-33.1 violates the Public Trust Doctrine and the Anti-Gift, Privileges and Immunities, and Local and Special Law Clauses of the North Dakota Constitution. Plaintiffs are also requesting the Court issue an injunction to prevent all state officials from further implementing and enforcing N.D.C.C. ch. 61-33.1.

History: An Answer was filed. Defendants filed a Motion to Dismiss, which was denied in April 2018. Petition for Supervisory Writ and Exercise of Original Jurisdiction was filed by Defendants and denied in May 2018. A Motion for Preliminary Injunction was brought by Plaintiffs and a hearing was held on May 21, 2018. An Order for Preliminary Injunction was filed June 26, 2018. A Scheduling Conference was held on September 6, 2018 and the following briefing deadlines were set: Summary Judgment Motions were filed October 22, 2018. Response Briefs were filed December 10, 2018. Reply Briefs were due December 21, 2018. A hearing on the Motions for Summary Judgment was held on January 4, 2019. The Order on Cross-Motions for Summary Judgment was issued on February 27, 2019, and Defendants were directed to prepare the proposed Judgment. On March 6, 2019, Defendants filed their proposed Judgment. Plaintiff’s filed a letter on March 7, 2019, advising the Court that they felt Defendants’ proposed Judgment was deficient and that they would also be submitting a proposed Judgment. Plaintiff’s proposed Judgment was filed March 8, 2019. Defendants filed a letter on March 8, 2019 advising the Court that they intended to submit a response to Plaintiffs’ proposed Judgment within 14 days. On March 19, 2019, Defendants filed an Objection to Plaintiffs’ Proposed Judgment. Thereafter, Plaintiffs filed a letter asking the Court not to rule on Defendants’ Objection until Plaintiffs have had the opportunity to be heard and further, that Plaintiffs’ intend to bring a Motion for Clarification concerning retroactive royalty refunds within 14 days. Plaintiffs filed their Response to Defendants’ Objection to Proposed Judgment and Request for Clarification and their Amended Proposed Order and Judgment on March 29, 2019. Defendants filed their Objection to Plaintiffs’ Proposed Order and Judgment (Plaintiffs’ Amended Proposed) and Reply to Plaintiffs’ Response to Defendants’ Objection to Proposed Judgment and Request for Clarification on April 8, 2019. On April 25, 2019, Judge Irby entered an Order for Entry of Judgment ordering the Clerk to enter Defendants’ Proposed Order as the Judgment of the Court. Judgment was entered on April 26, 2019. Plaintiffs’ filed a Notice of Motion for Attorney Fees, Costs,

and Service Award to Plaintiffs scheduling a hearing for 1:30 p.m. June 10, 2019 in Fargo. The Notice of Entry of Order on Cross-Motions for Summary Judgment, Order for Entry of Judgment, and Judgment was filed by Defendants on May 3, 2019. On May 15, 2019, Plaintiffs filed their Motion for Attorney Fees, Costs and Service Award to Plaintiffs and the Memorandum in Support of Motion, together with supporting documents. On May 20, 2019, Plaintiffs filed their Amended Motion for Attorneys Fees, Costs and Service Award to Plaintiffs. Defendants filed an Expedited Motion for Extension of Time to Respond to Plaintiffs' Memorandum in Support of Motion for Attorney Fees, Costs and Service Award to Plaintiffs and requested the June 10, 2019 hearing be postponed. Defendants filed, with the District Court, its Response to Plaintiffs' Memorandum in Support of Motion for Attorneys Fees, Costs and Service Award to Plaintiffs on June 12, 2019. Plaintiffs' filed their Reply Memorandum in Support of Motion for Attorney Fees, Costs and Service Award to Plaintiffs on June 19, 2019. A hearing on the motion for attorneys fees was held before the District Court on July 18, 2019. The State Defendants/Appellants filed a Notice of Appeal to the North Dakota Supreme Court (Supreme Court) on June 27, 2019. Plaintiff/Appellees/Cross-Appellants filed a Notice of Cross-Appeal dated July 10, 2019. Appellants' Briefs were due to the Supreme Court on August 6, 2019. On July 18, 2019, the parties filed a Stipulation and Joint Motion for Appellate Briefing Schedule with the Supreme Court to allow for a decision to be rendered in the District Court on the issue of attorneys fees prior to the briefs being due to the Supreme Court. On July 19, 2019, the Joint Motion for Appellate Briefing Schedule was denied and an Order of Remand was entered by the Supreme Court temporarily remanding the case to the trial court for the limited purpose of consideration and disposition of Plaintiffs' Motion for Attorney Fees, Costs and Service Award to Plaintiffs. The briefing schedule for briefs before the Supreme Court is stayed pending the District Court's disposition of the attorneys fees issue. On July 24, 2019, the District Court issued its Order on Plaintiffs' Motion for Attorney Fees, awarding attorney fees to Plaintiffs' attorneys and service awards to Plaintiffs. An Amended Judgment was entered in the District Court on July 31, 2019. On August 1, 2019, State Defendants filed an Amended Notice of Appeal and the Order and Request for Transcript. Also on August 1, 2019, the Supreme Court provided its Notice of Filing Notice of Appeal. On August 7, 2019, the Amended Notice of Cross-Appeal was filed by Plaintiffs. The transcripts requested by the State Defendants of the January 4, 2019 summary judgment hearing and the July 18, 2019 hearing on attorney fees/costs/service award were filed with the North Dakota Supreme Court on October 4, 2019. In light of the filing of those transcripts, the Supreme Court's clerk has advised that the State Defendants' initial appellant brief is to be filed on November 13, 2019. Brief of Defendants, Appellants and Cross-Appellees the State of North Dakota, the Board of University and School Lands of the State of North Dakota, the North Dakota Industrial Commission, the Hon. Douglas Burgum, in his Official Capacity as Governor of the State of North Dakota, and the Hon. Wayne Stenehjem, in his Official Capacity as Attorney General of North Dakota was filed with the Supreme Court on November 13, 2019. A Motion for Leave to File *Amicus Curiae* Brief by the North Dakota Petroleum Council in Support of the Constitutionality of N.D.C.C. ch. 61-33.1 was filed with the Supreme Court on November 13, 2019. The Supreme Court granted the North Dakota Petroleum Council's Motion for Leave to File *Amicus Curiae* Brief on November 14, 2019. Plaintiffs' brief was due to the Supreme Court on or before December 13, 2019. On December 9, 2019, Plaintiff Paul Sorum made a request to the Supreme Court for an extension to file his brief until January 29, 2020. The Supreme Court granted Plaintiff Paul Sorum's request for an extension, giving him until January 21, 2019 to file his brief. On January 29, 2020, Defendants requested an extension of time to file the reply brief until February 14, 2020, due to the amount of information that

was filed in the separate briefs and appendixes. On January 30, 2020, an initial letter was issued in which the Supreme Court granted Defendants’ request for an extension to file the Reply Brief until February 24, 2020. Thereafter, the Court issued a corrective letter advising reply briefs are due February 14, 2020. On February 13, 2020, Paul Sorum filed the Reply to Appellant Brief of Defense. Defendants filed the Reply Brief of Defendants, Appellants and Cross-Appellees the State of North Dakota, the Board of University and School Lands of the State of North Dakota, the North Dakota Industrial Commission, the Hon. Douglas Burgum, in his Official Capacity as Governor of the State of North Dakota, and the Hon. Wayne Stenehjem, in his Official Capacity as Attorney General of North Dakota on February 14, 2020. Oral Argument before the Supreme Court is scheduled for 1:30 p.m. on March 4, 2020. Terry Moore filed letter with the District Court on July 28, 2020, concerning issue of injunction and release of funds. On July 29, 2020, the District Court issued a Notice of Hearing scheduling a hearing on Terry Moore’s July 28, 2020 letter for August 17 at 1:30 p.m. On July 30, 2020, the North Dakota Supreme Court issued its Opinion. On July 31, 2020, Mark Hanson filed a letter with the District Court advising of the issuance of the North Dakota Supreme Court Opinion and requesting cancellation of the August 17 hearing. That hearing was cancelled. The Supreme Court’s Opinion was amended on August 4, 2020, and on August 18, 2020. Neither amendment was substantive. Terrance Moore filed with the Supreme Court the Plaintiffs, Appellees, and Cross-Appellants Marvin Nelson, Michael Coachman, Charles Tuttle and Lisa Omlid’s Petition for Rehearing on August 12, 2020. On September 22, 2020, the North Dakota Supreme Court entered an order denying the petition for rehearing. On January 5, 2021, Plaintiffs’ Petition for a Writ of Certiorari was docketed with the United States Supreme Court.

Current Status:

- **On February 22, 2021, Plaintiffs’ Petition for a Writ of Certiorari was denied.**

Continental Resources, Inc. - Interpleader

Case: **Continental Resources, Inc. v. North Dakota Board of University and School Lands, et al., Case No. 1:17-cv-00014**

Date Filed: **December 23, 2016**

Court: **Federal District Court, 8th Circuit**

Judge: **Honorable Daniel Hovland**

Attorney: **Charles Carvell, David Garner, and Jen Verleger**

Opposing Counsel: **Lawrence Bender, David Ogden, Paul Wolfson, Shaun Pettigrew**

Issues: In December 2016, Continental Resources, Inc. (Continental) brought an interpleader action against the Board of University and School Lands and the United States regarding certain public domain lands underlying Continental operated wells located in McKenzie, Mountrail, and Williams Counties. This case involves a disagreement between the State and United States over the location of the ordinary high watermark—and consequently title to underlying minerals—on federally owned land along the now inundated historic Missouri River. Continental is requesting the

Court determine title to the disputed lands so that Continental can correctly distribute the proceeds from the affected wells. Continental has claimed that there is “great doubt as to which Defendant is entitled to be paid royalties related to the Disputed Lands.” Currently, Continental is paying the United States its full royalty based on the acreage it claims. The remaining royalty, over and above what is due the United States, is being escrowed with the Bank of North Dakota.

History: The United States removed this action to federal district court on January 11, 2017. The Board filed its answer to the complaint on February 13, 2017. The United States filed its answer to the complaint on May 12, 2017. An Amended Complaint was filed by Continental Resources on September 14, 2017. The United States filed a Motion to Dismiss for Lack of Subject Matter Jurisdiction on October 18, 2017. In support of its motion, the United States alleges that it has not waived its sovereign immunity under the Quiet Title Act and that the interpleader action is moot under S.B. 2134.

The Board filed a response on December 20, 2017 opposing the motion to dismiss. Continental filed a response and the United States filed its reply. The United States filed a reply on March 16, 2018. The Board filed a Surreply to the Motion to Dismiss on April, 16, 2018. The Order Denying the United States’ Motion to Dismiss for Lack of Subject Matter Jurisdiction was entered on December 31, 2018. The Order provided that North Dakota and the United States confer and submit a proposed scheduling order to the Court no later than sixty days from the date of the order. On January 8, 2019 the United States filed its Motion to Stay Action Due to Lapse of Appropriations. On January 10, 2019, the Court granted the United States’ Motion and cancelled the January 24, 2019 scheduling conference. The Order stated the “action is stayed until [federal] appropriations are restored and Department attorneys and the Bureau of Land Management personnel are permitted to resume their usual civil litigation functions.” The United States filed a Notice of Restoration of Appropriations on January 28, 2019, which requested the Court set a new scheduling conference date. On January 30, 2019, the Court issued an order granting the motion for scheduling conference, requiring the parties submit a revised scheduling/discovery plan by March 15, 2019, and setting a telephonic scheduling conference for 10:00 a.m., March 18, 2019. The parties filed a Joint Motion for Extension of Time to File Scheduling Proposal and Participate in Scheduling Conference on March 12, 2019. The Court entered an Order granting the extension to April 12, 2019 and a scheduling conference was reset for April 15, 2019. The Scheduling Conference was held on April 15, 2019. On June 14, 2019, the Board of University and School Lands filed its Amended Answer to Amended Complaint with Statement of Claim. By August 13, 2019, the United States shall assert its claims, if any, to the disputed stake. After the August 13, 2019 filing, the proceedings will be stayed until September 19, 2019 or another date set by the Court. During the stay, the United States and the Board are to discuss whether the dispute that gave rise to the litigation can be resolved. By no later than September 19, 2019, the United States and Board shall inform the Court of the status of their discussions and the Court will consider a schedule for the case. A Status Conference was set for September 20, 2019 before Magistrate Judge Clare R. Hochhalter. On August 1, 2019, the Status Conference previously set for September 20 was reset to October 11, 2019 at 10 a.m. before Magistrate Judge Clare R. Hochhalter. On August 13, 2019, the United States filed a Motion for Extension of Time to Plead and Assert Affirmative Claims and the Motion was granted on the same day, giving the United States until August 27, 2019 to file. The United States filed their Answer to Amended Complaint on August 27, 2019. On October 3, 2019, Defendants filed a joint motion and memornadum for

postponement of the October 11, 2019 status conference by 90 days. On October 4, 2019, the Court entered an Order granting the motion to continue status conference. Status conference was reset to January 13, 2020, at 9 a.m. via telephone before Magistrate Clare R. Hochhalter. United States Department of Justice advised it will be working with the United States Department of Interior – Bureau of Land Management regarding a settlement proposal. On November 8, 2019, the Board received an email from the US DOJ in response to the Board’s request that the federal government start settlement discussions by making a proposal to the Board. The email states the federal government believes its OHWM surveys are accurate, and cited N.D.C.C. § 61-33.1-06, which states: “Notwithstanding any provision of this chapter to the contrary, the ordinary high water mark of the historical Missouri riverbed channel abutting . . . public domain lands . . . must be determined by the branch of cadastral study of the [BLM] in accordance with federal law.” Relying on this statute, US DOJ suggests that the federal surveys are presumptively accurate, and then states: “we respectfully suggest that the best and most appropriate path forward would be for representatives of North Dakota to identify the specific areas where it believes the agency erred in identifying the OHWM and proffer the evidence on which it bases that belief. BLM would then assess that evidence in good faith to ascertain if a compromise, aimed at reducing litigation risk, is possible.” Status conference was held January 13, 2020 and another status conference was set for April 7, 2020.

Current Status:

- **On April 7, 2020, an Order RE: Briefing Scheduled was issued by the court setting the following deadlines: Motions for Summary Judgment due simultaneously on May 7, 2020; Responses are due June 5, 2020; and Replies are due June 12, 2020.**
- **On December 8, 2020, the Court issued its Order Granting the United States’ Motion for Partial Summary Judgment.**
- **Notice of Interlocutory Appeal as to the Order on Motion for Partial Summary Judgment filed by the North Dakota Board of University and School Lands on February 5, 2021. Transmittal of the Notice of Appeal Supplement to the 8th Circuit Court of Appeals was also on February 5, 2021.**

EXECUTIVE SESSION

Under the authority of North Dakota Century Code Sections 44-04-19.1 and 44-04-19.2, the Board close the meeting to the public and go into executive session for purposes of attorney consultation relating to:

- **Continental Resources Case No. 1:17-cv-00014**

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger			X		
Superintendent Baesler		X	X		
Treasurer Beadle			X		
Attorney General Stenehjem	X		X		
Governor Burgum			X		

The Board entered into executive session in a separate Microsoft Teams meeting at 10:05 AM with members of the public remaining in the open session Microsoft Teams meeting.

EXECUTIVE SESSION**Members Present:**

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Wayne Stenehjem	Attorney General
Kirsten Baesler	Superintendent of Public Instruction
Thomas Beadle	State Treasurer

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Catelin Newell	Administrative Staff Officer
Kristie McCusker	Paralegal
Adam Otteson	Revenue Compliance
David Shipman	Minerals Division Director
Christopher Dingwall	Mineral Title Specialist

Guests in Attendance:

Leslie Bakken Oliver	Governor's Legal Counsel
Dave Garner	Office of the Attorney General
Charles Carvell	Office of the Attorney General
Reice Haase	Governor's Policy Advisor

The executive session adjourned at 10:25 AM and the Board returned to the open session Teams meeting to rejoin the public. During the executive session Teams meeting, the Board was provided information and no formal action was taken.

A D J O U R N

There being no further business, the meeting was adjourned at 10:26 AM.

Doug Burgum, Chairman
Board of University and School Lands

Jodi Smith, Secretary
Board of University and School Lands

**Minutes of the Meeting of the
Board of University and School Lands
March 25, 2021**

The March 25, 2021 meeting of the Board of University and School Lands was called to order at 9:00 AM via Microsoft Teams by Chairman Doug Burgum. All meeting attendees were via Microsoft Teams.

Members Present:

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Wayne Stenehjelm	Attorney General
Thomas Beadle	State Treasurer
Kirsten Baesler	Superintendent of Public Instruction

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Dennis Chua	Investment Analyst
Christopher Dingwall	Mineral Title Specialist
Scott Giere	Revenue Compliance Auditor
Peggy Gudvangen	Accounting Division Director
Roman Knudsvig	Department Intern
Kristie McCusker	Paralegal
Catelin Newell	Administrative Staff Officer
Adam Otteson	Revenue Compliance Director
Rick Owings	EIIO Grants Administrator
Michael Shackelford	Investments Director
David Shipman	Minerals Division Director
Lynn Spencer	Mineral Title Specialist
James Wald	Legal Council
Michael Humann	Surface Division Director

Guests in Attendance:

Dave Garner	Office of the Attorney General
Leslie Bakken Oliver	Governor's Legal Counsel
Reice Haase	Office of the Governor

Additional Guests in Attendance:

Brady Pelton (NDPC)
Craig C. Smith
Gary Hagen
Kevin Balaod-Journalist (Fundmap)
Patrick Springer
Adam Willis

A P P R O V A L O F M I N U T E S

A motion to approve the minutes of the February 25, 2021 meeting was made by Attorney General Wayne Stenehjelm and seconded by Secretary of State Alvin Jaeger and the motion carried unanimously on a voice vote.

R E P O R T S

February 2021 Report of Encumbrances Issued by Land Commissioner

Granted to: WHITING OIL AND GAS CORPORATION, DENVER-CO
 For the Purpose of: Easement: Pipeline-Oil Gathering Pipeline
 Right-of-Way Number: RW0008674
 Trust: A - Common Schools
 Legal Description: MOU-153-92-16-NW4

Granted to: MCKENZIE ELECTRIC COOPERATIVE INC, WATFORD CITY-ND
 For the Purpose of: Easement: Electric-Above Ground Distribution Replacement Line
 Right-of-Way Number: RW0008803
 Trust: A - Common Schools
 Legal Description: GOL-144-104-16-NE4, NW4

Granted to: PURITY OILFIELD SERVICES LLC, WILLISTON-ND
 For the Purpose of: Permit: Temporary Water Layflat Line
 Right-of-Way Number: RW0008821
 Trust: A - Common Schools
 Legal Description: MOU-157-90-16-NE4, MOU-158-91-16-SE4, SW4, MOU-158-91-36-NW4

Granted to: NDSU, FARGO-ND
 For the Purpose of: Permit: Access to School Land for Vegetation Study
 Right-of-Way Number: RW0008813
 Trust: A - Common Schools
 Legal Description: BRL-137-75-16-NE4, SHE-146-77-36-SW4, WEL-145-73-16-SE4, WEL-145-73-16-SW4

Granted to: USDA-NRCS, JAMESTOWN-ND
 For the Purpose of: Permit: Access to School Land for National Resource Inventory
 Right-of-Way Number: RW0008833
 Trust: A - Common Schools
 Legal Description: ADA-131-97-16-NE4, OLI-142-82-36-SE4

February Unclaimed Property Report

Unclaimed property is all property held, issued, or owing in the ordinary course of a holder's business that has remained unclaimed by the owner for more than the established time frame for the type of property. It can include checks, unpaid wages, stocks, amounts payable under the terms of insurance policies, contents of safe deposit boxes, etc.

An owner is a person or entity having a legal or equitable interest in property subject to the unclaimed property law. A holder can include a bank, insurance company, hospital, utility company, retailer, local government, etc.

Since 1975, the Unclaimed Property Division (Division) of the Department of Trust Lands has been responsible for reuniting individuals with property presumed abandoned. The Division acts as custodian of the unclaimed property received from holders. The property is held in trust in (03/25/21)

perpetuity by the State and funds are deposited in the Common Schools Trust Fund. The 1981 Uniform Unclaimed Property Act created by the national Uniform Law Commission was adopted by the State in 1985.

For the month of February 2021, the Division received 40 holder reports with a property value of \$71,212 and paid 792 claims with a total value of \$566,765.

Energy Infrastructure and Impact Office Quarterly Program Report

The Energy Infrastructure and Impact Office (EIIO) is a division within the Department of Trust Lands (Department). EIIO provides financial assistance to local units of government that are impacted by oil and gas activity. In turn, EIIO receives a portion of the Oil and Gas Gross Production Tax. The office has been a part of the Department since 1977 and was formally known as the Energy Development Impact Office created under N.D.C.C. ch. 57-62. Over the course of the past 40 years, EIIO has dispersed over \$626 million in funding.

The Oil and Gas Impact Grant Fund currently has 12 grants with a balance of \$1,591,589.01 as of March 9, 2021. The following shows grant activity for the last seven months:

Oil and Gas Impact Grant Fund	Grants with balances	Current Balance Obligated to Grants
9/9/2020	22	\$5,282,832.07
12/1/2020	17	\$2,833,286.75
3/9/2021	12	\$1,591,589.01

The Energy Impact Fund, established within Senate Bill 2013 as enacted by the Sixty-fifth Legislative Assembly, was created to supplement the Oil and Gas Impact Grant Fund for the 2017-2019 biennium. This fund currently has three grants with a balance of \$1,434,396.94 as of March 9, 2021. House Bill 1013 of the Sixty-sixth Legislative Assembly requires the Commissioner of University and School Lands to transfer any unexpended funds remaining in the Energy Impact Fund when the fund is repealed on June 30, 2021, to the Oil and Gas Impact Grant Fund.

EIIO is working with the Williston Basin International Airport and the North Dakota Aeronautics Commission regarding the timeline to get these grants closed out by June 30, 2021. The following shows grant activity for the last seven months:

Energy Impact Fund	Grants with balances	Current Balance Obligated to Grants
9/9/2020	3	\$2,394,929.22
12/1/2020	3	\$1,752,239.48
3/9/2021	3	\$1,434,396.94

EIIO is currently managing 15 grants for a total of \$3,025,985.95. The following shows grant activity for the last seven months:

Oil and Gas Impact Grant Fund	Grants with balances	Current Balance Obligated to Grants	Energy Impact Fund	Grants with balances	Current Balance Obligated to Grants	Total between both Funds
9/9/2020	22	\$5,282,832.07	9/9/2020	3	\$2,394,929.22	\$7,677,761.29
12/1/2020	17	\$2,833,286.75	12/1/2020	3	\$1,752,239.48	\$4,585,526.23
3/9/2021	12	\$1,591,589.01	3/9/2021	3	\$1,434,396.94	\$3,025,985.95

The Financial Report (Unaudited) for period ending December 31, 2020 was presented to the Board for review and is available at the Department upon request.

Investment Updates

Portfolio Rebalancing Updates

The Investment Management Agreement with Loomis, Sayles & Co. Multi-Credit Strategy (Loomis) was executed and fully funded with \$100M on March 1, 2021. Funding for Loomis came from a partial redemption made on the Brandywine Global Opportunity Fixed Income Fund. JP Morgan's Intermediate Bond strategy is currently being transitioned to a Core Bond Strategy as approved by the Board.

As of March 15, 2021, Harvest MLP was fully liquidated with the majority of the proceeds from the liquidation transferred to the transition account awaiting deployment through capital calls.

Asset Allocation

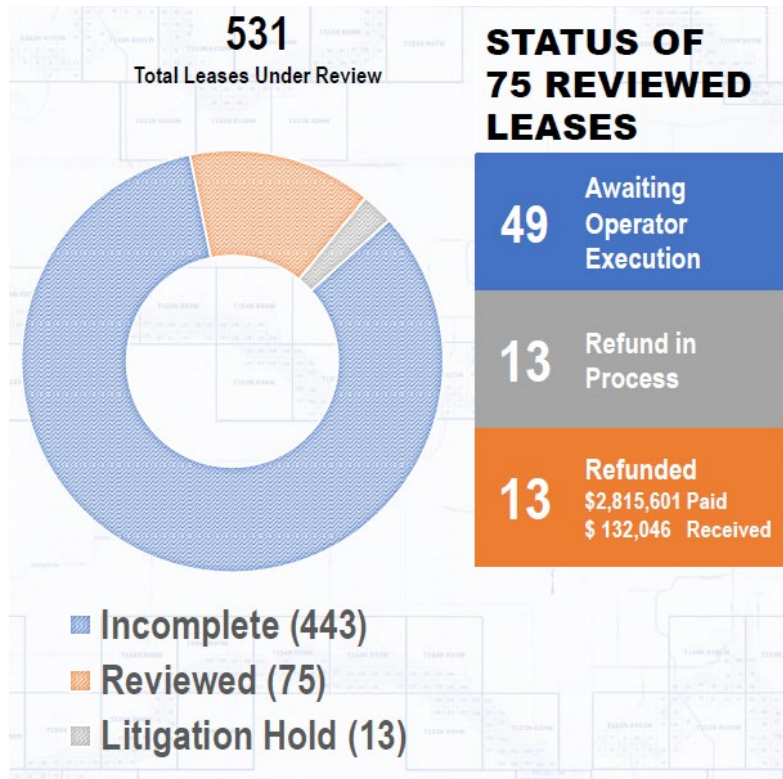
The table below shows the status of the permanent trusts' asset allocation as of March. 16, 2021. The figures provided are unaudited.

As of March 16, 2021	Market Value \$	Actual	Target	Lower Range	Upper Range
Broad US Equity	1,195,572,380.73	21.0%	19.0%	14.0%	24.0%
Broad Int'l Equity	1,163,905,442.52	20.5%	19.0%	14.0%	24.0%
Fixed Income	1,125,621,251.58	19.8%	22.0%	17.0%	27.0%
Transition Account	548,452,547.47	9.7%	0.0%	-5.0%	5.0%
Absolute Return	861,230,903.11	15.2%	15.0%	10.0%	20.0%
DIS	96,798.82	0.0%	0.0%	-5.0%	5.0%
Real Estate	737,268,604.00	13.0%	15.0%	10.0%	20.0%
Private Equity (Grosvenor)	-	0.0%	5.0%	0.0%	10.0%
Private Infrastructure (JPM-Infra)	-	0.0%	5.0%	0.0%	10.0%
Opportunistic Investments (Varde & Apollo)	48,211,681.00	0.8%	0.0%	-5.0%	5.0%
Portfolio Total	5,680,359,609.23	100.0%			

Upcoming Investment Manager Meetings

There is no upcoming meeting scheduled.
(03/25/21)

Acreage Adjustment Survey Report



March Legislative Update

BILL	TITLE	SPONSORS	COMMITTEE	STATUS		
				House Date of Hearing	Senate Date of Hearing	Governor
HB 1031	Relating to legislative management studies of state agency fees; to provide for a legislative management study relating to establishing new state agency fees; and to declare an emergency.	Legislative Management	Gov't & Veterans Affairs	PASSED yeas 92 nays 0 RETURNED – 03/08	Passed as amended yeas 45 nays 2	
HB 1080	Relating to the obligation to pay oil and gas royalties on leases owned and managed by the board of	Rep. Dockter	Finance & Taxation	PASSED yeas 83 nays 10	Introduced Amendment adopted – 3/25 Ref – APP – 3/25 3/30/2021	

BILL	TITLE	SPONSORS	COMMITTEE	STATUS		
				House Date of Hearing	Senate Date of Hearing	Governor
	university and school lands.				3:00 PM	
HB 1081	Relating to access to and activities on trust lands; and to provide a penalty.	Rep. Zubke	Energy & Natural Resources	PASSED yeas 68 nays 25 SIGNED BY SPEAKER Sent to Governor	PASSED yeas 40 nays 7 SIGNED BY PRESIDENT	Signed by Governor
HB 1349	Relating to open record and meeting laws; to amend and reenact subsection 9 of section 44-04-17.1, sections 44-04-18.27 and 44-04-19, subsections 1 and 2 of section 44-04-20, and section 44-04-30 of the North Dakota Century Code, relating to open record and meeting laws; and to provide a penalty.	Rep. Devlin, Karls Sen. Dwyer, Lee, Oban	Political Subdivisions	PASSED yeas 90 nays 4 RETURNED – 3/30	PASSED as amended yeas 47 nays 0	
HB 1358	Relating to oil and gas tax revenue hedging; to provide an appropriation; to provide a continuing appropriation; to provide for a transfer; to provide a statement of legislative intent; and to declare an emergency.	Rep. Kempenich, Christensen, Mock, Steiner, Trottier Sen. Bekkedahl, Dwyer, Schaible	Finance & Taxation	PASSED yeas 80 nays 14	Introduced Amndmnt Adpt – 3/25 Ref – APPS – 3/25 4/02/2021 8:30 AM	
SB 2013	A BILL for an Act to provide an appropriation for defraying	Appropriations	Appropriations	Introduced 03-05-2021 10:30 AM 03-15-2021 10:00 AM	PASSED yeas 47 nays 0	

(03/25/21)

BILL	TITLE	SPONSORS	COMMITTEE	STATUS		
				House Date of Hearing	Senate Date of Hearing	Governor
	the expenses of the commissioner of university and school lands; to provide for distributions from permanent funds; to provide a report; and to provide an exemption			DP as amended – 3/26		
SB 2036	A BILL for an Act to provide for a legislative management study regarding access to lands and electronic posting.	Legislative Management	Energy & Natural Resources	PASSED yeas 91 nays 2 SIGNED BY SPEAKER	PASSED yeas 45 nays 2 SIGNED BY PRESIDENT Sent to Governor	
SB 2048	Revised Uniform Unclaimed Property Act; to amend and reenact sections 9-12-29, 10-19.1-123, 10-33-114, and 15-02-05.2, subsection 3 of section 23.1-15-07, subsections 8 and 9 of section 26.1-55-02, sections 26.1-55-04, 27-05.2-04, and 30.1-20-14, subsection 3 of section 35-20-17, sections 35-36-05, 38-13.1-03, 38-18.1-03, and 44-04-18.25,	Industry, Business and Labor	Industry, Business & Labor	PASSED as amended yeas 93 nays 0	PASSED yeas 47 nays 0 RETURNED - 3/25	

BILL	TITLE	SPONSORS	COMMITTEE	STATUS		
				House Date of Hearing	Senate Date of Hearing	Governor
	subsection 3 of section 47-16-07.1, section 54-27-15.1, subsection 6 of section 57-38-57, subsection 8 of section 57-39.2-23, and section 60-01-34 of the North Dakota Century Code, relating to abandoned and unclaimed property; to repeal chapter 47-30.1 of the North Dakota Century Code, relating to the uniform unclaimed property act; to provide for a report; to provide a penalty; and to provide a continuing appropriation.					
SB 2065	Relating to the authority of the board of university and school lands to lease lands under its control for the underground storage of oil or gas and the jurisdiction of the industrial commission to regulate the permitting and amalgamation	Energy & Natural Resources	Energy & Natural Resources	Introduced 03-04-2021 09:00 AM	PASSED yeas 40 nays 7	

BILL	TITLE	SPONSORS	COMMITTEE	STATUS		
				House Date of Hearing	Senate Date of Hearing	Governor
	of the underground storage of oil or gas.					
SB 2070	Relating to the regulated substance response; to amend and reenact sections 11-33-01, 23.1-10-02, 40-47-01, and 58-03-11 of the North Dakota Century Code, relating to the regulated substance response; to repeal sections 23.1-04-04 and 23.1-10-01 of the North Dakota Century Code, relating to contaminated properties; to provide a continuing appropriation; and to provide for retroactive application.	Energy & Natural Resources	Energy & Natural Resources	PASSED yeas 82 nays 12 SIGNED BY SPEAKER	PASSED yeas 46 nays 1 SIGNED BY PRESIDENT	SIGNED BY GOVERNOR Filed with Secretary of State – 3/24
SB 2144	Relating to criminal trespass and electronic posting; and to provide a penalty.	Sen. Erbele, Patten, Bell Rep. Damschen, Dobervich, Tveit	Finance & Taxation	PASSED as amended yeas 86 nays 6	PASSED yeas 45 nays 2 RETURNED – 3/26	
SB 2191	Relating to the disposal of abandoned	Sen. Holmberg	Political Subdivisions	PASSED yeas 86 nays 6	PASSED yeas 46 nays 0	SIGNED BY GOVERNOR Filed with

BILL	TITLE	SPONSORS	COMMITTEE	STATUS		
				House Date of Hearing	Senate Date of Hearing	Governor
	personal property			SIGNED BY SPEAKER	SIGNED BY PRESIDENT	Secretary of State – 3/24
SB 2217	Relating to the deduction or recovery of losses incurred in the sale or disposition of natural gas from the proceeds of oil production; and to provide for a legislative management study.	Sen. Bekkedahl, Dwyer, Kannianen Rep. Brandenburg, Kempenich, Zubke	Finance & Taxation	PASSED as amended yeas 93 nays 0	PASSED yeas 32 nays 15 RETURNED – 3/25	
SB 2282	Relating to membership of the board of university and school lands; and to provide a contingent effective date.	Sen. Schaible, Klein, Luick Rep. D. Johnson, Schmidt	Government & Veterans Affairs	Introduced 03-25-2021 02:30PM	PASSED yeas 30 nays 17	
SB 2291	Relating to social investments made by the state investment board; to provide for a department of commerce study of the implications of complete divestment of companies that boycott energy or commodities; to provide for reports to legislative management; and to declare an emergency	Sen. Bell	Energy & Natural Resources	PASSED yeas 82 nays 12 SIGNED BY SPEAKER	PASSED yeas 42 nays 4 SIGNED BY PRESIDENT	SIGNED BY GOVERNOR Filed with Secretary of State – 3/24
SB 2317	Relating to the establishment of a coal mine reclamation trust utilizing private assets;	Sen. Bell Rep. Porter	Energy & Natural Resources	PASSED As amended yeas 90 nays 2	PASSED yeas 42 nays 5 RETURNED – 3/19	

(03/25/21)

BILL	TITLE	SPONSORS	COMMITTEE	STATUS		
				House Date of Hearing	Senate Date of Hearing	Governor
	and to provide for a transfer.					
SB 2319	Relating to oil and gas agreements; to provide for application; and to provide a contingent effective date.	Sen. Kannianen	Finance & Taxation	Introduced 03-23-2021 09:00AM	PASSED yeas 25 nays 21	
SCR 4007	Relating to the membership of the board of university and school lands	Sen. Schaible, Klein, Luick Rep. D. Johnson, Schmidt	Government & Veterans Affairs	Introduced 03-25-2021 2:30PM	PASSED yeas 32 nays 14	
SCR 4013	A concurrent resolution urging Congress to pass the North Dakota Trust Lands Completion Act.	Sen Marcellais, Heckaman, Kannianen, Schaible Rep. Trottier	Energy & Natural Resources	PASSED voice vote	PASSED voice vote RETURNED – 3/30	

LITIGATION

United States Department of Interior M-37056

The Board was provided with two United States Department of Interior memorandums that are available at the Department upon request.

EXECUTIVE SESSION

Under the authority of North Dakota Century Code Sections 44-04-19.1 and 44-04-19.2, the Board close the meeting to the public and go into executive session for purposes of attorney consultation relating to:

- Legislative Update
- United States Department of Interior M-37056

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger			X		
Superintendent Baesler			X		
Treasurer Beadle		X	X		
Attorney General Stenehjem	X		X		
Governor Burgum			X		

The Board entered into executive session in a separate Microsoft Teams meeting at 9:30 AM with members of the public remaining in the open session Microsoft Teams meeting.

EXECUTIVE SESSION

Members Present:

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Wayne Stenehjem	Attorney General
Kirsten Baesler	Superintendent of Public Instruction
Thomas Beadle	State Treasurer

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Catelin Newell	Administrative Staff Officer
Kristie McCusker	Paralegal
Adam Otteson	Revenue Compliance
James Wald	Legal Council

Guests in Attendance:

Leslie Bakken Oliver	Governor's Legal Counsel
Dave Garner	Office of the Attorney General
Charles Carvell	Office of the Attorney General
Reice Haase	Governor's Policy Advisor

The executive session adjourned at 10:34 AM and the Board returned to the open session Teams meeting to rejoin the public. During the executive session Teams meeting, the Board was provided information and no formal action was taken.

A D J O U R N

There being no further business, the meeting was adjourned at 10:35 AM.

Doug Burgum, Chairman
Board of University and School Lands

Jodi Smith, Secretary
Board of University and School Lands

**Minutes of the Meeting of the
Board of University and School Lands
April 29, 2021**

The April 29, 2021 meeting of the Board of University and School Lands was called to order at 9:00 AM via Microsoft Teams by Chairman Doug Burgum. All meeting attendees were via Microsoft Teams.

Members Present:

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Wayne Stenehjem	Attorney General
Thomas Beadle	State Treasurer

Members Absent:

Kirsten Baesler	Superintendent of Public Instruction
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Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Dennis Chua	Investment Analyst
Christopher Dingwall	Mineral Title Specialist
Scott Giere	Revenue Compliance Auditor
Peggy Gudvangen	Accounting Division Director
Roman Knudsvig	Department Intern
Kristie McCusker	Paralegal
Catelin Newell	Administrative Staff Officer
Adam Otteson	Revenue Compliance Director
Rick Owings	EIIO Grants Administrator
Michael Shackelford	Investments Director
David Shipman	Minerals Division Director
Lynn Spencer	Mineral Title Specialist
James Wald	Legal Council
Michael Humann	Surface Division Director
Susan Dollinger	Unclaimed Property

Guests in Attendance:

Dave Garner	Office of the Attorney General
Reice Haase	Office of the Governor

Additional Guests in Attendance:

Brady Pelton (NDPC)
 Craig C. Smith
 Gary Hagen
 Amy Sisk
 Becky Hagel
 Brad Solberg
 Geoff Simon
 Harrison Street (Jenna and Joey)
 Josh Kevan (RVK)
 Justin (NP News)
 Lawrence Bender
 Cathie Mazza
 Raymond
 Rowen D. (Journalist)
 Michelle Russel-Dowe
 Scott Maynard

A P P R O V A L O F M I N U T E S

A motion to approve the minutes of the March 25, 2021 meeting was made by State Treasurer Thomas Beadle and seconded by Attorney General Wayne Stenehjem and the motion carried unanimously on a voice vote.

R E P O R T S

March 2021 Report of Encumbrances Issued by Land Commissioner

Granted to: **CONTINENTAL RESOURCES INC, OKLAHOMA CITY-OK**
 For the Purpose of: On-lease Activity: Pipeline-Multiple Pipelines & Communication Cable
 Right-of-Way Number: RW0008806
 Trust: A - Common Schools
 Legal Description: DUN-147-96-36-NW4

Granted to: **ROBB NARUM, BOWMAN-ND**
 For the Purpose of: Easement: Pipeline-Potable Water Pipeline
 Right-of-Way Number: RW0008824
 Trust: A - Common Schools
 Legal Description: SLO-133-100-16-NW4

Granted to: **BISON MIDSTREAM LLC, HOUSTON-TX**
 For the Purpose of: Easement: Pipeline-Gas Gathering Pipeline
 Right-of-Way Number: RW0008830
 Trust: A - Common Schools
 Legal Description: MOU-158-91-16-SE4, SW4

Granted to: **SLAWSON EXPLORATION COMPANY INC, DENVER-CO**
 For the Purpose of: Easement: Pipeline-Oil Gathering Pipeline
 Right-of-Way Number: RW0008637
 Trust: A - Common Schools
 Legal Description: MOU-152-92-14-SE4

Granted to: **HESS NORTH DAKOTA PIPELINES, LLC, HOUSTON-TX**
 For the Purpose of: Easement-Amend: Pipeline-Multiple Pipelines &
 Communication Cable
 Right-of-Way Number: RW0008809
 Trust: A - Common Schools
 Legal Description: MOU-157-93-36-SE4, SW4

Granted to: **CATES EARTH SCIENCE TECHNOLOGIES INC, BISMARCK-ND**
 For the Purpose of: Permit: Temporary Water Layflat Line
 Right-of-Way Number: RW0008827
 Trust: A - Common Schools
 Legal Description: MOU-150-92-10-S2SW4

Granted to: **SELECT ENERGY SERVICES LLC, WILLISTON-ND**
 For the Purpose of: Permit: Temporary Water Layflat Line
 Right-of-Way Number: RW0008832
 Trust: A - Common Schools
 Legal Description: MOU-156-94-16-SW4

Granted to: **ND GAME & FISH DEPT, RIVERDALE-ND**
 For the Purpose of: Permit: Access to School Land
 Right-of-Way Number: RW0008841
 Trust: A - Common Schools
 Legal Description: PIE-152-73-16-SW4NE4, LOTS 1,2,3

Granted to: **NDSU (DEPT 7650), FARGO-ND**
 For the Purpose of: Permit-Amend: Access to School Land

(04/29/21)

Right-of-Way Number: RW0008846
 Trust: A - Common Schools
 Legal Description: DIV-160-101-36-SE4
 EDD-149-62-36-SW4

Granted to: USDA-NRCS MLRA 53B SOIL SURVEY OFFICE, BISMARCK-ND
 For the Purpose of: Permit: Access to School Land
 Right-of-Way Number: RW0008847
 Trust: A – Common Schools
 N – North Dakota State University
 U – University of North Dakota
 Legal Description: RAM-155-60-10-NE4
 RAM-155-60-12-NE4, NW4

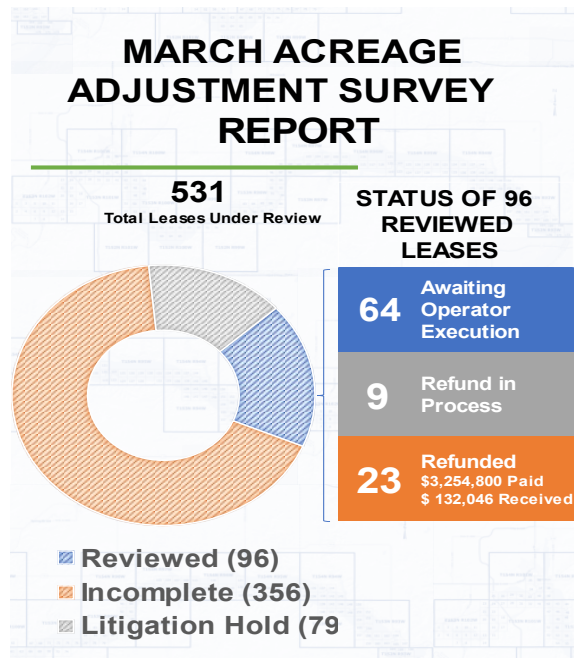
Granted to: HDR ENGINEERING INC, BISMARCK-ND
 For the Purpose of: Permit: Planning & Preconstruction Survey
 Right-of-Way Number: RW0008836
 Trust: A - Common Schools
 Legal Description: All Trust Land in North Dakota

Granted to: 4TH DIMENSION SURVEYING AND CONSULTING INC, WILLISTON-ND
 For the Purpose of: Permit: Planning & Preconstruction Survey
 Right-of-Way Number: RW0008851
 Trust: A - Common Schools
 Legal Description: All Trust Land in North Dakota

March Oil and Gas Lease Extension Report

In January 2020, North Dakota Administrative Code § 85-06-01-06 was enacted. It provides a lessee the option to request a lease extension.

Continental Resources, Inc., of Oklahoma City, Oklahoma, received a second six-month extension on four leases in Section 30-154N-97W, McKenzie County, and two leases in Section 31-154N-97W, McKenzie County. They have completed the Dallas 4-30 H Well and are in search of a natural gas pipeline.



A map of the tracts involved in the Acreage Adjustment report was provided to the Board and is available at the Department upon request.

Repayment of Unpaid Royalties Report

Since the March 25, 2021, Board of University and School Lands meeting, one payor has come into compliance for gas deductions:

- Marathon Oil

March Unclaimed Property Report

Unclaimed property is all property held, issued, or owing in the ordinary course of a holder's business that has remained unclaimed by the owner for more than the established time frame for the type of property. It can include checks, unpaid wages, stocks, amounts payable under the terms of insurance policies, contents of safe deposit boxes, etc.

An owner is a person or entity having a legal or equitable interest in property subject to the unclaimed property law. A holder can include a bank, insurance company, hospital, utility company, retailer, local government, etc.

Since 1975, the Unclaimed Property Division (Division) of the Department of Trust Lands has been responsible for reuniting individuals with property presumed abandoned. The Division acts as custodian of the unclaimed property received from holders. The property is held in trust in perpetuity by the State and funds are deposited in the Common Schools Trust Fund. The 1981 Uniform Unclaimed Property Act created by the national Uniform Law Commission was adopted by the State in 1985.

For the month of March 2021, the Division received 130 holder reports with a property value of \$157,314 and paid 807 claims with a total value of \$894,409.

The Financial Report (Unaudited) for period ending January 31, 2021 was presented to the Board for review and is available at the Department upon request.

Investment Updates

Portfolio Rebalancing Updates

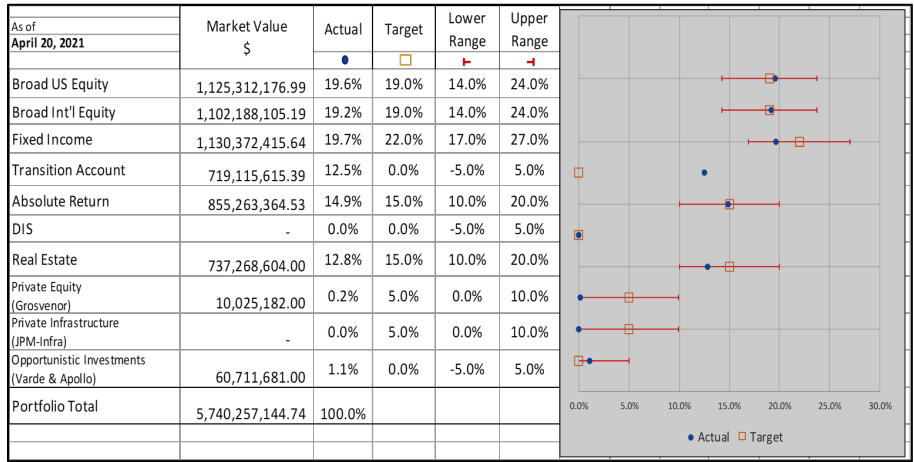
Grosvenor Private Equity made initial capital calls amounting to approximately \$10.025M out of the \$130M committed capital. Additionally, Varde Dislocation Fund LP called capital totaling \$12.5M which brought its total to \$50M out of the \$100M committed to the fund.

After the final close of the Fund, ARES Pathfinder Fund LP (Fixed Income) made a return of capital distribution amounting to around \$1.6M which brought the unfunded commitment to \$95.4M up from \$93.8M last quarter.

Apollo Accord Fund IV LP (Opportunistic Investment) has unfunded commitment totaling \$94.5M. While Angelo Gordon Direct Lending Fund IV (Fixed Income) and JPM-Infrastructure Fund have yet to make a call at this time with commitments of \$100M and \$130M respectively.

Asset Allocation

The table below shows the status of the permanent trusts' asset allocation as of April 20, 2021. The figures provided are unaudited.



Upcoming Investment Manager Meetings
There is no upcoming meeting scheduled.

Legislative Update

BILL	TITLE	SPONSORS	COMMITTEE	STATUS		
				House Date of Hearing	Senate Date of Hearing	Governor
HB 1080	Relating to the obligation to pay oil and gas royalties on leases owned and managed by the board of university and school lands.	Rep. Dockter	Finance & Taxation	PASSED yeas 82 nays 10 SIGNED BY SPEAKER	PASSED yeas 39 nays 7 SIGNED BY PRESIDENT	sent
HB 1081	Relating to access to and activities on trustlands; and to provide a penalty.	Rep. Zubke	Energy & Natural Resources	PASSED yeas 68 nays 25 SIGNED BY SPEAKER	PASSED yeas 40 nays 7 SIGNED BY PRESIDENT	SIGNED BY GOVERNOR Filed with Secretary of State – 3/30
HB 1349	Relating to open record and meeting laws; to amend and reenact subsection 9 of section 44-04-17.1, sections 44-04-18.27 and 44-04-19, subsections 1 and 2 of section 44-04-20, and section 44-04-30 of the North Dakota Century Code, relating to open record and meeting laws; and to provide a penalty.	Rep. Devlin, Karls Sen. Dwyer, Lee, Oban	Political Subdivisions	PASSED yeas 77 nays 16 SIGNED BY SPEAKER	PASSED yeas 47 nays 0 SIGNED BY PRESIDENT	SIGNED BY GOVERNOR Filed with Secretary of State 4/20
SB 2013	A BILL for an Act to provide an appropriation for defraying the expenses of the commissioner of university and school lands; to provide for distributions from permanent funds; to provide a report; and to provide an exemption	Appropriations	Appropriations	PASSED yeas 75 nays 17 SIGNED BY SPEAKER	PASSED yeas 47 nays 0 SIGNED BY PRESIDENT	sent
SB 2036	AN ACT to provide for a legislative management study regarding access to lands and electronic posting.	Legislative Management	Energy & Natural Resources	PASSED yeas 91 nays 2 SIGNED BY SPEAKER	PASSED yeas 45 nays 2 SIGNED BY PRESIDENT	SIGNED BY GOVERNOR Filed with Secretary of State – 4/05

SB 2048	Revised Uniform Unclaimed Property Act; to amend and reenact sections 9-12-29, 10-19.1-123, 10-33-114, and 15-02-05.2, subsection 3 of section 23.1-15-07, subsections 8 and 9 of section 26.1-55-02	Industry, Business and Labor	Industry, Business & Labor	PASSED yeas 93 nays 0 SIGNED BY SPEAKER	PASSED yeas 46 nays 0 SIGNED BY PRESIDENT	SIGNED BY GOVERNOR Filed with Secretary of State – 4/20
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SURFACE

Outdoor Heritage Fund Grant Application

The mission of the Board of University and School Lands (Board) is to prudently and professionally, manage assets of the permanent trusts to preserve the purchasing power of the funds, maintain stable distributions to fund beneficiaries, and manage all other assets and programs entrusted to the Board in accordance with the North Dakota Constitution and applicable laws.

The Department is requesting permission to submit a grant to the Outdoor Heritage Fund (OHF) to leverage current efforts to improve management of the 706,600 acres of Trust Lands that will improve boundary identification and access while enhancing the geospatial information available to state agencies and the public.

Agricultural lessees in North Dakota are eligible for various assistance programs to aid in the implementation of conservation practices; many of these important conservation programs are supported by the OHF. This grant will be used to provide accurate information and clarity over tract boundaries. Uncertainty over tract boundaries has resulted in lost opportunities to better manage Trust Lands for economic and environmental goals. This uncertainty has also led to instances of conflict and confusion regarding leasing and appropriate access in the state. Advances in technology and policy changes regarding land access have allowed the Department to begin addressing these issues. However, the benefits of this project warrant a state investment larger than what the Department can fund alone.

The project will principally address OHF Directive B (to improve, maintain and restore water quality, soil conditions, plant diversity, animal systems, and by supporting other practices of stewardship by enhancing farming and ranching) by supporting stewardship practices enhancing farming and ranching. It will also address Directives A (providing access to private and public lands for sportsmen, including projects that create fish and wildlife habitat and provide access for sportsmen) and C (Developing, enhancing, conserving and restoring wildlife and fish habitat on private and public land) by improving/clarifying access for sportsmen and facilitating the conservation of wildlife habitat through active livestock management and improved geospatial information.

The Department will request \$270,000 of funding from the OHF with the Department providing matching funds of \$90,000 for a total project cost of \$360,000. 100% of these funds will go directly to surveying and physically marking Trust Land. This will allow the Project to survey approximately 40 sections of land (25,500 acres).

Having an accurate geospatial representation of Trust Lands managed by the Department will improve the economic, ecological, and recreational management of these tracts. Upgraded data and boundary markings will result in these improvements by:

- A. Supporting consistent siting of agricultural improvements, such as lessee-owned fences.
- B. Supporting consistent siting of encumbrances from energy sector infrastructure and helping guide reclamation efforts.
- C. Improving recreational use of School Trust Lands by clarifying property boundaries and suitable walking access points.
- D. Enhancing wildlife habitat through accurate grazing plans and noxious weed control.
- E. Identifying uncompensated encroachment from adjacent land use and development.
- F. Identifying changes in tract acreages due to accretion for tracts having river courses.

Motion: The Board authorizes the Commissioner to submit a grant application to the Outdoor Heritage Fund requesting the amount of \$270,000 to support the NDDTL acquiring accurate geospatial data on school trust lands.

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger	X		X		
Superintendent Baesler					X
Treasurer Beadle		X	X		
Attorney General Stenehjem			X		
Governor Burgum			X		

Foster County – T147N R65W Section 4: West 50 rods of SE¼

A 50-acre tract of land in Foster County (see attached Exhibit A), title to which is subject to reversion to the Board of University and School Lands (Board), currently has potentially hazardous materials scattered throughout. This may require extensive cleanup costs be incurred by the Board and impose a long-term negative impact on the property’s usefulness.

Background. The property at issue is a 50-acre tract in Foster County previously used as a gravel pit. The legal description provided in the conveyance deed of record describes the property as “a strip of land fifty (50) rods wide, lying along the west side of the southeast quarter (SE¼) of Section four (4), Township one hundred forty-seven (147) North, of Range sixty-five (65) West, containing fifty (50) acres more or less” (Subject Tract). The SE¼ in which the Subject Tract lies was acquired by the State as Grant Land and assigned to the Youth Correctional Center Trust. The entire SE¼ (160 total acres) was sold on contract to Otto Richter in February of 1910. The contract was later canceled by the Board. On December 30, 1937, Foster County submitted an Application for Site on State Land proposing to acquire the Subject Tract for the purpose of “obtain[ing] gravel for use in gravelling county and township highways” . According to the Board’s meeting minutes, on February 18, 1938, the Board heard a “Right of Way First Reading Gravel Foster County” for the Subject Tract. On March 31, 1938, the Board heard the “Gravel Pit Foster County Second Reading” and unanimously approved the sale of the Subject Tract for use as a gravel pit (see attached Exhibit B). A deed conveying the Subject Tract to Foster County was issued and recorded in Miscellaneous Deed Book 4, Page 385 in the office of the Foster County Recorder on April 19, 1938 (see attached Exhibit C). The remaining 110 acres along the east side of the subject SE¼ was later sold to Luverne Gussiaas, a private party, in March of 1960 and a Patent was issued in April of 1963. The State of North Dakota Acting by and through the Board reserved 50% of all oil, natural gas and other minerals (the word “minerals” includes such clay, coal and uranium as were included within the meaning of that term prior to July 1, 1955) underlying the east 110 acres. No minerals were reserved in the 1938 Deed conveyed to Foster County for the west 50 acres.

The Department of Trust Lands (Department) was recently contacted by Foster County Commissioner Becky Hagel requesting clarification as to whether the conveyance deed issued to Foster County by the Board in 1938 possesses any reversionary interest in the Subject Tract. Foster County is interested in selling this property and is wondering if the deed conveyed the property to Foster County without any other property interests and if the conveyance requires reversion to the State of North Dakota. An Environmental Field Survey Inspection (see attached Exhibit D) was conducted by the Department on December 10, 2020. This survey revealed the Subject Tract is a mined gravel pit which has not been reclaimed and contains unmanaged piles of aggregate and overburden throughout the property. The lack of reclamation has caused the terrain to become incredibly rough and years of non-use has allowed the site to revegetate to smooth brome grass. Additionally, the site has been used as a dump site for asphalt, concrete, and other bulky construction debris. Further, it appears to have been used as a site for public dumping as there are numerous piles of trash scattered throughout containing both potentially hazardous and non-hazardous materials including totes of unlabeled chemicals and unrecognizable appliances.

Assessment. First, it is the Department's belief that significant funds will be needed to clear the Subject Tract of environmental hazards which may negatively affect its long-term usefulness.

Furthermore, the small size of the Subject Tract (50 acres) reduces its attractiveness for to potential lessees for grazing purposes.

Second, the substance of the deed of conveyance issued to Foster County in 1938 was reviewed to determine whether the Subject Tract was subject to a reversionary interest which would cause title to the property to automatically revert back to the State. Upon review of the 1938 conveyance deed, the Department does not believe the Subject Tract is subject to an *automatic* reversion of title back to the Board, but rather that the Board now has a right to reclaim all or part of the interest in the Subject Tract because the property is no longer being used for the purpose for which it was originally conveyed (as a gravel pit) to Foster County in 1938. However, it is important to note that this reversionary right is not automatic, and the Board may choose not to reclaim title to the property.

The language in the deed is vague and unclear as to the specific intent of the parties to that deed at the time of conveyance. While the deed does not contain any express reversionary provision, the deed does declare that the Subject Tract is being conveyed "for public purposes." The Application for Site on State Land submitted to the Board by Foster County on December 30, 1937 indicates that this public purpose was to "obtain gravel for use in gravelling county and township highways." No other public purpose use for the property has ever been suggested. Thus, it is the Department's belief that title to the Subject Tract was conveyed to Foster County in fee simple subject to condition subsequent – that condition being that the property be used as a gravel pit and once the property is no longer used for this intended public purpose, the Board may exercise a right of reentry and reclaim title to the property. This right of reentry in these circumstances is not automatic, but rather must be exercised by the Board to terminate the reversionary estate. The Department has exercised this right of reentry on several other occasions where the deeded property has ceased to be used for the purpose for which it was originally deeded.

Motion: In consideration of the substance of the factors involved with the deed of conveyance issued to Foster County and in consideration of the environmental liabilities attached to the property, any reversionary interests that the State of North Dakota may have in and to the tract of land, the Board requests that Foster County issue a mineral deed conveying 100% of the mineral interest back to the Board, while the Board issues a quit claim deed conveying its reversionary surface interest to Foster County.

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger		X	X		
Superintendent Baesler					X
Treasurer Beadle			X		
Attorney General Stenehjem	X		X		
Governor Burgum			X		

Supporting documentation provided as attachments to the Board for review are available at the Department upon request.

Board of University and School Lands Capital Repairs

The Department of Trust Lands (Department) needs to replace a retaining wall on the north side of the building. The current retaining wall is cracked and leaning towards the building requiring the removal and replacement of the wall. The estimated cost of the project is \$14,500.

N.D.C.C. § 15-03-16 provides:

(04/29/21)

There is appropriated annually the amounts necessary to pay costs related to investments controlled by the board of university and school lands, including investment management fees, trustee fees, consulting fees, custodial fees, and the cost of capitalized building repairs and renovations as approved by the board. Each payment must be made from the trust fund for which the investment is made.

Emphasis added.

Motion: The Board approves utilizing continuing appropriations, per N.D.C.C. § 15-03-16, in an amount not to exceed \$16,000, to support the cost of removing and placing the retaining wall.

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger			X		
Superintendent Baesler					X
Treasurer Beadle		X	X		
Attorney General Stenehjem	X		X		
Governor Burgum			X		

LITIGATION

Newfield Litigation

Case: Newfield Exploration Company, Newfield Production Company, and Newfield RMI LLC v. State of North Dakota, ex rel. the North Dakota Board of University and School Lands and the Office of the Commissioner of University and School Lands, a/k/a the North Dakota Department of Trust Lands, Civ. No. 27-2018-CV-00143

Date Filed: March 7, 2018

Court: District Court/McKenzie County

Attorneys: David Garner

Opposing

Counsel: Lawrence Bender - Fredrikson & Byron, P.A. and Michelle P. Scheffler – Haynes and Boone, LLP

Judge: Robin Schmidt

Issues: Plaintiff is seeking a Declaratory Judgment that it is currently paying gas royalties properly under the Board's lease. Specifically, Plaintiff is asking the Court to order that gas royalty payments made by the Plaintiff be based on the gross amount received by the Plaintiff from an unaffiliated third-party purchaser, not upon the gross amount paid to a third party by a downstream purchaser, and that Plaintiff does not owe the Defendants any additional gas royalty payments based on previous payments.

History: A Complaint and Answer with Counterclaims have been filed. Newfield filed an Answer to Counterclaims. A Scheduling conference was held July 27, 2018. Plaintiffs' filed a Motion for Summary Judgment on August 13, 2018 and Defendants filed a Cross-Motion for Summary Judgment. Plaintiffs' Response was filed October 19, 2018 and Defendants' Reply was filed November 9, 2018. A hearing on the Motions for Summary Judgment was held on January 4, 2019 at 1:30 p.m., McKenzie County. An Order on Cross Motions for Summary Judgment was issued on February 14, 2019, granting Plaintiff's motion for summary judgment and denying Defendants' motion for summary judgment. The Judgment was entered March 1, 2019, and the Notice of Entry of Judgment was filed March 4, 2019. Defendants have filed a Notice of Appeal to the North Dakota Supreme Court

(Supreme Court). The trial scheduled in McKenzie County District Court for September 10 and 11, 2019 has been cancelled. Defendants/Appellants' Brief to the Supreme Court was filed April 29, 2019. Plaintiffs/Appellees filed their Brief of Appellees and Appendix of Appellees on June 7, 2019. Defendants/Appellants filed a reply brief on June 18, 2019. Oral Argument before the Supreme Court was held on June 20, 2019. On July 11, 2019, the Supreme Court entered its Judgment reversing the Judgment of the McKenzie County District Court. On July 25, 2019 Newfield filed Appellee's Petition for Rehearing. Also on July 25, 2019, a Motion for Leave to File Amicus Curiae Brief by Western Energy Alliance in Support of Newfield was filed with the Supreme Court. On July 26, 2019, a Motion for Leave to File Amicus Curiae Brief by North Dakota Petroleum Council in Support of Newfield was filed with the Supreme Court. On August 20, 2019, the North Dakota Supreme Court requested Defendants file a Response to the Petition for Rehearing and the two Amicus Curiae Briefs no later than September 4, 2019. Defendants/Appellants filed their Response to Petition for Rehearing on September 4, 2019. A Corrected Opinion was filed by the North Dakota Supreme Court on September 9, 2019, changing the page number of a citation. On September 12, 2019, the North Dakota Supreme Court entered an order denying Newfield's Petition for Rehearing. On September 20, 2019, the opinion and mandate of the Supreme Court was filed with McKenzie County District Court. A Telephonic Status Conference was held October 8, 2019. On October 9, 2019, the District Court issued an Order Setting Briefing Schedule which ordered "the parties to file a brief regarding how they suggest the case proceed after the Supreme Court's decision." The parties filed briefs with the District Court on November 6, 2019. Notice of Appearance for Michelle P. Scheffler of Hayes and Boone, LLP on behalf of Plaintiffs was filed November 7, 2019. Telephonic Status Conference scheduled for March 17, 2020 before the District Court. On May 14, 2020, the Court scheduled a five-day Court Trial to start on October 4, 2021, McKenzie County Courthouse. On July 28, 2020, a Stipulated Scheduling Order was entered, setting dates for various deadlines.

Current Status:

- **On April 1, 2021, the State served Defendants State of North Dakota, ex re. the North Dakota Board of University and School Lands, and the Office of the Commissioner of University and School Lands, a/k/a the North Dakota Department of Trust Lands' Interrogatories, Requests for Production of Documents, and Requests for Admissions to Plaintiff.**
- **On April 1, 2021, the Plaintiffs served the following on the State: Plaintiffs' Notice of Intention to Take Oral and Videotaped Deposition of a Representative of the North Dakota Department of Trust Lands; Plaintiffs' Notice of Intention to Take Oral and Videotaped Deposition of Lance Gaebe; Plaintiffs' Notice of Intention to Take Oral and Videotaped Deposition of Taylor K. Lee; Plaintiffs' Notice of Intention to Take Oral and Videotaped Deposition of Jodi Smith; and Plaintiffs' First Set of Interrogatories, Requests for Production, and Requests for Admission to all Defendants.**

Mandan, Hidatsa, and Arikara Nation v. U.S. Department of Interior Litigation

Case: Mandan, Hidatsa, and Arikara Nation v. United States Department of the Interior; David L. Bernhardt, in his official capacity as Secretary of the United States Department of Interior; and Daniel H. Jorjani, in his official capacity as Solicitor of the United States Department of the Interior; Case No. 20-1918 (ABJ)

Date Filed: July 16, 2020

Court: United States District Court for the District of Columbia

(04/29/21)

Judge: Honorable Amy Berman Jackson
Attorney: Matthew Sagsveen, Beveridge & Diamond

Opposing Counsel: Steven D. Gordon, Philip Merle Baker-Shenk, Timothy Purdon, and Timothy Billion for Plaintiffs; Reuben S. Schifman for United States Department of Interior

Issues: In July, 2020, the Mandan, Hidatsa, and Arikara Nation (Tribe) filed a Complaint against the United States Department of the Interior (DOI); David Bernhardt, Secretary of DOI; and Daniel Jorjani, DOI Solicitor. The Complaint asserts four causes of action. Count One asserts that Solicitor Opinion M-37056 issued May 26, 2020, by Jorjani is flawed because it is inconsistent with past DOI opinions and decisions and contrary to the historical record. Count Two asserts the Opinion is flawed because it is the result of improper political influence. Counts Three and Four seek, essentially, an accounting and seem premised on the success of either Count One or Count Two.

In the Complaint's Prayer for Relief, the Tribe requests: (a) that the Jorjani Opinion, which concluded North Dakota owns the lands beneath the Missouri Riverbed within the Fort Berthold Reservation, be set aside; (b) that the Court grant injunctive relief preventing Defendants from taking any steps to implement the Opinion; (c) that the Court compel DOI to account to the Tribe regarding the Missouri Riverbed and underlying minerals, including the production of minerals and the value of royalties owed thereon; (d) the Court declare the 1979 IBLA *Impel Energy* decision (finding the state does not own the riverbed) is *res judicata* and binding on the DOI; (e) the Court compel DOI to take the requisite administrative steps to document that the Missouri Riverbed and underlying minerals are held in trust by the United States for the benefit of the Tribe; (f) the Court compel DOI to take requisite steps to administer and account for the Tribe's mineral rights in lands underlying the Missouri Riverbed; (g) the Court compel DOI to collect, deposit and invest or pay funds owing to the Tribe for the extraction of minerals from the lands underlying the Missouri Riverbed; (h) that the Tribe be awarded reasonable fees, costs, and expenses, including attorney's fees; and (i) that the Court grant such further relief as the Court deems just and equitable.

Along with its Complaint, the Tribe filed a motion for preliminary injunction asking that the Court to immediately order DOI to refrain from doing anything to implement the Jorjani Opinion until the Court has decided the merits of the Tribe's claims regarding that Opinion.

History: Summons and Complaint filed July 16, 2020. A scheduling conference was held by telephone on July 23, 2020, with a follow up on July 29. The parties agreed the pending motion for preliminary injunction can be considered to be Plaintiff's motion for partial summary judgment on count one and resolved with defendant's cross motion for partial summary judgment as to that count. The merits of count one will be consolidated with any hearing on the motion for preliminary injunction. An Order issued by the Court on July 31, 2020 provides:

- Administrative record - due August 26, 2020;
- Defendant's consolidated opposition to motion for preliminary injunction and cross-motion for partial summary judgment - due September 1, 2020.
- Plaintiff's consolidated reply and cross-opposition to Defendant's motion - due October 1, 2020.
- Defendant's cross-reply to opposition - due October 15, 2020.
- No lease or other official record affecting ownership of the Missouri Riverbed mineral estate within the Reservation may be modified or

(04/29/21)

changed before 200 days from the date of this order – February 16, 2021, unless Defendant seeks the court’s permission and amendment of the order, the Plaintiff has an opportunity to be heard, and the motion is granted.

That any revenues generated from riverbed mineral development under control of DOI not be disbursed until after the Court’s resolution of the cross-motions for partial summary judgment on count one.

The State of North Dakota filed an Expedited Motion to Intervene on August 10, 2020. The Court issued an Order on August 11, 2020, allowing Plaintiff to respond to the State’s Motion by August 17, 2020, and the State to file a reply by August 21, 2020. The Tribe filed its Opposition to the State Motion to Intervene on August 17, 2020. On August 21, 2020, the State filed its reply to the Tribe’s opposition to the motion to intervene.

Current Status:

- **The Notice of Lodging of Administrative Record was filed on August 26, 2020.**
- **The Court entered its Opinion and Order granting North Dakota’s Motion to Intervene and setting forth requirements for filings.**
- **On September 1, 2020, the United States filed the United States Department of Interior’s Opposition to Plaintiff’s Motion for Preliminary Injunction and Cross-Motion for Partial Summary Judgment.**
- **On September 8, 2020, Plaintiff filed a Motion to Complete Administrative Record and a proposed Order.**
- **Also on September 8, 2020, the State filed the Intervenor-Defendant State of North Dakota’s Cross-Motion for Partial Summary Judgment and Opposition to Plaintiff’s Motion for Preliminary Injunction.**
- **On April 2, 2021, Plaintiff’s Supplemental Submission Regarding Mootness by Mandan, Hidatsa, and Arikara Nation, State of North Dakota’s Response to Mootness, and U.S. Department of Interior’s Response to Order of the Court were filed.**

Continental Interpleader Litigation

Case: Continental Resources, Inc. v. North Dakota Board of University and School Lands, et al., Case No. 1:17-cv-00014

Date Filed: December 23, 2016

Court: Federal District Court, 8th Circuit

Judge: Honorable Daniel Hovland

Attorney: Charles Carvell, David Garner, and Jen Verleger

Opposing Counsel: Lawrence Bender, David Ogden, Paul Wolfson, Shaun Pettigrew, Evelyn S. Ying

Issues: In December 2016, Continental Resources, Inc. (Continental) brought an interpleader action against the Board of University and School Lands and the United States regarding certain public domain lands underlying Continental operated wells located in McKenzie, Mountrail, and Williams Counties. This case involves a disagreement between the State and United States over the location of the ordinary high watermark—and consequently title to underlying minerals—on federally owned land along the now inundated historic Missouri River. Continental is requesting the Court determine title to the disputed lands so that Continental can correctly distribute the proceeds from the affected wells. Continental has claimed that there is “great doubt as to which Defendant is entitled to be paid royalties related to the Disputed Lands.” Currently, Continental is paying the United States its full royalty based on

the acreage it claims. The remaining royalty, over and above what is due the United States, is being escrowed with the Bank of North Dakota.

History:

The United States removed this action to federal district court on January 11, 2017. The Board filed its answer to the complaint on February 13, 2017. The United States filed its answer to the complaint on May 12, 2017. An Amended Complaint was filed by Continental Resources on September 14, 2017. The United States filed a Motion to Dismiss for Lack of Subject Matter Jurisdiction on October 18, 2017. In support of its motion, the United States alleges that it has not waived its sovereign immunity under the Quiet Title Act and that the interpleader action is moot under S.B. 2134.

The Board filed a response on December 20, 2017 opposing the motion to dismiss. Continental filed a response and the United States filed its reply. The United States filed a reply on March 16, 2018. The Board filed a Surreply to the Motion to Dismiss on April, 16, 2018. The Order Denying the United States' Motion to Dismiss for Lack of Subject Matter Jurisdiction was entered on December 31, 2018. The Order provided that North Dakota and the United States confer and submit a proposed scheduling order to the Court no later than sixty days from the date of the order. On January 8, 2019 the United States filed its Motion to Stay Action Due to Lapse of Appropriations. On January 10, 2019, the Court granted the United States' Motion and cancelled the January 24, 2019 scheduling conference. The Order stated the "action is stayed until [federal] appropriations are restored and Department attorneys and the Bureau of Land Management personnel are permitted to resume their usual civil litigation functions." The United States filed a Notice of Restoration of Appropriations on January 28, 2019, which requested the Court set a new scheduling conference date. On January 30, 2019, the Court issued an order granting the motion for scheduling conference, requiring the parties submit a revised scheduling/discovery plan by March 15, 2019, and setting a telephonic scheduling conference for 10:00 a.m., March 18, 2019. The parties filed a Joint Motion for Extension of Time to File Scheduling Proposal and Participate in Scheduling Conference on March 12, 2019. The Court entered an Order granting the extension to April 12, 2019 and a scheduling conference was reset for April 15, 2019. The Scheduling Conference was held on April 15, 2019. On June 14, 2019, the Board of University and School Lands filed its Amended Answer to Amended Complaint with Statement of Claim. By August 13, 2019, the United States shall assert its claims, if any, to the disputed stake. After the August 13, 2019 filing, the proceedings will be stayed until September 19, 2019 or another date set by the Court. During the stay, the United States and the Board are to discuss whether the dispute that gave rise to the litigation can be resolved. By no later than September 19, 2019, the United States and Board shall inform the Court of the status of their discussions and the Court will consider a schedule for the case. A Status Conference was set for September 20, 2019 before Magistrate Judge Clare R. Hochhalter. On August 1, 2019, the Status Conference previously set for September 20 was reset to October 11, 2019 at 10 a.m. before Magistrate Judge Clare R. Hochhalter. On August 13, 2019, the United States filed a Motion for Extension of Time to Plead and Assert Affirmative Claims and the Motion was granted on the same day, giving the United States until August 27, 2019 to file. The United States filed their Answer to Amended Complaint on August 27, 2019. On October 3, 2019, Defendants filed a joint motion and memorandandum for postponement of the October 11, 2019 status conference by 90 days. On October 4, 2019, the Court entered an Order granting the motion to continue status conference. Status conference was reset to January 13, 2020, at 9 a.m. via telephone before Magistrate Clare R. Hochhalter. United States Department of Justice advised it will be working with the United States Department of Interior – Bureau of Land Management regarding a settlement proposal. On November 8, 2019, the Board received an email from the US DOJ in response to the Board's

request that the federal government start settlement discussions by making a proposal to the Board. The email states the federal government believes its OHWM surveys are accurate, and cited N.D.C.C. § 61-33.1-06, which states: “Notwithstanding any provision of this chapter to the contrary, the ordinary high water mark of the historical Missouri riverbed channel abutting . . . public domain lands . . . must be determined by the branch of cadastral study of the [BLM] in accordance with federal law.” Relying on this statute, US DOJ suggests that the federal surveys are presumptively accurate, and then states: “we respectfully suggest that the best and most appropriate path forward would be for representatives of North Dakota to identify the specific areas where it believes the agency erred in identifying the OHWM and proffer the evidence on which it bases that belief. BLM would then assess that evidence in good faith to ascertain if a compromise, aimed at reducing litigation risk, is possible.” Status conference was held January 13, 2020 and another status conference was set for April 7, 2020.

Current Status:

- On April 7, 2020, an Order RE: Briefing Scheduled was issued by the court setting the following deadlines: Motions for Summary Judgment due simultaneously on May 7, 2020; Responses are due June 5, 2020; and Replies are due June 12, 2020.
- On December 8, 2020, the Court issued its Order Granting the United States’ Motion for Partial Summary Judgment.
- Notice of Interlocutory Appeal as to the Order on Motion for Partial Summary Judgment filed by the North Dakota Board of University and School Lands on February 5, 2021. Transmittal of the Notice of Appeal Supplement to the 8th Circuit Court of Appeals was also on February 5, 2021.
- On March 5, 2021, the Board moved for an extension of time to file the Opening Brief and Appendix with the 8th Circuit Court of Appeals and the Court granted that motion the same day.
- On March 23, 2021, the United States’ Motion to Dismiss Appeal for Lack of Appellate Jurisdiction was filed.
- On April 5, 2021, the State filed North Dakota Board of University and School Lands’ Response to United States’ Motion to Dismiss Appeal for Lack of Appellate Jurisdiction.

Nelson, Coachman, & Sorum - Quiet Title Action

Case: Marvin Nelson, Michael Coachman & Paul Sorum v. The Board of University and School Lands of the State of North Dakota – Civ. No. 27-2021-CV-00147

Tribunal: McLean County District Court

Judge: The Honorable Robin Schmidt

Attorney: David Garner

Opposing Counsel: Plaintiffs Appearing Pro Se

Issues: The Board was named as a defendant in the above reference case which was served on April 15, 2021. Plaintiffs have filed a Summons for Petition or Quiet Title, Petition for Quiet Title, and a Memorandum in Support of Petition for Quiet Title. Plaintiffs are seeking to quiet title to the property described as:

That area of the bed of Lake Sakakawea known as Lake Jennie (Jenne Lake) delineated by the US Army Corps of Engineers Shoreline Survey used in acquiring land for the creation of Lake Sakakawea In Section 30 of Township 153 North Range 98 West

and in Sections 23,24,25,26 in Township 153 North Range 99 West (approximately 488.68 acres).

History:

Current Status:

Whitetail Wave Litigation

Case: Whitetail Wave LLC v. XTO Energy, Inc.; the Board of University and School Lands; and the State of North Dakota – 27-2015-CV-00164
Date Filed: June 4, 2015
Court: McKenzie County District Court
Judge: Robin Schmidt
Attorney: David Garner/Jennifer Verleger
Opposing Counsel: Whitetail Wave – Christopher Sweeney; XTO Energy – Lawrence Bender

Issues: On August 1, 2015, the Attorney General’s Office was served with a complaint in the above referenced case. This case is challenging the State’s determination of the OHWM east of the Highway 85 Bridge, near the northern border of the Fort Berthold Indian Reservation. The Board has currently leased minerals pursuant to the Phase II Investigation for this tract. The Plaintiff is requesting that title to the minerals be quieted and has alleged claims of Unconstitutional takings, trespass, slander of title, and constructive trust/unjust enrichment against the State. The complaint also makes a number of claims specific to XTO Energy Inc., the operator of the wells on the tracts in dispute. Specifically, the Plaintiff is requesting that the State’s claim to sovereign lands’ mineral interest be restricted to those minerals located below the OHWM of the Missouri River prior to inundation of the Lake Sakakawea.

An answer was filed on behalf of the Board on July 21, 2015. In January 2016, the State Engineer intervened in the case.

History: Due to the passage of S.B. 2134, the Court ordered the case stayed and all deadlines be held in abeyance until the final review findings under S.B. 2134 are issued by the Industrial Commission. The Board and State Engineer filed a Motion for Continued Stay of Proceedings on October 19, 2018 and XTO filed a Response in Support of Continued Stay on October 26, 2018. On November 5, 2018, the Court entered its Order for Continued Stay of Proceedings, staying the proceedings, holding all deadlines in abeyance, and ordering that upon final disposition of the Sorum lawsuit the parties will request a status conference to schedule a new trial date and reset other deadlines. The continued stay was affirmed on November 27, 2018. On September 30, 2020, the District Court scheduled a Telephonic Status Conference for October 6, 2020. On October 6, 2020, Spencer Ptacek filed a Notice of Appearance on behalf of XTO. On October 7, 2020, the District Court scheduled a pretrial conference for August 10, 2021, and scheduled a five day, six person jury trial for August 16-20, 2021. On October 22, 2020, the Board of University and School Lands and State Engineer filed their Motion to Dismiss and Supporting documents.

Current Status:

- On November 5, 2020, Plaintiff filed a Notice of Hearing on the Board of University and School Lands and State Engineer’s Brief in Support of Motion to Dismiss for 9:00 a.m. on December 3, 2020, at the McKenzie

County Courthouse, Watford City, ND. Also filed was Whitetail Wave LLC's Response to State's Motion to Dismiss.

- On November 12, 2020, the Board of University and School Lands and State Engineer's Reply Brief in Support of Motion to Dismiss was filed.
- Also on November 12, 2020, the Response to the State Defendants' Motion to Dismiss was filed by XTO.
- On January 4, 2021, Whitetail Wave filed its Surreply to State's Motion to Dismiss.
- On January 19, 2021 the Board of University and School Lands and State Engineer filed their Response to Whitetail Wave's Surreply Regarding State's Motion to Dismiss.
- On April 13, 2021, the Court entered its Order on State's Motion to Dismiss, denying the State's Motion.

EXECUTIVE SESSION

Under the authority of North Dakota Century Code Sections 44-04-19.1 and 44-04-19.2, the Board close the meeting to the public and go into executive session for purposes of attorney consultation relating to:

- Newfield Exploration Company et al Civ. No. 27-2018-CV-00143
- Mandan, Hidatsa, and Arikara Nation vs. United States Department of Interior, et al., 1:20-cv-01918
- Continental Resources Case No. 1:17-cv-00014
- Sorum et al. QTA
- Whitetail Wave Case No. 27-2015-cv-00164
- Legislative Update – HB 1080

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger		X	X		
Superintendent Baesler					X
Treasurer Beadle			X		
Attorney General Stenehjem	X		X		
Governor Burgum			X		

The Board entered into executive session in a separate Microsoft Teams meeting at 9:46 AM with members of the public remaining in the open session Microsoft Teams meeting.

EXECUTIVE SESSION

Members Present:

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Wayne Stenehjem	Attorney General
Thomas Beadle	State Treasurer

Members Absent:

Kirsten Baesler	Superintendent of Public Instruction
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Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Catelin Newell	Administrative Staff Officer
Kristie McCusker	Paralegal
Adam Otteson	Revenue Compliance
David Shipman	Director Minerals Division

(04/29/21)

Guests in Attendance:

Dave Garner

Office of the Attorney General (present for Sorum, Whitetail and Newfield)

Charles Carvell

Office of the Attorney General (present for MHA and Continental)

Reice Haase

Governor's Policy Advisor

The executive session adjourned at 10:46 AM and the Board returned to the open session Teams meeting to rejoin the public. During the executive session Teams meeting, the Board was provided information and no formal action was taken.

MINERALS**Repayment of Unpaid Gas Royalties Update**

The Board of University and School Lands (Board) manages land, minerals, and proceeds as trustee for the exclusive benefit of constitutionally identified beneficiaries, with much of the income going towards funding North Dakota schools and institutions. The Board also manages oil, gas and other hydrocarbons underlying sovereign lands for the State of North Dakota.

The Department of Trust Lands (Department) has persistently worked with operators to collect payment or establish escrow accounts for royalties from the production of minerals, in accordance with the Board's lease, rules, and policies. Royalty audits began in the late 1980's and a Revenue Compliance Division was created in 2011 to ensure that royalty and other collections made on behalf of the trusts and other funds are complete and accurate.

A letter regarding Formal Notification of Gas Royalty Repayment Obligations dated February 11, 2020 (February 2020 Letter), was sent to all entities required to pay royalties to the Board pursuant to the Board's lease. The February 2020 Letter advised all entities who have been deducting post production costs from royalty payments made to the Department that they have been underpaying royalties, contrary to the terms of the Board's lease. Entities were advised that penalties and interest continue to accrue on any unpaid amounts in accordance with the Gas Deduction Compliance Notification until payment is received. On April 8, 2020, the Board extended the date to come into compliance with gas royalty payments, as outlined in the February 2020 Letter, to September 30, 2020. At the August 27, 2020, Board meeting, the Board extended the date to come into compliance with gas royalty payments, as outlined in the February 2020 Letter, to April 30, 2020.

Since the issuance of the February 2020 Letter, the Department has been working with payors who have been deducting post production costs from royalty payments made to the Department to ensure that they are in compliance with the terms of the Board's lease. Since February twenty-five gas royalty payors have requested royalty data to assist in repayment calculations and twelve gas payors have successfully repaid the Department. Roughly 30 gas payors remain out of compliance with the Board's interpretation of its lease:

On May 1, 2021, unless active conversations are occurring with the Department regarding repayment, payors will be subject to 12% interest and 4% penalty.

Motion: The Board authorizes the Commissioner to extend the full repayment deadline of April 30 2021 to July 31, 2021.

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger			X		
Superintendent Baesler					X
Treasurer Beadle	X		X		
Attorney General Stenehjem		X	X		
Governor Burgum			X		

I N V E S T M E N T S

Commercial Real Estate Manager

In accordance with the Investment Policy Statement (IPS) the Department of Trust Lands (Department) regularly reviews the Permanent Trust Funds' (PTFs) asset allocations for rebalancing purposes. At the end of the first quarter of 2021, the Department determined that the PTFs should be rebalanced out of Public Equities (both domestic and international) and Absolute Return into Fixed Income and Commercial Real Estate (CRE). This determination was due to the outperformance of Public Equities and Absolute Return which brought each asset class above their target allocations.

The Department reviewed its existing CRE managers and determined that more exposure to traditional core real estate would not be prudent due to the already large position in the PTFs. The Department and RVK began the new manager search by compiling a list of the top performing CRE managers within RVK's database. The Department and RVK reviewed the performance and risk history of each manager, along with fees, asset quality, asset characteristics, and investment structures. The Department choose its top two managers and interviewed them to review their investment strategies and processes.

After conducting a thorough due diligence of each manager, the Department and RVK recommend the Board approve a CRE mandate with Harrison Street. Harrison Street is an investment manager headquartered in Chicago, with additional offices in North America and Europe. It has invested over \$40 Billion in real estate and infrastructure and employs 195 professionals. Harrison Street has a strong, transparent investment process.

The Harrison Street Core Property Fund (Harrison Fund) is unique despite its name. Its assets are unlike the assets of a typical core CRE fund. The average core CRE fund tracked by the NCREIF-ODCE Index has the following property allocations: Apartments (37%), Office (34%), Industrial (20%), Retail (15%) and other property types (4%). The Harrison Fund as the following property allocations: Medical Office (32%), Senior Housing (28%), Student Housing (22%), Life Sciences (9%) and Self-storage (9%). The Harrison Fund is completely unlike our other CRE funds and yet is still well diversified and has had strong performance with low volatility.

Motion: The Board approves a \$100 Million investment with Harrison Street Core Property Fund in the commercial real estate asset allocation to partially rebalance the Permanent Trust Fund portfolios, subject to final review and approval of all legal documents by the Office of the Attorney General.

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger	X		X		
Superintendent Baesler					X
Treasurer Beadle		X	X		
Attorney General Stenehjem			X		
Governor Burgum			X		

RVK CRE Recommendation Memo, RVK CRE Investment Manager Search Presentation and

(04/29/21)

Harrison Street Core Property Fund Presentation materials were provided to the Board and are available from the Department upon request.

Schroders Securitized Credit Mandate

In October 2020, the Board of University and School Lands (Board) approved a revision to the Fixed Income asset allocation of the Permanent Trust Funds’ (PTFs). During the discussion Department of Trust Lands (Department) staff mentioned that the Schroders’ mandate was also being reviewed for possible changes. The Department has now completed a thorough review of the securitized mandate and determined that a recommendation to expand the credit criteria and asset mixed should be made to the Board.

In June 2018, the Board approved a securitized credit mandate with Schroders. The mandate was for a high-quality, “A+” average investment grade, short duration portfolio of securitized credit (including: residential mortgage-backed securities, asset-backed securities and commercial mortgage-backed securities).

The Department undertook a search of possible managers to take on an expanded securitized mandate. The Department began the new manager search by asking RVK to compile a list of the top performing securitized credit managers within RVK’s database. The Department and RVK reviewed the performance and risk history of each manager, along with fees, asset quality, asset characteristics, and investment structures. The Department identified and interviewed its selection of the top three managers, including Schroders, to review their investment strategies and processes.

After conducting a thorough due diligence of each manager, the Department and RVK recommend the Board approve an expanded securitized credit mandate with Schroders. The new mandate would allow Schroders to move down in average credit quality from A+ to BBB-, as well as allow for the manager to purchase unsecuritized pools or loans and other receivables. Also, moving from a Libor + 175 targeted return to a Libor + 500 targeted return.

Schroders is launching a new securitized investment vehicle, in which, if approved, the PTFs will be the founding limit partner, for which the PTFs will receive a preferred management fee. The Schroders Flexible Securitized Income Fund is an open-end fund with quarterly liquidity. The Department recommends investing the existing securitized mandate (~\$123 Million) and an additional amount from core bonds for a total of \$200 Million.

Schroders is an investment manager headquartered in New York and London, with offices throughout the globe. They have over \$780 Billion in assets under management, including \$16 billion in securitized assets. The securitized credit team consists of 16 investment professionals with deep experience in securitized and asset-based markets.

Motion: The Board approves a \$200 Million investment with Schroders Flexible Securitized Income Fund in the fixed income asset allocation, subject to final review and approval of all legal documents by the Office of the Attorney General.

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger	X		X		
Superintendent Baesler					X
Treasurer Beadle		X	X		
Attorney General Stenehjem			X		
Governor Burgum			X		

RVK Recommendation Memo, Schroders’ Presentation materials were provided to the Board and are available from the Department upon request.

A D J O U R N

There being no further business, the meeting was adjourned at 11:28 AM.

Doug Burgum, Chairman
Board of University and School Lands

Jodi Smith, Secretary
Board of University and School Lands

**Minutes of the Special Meeting of the
Board of University and School Lands
April 29, 2021**

The April 29, 2021 special meeting of the Board of University and School Lands was called to order at 4:30 PM via Microsoft Teams by Chairman Doug Burgum. All meeting attendees were via Microsoft Teams.

Members Present:

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Wayne Stenehjem	Attorney General
Kirsten Baesler	Superintendent of Public Instruction

Members Absent:

Thomas Beadle	State Treasurer
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Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Rick Owings	EIIO Grants Administrator

Guests in Attendance:

Dave Garner	Office of the Attorney General
Reice Haase	Office of the Governor

O T H E R

Commissioner Annual Leave Payout

N.D. Admin. Code § 4-07-12-08 provides:

No more than two hundred forty hours of accrued annual leave may be carried forward beyond April thirtieth of each year. If a political subdivision that employs individuals in positions classified by human resource management services uses a cutoff date other than April thirtieth, then the political subdivision may continue to do so as long as the same cutoff date is used for all of the agency's employees who occupy positions that are classified by human resource management services, and the two-hundred-forty-hour limit is observed.

From January 2020 thru January 2021, the Commissioner of the Board of University and School Lands has worked 968 hours over the payable 2,264 hours. Due to the increased workload resulting from royalty repayment discussions, COVID-19 related workflow changes, information technology changes, legislative session preparation, and other significant business needs, the Commissioner was unable to utilize annual leave earned.

Under N.D. Admin. Code § 4-07-12-10:

An employee may not be paid for unused annual leave while the employee remains in the service of the agency, except for the following reasons:

1. The employee takes a long-term leave of absence;
2. The employee goes on educational leave;
3. The employee moves to temporary employment; or
4. Human resource management services approves a written request from an agency for an exception to this section for a business-related reason.

When an employee is transferring from one agency to another, the employee must be paid for the difference in hours between what the employee has accumulated and the number of hours the gaining agency will accept. When an employee is leaving the service of the agency, the employee must be paid for all accrued hours of annual leave.

If the Board does not authorize the payout of annual leave earned over the allowable 240 hours, the Commissioner will lose the hours earned.

Motion: The Board authorizes the payout of annual leave earned over the allowable 240 hours of annual leave as of April 30, 2021.

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger		X	X		
Superintendent Baesler			X		
Treasurer Beadle					X
Attorney General Stenehjem	X		X		
Governor Burgum			X		

A D J O U R N

There being no further business, the meeting was adjourned at 4:35 AM.

Doug Burgum, Chairman
Board of University and School Lands

Jodi Smith, Secretary
Board of University and School Lands

**Minutes of the Meeting of the
Board of University and School Lands
May 25, 2021**

The May 25, 2021 meeting of the Board of University and School Lands was called to order at 2:06 PM via Microsoft Teams by Chairman Doug Burgum. All meeting attendees were via Microsoft Teams.

Members Present:

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Wayne Stenehjem	Attorney General
Thomas Beadle	State Treasurer
Kirsten Baesler	Superintendent of Public Instruction

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Dennis Chua	Investment Analyst
Christopher Dingwall	Mineral Title Specialist
Robert Dixon	ITD
Susan Dollinger	Unclaimed Property
Scott Giere	Revenue Compliance Auditor
Peggy Gudvangen	Accounting Division Director
Michael Humann	Surface Division Director
Kristie McCusker	Paralegal
Catelin Newell	Administrative Staff Officer
Adam Otteson	Revenue Compliance Director
Rick Owings	EIO Grants Administrator
Kate Schirado	Administrative Assistant
Michael Shackelford	Investments Director
David Shipman	Minerals Division Director
James Wald	Legal Council

Guests in Attendance:

Dave Garner	Office of the Attorney General
Reice Haase	Office of the Governor
Leslie Bakken Oliver	Governor's Legal Counsel

Additional Guests in Attendance:

Brady Pelton (NDPC)
Eric Sundberg
Karlene Fine
Gary Hagen
Amy Sisk
Josh Kevan (RVK)
Julie Ellingson (Stockmen's Association)
Lawrence Bender
Matt Perdue
Andrea Pfennig
Ron Ness
Jim Silrum
Will Miller

A P P R O V A L O F M I N U T E S

A motion to approve the minutes of the April 29, 2021 regular meeting and the April 29, 2021 special meeting, was made by Attorney General Wayne Stenehjem and seconded by State Treasurer Thomas Beadle and the motion carried unanimously on a voice vote.

(05/25/21)

R E P O R T S

April 2021 Report of Encumbrances Issued by Land Commissioner

Granted to:	CONTINENTAL RESOURCES INC, OKLAHOMA CITY-OK
For the Purpose of:	Easement: Pipeline-Multiple Pipelines & Communication Cable
Right-of-Way Number:	RW0008538
Trust:	A - Common Schools
Legal Description:	WIL-153-99-21-SE4, WIL-153-99-22-SW4 LESS ACRES CONDEMNED, W2SE4 LESS ACRES CONDEMNED
Granted to:	WILLISTON WATER MANAGEMENT, LLC, DENVER-CO
For the Purpose of:	Permit: Temporary Water Layflat Line
Right-of-Way Number:	RW0008849
Trust:	A - Common Schools
Legal Description:	MOU-152-92-14-SE4, MOU-152-92-23-NE4NW4
Granted to:	WEST DAKOTA WATER LLC, WILLISTON-ND
For the Purpose of:	Permit: Temporary Water Layflat Line
Right-of-Way Number:	RW0008850
Trust:	A - Common Schools
Legal Description:	MOU-153-92-16-NE4, MOU-153-92-16-NW4
Granted to:	QEP ENERGY COMPANY, DENVER-CO
For the Purpose of:	Permit: Temporary Water Layflat Line
Right-of-Way Number:	RW0008853
Trust:	A - Common Schools
Legal Description:	MOU-150-92-15-W2SW4
Granted to:	HESS CORPORATION, HOUSTON-TX
For the Purpose of:	Easement: Drop Line-Multiple Pipelines & Communication Cable
Right-of-Way Number:	RW0008655
Trust:	A - Common Schools
Legal Description:	MOU-157-93-36-SE4
Granted to:	ND GEOLOGICAL SURVEY, BISMARCK-ND
For the Purpose of:	Permit: Access to School Land
Right-of-Way Number:	RW0008839
Trust:	A - Common Schools
Legal Description:	Multiple tracts in Bowman, Burleigh, Emmons, Grant, Morton, Sioux, Slope Counties
Granted to:	EQUINOR PIPELINES LLC, WILLISTON-ND
For the Purpose of:	Easement-Amend: Pipeline-Multiple Pipelines
Right-of-Way Number:	RW0008727
Trust:	A - Common Schools
Legal Description:	MCK-151-101-36-NW4, SE4, SW4
Granted to:	DROPWATER SOLUTIONS LLC, GAINESVILLE-TX
For the Purpose of:	Permit: Temporary Water Layflat Line
Right-of-Way Number:	RW0008858
Trust:	A - Common Schools
Legal Description:	DUN-147-96-36-NW4
Granted to:	MCKENZIE ELECTRIC COOPERATIVE INC, WATFORD CITY-ND
For the Purpose of:	Easement-Amend: Electric-Buried Distribution Line
Right-of-Way Number:	RW0008855
Trust:	A - Common Schools
Legal Description:	DUN-147-96-36-NE4
Granted to:	WILLISTON WATER MANAGEMENT, LLC, DENVER-CO
For the Purpose of:	Permit: Temporary Water Layflat Line
Right-of-Way Number:	RW0008860
Trust:	A - Common Schools
Legal Description:	MOU-151-92-36-W2NE4SW4, NW4SW4, S2SW4

(05/25/21)

Summary of Spring Surface Lease Auction Results

The 2021 spring surface lease auctions were completed in person in May. The following table is a summary of the spring auction results as compared to the prior spring auction seasons.

	2018	2019	Online 2020	2021
Number of counties	26	27	24	19
Total tracts offered	82	99	144	66
Number of tracts bid	66 (80.5%)	79 (79.8%)	108 (75%)	56 (85%)
Number of bid tracts bid-up	14 (21%)	27 (34%)	27 (25%)	15 (27%)
Total amount of minimum advertised bids	\$151,276	\$220,960	\$283,859	\$98,815
Total amount received	\$156,286	\$273,177	\$255,173	\$121,605

Unleased tracts offered at the spring auction are available on a first come first serve basis for minimum opening bid until August 31, 2021.

All payments received from the spring auctions have cleared and no issues remain.

Motion: The Board approves the 66 surface leases for the successful bidders from the spring 2021 surface lease auctions to be processed by the Department.

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger	X		X		
Superintendent Baesler			X		
Treasurer Beadle			X		
Attorney General Stenehjem		X	X		
Governor Burgum			X		

Summary of Oil and Gas Lease Auction

On behalf of the Board of University and School Lands (Board), the Department of Trust Lands conducted an oil and gas lease auction on www.energynet.com which concluded on May 4, 2021.

There were 63 tracts offered, and all received competitive bids (if the Board does not receive a competitive bid, the lease is awarded to the nominator). The highest bid per acre was \$351.00 in Burke County (20 acres for a total of \$7,020.00). 40 tracts offered benefit the Common Schools Trust Fund; 20 tracts benefit the Strategic Investment and Improvements Fund (SIIF); and one tract benefits the School for the Blind Trust Fund.

County	Tracts/County	Net Mineral Acres	Total Bonus	Average Bonus/Acre
Burke	8	432.00	\$91,617.60	\$271.25
Hettinger	15	838.46	\$10,632.26	\$17.60
McKenzie	2	320.00	\$26,880.00	\$84.00
Slope	27	2992.00	\$11,904.00	\$3.63
Stark	3	89.81	\$2,162.39	\$46.00
Williams	8	920.00	\$138,280.00	\$152.75
GRAND TOTAL	63	5,592.27	\$ 281,476.25	\$64.44

There was a total of 21 bidders who submitted 772 bids on the 63 tracts. The bidders were from 9 states (CA, CO, FL, MN, MT, ND, TX, WA and WY). A total of \$281,476.25 of bonus was collected from the auction.

April Unclaimed Property Report

Unclaimed property is all property held, issued, or owing in the ordinary course of a holder's business that has remained unclaimed by the owner for more than the established time frame for the type of property. It can include checks, unpaid wages, stocks, amounts payable under the terms of insurance policies, contents of safe deposit boxes, etc.

An owner is a person or entity having a legal or equitable interest in property subject to the unclaimed property law. A holder can include a bank, insurance company, hospital, utility company, retailer, local government, etc.

Since 1975, the Unclaimed Property Division (Division) of the Department of Trust Lands (Department) has been responsible for reuniting individuals with property presumed abandoned. The Division acts as custodian of the unclaimed property received from holders. The property is held in trust in perpetuity by the State and funds are deposited in the Common Schools Trust Fund. The 1981 Uniform Unclaimed Property Act created by the national Uniform Law Commission was adopted by the State in 1985.

For the month of April 2021, the Division received 331 holder reports with a property value of \$1,408,881 and paid 228 claims with a total value of \$582,520.

The Department has engaged Marketing & Advertising Business Unlimited, Inc. (MABU), a full-service management, marketing and multimedia production company, to aid the Department in developing and deploying a strategic communications plan surrounding changes to N.D.C.C. ch. 47-30.1 as a result of the passage of Senate Bill 2048 during the Sixty-seventh Legislative Assembly.

The Financial Report (Unaudited) for period ending February 28, 2021 was presented to the Board for review and is available at the Department upon request.

Investment Updates

Portfolio Rebalancing Updates

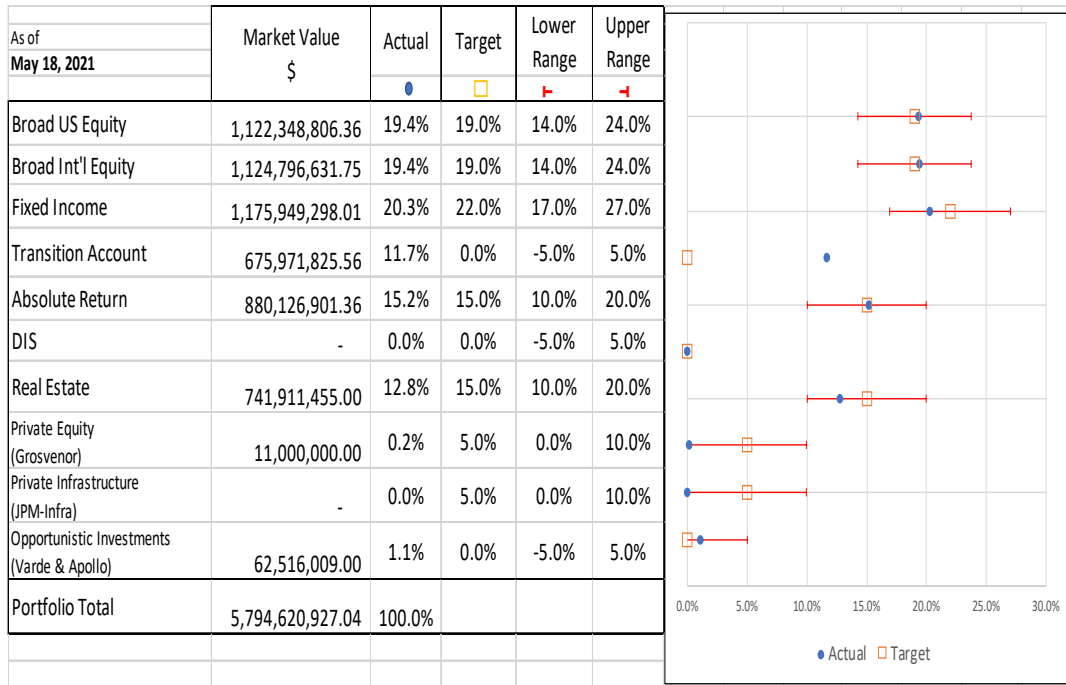
Angelo Gordon Direct Lending Fund IV (Fixed Income) made its initial capital call of \$32.5M bringing its unfunded commitment to \$67.5.

ARES Pathfinder Fund LP (Fixed Income) made a \$10.8M capital call bringing its unfunded commitment to \$84.6M.

GCM (Private Equity) made a capital call of \$1M bringing its unfunded commitment to \$119M.

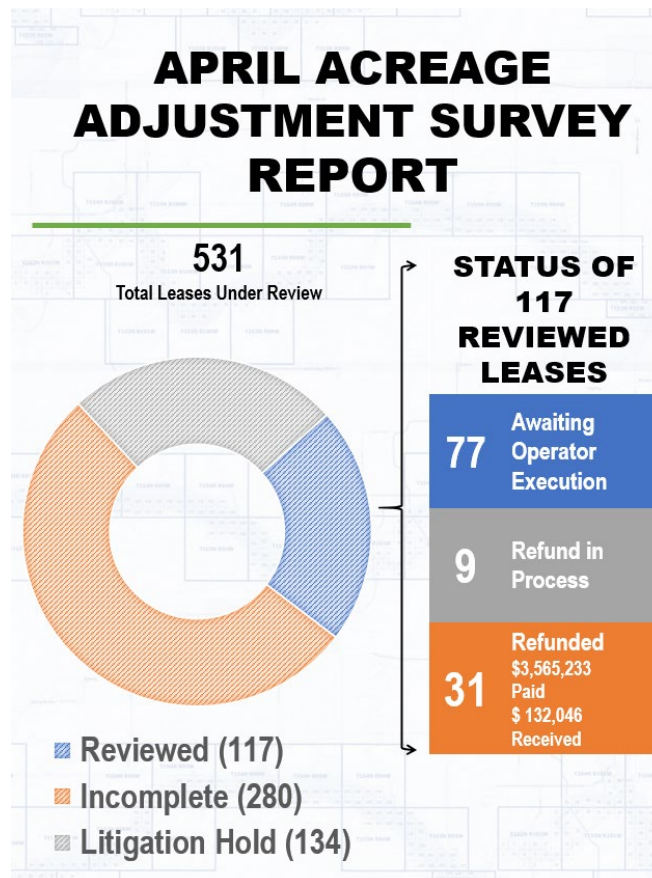
Asset Allocation

The table below shows the status of the permanent trusts' asset allocation as of May 18, 2021. The figures provided are unaudited.



Upcoming Investment Manager Meetings
There is no upcoming meeting scheduled.

April Acreage Adjustment Report



Information Technology Project Status Update

The Department of Trust Land's (Department) 2017-2019 biennial budget appropriation includes \$3.6 million to replace legacy information technology (IT) systems as authorized by Senate Bill 2013 of the Sixty-fifth Legislative Assembly.

Severe limitations in the current IT system, including redundant manual processes, have hampered efficiencies. Many of the Department's core data management systems were developed in the 1980s and 1990s, using designs and tools no longer supported by vendors. Some supplemental system improvements and purchases have been implemented; however, the outdated database structure restricts many potential improvements.

On April 29, 2019, the new system for Unclaimed Property was successfully launched.

On July 1, 2020, the new Financial Management and Accounting system was successfully launched.

On September 14, 2020, the Revenue Compliance Division successfully launched the migrated and updated software system.

The Surface Land Management System is tentatively scheduled to go-live on August 14, 2021. MABU, a full-service marketing and communications company, has been hired to aid the Department in communication efforts to constituents who will be impacted by the implementation of the new system.

Additional capital funding was approved through Senate Bill 2013 to support the implementation of software for the Minerals Division. A kick-off for the implementation of the new software is scheduled for August 16, 2021.

Repayment of Unpaid Royalties Report

Since the March 25, 2021, Board of University and School Lands meeting, three payors have come into compliance for gas deductions: True Oil, Prima Exploration and Liberty Resources.

I N V E S T M E N T S

March Investment Reports – 1st Quarter 2021

Josh Kevan from RVK will review the performance of the Board of University and School Land's (Board) investment program for the period ending March 31, 2021 and discuss current market conditions.

The first report to be reviewed was prepared by RVK to enable the Board to monitor and evaluate the collective performance of the permanent trusts' investments and the performance of individual managers within the program. In order to provide an overview of the program and highlight critical information, an executive summary has been incorporated into the Board report.

The second report shows the performance of the Ultra-Short portfolio in which the Strategic Investment and Improvements Fund, the Coal Development Trust Fund and the Capitol Building Fund are invested.

RVK Permanent Trust Fund Performance Analysis and RVK Ultra-short Performance Report materials were provided to the Board and are available from the Department upon request.

S U R F A C E

Preliminary Sales approval – East Bismarck Tract (Burleigh County: 10 acres more or less in the northwest corner of section 36-Township139 North, Range 80 West)

On April 26, 2012, the Board of University and School Lands (Board) authorized the first step in selling the East Bismarck tract by completing a market analysis.

- 1) **Marketability Study/Property Analysis:** An analysis of the likely sales of a specific type of real estate product.
- 2) **Market Analysis:** A study of the supply and demand conditions in a specific area for a specific type of property or service.

The Marketability Study and Property Analysis (Attachment 1) was completed and presented to the Board at the June 2013 meeting. Two important observations from the study were:

- 1) “Currently, there is high interest in commercial and industrial development in the Bismarck-Mandan area. Some development experts have been inundated with inquiries; however, they anticipate the increased interest and development will continue for the next two to three years and then decrease...” Page 10.
- 2) “Industrial land has been and remains in short supply...Large tracts of industrial land in the 20–50 acre size category are especially hard to locate in the Bismarck-Mandan metropolitan area ...” Page 10.

Based on the results of this study, it appears that the land along the west and south boundaries of section 36 would be most in demand. Based on surrounding land use and the location of the transmission lines, this property will most likely be developed for light industrial or commercial uses.

With the completion of the Marketability Study/Property Analysis and discussions with local officials concerning possible public uses for Section 36, the Board approved the Commissioner to proceed with the second step, the Real Estate Market Analysis, at the June 2014 meeting. At the October 2015 Board Meeting, KLJ presented the Real Estate Market Analysis (Attachment 2) and recommend sale parcel locations and sizes based on demand and current market conditions.

There has been development on the East Bismarck tract, at the Board’s August 2015 meeting the Board was informed that Central Power Electric Cooperative Inc. had submitted an application to purchase approximately 15 acres under N.D.C.C. Chapter 15-09, to develop an electric substation, outpost building and laydown yard. The property is located east of the Capital Electric Cooperative and MDU substations.

Two appraisals were completed as follows:

Burleigh County Appraisal	\$100,000/acre
Point Value Appraisal	\$109,000/acre

The Burleigh County Appraisal was comprised of three comparable sales while the Point Value Appraisal was comprised of the same three sales, plus six additional comparable sales in the area. The Point Value appraisal is well-documented and based on nine commercial development sale properties it is an accurate reflection of true commercial property values. Central Power Cooperative has received a copy of the Point Value appraisal.

NCCC § 15-09-04 states:

“The board of university and school lands may sell the property described in the application to the applicant at a price not less than the appraised value if the board concludes that the land described in the application is required for the purposes stated in such application and that a conveyance of the property is consistent with this title and the fiduciary responsibilities of the board. If the land described in the application is less than an entire tract, the board, in fixing the price at which such partial tract will be

conveyed, shall take its value into consideration together with all detriment caused to the remaining portions of the tract by the conveyance of the partial tract.”

The Board approved the appraised value of \$109,000 per acre for the 15 acres of land within Burleigh County, Township 139 North, Range 80 West, Section 36: SW4 required for public purposes and authorized the Commissioner to advertise the proposed sale, conduct a public hearing, and complete the sale to Central Power Cooperative on the Board's behalf.

The sale of a 15-acre parcel to Central Power Cooperative, Inc. left 107 acres more or less in the SW4 of section 36.

The Board has received a second application for the purchase of approximately 10 acres more or less in the NW4 Section 36, T139N, R80W, Burleigh County for expansion of a private business. Per N.D.A.C. 85-04-07-01. Sale of original grant lands.

The board shall retain and manage original grant lands to produce revenue consistent with the long-term maintenance of the original grant lands' income producing potential and ecological health. The commissioner may propose, or accept letters of application for, the sale of original grant lands after the original grant lands have been evaluated by the commissioner for "highest and best use" as defined in North Dakota Century Code section 15-02-05.1 and the department considers the following criteria:

- 1. If the tract has been zoned or has high potential to be zoned residential, commercial, or industrial;**
2. The tract's potential for mineral development, including sand, gravel, clay, and scoria;
3. If the tract has been a source of persistent management problems, resulting in the sale of the tract being prudent from a long-term financial point of view;
4. If the tract and adjacent trust land tracts total less than eighty acres [32.37 hectares] in size, more or less, for grassland and less than forty acres [16.19 hectares], more or less, for cropland or hayland, except those tracts which are severed by a highway, road, railroad, canal, river, or lake, which may be sold if the severed portion is less than these amounts; or
5. If the tract and adjacent trust land tracts exceed eighty acres [32.37 hectares] in size, more or less, for grassland or more than forty acres [16.19 hectares] in size, more or less, for cropland.

Per N.D.A.C. 85-04-07-03, the Department has received a letter of application for purchase of original grant lands from Swenson RV. This letter has been submitted to the Commissioner for preliminary approval or rejection and it was approved. The Commissioner has provided preliminary approval of the land sale.

The Department received three appraisals:

- Point Value Appraisal & Consultation \$200,000 per acre
- County of Burleigh \$116,666 per acre
- Dakota Appraisal & Consulting, LTD. \$90,000 per acre

The Department staff consulted with various industry experts and determined, based upon the comparables listed in each appraisal and the previous sale price of land in the same section, the appropriate land value is \$110,000 per acre.

Per N.D.A.C. 85-04-07-03. Sale procedure.

Upon a determination that the application covers a tract the board is willing to see, the department shall post on the department's website a notice of the application for sale, any supporting documentation, and instructions for submitting public comments. The department also shall publish notice of a letter of application for sale in the official newspaper of the county where the nominated tract is located and in the Bismarck Tribune. Notice must be published once each week for three consecutive weeks prior to the deadline for comments. The notice must contain the legal description of the proposed tract and the deadline for comments.

Motion: The Board authorizes the Commissioner to post the sale of Burleigh County: 10 acres more or less in the northwest corner of section 36-Township139 North, Range 80 West for public comment.

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger		X	X		
Superintendent Baesler			X		
Treasurer Beadle			X		
Attorney General Stenehjem	X		X		
Governor Burgum			X		

Documents were provided to the Board and are available from the Department upon request.

O P E R A T I O N S

Board of University and School Lands Code of Ethics Policy Manual

The Board of University and School Lands (Board) currently has a Policy Manual (Board Policy Manual) which includes sections titled Governance, General, Surface Land Management, Investments, and Minerals. The Department recommends the Code of Ethics Policy be repealed due to establishment of the North Dakota Ethics Commission under North Dakota Constitution Article XIV in 2019. In addition, Chapter 54-66 of the North Dakota Century Code governs ethical considerations of public officials, together with the Administrative Rules of the North Dakota Ethics Commission (which is not an administrative agency) found in Title 115 of the North Dakota Administrative Rules.

Due to the constitution, statutes, and administrative rules in place to address these ethical issues, the Commissioner is requesting the Board provide input on the proposed repeal of the Board of University and School Lands Code of Ethic Policy. This is the “first reading” of the proposed repeal, with suggestions being taken into consideration and a “second reading” to occur on June 24, 2021.

The Board of University and School Lands Code of Ethics Policy first reading was provided to the Board and is available at the Department upon request.

Term of the Commissioner of University and School Lands

This agenda item was moved to the June regular Land Board meeting agenda. No formal action was taken.

Commissioner Annual Review

This agenda item was moved to the June regular Land Board meeting agenda. No formal action was taken.

A D J O U R N

There being no further business, the meeting was adjourned at 3:22 PM.

Doug Burgum, Chairman
Board of University and School Lands

Jodi Smith, Secretary
Board of University and School Lands

**Minutes of the Meeting of the
Board of University and School Lands
June 24, 2021**

The June 24, 2021 meeting of the Board of University and School Lands was called to order at 9:00 AM in the Governor's Conference of the State Capitol and via Microsoft Teams by Chairman Doug Burgum.

Members Present:

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Wayne Stenehjem	Attorney General
Thomas Beadle	State Treasurer
Kirsten Baesler	Superintendent of Public Instruction

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Emily Bosch	Unclaimed Property Claims
Dennis Chua	Investment Analyst
Christopher Dingwall	Mineral Title Specialist
Robert Dixon	ITD
Susan Dollinger	Unclaimed Property
Peggy Gudvangen	Accounting Division Director
Michael Humann	Surface Division Director
Roman Knudsvig	NDDTL Intern
Kristie McCusker	Paralegal
Catelin Newell	Administrative Staff Officer
Adam Otteson	Revenue Compliance Director
Rick Owings	EIIO Grants Administrator
Kate Schirado	Administrative Assistant
Michael Shackelford	Investments Director
David Shipman	Minerals Division Director
Kayla Spangelo	Range Soils Management Specialist
Lynn Spencer	Mineral Title Specialist
Joseph Stegmiller	Range Soils Management Specialist
James Wald	Legal Council

Guests in Attendance:

Dave Garner	Office of the Attorney General
Reice Haase	Office of the Governor
Leslie Bakken Oliver	Governor's General Counsel
Kelly Moldenhauer	Guest
Launa Moldenhauer	Guest
Amy Sisk	Bismarck Tribune
Mike McCleary	Bismarck Tribune
Charles Tuttle	

Additional Guests in Attendance:

Audrey O'Neill
Brady Pelton (NDPC)
Colin Vick
Craig Smith
Gary Hagen
Lawrence Bender
James MacPherson
Mike Nowatzki
Andrea Pfennig

(06/24/21)

Ron Ness
Troy Seibel

A P P R O V A L O F M I N U T E S

A motion to approve the minutes of the May 25, 2021 regular meeting was made by Attorney General Wayne Stenehjem and seconded by State Treasurer Thomas Beadle and the motion carried unanimously on a voice vote.

R E P O R T S

May 2021 Report of Encumbrances Issued by Land Commissioner

Granted to: **BRIDGER PIPELINE LLC, CASPER-WY**
 For the Purpose of: Easement: Pipeline-Oil Gathering Pipeline
 Right-of-Way Number: RW0008829
 Trust: A - Common Schools
 Legal Description: GOL-143-103-36-SE4

Granted to: **HENRY HILL OIL SERVICES LLC, WILLISTON-ND**
 For the Purpose of: Easement: Well-Salt Water Disposal Well Extension
 Right-of-Way Number: RW0008801
 Trust: A - Common Schools
 Legal Description: WIL-154-100-16-SE4

* agreement contains a recurring payment requirement; \$0.10 per barrel or \$500 per month minimum

Granted to: **ONEOK ROCKIES MIDSTREAM LLC, SIDNEY-MT**
 For the Purpose of: Easement: Pipeline-Gas Gathering Pipeline
 Right-of-Way Number: RW0008667
 Trust: A - Common Schools
 Legal Description: DUN-146-94-36-SE4, SW4

Granted to: **WHITING OIL AND GAS CORPORATION, DENVER-CO**
 For the Purpose of: Easement: Pipeline-Oil Gathering Pipeline
 Right-of-Way Number: RW0008707
 Trust: A - Common Schools
 Legal Description: MOU-153-92-16-NW4

Granted to: **GOODNIGHT MIDSTREAM BAKKEN LLC, DALLAS-TX**
 For the Purpose of: Easement: Pipeline-Salt Water Pipeline
 Right-of-Way Number: RW0008826
 Trust: A - Common Schools
 Legal Description: MOU-153-92-16-NW4

Granted to: **GOODNIGHT MIDSTREAM BAKKEN LLC, DALLAS-TX**
 For the Purpose of: Easement: Pipeline-Salt Water Pipeline
 Right-of-Way Number: RW0008840
 Trust: A - Common Schools
 Legal Description: MOU-153-92-16-NW4

Granted to: **MCKENZIE ELECTRIC COOPERATIVE INC, WATFORD CITY-ND**
 For the Purpose of: Easement: Electric-Buried Distribution Line
 Right-of-Way Number: RW0008866
 Trust: A - Common Schools
 Legal Description: DUN-147-96-36-NW4

Granted to: **WHITING OIL AND GAS CORPORATION, DENVER-CO**

For the Purpose of: Easement-Amend: Pipeline-Oil Gathering Pipeline
 Right-of-Way Number: RW0008876
 Trust: A - Common Schools
 Legal Description: MOU-153-92-16-NW4

Granted to: **BIRD CONSERVANCY OF THE ROCKIES, FORT COLLINS-CO**
 For the Purpose of: Permit: Access to School Land
 Right-of-Way Number: RW0008871
 Trust: A - Common Schools, B – School for the Blind, Z – Valley City State University & Mayville State University, U – University of North Dakota, H – State Hospital, D – School for the Deaf, E – Ellendale, W – Sate School of Science
 Legal Description: MER-144-88-16-NE4, NW4, SE4, SW4
 MOR-134-80-13-S2SW4, W2SE4
 MOR-134-80-23-LOT 3, LOT 7, LOTS 1,2 LESS FEDERAL CONDEMNATION, SW4SE4, LOT 6
 MOR-134-80-24-LOT 1, LOT 2, LOT 3, LOT 4, N2NW4, SW4NW4
 OLI-141-82-16-NE4 WEST OF HWY, NW4, SE4 WEST OF HWY AND NORTH OF CNTY ROAD, SE4 WEST OF HWY AND SOUTH OF CNTY ROAD

Granted to: **LEGACY RESERVES OPERATING LP, CODY-WY**
 For the Purpose of: Permit: Road-Access Road
 Right-of-Way Number: RW0008875
 Trust: A - Common Schools
 Legal Description: MCK-147-104-16-NE4, NW4, SE4

Granted to: **HESS NORTH DAKOTA PIPELINES, LLC, HOUSTON-TX**
 For the Purpose of: Permit: Temporary Construction
 Right-of-Way Number: RW0008825
 Trust: A - Common Schools
 Legal Description: WIL-156-95-16-NW4

Granted to: **AMERICAN COLLOID COMPANY, BELLE FOURCHE-SD**
 For the Purpose of: Permit: Coal Exploration (Leonardnite)
 Right-of-Way Number: RW0008873
 Trust: V- Valley City State University, L – Strategic Investment & Improvements fund
 Legal Description: BOW-130-99-1-SW4 (50% mineral ownership; no surface ownership)
 ADA-130-98-8-SW4 (50% mineral ownership; no surface ownership)

May Unclaimed Property Report

Unclaimed property is all property held, issued, or owing in the ordinary course of a holder's business that has remained unclaimed by the owner for more than the established time frame for the type of property. It can include checks, unpaid wages, stocks, amounts payable under the terms of insurance policies, contents of safe deposit boxes, etc.

An owner is a person or entity having a legal or equitable interest in property subject to the unclaimed property law. A holder can include a bank, insurance company, hospital, utility company, retailer, local government, etc.

Since 1975, the Unclaimed Property Division (Division) of the Department of Trust Lands (Department) has been responsible for reuniting individuals with property presumed abandoned. The Division acts as custodian of the unclaimed property received from holders. The property is held in trust in perpetuity by the State and funds are deposited in the Common Schools Trust Fund. The 1981 Uniform Unclaimed Property Act created by the national Uniform Law Commission was adopted by the State in 1985.

(06/24/21)

For the month of May 2021, the Division received 39 holder reports with a property value of \$190,153 and paid 278 claims with a total value of \$449,408.

The Financial Report (Unaudited) for period ending March 31, 2021 was presented to the Board for review and is available at the Department upon request.

Investment Updates

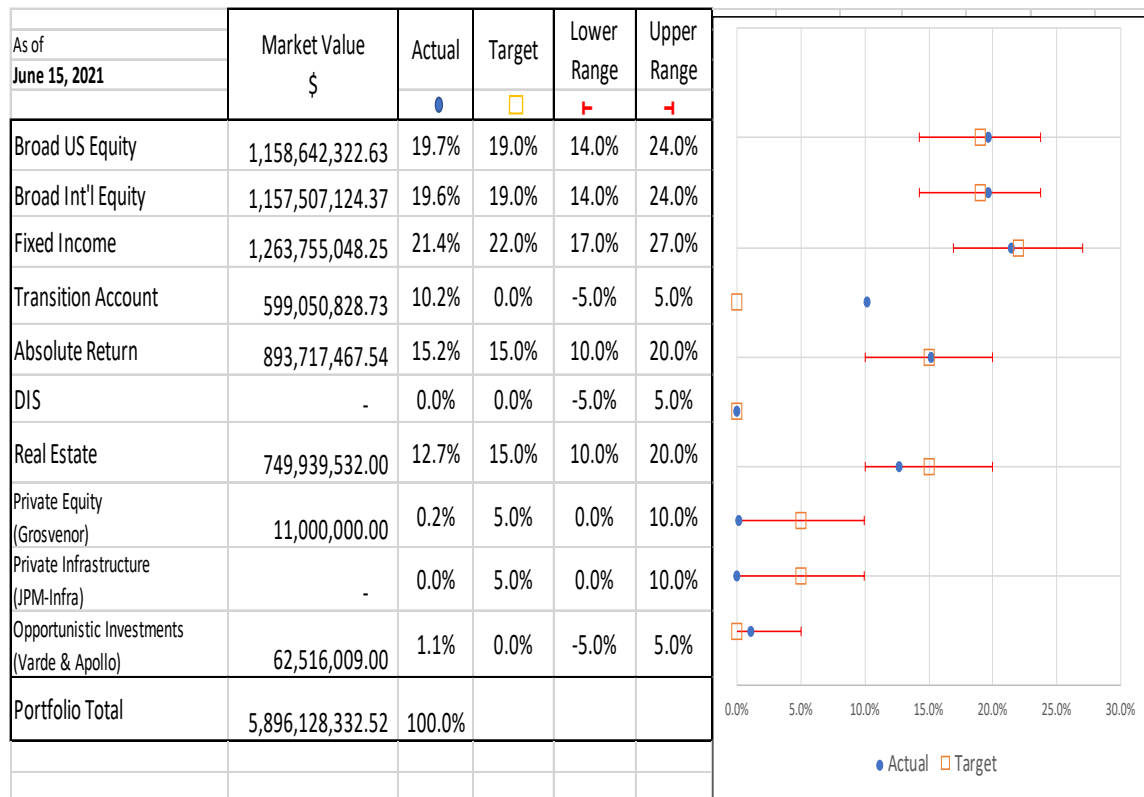
Portfolio Rebalancing Updates

There were no new capital calls made since the last Board meeting. Therefore, total unfunded commitments remained at around \$645.5M. Out of the total unfunded, the following unfunded amounts and fund managers are as follows:

<u>Amount</u>	<u>Fund Manager</u>
\$130M	JPM Infrastructure Fund
\$100M	Harrison Street Core Property Fund LP
\$94.5M	Apollo Accord Fund
\$50M	Varde Dislocation Fund
\$119M	GCM Private Equity
\$84.5M	ARES Pathfinder Fund
\$67.5M	Angelo Gordon DL IV

Asset Allocation

The table below shows the status of the permanent trusts' asset allocation as of June 15, 2021. The figures provided are unaudited.



Energy Infrastructure and Impact Office Quarterly Program Report

The Energy Infrastructure and Impact Office (EIO) is a division within the Department of Trust Lands (Department). EIO provides financial assistance to local units of government that are impacted by oil and gas activity. In turn, EIO receives a portion of the Oil and Gas Gross Production Tax. The office has been a part of the Department since 1977 and was formally known as the Energy Development Impact Office created under N.D.C.C. ch. 57-62. Over the course of the past 40 years, EIO has dispersed over \$626 million in funding.

The Oil and Gas Impact Grant Fund currently has 9 grants with a balance of \$972,069.49 as of June 7, 2021. The following shows grant activity for the last seven months:

Oil and Gas Impact Grant Fund	Grants with balances	Current Balance Obligated to Grants
12/1/2020	17	\$2,833,286.75
3/9/2021	12	\$1,591,589.01
6/7/2021	9	\$972,069.49

The Energy Impact Fund, established within Senate Bill 2013 as enacted by the Sixty-fifth Legislative Assembly, was created to supplement the Oil and Gas Impact Grant Fund for the 2017-2019 biennium. House Bill 1013 of the Sixty-sixth Legislative Assembly requires the Commissioner of University and School Lands to transfer any unexpended funds remaining in the Energy Impact Fund when the fund is repealed on June 30, 2021, to the Oil and Gas Impact Grant Fund.

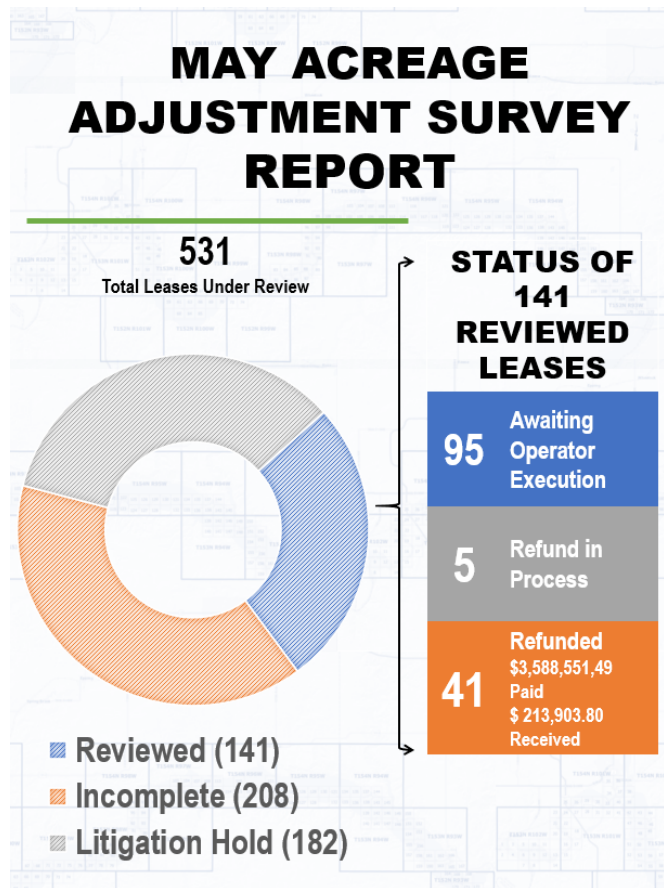
EIO collaborated with the Williston Basin International Airport and the North Dakota Aeronautics Commission regarding the timeline to get these grants closed out by June 30, 2021. On June 2, 2021, the last payment was made to the Williston Basin International Airport, thus closing out this fund reimbursing the full \$15 Million to the airport. The following shows grant activity for the last seven months:

Energy Impact Fund	Grants with balances	Current Balance Obligated to Grants
12/1/2020	3	\$1,752,239.48
3/9/2021	3	\$1,434,396.94
6/7/2021	0	\$0.00

EIO is currently managing 9 grants for a total of \$972,069.49. The following shows grant activity for the last seven months:

Oil and Gas Impact Grant Fund	Grants with balances	Current Balance Obligated to Grants	Energy Impact Fund	Grants with balances	Current Balance Obligated to Grants	Total between both Funds
12/1/2020	17	\$2,833,286.75	12/1/2020	3	\$1,752,239.48	\$4,585,526.23
3/9/2021	12	\$1,591,589.01	3/9/2021	3	\$1,434,396.94	\$3,025,985.95
6/7/2021	9	\$972,069.49	6/7/2021	0	\$0.00	\$972,069.49

May Acreage Adjustment Report



NDDTL River Tracts map was also presented to the Board and is available upon request.

May 2021 Report of Shut-Ins Approved by Land Commissioner

Granted to:	Marathon Oil Company
For the Purpose of:	Operations
Date Issued:	05/26/2021
Application Fee:	\$100.00
Trust:	SIIF – Strategic Investment and Improvements Fund
Lease:	OG-07-00379, OG-07-00380, OG-07-00381

O P E R A T I O N S

Board of University and School Lands Code of Ethics Policy Manual

The Board of University and School Lands (Board) currently has a Policy Manual (Board Policy Manual) which includes sections titled Governance, General, Surface Land Management,

(06/24/21)

Investments, and Minerals. The Department recommends the Code of Ethics Policy be repealed due to establishment of the North Dakota Ethics Commission under North Dakota Constitution Article XIV in 2019. In addition, Chapter 54-66 of the North Dakota Century Code governs ethical considerations of public officials, together with the Administrative Rules of the North Dakota Ethics Commission (which is not an administrative agency) found in Title 115 of the North Dakota Administrative Rules.

Due to the constitution, statutes, and administrative rules in place to address these ethical issues, the Commissioner is requesting the Board repeal of the Board of University and School Lands Code of Ethic Policy.

The first reading of the policy was held at the May 25, 2021 meeting. The Commissioner requested the Board provide input on the proposed policy. Additionally, an open comment period was held and no comments were received.

Motion: The Board repeal the proposed North Dakota Board of University and School Lands Ethics Policy – Chapter 2, General, superseded by North Dakota Constitution Article XIV and Chapter 54-66 of the North Dakota Century Code.

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger		X	X		
Superintendent Baesler			X		
Treasurer Beadle			X		
Attorney General Stenehjem	X		X		
Governor Burgum			X		

Board of University and School Lands Code of Ethics Policy materials were provided to the Board and are available from the Department upon request.

Board of University and School Lands Media Relations Policy Manual

The Board of University and School Lands (Board) currently has a Policy Manual (Board Policy Manual) which includes sections titled Governance, General, Surface Land Management, Investments, and Minerals. The Board requested the Commissioner prepare a Media Relations Policy that seeks to work cooperatively with the media to disseminate information of public interest and concern in an accurate, complete, and timely manner and in harmony with the official position of the Board.

The Department of Trust Lands (Department) has created a draft policy that the Treasurer and Attorney General's Office is currently reviewing. It is anticipated the Media Relations Policy will be presented to the Board at the July 29, 2021 Board meeting.

Term of the Commissioner of University and School Lands

N.D.C.C. § 15-02-02 provides:

The term of office of the commissioner [of university and school lands] is four years beginning July first of the year following the general election of the governor and ending June thirtieth of the fourth calendar year after appointment or until a successor is appointed and qualified. The commissioner may be removed for cause at any time during the commissioner's term of office, by a vote of four or more board

members. Upon vacancy by death, resignation, or removal, the board shall appoint a commissioner for the remainder of the four-year term.

Jodi Smith was appointed as Commissioner on November 27, 2017, a mid-term appointment which will expire on June 30, 2021.

Motion: The Board appoint Commissioner Jodi Smith for a four-year term, under N.D.C.C. § 15-02-02, term effective July 1, 2021 with a legislative increase of 1.5%.

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger	X		X		
Superintendent Baesler		X	X		
Treasurer Beadle			X		
Attorney General Stenehjem			X		
Governor Burgum			X		

S U R F A C E

No Net Loss Preliminary Land Sale Approval T136N R86W Section 28 NW1/4, Section 32 N1/2N1/2, Section 36 SE1/4

Trust Land (Attachment 1 - aerial map)
 Grant County
Township 136 North, Range 86 West
 Section 28: NW¼
 Section 32: N½N½
 Section 36 SE¼

Provided accessible and leasable land (Attachment 2 - aerial map)
 Hettinger County
Township 136 North, Range 94 West
 Section 20: S½NE¼, SE¼

The Board of University and School Lands (Board) received an application from Kelly and Launa Moldenhauer for the purchase of approximately 480 acres of trust land in Grant County (see trust land legal description above) as part of a no net loss land sale in accordance with Chapter 85-04-07 and Chapter 85-04-08 of the North Dakota Administrative Code. To meet the requirements of a no net loss land sale, the applicants/purchasers are required to provide land (see provided accessible and leasable land legal description above) as payment.

The properties were evaluated and appraised as part of a no net loss property sale. The attached Land Evaluations (Attachments 3 and 4) contain land and environmental assessment, rental, and appraisal information for these properties. The Requirements of Sale – Sale Criteria Evaluation is also attached (Attachment 5).

The following is a summary of sale criteria (Attachment 5) considered by the Department of Trust Lands in consideration of a no net loss sale in accordance with subsections a through f of N.D.A.C. 85-04-07-02(2) and 85-04-08-02(2).

- a. Equal of greater value

- e. Potential for long-term appreciation. The proposed no net loss sale must have similar revenue potential as the trust lands.

Comments: The potential long-term appreciation for the land tracts involved in this sale would be similar for this proposed no net loss sale.

- f. Access. A no net loss sale must not diminish access to trust lands. The no net loss land should provide equal or improved access.

Comments: The land to be provided has excellent dedicated access. This land is 1½ miles west of the Enchanted Highway and has a good County gravel road (St. Michaels Road) with access approaches along the south side of the tract and good section line access trails along the east and north sides of the tract. Two of the three proposed sale tracts do not have improved dedicated access. The N½N½ of Section 32 is an isolated tract which requires access permission across surrounding private land. Access to the SE¼ of Section 36 from the west would be across private land, while access from the east would be by section line trail to the southeast corner. The NW¼ of Section 28 has excellent dedicated access as a County Road traverses the tract (58th St SW).

Land adjacent to the proposed land is Wildlife Habitat to the north and east, as the United States Bureau of Reclamation owns the entire section 21 (640 acres), three quarters of section 22 (480 acres) to the east. Land to the north of Section 20 the S½ of Section 17 is owned by the Mott 30 Mile Creek Hunt Club. Land to the south and west is privately owned land used for cropland production.

Per N.D. Admin. Code § 85-04-07-03(3) and N.D. Admin. Code § 85-04-08-03(4) concerning the sale procedure:

Upon a determination that the application covers a tract the board is willing to sell, the department shall post on the department's website a notice of the application for sale, any supporting documentation, and instructions for submitting public comments. The department also shall publish notice of a letter of application for sale in the official newspaper of the county where the nominated tract is located and in the Bismarck Tribune. Notice must be published once each week for three consecutive weeks prior to the deadline for comments. The notice must contain the legal description of the proposed tract and the deadline for comments. If publication of any notice is omitted inadvertently by any newspaper or the notice contains typographical errors, the department may proceed with the scheduled comment period if it appears the omission or error is not prejudicial to the department's interest. All comments must be in writing and contain the following:

- a. Name and address of the interested person;
- b. Applicant's name and address;
- c. The legal description of the proposed tract for sale as shown on the published notice; and
- d. A detailed statement as to whether the interested person supports or opposes the sale.

After public comment and in accordance with N.D. Admin. Code § 85-04-07-03 and N.D. Admin. Code § 85-04-08-03, the board shall review all appraisals, any public comments, other relevant information including title examinations, and determine whether to proceed with the sale. If the board decides to proceed with the sale, the board shall establish a minimum acceptable sale price.

Motion: The Board authorizes the Commissioner to post for public comment on the Department's website a notice of the application for sale, any supporting documentation,

and instructions for submitting public comments regarding the sale. The Board also authorizes the Commissioner to publish notice of a letter of application for sale in the

official newspaper of the county where the nominated tract is located and in the Bismarck Tribune.

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger		X	X		
Superintendent Baesler			X		
Treasurer Beadle			X		
Attorney General Stenehjem	X		X		
Governor Burgum			X		

No Net Loss Preliminary Land Sale Approval T136N R86W Section 28 NW1/4, Section 32 N1/2N1/2, Section 36 SE1/4 information materials were also provided to the Board and are available from the department upon request.

REVENUE COMPLIANCE

EXECUTIVE SESSION

Under the authority of North Dakota Century Code Sections 44-04-19.1 and 44-04-19.2, the Board close the meeting to the public and go into executive session for purposes of attorney consultation relating to:

- Royalty Repayment Offers

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger		X	X		
Superintendent Baesler			X		
Treasurer Beadle			X		
Attorney General Stenehjem	X		X		
Governor Burgum			X		

The Board entered into executive session at 10:09 AM.

EXECUTIVE SESSION

Members Present:

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Wayne Stenehjem	Attorney General
Thomas Beadle	State Treasurer
Kirsten Baesler	Superintendent of Public Instruction

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Catelin Newell	Administrative Staff Officer
Kristie McCusker	Paralegal
Rick Owings	EIIO

(06/24/21)

Guests in Attendance:

Dave Garner

Leslie Bakken Oliver

Reice Haase

Office of the Attorney General

General Counsel

Governor's Policy Advisor

The executive session adjourned at 11:06 AM and the Board returned to the open session and Teams meeting to rejoin the public. During the executive session meeting, the Board was provided information and no formal action was taken.

A D J O U R N

There being no further business, the meeting was adjourned at 11:06 AM.

Doug Burgum, Chairman
Board of University and School Lands

Jodi Smith, Secretary
Board of University and School Lands

**Minutes of the Meeting of the
Board of University and School Lands
July 29, 2021**

The July 29, 2021 meeting of the Board of University and School Lands was called to order at 9:04 AM in the Governor's Conference of the State Capitol and via Microsoft Teams by Chairman Doug Burgum.

Members Present:

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Wayne Stenehjem	Attorney General
Thomas Beadle	State Treasurer (via Teams)
Kirsten Baesler	Superintendent of Public Instruction

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Emily Bosch	Unclaimed Property Claims
Dennis Chua	Investment Analyst
Christopher Dingwall	Mineral Title Specialist
Robert Dixon	ITD
Susan Dollinger	Unclaimed Property
Jessica Fretty	Unclaimed Property
Michael Humann	Surface Division Director
Kristie McCusker	Paralegal
Catelin Newell	Administrative Staff Officer
Adam Otteson	Revenue Compliance Director
Rick Owings	EIIO Grants Administrator
Kate Schirado	Administrative Assistant
Michael Shackelford	Investments Director
David Shipman	Minerals Division Director
Kayla Spangelo	Range Soils Management Specialist
Lynn Spencer	Mineral Title Specialist
Joseph Stegmiller	Range Soils Management Specialist
James Wald	Legal Council

Guests in Attendance:

Dave Garner	Office of the Attorney General
Jen Verleger	Office of the Attorney General
Reice Haase	Office of the Governor
Leslie Bakken Oliver	Governor's General Counsel
Amy Sisk	Bismarck Tribune
Brady Pelton	NDPC
Doug Ostrow	Blue Owl
Colin Vick	Blue Owl
Brian Sullivan	GCM Grosvenor
Bernard Yancovich	GCM Grosvenor
Erik Hall	GCM Grosvenor

Additional Guests in Attendance:

Andrea Pfennig
Tricia Lynn
Matt Perdue
Austin Head-Jones
Josh Kevan
Kirby Francis
Jeremy Turley - Fargo Forum

(07/29/21)

Shane Goettle
 Jeff Herman
 Davin Hunt

A P P R O V A L O F M I N U T E S

A motion to approve the minutes of the June 24, 2021 regular meeting was made by Attorney General Wayne Stenehjem and seconded by Secretary of State Alvin Jaeger and the motion carried unanimously on a voice vote.

R E P O R T S

June 2021 Report of Encumbrances Issued by Land Commissioner

Granted to: TRUE OIL LLC, CASPER-WY
 For the Purpose of: On-lease Activity: Well-Vertical Oil Well
 Right-of-Way Number: RW0008705
 Trust: A - Common Schools
 Legal Description: MCK-148-102-36-NE4, SE4
 * agreement contains a recurring payment requirement of \$12,348.80 for well site & road

Granted to: DENBURY ONSHORE LLC, PLANO-TX
 For the Purpose of: On-lease Activity: Water/CO2 Injection Pipelines
 Right-of-Way Number: RW0008893
 Trust: A - Common Schools
 Legal Description: BOW-131-106-24-NE4SE4, LOT 2

Granted to: OASIS PETROLEUM NORTH AMERICA LLC, HOUSTON-TX
 For the Purpose of: On-lease Activity: Well-Horizontal Oil Well
 Right-of-Way Number: RW0008838
 Trust: A - Common Schools
 Legal Description: MCK-151-97-36-SW4
 * agreement contains an annual payment requirement of \$7,376.00 annually for well site & road

Granted to: PETRO-HUNT LLC, BISMARCK-ND
 For the Purpose of: Easement: Well-Subsurface Well Bore
 Right-of-Way Number: RW0008819
 Trust: A - Common Schools
 Legal Description: DIV-164-100-36-SW4

Granted to: OASIS PETROLEUM NORTH AMERICA LLC, HOUSTON-TX
 For the Purpose of: Permit: Road-Access Road
 Right-of-Way Number: RW0008898
 Trust: A - Common Schools
 Legal Description: MCK-151-97-36-SW4
 * agreement contains an annual payment requirement of \$1,284.00 for the road

Granted to: OASIS MIDSTREAM SERVICES LLC, HOUSTON-TX
 For the Purpose of: Easement: Pipeline-Multiple Pipelines
 Right-of-Way Number: RW0008626
 Trust: A - Common Schools
 Legal Description: MCK-151-97-36-SW4

Granted to: For the Purpose of: Right-of-Way Number: Trust: Legal Description:	WBI ENERGY TRANSMISSION INC, GLENDIVE-MT Easement: Pipeline-Gas Transmission Pipeline RW0008379 A - Common Schools WIL-158-95-36-NE4, SE4, SW4
Granted to: For the Purpose of: Right-of-Way Number: Trust: Legal Description:	WBI ENERGY TRANSMISSION INC, GLENDIVE-MT Easement: Pipeline-Gas Transmission Pipeline RW0008392 A - Common Schools BRK-159-94-16-NW4
Granted to: For the Purpose of: Right-of-Way Number: Trust: Legal Description:	ONEOK ROCKIES MIDSTREAM LLC, SIDNEY-MT Easement: Pipeline-Gas Gathering Pipeline RW0008387 A - Common Schools MCK-149-97-36-NW4, W2SW4, LOTS 4,5,6
Granted to: For the Purpose of: Right-of-Way Number: Trust: Legal Description:	TESORO HIGH PLAINS PIPELINE COMPANY LLC, SAN ANTONIO-TX Easement: Pipeline-Oil Gathering Pipeline RW0008854 A - Common Schools DUN-146-93-16-NE4
Granted to: For the Purpose of: Right-of-Way Number: Trust: Legal Description:	WESTERN AREA WATER SUPPLY AUTHORITY, WILLISTON-ND Easement: Pipeline-Potable Water Pipeline RW0008717 A - Common Schools MOU-155-93-16-NW4, SE4, SW4
Granted to: For the Purpose of: Right-of-Way Number: Trust: Legal Description:	WESTERN AREA WATER SUPPLY AUTHORITY, WILLISTON-ND Easement: Pipeline-Potable Water Pipeline RW0008719 A - Common Schools WIL-154-95-16-NE4
Granted to: For the Purpose of: Right-of-Way Number: Trust: Legal Description:	WESTERN AREA WATER SUPPLY AUTHORITY, WILLISTON-ND Easement: Pipeline-Potable Water Pipeline RW0008720 A - Common Schools WIL-155-96-36-NE4, N2SE4, SW4SE4
Granted to: For the Purpose of: Right-of-Way Number: Trust: Legal Description:	WESTERN AREA WATER SUPPLY AUTHORITY, WILLISTON-ND Easement: Pipeline-Potable Water Pipeline RW0008721 A - Common Schools MOU-153-92-16-NW4
Granted to: For the Purpose of: Right-of-Way Number: Trust: Legal Description:	WESTERN AREA WATER SUPPLY AUTHORITY, WILLISTON-ND Easement: Pipeline-Potable Water Pipeline RW0008722 A - Common Schools MOU-154-93-36-NE4, SE4
Granted to: For the Purpose of: Right-of-Way Number: Trust: (07/29/21)	WESTERN AREA WATER SUPPLY AUTHORITY, WILLISTON-ND Easement: Pipeline-Potable Water Pipeline RW0008882 A - Common Schools

Legal Description:	WIL-156-102-16-NE4, NW4
Granted to:	BASIN ELECTRIC POWER COOP INC, BISMARCK-ND
For the Purpose of:	Easement: Electric-Transmission Line
Right-of-Way Number:	RW0008614
Trust:	A - Common Schools
Legal Description:	MOU-155-93-16-SE4, SW4 MOU-155-93-36-NE4, NW4
Granted to:	MCKENZIE ELECTRIC COOPERATIVE INC, WATFORD CITY-ND
For the Purpose of:	Easement: Electric-Buried Distribution Line
Right-of-Way Number:	RW0008848
Trust:	A - Common Schools
Legal Description:	MCK-146-100-36-SE4, SW4
Granted to:	MOUNTRAIL-WILLIAMS ELECTRIC COOPERATIVE, WILLISTON-ND
For the Purpose of:	Easement: Drop Line-Buried Electric Distribution Line
Right-of-Way Number:	RW0008852
Trust:	A - Common Schools
Legal Description:	MOU-153-92-16-NW4
Granted to:	ELKAN INC, WATFORD CITY-ND
For the Purpose of:	Easement-Amend: Pipeline-Raw Water Pipeline
Right-of-Way Number:	RW0008845
Trust:	A - Common Schools
Legal Description:	MCK-148-98-16-NE4
Granted to:	GRANT COUNTY AUDITOR, CARSON-ND
For the Purpose of:	Easement: Release of Easement
Right-of-Way Number:	RW0008193
Trust:	A - Common Schools
Legal Description:	GRA-133-87-36-NE4, SE4
Granted to:	CATES EARTH SCIENCE TECHNOLOGIES INC, BISMARCK-ND
For the Purpose of:	Permit-Amend: Temporary Layflat Line
Right-of-Way Number:	RW0008888
Trust:	A - Common Schools
Legal Description:	MOU-151-92-36-W2NE4SW4, NW4SW4, S2SW4
Granted to:	WEST DAKOTA WATER LLC, WILLISTON-ND
For the Purpose of:	Permit: Temporary Water Layflat Line
Right-of-Way Number:	RW0008891
Trust:	A - Common Schools
Legal Description:	WIL-156-97-16-S2SW4 LESS THE N 248 FT
Granted to:	NORTHERN PLAINS ENGINEERING LLC, DICKINSON-ND
For the Purpose of:	Permit: Planning & Preconstruction Survey
Right-of-Way Number:	RW0008837
Trust:	A - Common Schools
Legal Description:	All Trust Land in North Dakota
Granted to:	ACKERMAN ESTVOLD ENGINEERING, MINOT-ND
For the Purpose of:	Permit: Planning & Preconstruction Survey
Right-of-Way Number:	RW0008879
Trust:	A - Common Schools
Legal Description:	All Trust Land in North Dakota

Granted to: **BEAVER CREEK ENVIRONMENTAL, BISMARCK-ND**
 For the Purpose of: Permit: Access to School Land for native pollinator population studies
 Right-of-Way Number: RW0008885
 Trust: A - Common Schools, F - Farm Loan Pool, Z Valley City State University & Mayville State University, E - Ellendale, C - Capitol Building, W - North Dakota State School of Science, N - North Dakota State University
 Legal Description: BRK, LOG, MCH, MCI, MCL, MER, MOU, OLI, PIE, ROL, STU, WIL

Granted to: **ND STATE WATER COMMISSION, BISMARCK-ND**
 For the Purpose of: Permit: Access to School Land to collect water surface elevation data
 Right-of-Way Number: RW0008863
 Trust: A - Common Schools
 Legal Description: EMM-129-75-16-SE4

Granted to: **ND GEOLOGICAL SURVEY, BISMARCK-ND**
 For the Purpose of: Permit: Access to School Land to map geologic features
 Right-of-Way Number: RW0008904
 Trust: A - Common Schools
 Legal Description: BRL-138-75-16-NW4

June Unclaimed Property Report

Unclaimed property is all property held, issued, or owing in the ordinary course of a holder's business that has remained unclaimed by the owner for more than the established time frame for the type of property. It can include checks, unpaid wages, stocks, amounts payable under the terms of insurance policies, contents of safe deposit boxes, etc.

An owner is a person or entity having a legal or equitable interest in property subject to the unclaimed property law. A holder can include a bank, insurance company, hospital, utility company, retailer, local government, etc.

Since 1975, the Unclaimed Property Division (Division) of the Department of Trust Lands (Department) has been responsible for reuniting individuals with property presumed abandoned. The Division acts as custodian of the unclaimed property received from holders. The property is held in trust in perpetuity by the State and funds are deposited in the Common Schools Trust Fund. The 1981 Uniform Unclaimed Property Act created by the national Uniform Law Commission was adopted by the State in 1985.

For the month of June 2021, the Division received 49 holder reports with a property value of \$183,317 and paid 308 claims with a total value of \$403,538.

The Department has engaged Marketing & Advertising Business Unlimited, Inc. (MABU), a full-service management, marketing and multimedia production company, to aid the Department in developing and deploying a strategic communications plan surrounding changes to N.D.C.C. ch. 47-30.1 as a result of the passage of Senate Bill 2048 during the Sixty-seventh Legislative Assembly. The communication plan has been fully executed at this time which included:

- Development and distribution of two issues of an e-newsletter to holders of unclaimed property
- Review of website landing page content with additions, including a link to Senate Bill 2048
- Development of an Unclaimed Property infographic and fact sheet

(07/29/21)

- Key stakeholder interviews to gauge perceptions
- PowerPoint presentation delivered as a webinar to the League of Cities
- Creation of educational webinar to be posted on website for all holders
- Digital and social media posts and print advertisements targeting key industries and professionals
- News release to media, followed by media interviews, news stories, etc.
- Stakeholder and partner outreach with trade associations
- Updated holders manual

Unclaimed Property Fact Sheet was presented to the Board and is available at the Department upon request.

The Financial Report (Unaudited) for period ending April 30, 2021 was presented to the Board for review and is available at the Department upon request.

Investment Updates

Portfolio Rebalancing Updates

The portfolio was rebalanced in July. The following is a summary:

- \$67M taken out of the Broad US Equity and \$13M from the Broad International Equity
- \$80M total was transferred to Fixed Income with \$40m to each Core Bonds Manager
- To align Real Estate to its target, \$30M was added to the original \$100M commitment to Harrison Street Core Property Fund

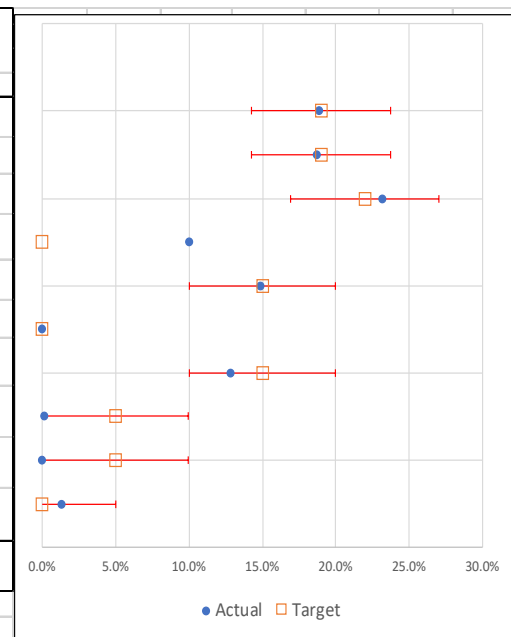
A \$13M capital call was made by Apollo Accord Fund. \$3.8M will be called by GCM Private Equity on July 22. Therefore, total unfunded commitments after 7/22 will be at \$658.7M. Broken down as follows:

1. JPM Infrastructure Fund, \$130M
2. Harrison Street Core Property Fund LP, \$130M
3. Apollo Accord Fund, \$81.5M
4. Varde Dislocation Fund, \$50M
5. GCM Private Equity, \$115.2M
6. ARES Pathfinder Fund, \$84.5M
7. Angelo Gordon DL IV, \$67.5M.

Asset Allocation

The table below shows the status of the permanent trusts' asset allocation as of July 20, 2021. The figures provided are unaudited.

As of July 20, 2021	Market Value \$	Actual	Target	Lower Range	Upper Range
Broad US Equity	1,102,200,165.65	18.9%	19.0%	14.0%	24.0%
Broad Int'l Equity	1,093,291,045.26	18.7%	19.0%	14.0%	24.0%
Fixed Income	1,353,171,117.35	23.2%	22.0%	17.0%	27.0%
Transition Account	586,072,690.81	10.0%	0.0%	-5.0%	5.0%
Absolute Return	866,424,225.41	14.8%	15.0%	10.0%	20.0%
DIS	-	0.0%	0.0%	-5.0%	5.0%
Real Estate	749,939,532.00	12.8%	15.0%	10.0%	20.0%
Private Equity (Grosvenor)	10,967,479.00	0.2%	5.0%	0.0%	10.0%
Private Infrastructure (JPM-Infra)	-	0.0%	5.0%	0.0%	10.0%
Opportunistic Investments (Varde & Apollo)	75,516,009.00	1.3%	0.0%	-5.0%	5.0%
Portfolio Total	5,837,582,264.48	100.0%			

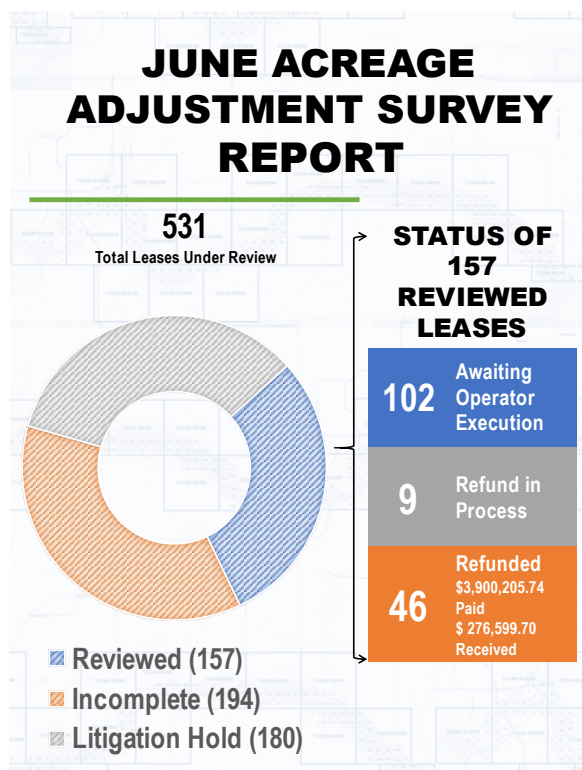


Upcoming Investment Manager Meetings

The following meeting with investment manager were planned to discuss updates on strategy, compliance, and performance. Meetings will be held at the Department of Trust Lands. Please inform the Commissioner ahead of time if you plan to attend, so that we can make sure enough presentation materials are available.

August 11, 2021, 9:00AM JP Morgan Core Bond
 Fixed Income (\$366M, 6.3% of PTF assets)

June Acreage Adjustment Report



(07/29/21)

NDDTL River Tracts Refund Status map was also presented to the Board and is available upon request.

June 2021 Report of Shut-Ins Approved by Land Commissioner

Granted to:	ConocoPhillips
For the Purpose of:	Operations
Date Issued:	06/04/2021
Application Fee:	\$100.00
Trust:	A – Common Schools
Lease:	OG-04-00196, OG-04-00197, OG-04-00198, OG-04-00199

I N V E S T M E N T S

Fixed Income – Direct Lending Manager

In accordance with the Investment Policy Statement (IPS) the Department of Trust Lands (Department) staff regularly reviews the Permanent Trust Funds' (PTFs) asset allocations for rebalancing purposes. At the end of the first and second quarters of 2021, the Department determined that the PTFs should be rebalanced out of public equities (both domestic and international) into fixed income and commercial real estate (CRE). The outperformance of domestic and international equities brought each asset class above their target allocations, while fixed income and CRE were below target.

Given that the current low interest rate environment is expected to persist, the Department and RVK believe it is prudent to put the rebalanced dollars into Private Credit. Certain Private Credit strategies, such as direct lending, have an attractive risk/return profile and a low default/loss track record. Private Credit would add higher yield to the PTFs at acceptable risk levels. In addition, when bond yields do rise the floating rate nature of direct lending loans will avoid negative valuation effects.

The Department and RVK began the manager search by compiling a list of top performing Private Credit managers within RVK's database. The Department and RVK reviewed the performance and risk history of each manager, along with fees, asset quality, asset characteristics and investment structures. The Department and RVK interviewed managers to review their investment strategies and investment processes.

After conducting a thorough due diligence of each manager it was determined that the Department and RVK would recommend the Board approve an allocation to Owl Rock Capital (a subsidiary of Blue Owl Capital Inc.) in their Owl Rock Diversified Lending fund. Owl Rock is an investment manager with nearly \$28 Billion in assets under management and around 180 employees (with 66 investment professionals). Owl Rock's team has a strong track record in middle market lending, with a diligent underwriting process and strong portfolio characteristics that Staff and RVK felt would well suit the PTFs.

In addition, the fund is structured as an evergreen fund, which means it will be continuously open to new investment and has a limited withdrawal feature. This will assist the PTFs in maintaining continuous investment in direct lending without having to regularly find new opportunities in the sector, and also allow for limited liquidity, if needed.

Motion: The Board approve an initial \$100 Million investment with Owl Rock in the Owl Rock Diversified Lending fund, subject to final review and approval of all legal documents by the Office of the Attorney General.

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger	X		X		
Superintendent Baesler			X		
Treasurer Beadle			X		
Attorney General Stenehjem		X	X		
Governor Burgum			X		

RVK Recommendation Memo and Owl Rock Diversified Lending Presentation were presented to the Board and are available at the Department upon request.

Private Equity - Secondaries

On April 8, 2020, the Board of University and School Lands' (Board) approved an asset allocation to Private Equity (PE) within the broader Strategic Asset Allocation (SAA) for the Permanent Trust Funds (PTFs). On August 27, 2020, the Board approved an investment in PE with GCM Grosvenor (GCM) in a "Fund-of-One" structure.

The PE strategy approved in April 2020 assumed a six to eight year ramp-up to the PTFs full 5% PE allocation within the SAA. The rationale provided to the Board at the time was that a multi-year ramp-up allowed for investment in multiple PE vintage years. There are well established diversification advantages to owning multiple vintage years. Even if we disregarded vintage year diversification, we would still be subject to the notoriously slow pace of capital calls from each PE manager to which we committed capital.

The Staff and RVK have been in discussions to contemplate ways to speed the PTFs investment in PE, while still respecting the diversification virtues of owning multiple vintage years and understanding the slow pace of capital calls. In addition, staff and GCM have also had multiple discussions along the same lines. The joint solution is increased investment in PE secondaries.

PE secondaries are capital investments in PE funds that were invested by third-parties who now wish to sell their interests. Managers like GCM create secondaries funds to invest in the orphaned interests. The advantage to investing in secondaries is the visibility into some or all of the underlying PE portfolio investments. Also advantageous is the ability to avoid some or all of the J-curve, which is the period of negative cashflow versus positive cashflow (or capital calls vs distributions).

Staff and RVK discussed conducting an additional manager search, but decided to stay with our current PE manager GCM. The rationale was three-fold: First, Staff and RVK had only just completed the first PE search a year ago and not much had changed amongst the managers from the previous search. Second, the documentation negotiation process for these can be lengthy and Staff felt speed of execution would be beneficial. Third, GCM is intimately familiar with the PTFs' PE pacing schedule and can attenuate the investments between the Fund-of-One and their Secondaries fund to ensure the PTFs remain on track.

Motion: The Board approve up to a \$150 Million investment in the GCM Grosvenor Secondary Opportunities Fund III, L.P., subject to final review and approval of all legal documents by the Office of the Attorney General.

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger			X		
Superintendent Baesler	X		X		
Treasurer Schmidt			X		
Attorney General Stenehjem		X	X		
Governor Burgum			X		

RVK Recommendation Memo and GCM Grosvenor Presentation were presented to the Board and are available at the Department upon request.

O P E R A T I O N S

Board of University and School Lands Media Relations Policy Manual

The Board of University and School Lands (Board) currently has a Policy Manual (Board Policy Manual) which includes sections titled Governance, General, Surface Land Management, Investments, and Minerals. The Board requested the Commissioner prepare a Media Relations Policy that seeks to work cooperatively with the media to disseminate information of public interest and concern in an accurate, complete, and timely manner and in harmony with the official position of the Board.

The Department of Trust Lands (Department) has created a draft policy that the Treasurer and Attorney Generals Office has reviewed.

This is the “first reading” of the proposed repeal, with suggestions being taken into consideration and a “second reading” to occur on August 26, 2021.

Board of University and School Lands Media Relations Policy was presented to the Board and is available at the Department upon request.

Senate Bill 2282 Language needed here

The 67th Legislative Assembly passed Senate Bill 2282 which states:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - MEMBERSHIPS OF BOARD OF UNIVERSITY AND SCHOOL LANDS AND INDUSTRIAL COMMISSION. During the 2021-22 interim, the legislative management shall study the membership of the board of university and school lands and the membership of the industrial commission. The study must include consideration of potential conflicts of interest relating to the memberships, possible changes to the composition of the memberships of the board of university and school lands and the industrial commission, and possible changes to article IX of the Constitution of North Dakota. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

The Study was assigned to the Judiciary Committee with the initial meeting scheduled for August 11, 2021. The Department has been requested to provide a presentation from the perspective of the Board as it relates to Senate Bill 2282.

Article IX of the North Dakota Constitution has 13 Sections (Attachment 1). The Department of Trust Lands (Department) has reviewed each Section within the Article IX for possible recommendations for revisions.

Motion: The Board instructs the Commissioner to undertake a study on the formula written in Section 2 relative to payouts from the funds to ensure a formula that will maintain the long term financial health of the Trusts.

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger	X		X		
Superintendent Baesler			X		
Treasurer Beadle			X		
Attorney General Stenehjem		X	X		
Governor Burgum			X		

S U R F A C E

Surface Land Lease Revisions

As a result of implementing a 100% cost share for the Permanent Improvement – Livestock Water Developments, rent credits and depreciation will be eliminated; thus, paragraphs 5 and 6 of the Surface Land Lease are proposed for revision. Cost share will now be the form of compensation to protect the lessee for their investment in developing a permanent improvement on trust land. The change to cost share will allow rental revenues and improvement expenditures to be accurately reflected in the financials. Additional, other non-material changes were made in various sections for clarification purposes. The red-line version of the Surface Land Lease is attached.

Additionally, as a result of the current drought, the Department of Trust Lands, the Water Commission and the Governor's Office are proposing a solution for permanent water supply on trust lands. The Water Commission will need to authorize the expenditure of \$1M to supplement the Department's current cost share program to ensure the water development is fully reimbursed. The permanent water development improvement will belong to the Board of University and School Lands while the non-improvements which are normally the property of the surface lessee (such as equipment to pump and power a well) will be property of the State of North Dakota. Additionally, the Department of Water Resources may access and use any of the water wells for aquifer observation. Pending approval of the \$1M in funding from the Water Commission Surface, leases will need to be amended with an additional lease provision where the State of North Dakota provides funding for non-permanent improvements to clarify ownership of non-permanent improvements.

Motion: The Commissioner recommends the Board approve the changes to the Surface Land Lease as referenced above and shown in the attached redlined Surface Land Lease. Additionally, the Commissioner recommends the Board approve the use of necessary amendments to the Surface Land Lease upon approval of the permanent water supply funding from the Water Commission.

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger	X		X		
Superintendent Baesler			X		
Treasurer Beadle			X		
Attorney General Stenehjem		X	X		
Governor Burgum			X		

MINERALS

Acreage Adjustment Survey - T153N, R102W Sections 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 34, and 36

Under North Dakota law, the Board of University and School Lands (Board) is vested with the authority to manage state-owned minerals including the oil, gas, and related hydrocarbons within the beds of the State's navigable waters. On behalf of the State, the Board oversees the Strategic Investment and Improvements Fund (SIIF) which collects the revenues from these sovereign minerals.

Timeline of State Activity Related to Sovereign Lands

- The 1977 Legislature defined "sovereign lands" as "those beds, islands, accretions, and relictions lying within the ordinary high watermark of navigable lakes and streams." 1977 N.D. Sess. Laws, ch. 144, § 1, codified as N.D.C.C. § 15-08.2-02 (repealed 1989 N.D. Sess. Laws, ch. 552, § 4).
- From 1977 to 1989, the Board had authority over both the surface and subsurface of sovereign lands, including the power to convey interests.
- In 1989, the Legislature again defined state title as "those beds, islands, accretions, and relictions lying within the ordinary high watermark of navigable lakes and streams." 1989 N.D. Sess. Laws, ch. 552, § 3, codified as N.D.C.C. § 61-33-01.
- The 1989 Legislature gave the State Engineer's Office authority to manage the surface and the Board authority over the oil, gas, and related hydrocarbons within the subsurface, with each agency having the power to convey interests.
- In 2007, the Office of the State Engineer issued the North Dakota Sovereign Land Management Plan and Ordinary High Water (OHWM) Mark Delineation Guidelines.
- In 2009, the Board and the State Engineer engaged Bartlett & West, a private engineering company, to undertake a comprehensive study of the OHWM along the Yellowstone River and the Missouri River from the Montana border to river mile marker 1549 near Williston (Phase I Delineation).
- In 2010, the Board again contracted with Bartlett & West to approximate the location of the OHWM for the historic Missouri River under Lake Sakakawea from river mile marker 1574 near the Furlong Loop to river mile marker 1482, the border of the Fort Berthold Reservation (Phase II). This study was completed using historical aerial photography, elevation data, and topographic maps.
- In 2010, the Board authorized Phase III to investigate specific and isolated sections of the Missouri and Yellowstone Rivers between Williston to the Montana border that could not be fully completed under Phase I due to location and complexity (this includes the Trenton Lake area.)
- In 2012, the Board initiated the review of the estimated historic OHWM between the Four Bears Bridge and the Garrison Dam (Phase IV) using the same techniques as Phase II.
- In 2013, the North Dakota Supreme Court issued decisions in *Reep v. State* and *Brigham v. State* holding that the State owns the mineral interests up to the ordinary high water mark of navigable rivers and water bodies.
- In 2017, the Sixty-Fifth Legislative Assembly's adoption of Senate Bill 2134 (SB 2134), codified as N.D.C.C. ch. 61-33.1, sought to establish state ownership of minerals below the ordinary high water mark of the historical Missouri riverbed channel (Historical OHWM) inundated by Pick-Sloan Missouri basin project dams.
- In 2019, the Sixty-Sixth Legislative Assembly amended N.D.C.C. ch. 61-33.1 relating to the ownership of mineral rights of land subject to inundation by Pick-Sloan Missouri basin project dams. Under N.D.C.C. § 61-33.1-03(8), the Board contracted with Kadrmass, Lee & Jackson, Inc. (KLJ) "to analyze the final review findings and determine the acreage on a quarter-quarter basis or government lot basis above and below the [Historical OHWM] as delineated by the final review findings of the industrial commission."

On June 25, 2020, the Board formally requested the North Dakota Industrial Commission complete further review of T153N, R102W Sections 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 34, and 36. The North Dakota Industrial Commission entered Order No. 31104 providing the Department of Trust Lands (Department) with necessary information to complete the acreage adjustment survey in T153N, R102W Sections 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 34, and 36.

The Department has consulted with the State Engineer as to the State's sovereign land ownership in Sections 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 34, and 36 of Township 153 North, Range 102 West, Williams/McKenzie Counties, North Dakota (more commonly referred to as the Trenton Lake area.) On November 24, 2021, the State Engineer presented a technical memorandum to the Board. The Board requested the Department provide the Board with an outline of options for the Board to review.

On January 28, 2021, the Board was presented with options relating to T153N, R102W Sections 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 34, and 36. The Board requested the Department work with the State Engineer's Office to provide additional insight.

Motion: The Board authorizes the Commissioner to request that KLJ complete the Acreage Adjustment Survey for T153N, R102W Sections 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 34, and 36; applying the Wenck Line as presented by the Industrial .

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger			X		
Superintendent Baesler	X		X		
Treasurer Beadle			X		
Attorney General Stenehjem		X	X		
Governor Burgum			X		

REVENUE COMPLIANCE

Repayment of Royalties

The North Dakota Board of University and School Lands (Board) manages land, minerals and proceeds as trustee for the exclusive benefit of constitutionally identified beneficiaries, with much of the income funding North Dakota schools and institutions. The Board also manages oil, gas and other hydrocarbons underlying sovereign lands for the State of North Dakota.

The Board has requested royalty repayment offers from gas payors be discussed during executive session.

EXECUTIVE SESSION

Under the authority of North Dakota Century Code Sections 44-04-19.1 and 44-04-19.2, the Board close the meeting to the public and go into executive session for purposes of attorney consultation relating to:

- **William S. Wilkinson et al. Case No. 53-2012-CV-00038**
- **Newfield Exploration Company et al Civ. No. 27-2018-CV-00143**
- **Royalty Repayment Offers**

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger		X	X		
Superintendent Baesler			X		
Treasurer Beadle			X		
Attorney General Stenehjem	X		X		
Governor Burgum			X		

(07/29/21)

The Board entered into executive session at 10:55 AM.

EXECUTIVE SESSION

Members Present:

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Wayne Stenehjem	Attorney General
Thomas Beadle	State Treasurer (Via Teams)
Kirsten Baesler	Superintendent of Public Instruction

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Catelin Newell	Administrative Staff Officer
Kristie McCusker	Paralegal
Kate Schirado	Administrative Assistant
Adam Otteson	Revenue Compliance Director

Guests in Attendance:

Dave Garner	Office of the Attorney General
Jen Verleger	Office of the Attorney General-only present for Wilkinson
Leslie Bakken Oliver	General Counsel
Reice Haase	Governor's Policy Advisor
John Paczkowski	Office of the State Engineer-only present for Wilkinson
Aaron Carranza	Office of the State Engineer-only present for Wilkinson
Jerry Heiser	Office of the State Engineer-only present for Wilkinson

The executive session adjourned at 12:30 PM and the Board returned to the open session and Teams meeting to rejoin the public. During the executive session meeting, the Board was provided information and no formal action was taken.

A D J O U R N

There being no further business, the meeting was adjourned at 12:30 PM.

Doug Burgum, Chairman
Board of University and School Lands

Jodi Smith, Secretary
Board of University and School Lands

**Minutes of the Meeting of the
Board of University and School Lands
August 26, 2021**

The August 26, 2021 meeting of the Board of University and School Lands was called to order at 9:00 AM via Microsoft Teams by Chairman Doug Burgum.

Members Present:

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Wayne Stenehjem	Attorney General
Thomas Beadle	State Treasurer
Kirsten Baesler	Superintendent of Public Instruction

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Christopher Dingwall	Mineral Title Specialist
Robert Dixon	IT
Susan Dollinger	Unclaimed Property
Jessica Fretty	Unclaimed Property
Michael Humann	Surface Division Director
Kristie McCusker	Paralegal
Catelin Newell	Administrative Staff Officer
Adam Otteson	Revenue Compliance Director
Rick Owings	EIIO Grants Administrator
Kate Schirado	Administrative Assistant
Michael Shackelford	Investments Director
David Shipman	Minerals Division Director
Kayla Spangelo	Range Soils Management Specialist
James Wald	Legal Council
Scott Giere	Revenue Compliance
Peggy Gudvangen	Finance Director

Guests in Attendance:

Dave Garner	Office of the Attorney General
Amy Sisk	Bismarck Tribune
Brady Pelton	NDPC
Miranda Letherman	
Josh Kevan	RVK
Craig Smith	Crowley Fleck Attorneys
Harry Gakidis	Acadian
Andrew Miller	Acadian
C. Rajala	
Cyril Espanol	Journalist from Pageantmedia
Adam Willis	Fargo Inforum
Aidan Forde	Arrowstreet
Liodakis Manolis	Arrowstreet
Don Larson	

A P P R O V A L O F M I N U T E S

A motion to approve the minutes of the July 29, 2021 regular meeting was made by Attorney General Wayne Stenehjem and seconded by Secretary of State Alvin Jaeger and the motion carried unanimously on a voice vote.

R E P O R T S

July 2021 Report of Encumbrances Issued by Land Commissioner
(No Action Requested)

Granted to:	WESTERN AREA WATER SUPPLY AUTHORITY, WILLISTON-ND
For the Purpose of:	Easement: Pipeline-Potable Water Pipeline
Right-of-Way Number:	RW0008738
Trust:	A - Common Schools
Legal Description:	DIV-160-100-28-W2NE4
Granted to:	WESTERN AREA WATER SUPPLY AUTHORITY, WILLISTON-ND
For the Purpose of:	Easement: Pipeline-Potable Water Pipeline
Right-of-Way Number:	RW0008911
Trust:	A - Common Schools
Legal Description:	WIL-159-102-36-NE4
Granted to:	MOUNTRAIL-WILLIAMS ELECTRIC COOPERATIVE, WILLISTON-ND
For the Purpose of:	Easement: Electric-Buried Distribution Line
Right-of-Way Number:	RW0008835
Trust:	A - Common Schools
Legal Description:	MOU-158-91-16-SE4, SW4
Granted to:	OASIS PETROLEUM NORTH AMERICA LLC, HOUSTON-TX
For the Purpose of:	Permit: Temporary Water Layflat Line
Right-of-Way Number:	RW0008916
Trust:	A - Common Schools
Legal Description:	WIL-153-100-36-NE4, SE4, SW4
Granted to:	ND ENERGY SERVICES INC, DICKINSON-ND
For the Purpose of:	Permit: Temporary Water Layflat Line
Right-of-Way Number:	RW0008923
Trust:	A - Common Schools
Legal Description:	DUN-146-94-16-NE4, NW4
Granted to:	AMERICAN COLLOID COMPANY, BELLE FOURCHE-SD
For the Purpose of:	Permit: Coal Exploration
Right-of-Way Number:	RW0008873
Trust:	A - Common Schools
Legal Description:	BOW-130-99-1-SW4 & ADA-130-98-8-SW4 BOTH TRACTS HAVE 50% MINERAL OWNERSHIP - NO SURFACE.
Granted to:	WILLIAM H SMITH & ASSOCIATES PC, GREEN RIVER-WY
For the Purpose of:	Permit: Planning & Preconstruction Survey
Right-of-Way Number:	RW0008929
Trust:	A - Common Schools
Legal Description:	ALL TRUST LAND IN NORTH DAKOTA
Granted to:	WOLD ENGINEERING, P.C., MINOT-ND
For the Purpose of:	Permit: Planning & Preconstruction Survey
Right-of-Way Number:	RW0008881
Trust:	A - Common Schools
Legal Description:	ALL TRUST LAND IN NORTH DAKOTA
Granted to:	PETRO-HUNT LLC, BISMARCK-ND
For the Purpose of:	Permit: Temporary Construction – Emergency*
Right-of-Way Number:	RW0008936
Trust:	A - Common Schools
Legal Description:	MCK-154-95-36-SE4

*Holding pond constructed to collect run-off from Petro-Hunt oil well fire on adjacent Forest Service Land.

Granted to: **DIEDE, COLEHARBOR-ND**
 For the Purpose of: Permit: Temporary Construction
 Right-of-Way Number: RW0008937
 Trust: A
 Legal Description: DUN-147-96-36-NW4, S2SW4

Granted to: **NORTH DAKOTA STATE UNIVERSITY (DEPT 7650), FARGO-ND**
 For the Purpose of: Permit: Access to School Land for pollinator and ground arthropod study
 Right-of-Way Number: RW0008900
 Trust: A - Common Schools
 Legal Description: SEVERAL TRACTS IN MCKENZIE & WILLIAMS COUNTIES

Granted to: **ND GEOLOGICAL SURVEY, BISMARCK-ND**
 For the Purpose of: Permit: Access to School Land for critical element sampling
 Right-of-Way Number: RW0008912
 Trust: A – Common Schools, E – Ellendale, N – North Dakota State University, U – University of North Dakota, C – Capitol Building, W – North Dakota State School of Science, J – Indian Cultural Education Trust, M – School of Mines
 Legal Description: SEVERAL TRACTS IN BILLINGS, BOWMAN, DUNN, GOLDEN VALLEY, GRANT, MCKENZIE, MERCER, MORTON, SIOUX, SLOPE, STARK, WILLIAMS COUNTIES

Granted to: **ETHNOSCIENCE INC, BILLINGS-MT**
 For the Purpose of: Permit: Access to School Land
 Right-of-Way Number: RW0008914
 Trust: A - Common Schools
 Legal Description: MCL-147-82-36-SE4, SW4

July 2021 Consideration Total: \$16,785.00

Summary of Oil and Gas Lease Auction

On behalf of the Board of University and School Lands (Board), the Department of Trust Lands conducted an oil and gas lease auction on www.energy.net which concluded on August 3, 2021.

There were 23 tracts offered, and all received competitive bids (if the Board does not receive a competitive bid, the lease is awarded to the nominator). The highest bid per acre was \$1,501.00 (\$240,160.00 for 160.00 acres) in McKenzie County. 12 tracts benefit the Common Schools Trust Fund, and 11 tracts benefit the Strategic Investment and Improvements Fund (SIIF).

County	Tracts/County	Net Mineral Acres	Total Bonus	Average Bonus/Acre
Billings	5	719.94	\$76,390.34	\$106.11
Burke	3	128.00	\$9,128.00	\$71.31
Divide	9	1000.13	\$253,440.43	\$253.41
Dunn	2	160.00	\$80,720.00	\$504.50
McKenzie	2	320.00	\$336,480.00	\$1051.50
Williams	2	153.22	\$75,376.10	\$491.95
GRAND TOTAL	23	2481.29	\$ 831,534.87	\$335.12

There was a total of 20 bidders who submitted 383 bids on the 23 tracts. The bidders were from 10 states (AZ, CO, IN, LA, MN, MT, ND, OK, TX, and WY).

A total of \$831,534.87 of bonus was collected from the auction.

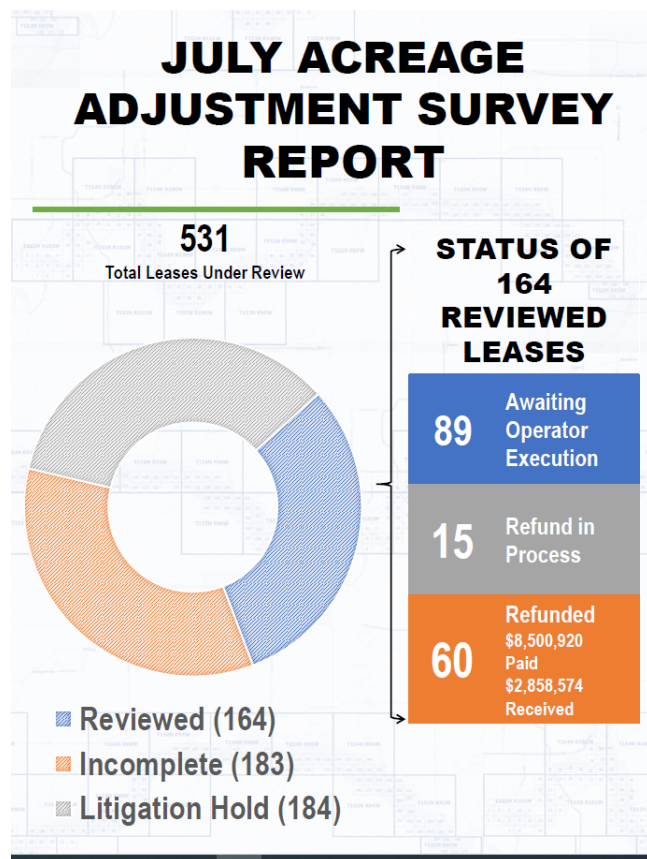
July 2021 Report of Shut-Ins Approved by Land Commissioner

Granted to:	Burlington Resources Oil and Gas Company LP
For the Purpose of:	Operations
Date Issued:	07/29/2021
Application Fee:	\$100.00
Trust:	SIIF – Strategic Investment and Improvements Fund
Lease:	OG-09-01476

Granted to:	Marathon Oil Company
For the Purpose of:	Operations
Date Issued:	07/30/2021
Application Fee:	\$100.00
Trust:	SIIF – Strategic Investment and Improvements Fund
Lease:	OG-05-00901; OG-05-00902; OG-05-00903; OG-05-00904

Granted to:	Marathon Oil Company
For the Purpose of:	Operations
Date Issued:	07/30/2021
Application Fee:	\$100.00
Trust:	SIIF – Strategic Investment and Improvements Fund
Lease:	OG-05-00905; OG-05-00906; OG-05-00949; OG-10-00747
	OG-10-00748

Acreage Adjustment Report



NDDTL River Tracts Refund Status map was also presented to the Board and is available upon request.

June Unclaimed Property Report

Unclaimed property is all property held, issued, or owing in the ordinary course of a holder's business that has remained unclaimed by the owner for more than the established time frame for the type of property. It can include checks, unpaid wages, stocks, amounts payable under the terms of insurance policies, contents of safe deposit boxes, etc.

An owner is a person or entity having a legal or equitable interest in property subject to the unclaimed property law. A holder can include a bank, insurance company, hospital, utility company, retailer, local government, etc.

Since 1975, the Unclaimed Property Division (Division) of the Department of Trust Lands (Department) has been responsible for reuniting individuals with property presumed abandoned. The Division acts as custodian of the unclaimed property received from holders. The property is held in trust in perpetuity by the State and funds are deposited in the Common Schools Trust Fund. The 1981 Uniform Unclaimed Property Act created by the national Uniform Law Commission was adopted by the State in 1985.

For the month of June 2021, the Division received 68 holder reports with a property value of \$107,566 and paid 352 claims with a total value of \$641,090.

The Financial Report (Unaudited) for period ending May 31, 2021 was presented to the Board for review and is available at the Department upon request.

Investment Updates

Portfolio Rebalancing Updates

In August, \$100M new cash from the Common Schools Trust was transferred to the portfolio. \$64.37M of the \$100M was from the oil extraction tax back pay as appropriated by the Sixty-sixth Legislative Assembly in Senate Bill 2362.

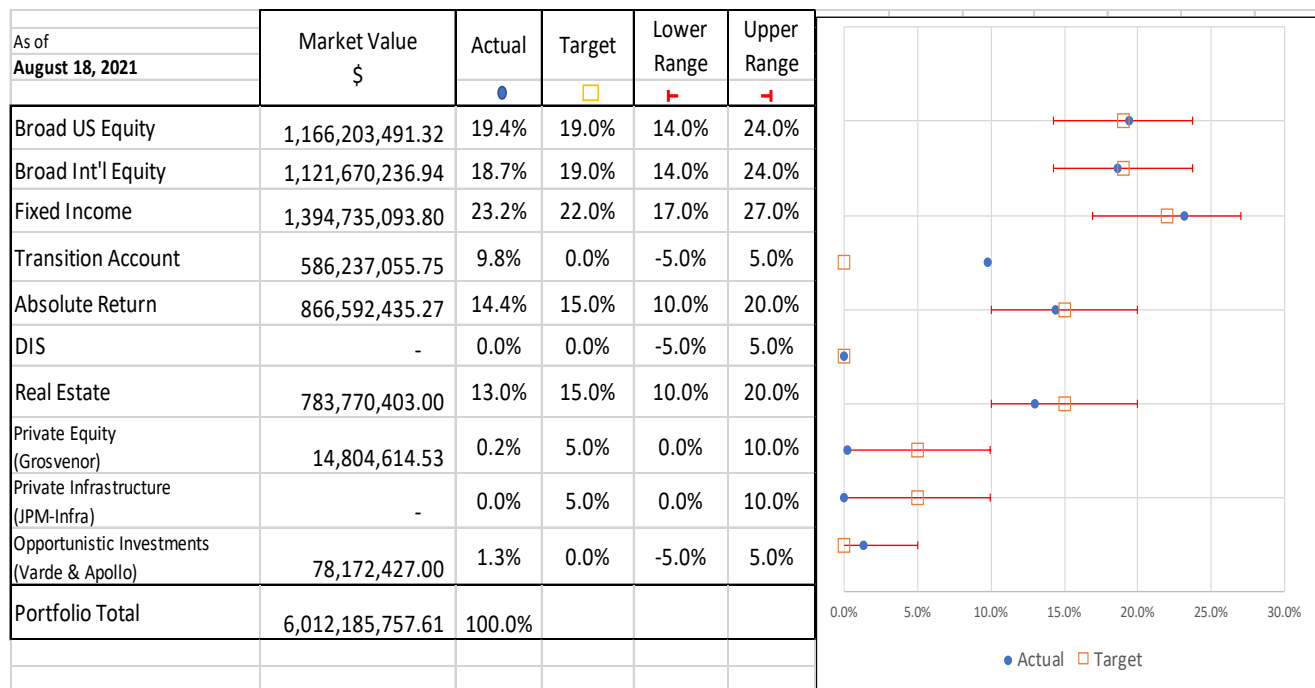
There were no capital calls made since the last Board meeting. Although on a Q2 update call with Ares Pathfinder Fund, it was communicated Ares Pathfinder Fund is expecting to call approximately 10% by mid-September.

Total unfunded commitments as of 8/18 is at \$658.7M. Broken down as follows:

1. JPM Infrastructure Fund, \$130M
2. Harrison Street Core Property Fund LP, \$130M
3. Apollo Accord Fund, \$81.5M
4. Varde Dislocation Fund, \$50M
5. GCM Private Equity, \$115.2M
6. ARES Pathfinder Fund, \$84.5M
7. Angelo Gordon DL IV, \$67.5M.

ASSET ALLOCATION

The table below shows the status of the permanent trusts' asset allocation as of August 18, 2021. The figures provided are unaudited.



Please note that Q2 Statements from Angelo Gordon Direct Lending Funds III & IV (under Fixed Income) and GCM Grosvenor Private Equity have not been received yet. Hence values for these Funds were based on their Q1 market values adjusted for any capital calls and/or distributions.

INVESTMENTS

June Investment Reports – 2nd Quarter 2021

Josh Kevan from RVK will review the performance of the Board of University and School Land's (Board) investment program for the period ending June 30, 2021 and discuss current market conditions.

The first report to be reviewed was prepared by RVK to enable the Board to monitor and evaluate the collective performance of the permanent trusts' investments and the performance of individual managers within the program. In order to provide an overview of the program and highlight critical information, an executive summary has been incorporated into the Board report.

The second report shows the performance of the Ultra-Short portfolio in which the Strategic Investment and Improvements Fund, the Coal Development Trust Fund and the Capitol Building Fund are invested.

RVK Permanent Trust Fund Performance Analysis and RVK Ultra-short Performance Report were presented to the Board and are available at the Department upon request.

Emerging Markets Equity Allocation

In April 2014, the Board of University and School Lands' (Board) approved investments in two Emerging Markets equity funds equally divided between Dimensional Fund Advisors' (DFA) Emerging Markets Core Equity mutual fund and Harding Loevner's Institutional Emerging Markets mutual fund.

As a result of consistent underperformance, Department Staff and RVK recommended terminating the DFA and Harding mandates (combined \$230+ Million) and replacing those with two new Emerging Markets (EM) equity mandates. The incumbent mandates have underperformed the benchmark (MSCI Emerging Markets Index) net of fees in the 3, 5, and 7-year periods (the entire length of incumbency). RVK's research shows the incumbents have worse Risk/Return performance, Sharpe Ratios, Information Ratios and Upside/Downside Capture Ratios than the proposed replacement.

Staff and RVK recommend moving to a new active manager and an index, which should decrease portfolio risk while increasing returns. Staff and RVK began the manager search by compiling a list of the top performing managers within RVK's database. Staff and RVK reviewed the return performance and risk history of each manager, along with fees, investment staff, operations, and process. Staff and RVK selected and interviewed top managers to review their investment strategies and investment process.

After conducting a thorough due diligence of each manager it was determined that Staff and RVK would recommend the Board approve a mandate with Arrowstreet. Arrowstreet Capital has a strong and transparent investment process and portfolio characteristics that Staff and RVK felt would best suit the PTFs. Arrowstreet is an investment manager founded in 1999 and headquartered in Boston, with offices in the U.S., Europe and Asia. They have over \$152 Billion in assets under management and over 110 investment professionals.

Staff and RVK also recommend an investment with Northern Trust Investments in their Emerging Markets Equity index fund. Arrowstreet closes their fund for extended periods of time; this index fund will give the PTFs a rebalancing tool for when the PTFs are waiting for Arrowstreet to open or when we need to reduce holdings due to faster growth in the asset class versus other assets.

Motion: The Board approve terminating investment with DFA and Harding Loevner and using the proceeds (\$230+ Million) to invest with Arrowstreet in an Emerging Markets Equity actively managed mandate, and approve a \$25 Million investment with Northern Trust in an Emerging Markets Equity Index mandate subject to final review and approval of all legal documents by the Office of the Attorney General.

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger		X	X		
Superintendent Baesler	X		X		
Treasurer Beadle			X		
Attorney General Stenehjem			X		
Governor Burgum			X		

RVK Recommendation Memo and Arrowstreet Emerging Markets Presentation were presented to the Board and are available at the Department upon request.

International Small Cap Equity Allocation

In September 2017, the Board of University and School Lands' (Board) approved changes to the Permanent Trust Funds' (PTFs) international equity allocation to include international small cap developed market ex-U.S. equities. In December 2017, the Board approved an investment in QMA's EAFE Small Cap commingled fund (EAFE stands for Europe, Australasia and Far East).

As a result of consistent underperformance, Department Staff and RVK recommend terminating the QMA EAFE Small Cap mandate (\$210+ Million) and replacing it with two new EAFE small cap equity mandates. The QMA mandate has underperformed both its benchmark (MSCI EAFE Small Cap Index) and its peers. RVK's research shows the QMA mandate has a worse risk/return performance than its index and peer group. It also has worse periodic Sharpe Ratios, Information Ratios and Upside/Downside Capture Ratios than its peer group.

Staff and RVK recommend moving to a new active manager and an index, which should decrease portfolio risk while increasing returns. Staff and RVK began the manager search by compiling a list of the top performing managers within RVK's database. Staff and RVK reviewed the return performance and risk history of each manager, along with fees, investment staff, operations, and process. Staff and RVK selected and interviewed top managers to review their investment strategies and investment process.

After conducting a thorough due diligence of each manager it was determined that Staff and RVK would recommend the Board approve a mandate with Acadian. Acadian Asset Management has a strong and transparent investment process and portfolio characteristics that Staff and RVK felt would best suit the PTFs. Acadian is an investment manager founded in 1986 and headquartered in Boston, with offices in the U.S., Europe and Asia. They have over \$117 Billion in assets under management and over 95 investment professionals.

Staff and RVK also recommend an investment with Northern Trust Investments in their EAFE Small Cap Equity index fund. From time-to-time Acadian has waiting lists; this index fund will give the PTFs a rebalancing tool for when the PTFs are waiting in Acadian's investment queue or when we need to reduce holdings due to faster growth in the asset class versus other assets.

Motion: **The Board approve terminating investment with QMA and using the proceeds (\$210+ Million) to invest with Acadian in an EAFE Small Cap Equity actively managed mandate, and approve a \$25 Million investment with Northern Trust in an EAFE Small Cap Equity Index mandate subject to final review and approval of all legal documents by the Office of the Attorney General.**

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger		X	X		
Superintendent Baesler			X		
Treasurer Beadle	X		X		
Attorney General Stenehjem			X		
Governor Burgum			X		

RVK Recommendation Memo and Acadian International Small Cap Presentation were presented to the Board and are available at the Department upon request.

O P E R A T I O N S

Board of University and School Lands Media Relations Policy Manual

The Board of University and School Lands (Board) currently has a Policy Manual (Board Policy Manual) which includes sections titled Governance, General, Surface Land Management, Investments, and Minerals. The Board requested the Commissioner prepare a Media Relations Policy that seeks to work cooperatively with the media to disseminate information of public interest and concern in an accurate, complete, and timely manner and in harmony with the official position of the Board.

The first reading of the policy was held at the July 29, 2021 meeting. The Commissioner requested the Board provide input on the proposed policy. Additionally, an open comment period was held and two comments were received (Attachment 2).

Motion: **The Board adopt the proposed North Dakota Board of University and School Lands Media Policy.**

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger			X		
Superintendent Baesler			X		
Treasurer Beadle		X	X		
Attorney General Stenehjem	X		X		
Governor Burgum			X		

Board of University and School Lands Media Relations Policy and Comments Received were presented to the Board and are available at the Department upon request.

Definitions, Unclaimed Property, Surface Land Management, and Minerals Management Administrative Rules

Due to statutory changes made during the Sixty-seventh Legislative Assembly, the Department of Trust Lands (Department) proposes changes to Title 85, Board of University and School Lands, of the North Dakota Administrative Code as follows:

(08/26/21)

North Dakota Administrative Code § 85-01-01-01:

Repeal of N.D.A.C. ch. 85-06-01, Administrative Rules relating to public access, necessitated revisions to the N.D.A.C. § 85-01-01-01, including removal of the definition of the word vehicle, which resulted in renumbering the remaining definitions. The definition of encumbrance was revised to be more encompassing of all types of encumbrances. Due to the repeal and reenactment of the Unclaimed Property Act it was necessary to make a clerical correction as to the chapter number. All revisions are spelled out in the attached proposed rules.

North Dakota Administrative Code ch. 85-03:

Due to the repeal of the Unclaimed Property Act (N.D.C.C. ch. 47-30.1), and the reenactment of the Revised Uniform Unclaimed Property Act (N.D.C.C. ch. 47-30.2) under Senate Bill 2048, the Department proposes revisions to Article 85-03, Unclaimed Property, of the North Dakota Administrative Code. Many of the revisions relate to clerical corrections regarding the North Dakota Century Code chapter, general authority, and law implemented. Further, certain administrative rules were repealed to reflect information that is now part of N.D.C.C. ch. 47-30.2, while others were added based on new requirements under the law. The most significant change relates to the addition of a chapter regarding Examinations. All revisions are spelled out in the attached proposed rules.

North Dakota Administrative Code ch. 85-04-05:

House Bill 1081 was brought to address enforcement mechanism concerns for N.D.A.C. ch. 85-04-05, Public Access and Use. With the passage of HB 1081, all of N.D.A.C. ch. 85-04-05 was incorporated into N.D.C.C. ch. 15-08. Therefore, the Department requests repeal of this chapter. All revisions are spelled out in the attached proposed rules.

North Dakota Administrative Code § 85-06-01-12:

Due to changes in N.D.C.C. §§ 15-05-10 and 47-16-39.1, as provided in House Bill 1080, the Department proposes revising N.D.A.C. § 85-06-01-12 as it relates to penalty and interest calculations. Waiver was also removed from this section of the administrative code based on the revised language in N.D.C.C. § 15-05-10. All revisions are spelled out in the attached proposed rules.

Motion: The Board authorizes the Commissioner to proceed with review of the proposed Administrative Rules, including formal review by the Office of Attorney General, preparation for public hearings and collection of comments, and submittal to Legislative Council.

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger	X		X		
Superintendent Baesler			X		
Treasurer Beadle			X		
Attorney General Stenehjem		X	X		
Governor Burgum			X		

Administrative Rules General Administration, Unclaimed Property, Surface Land Management, and Minerals Management were presented to the Board and are available at the Department upon request.

Information Technology Project Status Update

The Department of Trust Land's (Department) 2017-2019 biennial budget appropriation includes \$3.6 million to replace legacy information technology (IT) systems as authorized by Senate Bill 2013 of the Sixty-fifth Legislative Assembly.

Severe limitations in the current IT system, including redundant manual processes, have hampered efficiencies. Many of the Department's core data management systems were developed in the 1980s and 1990s, using designs and tools no longer supported by vendors. Some supplemental system improvements and purchases have been implemented; however, the outdated database structure restricts many potential improvements.

On April 29, 2019, the new system for Unclaimed Property was successfully launched.

On July 1, 2020, the new Financial Management and Accounting system was successfully launched.

On September 14, 2020, the Revenue Compliance Division successfully launched the migrated and updated software system.

The Surface Land Management System is tentatively scheduled to go-live on September 25, 2021. MABU, a full service marketing and communications company, has been hired to aid the Department in communication efforts to constituents who will be impacted by the implementation of the new system.

Additional capital funding was approved through Senate Bill 2013 to support the implementation of software for the Minerals Division. A kick-off for the implementation of the new software is scheduled for September 27, 2021.

Strategic Investment and Improvements Fund - Assigned Fund Balance

Mineral revenues from sovereign lands are deposited into the Strategic Investment and Improvements Fund (SIIF). In July, 2016 the Board of University and School Lands (Board) classified \$142,325,049 of this fund as an "Assigned Fund Balance," a potential liability that should not be transferred out of the fund until title claims to riverbed leases are resolved. The amount was derived from the amount of bonus and royalties collected from the leasing and production of sovereign lands' oil and gas interests and in consideration of associated litigation in these areas.

The adoption of Senate Bill 2134 (SB 2134) in 2017 by the Sixty-fifth Legislative Assembly, codified as N.D.C.C. ch. 61-33.1, provided for a determination of the Ordinary High Water Mark (OHWM) for certain stretches of the Missouri River. The bill directed the North Dakota Industrial Commission (NDIC) to review a stretch of river to determine the location of the OHWM pursuant to specific criteria established by the Legislature.

On August 30, 2018 the Board affirmed the existing Assigned Fund Balance of \$229,325,049. It was anticipated that after the NDIC adopted the final review findings, the Department of Trust Lands (Department) would be able to calculate with more certainty the amounts necessary for mineral title disputes.

The survey NDIC was directed to conduct under SB 2134, and completed by Wenck Associates, Inc., did not provide the level of detail needed by the Department or oil and gas operators to make

(08/26/21)

the necessary adjustments required to refund royalties and lease bonuses. In recognition of this, the Sixty-sixth Legislative Assembly amended N.D.C.C. ch. 61-33.1 by adopting Senate Bill 2211 (SB 2211). SB 2211 authorized the Board to “contract with a qualified engineering and surveying firm to analyze the final review findings and determine the acreage on a quarter-quarter basis or government lot basis above and below the [OHWM] as delineated by the final review findings of the [NDIC].”

The SB 2134 further directed the adjustment of State leased mineral interests and authorized refunds of mineral proceeds accordingly. SB 2134, Section 3, states:

1. There is appropriated out of any moneys held in reserve in the [SIIF] for mineral title disputes, not otherwise appropriated, the sum of \$100,000,000, or so much of the sum as may be necessary, to the commissioner of university and school lands for the purpose of mineral revenue repayments, for the biennium beginning July 1, 2017, and ending June 30, 2019. The funding provided in this section is considered a one-time funding item.
2. The funding provided in this section is available for the following:
 - a. Repayment of any lease, bonus, rents, and royalty collections attributable to oil and gas mineral tracts lying entirely above the ordinary high water mark of the historical Missouri riverbed channel on both the corps survey and the state phase two survey, as required in subsection 1 of section 61-33.1-04.
 - b. Repayment of any lease, bonus, rents, and royalty collections attributable to the remaining oil and gas mineral tracts, as required in subsection 2 of section 61-33.1-04.
 - c. Other mineral revenue repayments or other reimbursements that are attributable to oil and gas mineral tracts requiring repayments under this Act.
3. Upon adoption of the final review findings by the industrial commission, the commissioner of university and school lands shall calculate the amount necessary for mineral revenue repayments based on the final review findings.
4. As soon as a repayment amount for a known recipient is calculated but after the expenditure of the \$100,000,000 in subsection 1:
 - a. The commissioner of university and school lands shall request from the sixty-sixth legislative assembly additional funding sufficient for any remaining mineral revenue or other repayments.
 - b. If the \$100,000,000 is expended before the repayment of all amounts calculated for known recipients and before additional funds are made available by the sixty-sixth legislative assembly, the Bank of North Dakota shall extend a line of credit, not to exceed \$87,000,000, to the commissioner of university and school lands. The commissioner of university and school lands shall access the line of credit, to the extent necessary, the sum of which is appropriated, for the purpose of mineral revenue and other repayments under this Act for the biennium beginning July 1, 2017, and ending June 30, 2019. The commissioner of university and school lands shall repay the line of credit from funds available in the strategic investment and improvements fund as appropriated by the legislative assembly.

Mineral revenues from sovereign lands are deposited into the SIIF. Current revenue projections indicate there will be sufficient funds within the SIIF to meet obligations and transfers implemented by the 2017 Legislative Assembly, including the total amount estimated for refunds under SB 2134.

On July 17, 2019 the Board approved the existing Assigned Fund Balance of \$229,325,049. The amount was based upon the bonus and royalties anticipated to be collected through the end of Fiscal Year 2019.

On June 25, 2020 the results of the acreage adjustment survey as prepared by Kadmas, Lee & Jackson, Inc. (KLJ) were presented and approved by the Board, with the exception of certain sections and lots that required further review. The Department has started the process of updating records to satisfy the Board's duty under N.D.C.C. § 61-33.1-04(2)(a). This process is extensive and requires a review of each parcel within each spacing unit located within the Project Area. Each parcel will be reviewed for changes to the database, Correction of Oil and Gas Leases will be prepared for execution, requests for refunds of bonus and royalties will be prepared, each well will need a new royalty management unit to ensure future royalties will be allocated to the correct trust, the Department's shapefiles will be updated, and the Department will need to track the documentation for each lease correction. Within the 83 miles reviewed by Wenck Associates, Inc., the Department has over 500 active leases covering 44,700 acres.

On July 29, 2020, the Board approved the existing Assigned Fund Balance of \$229,325,049.

Since June 25, 2020, the Department has been completing the necessary acreage adjustments within the Project Area. Based upon the review of the current adjustments, the Department has determined the Board can reduce the amount preserved in the Assigned Fund Balance by \$10,544,933. The recommended reduction is based upon the Assigned Fund Balance related to the lease corrections that have been executed.

Motion: For purposes of its financial reporting, the Board affirms the "Assigned Fund Balance" of the Strategic Investment and Improvements Fund and recommend it set at \$218,780,117. These funds are reserved to make adjustments related sovereign lands mineral ownership.

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger	X		X		
Superintendent Baesler			X		
Treasurer Beadle		X	X		
Attorney General Stenehjem			X		
Governor Burgum			X		

LITIGATION

Nelson Litigation

Case: Marvin Nelson, Michael Coachman & Paul Sorum v. The Board of University and School Lands of the State of North Dakota and the State of North Dakota – Civ. No. 27-2021-CV-00285

Tribunal: McLean County District Court

Judge: Daniel El-Dweek

Attorney: David Garner

Opposing

Counsel: Plaintiffs Appearing Pro Se

(08/26/21)

Issues: The Board was named as a defendant in the above reference case which was served on July 26, 2021. Plaintiffs have filed a Summons for Petition or Quiet Title, Petition for Quiet Title, and a Memorandum in Support of Petition for Quiet Title. Plaintiffs are seeking to quiet title to the property described as:

That area of the bed of Lake Sakakawea known as Lake Jesse (Jesse Lake) delineated by the US Army Corps of Engineers Shoreline Survey used in acquiring land for the creation of Lake Sakakawea in Section 30 of Township 153 North Range 98 West and in Sections 23,24,25,26 in Township 153 North Range 99 West (approximately 488.68 acres).

History:

Current Status:

- On August 5, 2021, Paul Sorum emailed a Request for Setting for Petition for Quiet Title and Memorandum in Support of Quiet Title requesting the Court schedule a one-hour hearing on Petitioners' Petition for Quiet Title and Petitioners' Memorandum in Support of Petition for Quiet Title.
- On August 16, 2021, Defendants filed a Motion to Dismiss.

MHA Litigation

Case: Mandan, Hidatsa, and Arikara Nation v. United States Department of the Interior; David L. Bernhardt, in his official capacity as Secretary of the United States Department of Interior; and Daniel H. Jorjani, in his official capacity as Solicitor of the United States Department of the Interior; Case No. 20-1918 (ABJ)

Date Filed: July 16, 2020

Court: United States District Court for the District of Columbia

Judge: Honorable Amy Berman Jackson

Attorney: Matthew Sagsveen, Beveridge & Diamond

Opposing

Counsel: Steven D. Gordon, Philip Merle Baker-Shenk, Timothy Purdon, and Timothy Billion for Plaintiffs; Reuben S. Schifman for United States Department of Interior

Issues: In July, 2020, the Mandan, Hidatsa, and Arikara Nation (Tribe) filed a Complaint against the United States Department of the Interior (DOI); David Bernhardt, Secretary of DOI; and Daniel Jorjani, DOI Solicitor. The Complaint asserts four causes of action. Count One asserts that Solicitor Opinion M-37056 issued May 26, 2020, by Jorjani is flawed because it is inconsistent with past DOI opinions and decisions and contrary to the historical record. Count Two asserts the Opinion is flawed because it is the result of improper political influence. Counts Three and Four seek, essentially, an accounting and seem premised on the success of either Count One or Count Two.

In the Complaint's Prayer for Relief, the Tribe requests: (a) that the Jorjani Opinion, which concluded North Dakota owns the lands beneath the Missouri Riverbed within the Fort Berthold Reservation, be set aside; (b) that the Court grant injunctive relief preventing Defendants from taking any steps to implement the Opinion; (c) that the Court compel DOI to account to the Tribe regarding the Missouri Riverbed and underlying minerals, including the production of minerals and the value of royalties owed thereon; (d) the Court declare the 1979 IBLA *Impel Energy* decision (finding the state does not own the riverbed) is *res judicata* and binding on the DOI; (e) the Court compel DOI to take the requisite administrative steps to document that the Missouri Riverbed and underlying minerals are held in trust by the United States for the benefit of the Tribe; (f) the Court compel DOI to take requisite steps to administer and account for the Tribe's mineral rights in lands underlying the Missouri Riverbed; (g) the Court compel DOI to collect, deposit and invest or pay funds owing to the Tribe for the extraction of minerals from the lands underlying the Missouri Riverbed; (h) that the Tribe be awarded reasonable fees, costs, and expenses, including attorney's fees; and (i) that the Court grant such further relief as the Court deems just and equitable.

Along with its Complaint, the Tribe filed a motion for preliminary injunction asking that the Court to immediately order DOI to refrain from doing anything to implement the Jorjani Opinion until the Court has decided the merits of the Tribe's claims regarding that Opinion.

History:

Summons and Complaint filed July 16, 2020. A scheduling conference was held by telephone on July 23, 2020, with a follow up on July 29. The parties agreed the pending motion for preliminary injunction can be considered to be Plaintiff's motion for partial summary judgment on count one and resolved with defendant's cross motion for partial summary judgment as to that count. The merits of count one will be consolidated with any hearing on the motion for preliminary injunction. An Order issued by the Court on July 31, 2020 provides:

- Administrative record - due August 26, 2020;
- Defendant's consolidated opposition to motion for preliminary injunction and cross-motion for partial summary judgment - due September 1, 2020.
- Plaintiff's consolidated reply and cross-opposition to Defendant's motion - due October 1, 2020.
- Defendant's cross-reply to opposition - due October 15, 2020.
- No lease or other official record affecting ownership of the Missouri Riverbed mineral estate within the Reservation may be modified or changed before 200 days from the date of this order – February 16, 2021, unless Defendant seeks the court's permission and amendment of the order, the Plaintiff has an opportunity to be heard, and the motion is granted.

That any revenues generated from riverbed mineral development under control of DOI not be disbursed until after the Court's resolution of the cross-motions for partial summary judgment on count one.

The State of North Dakota filed an Expedited Motion to Intervene on August 10, 2020. The Court issued an Order on August 11, 2020, allowing Plaintiff to respond to the State's Motion by August 17, 2020, and the State to file a reply by August 21, 2020. The Tribe filed its Opposition to the State Motion to Intervene on August 17, 2020. On August 21, 2020, the State filed its reply to the Tribe's opposition to the motion to intervene. The Notice of Lodging of Administrative Record was filed on August 26, 2020.

The Court entered its Opinion and Order granting North Dakota's Motion to Intervene and setting forth requirements for filings. On September 1, 2020, the United States filed the United States Department of Interior's Opposition to Plaintiff's Motion for Preliminary Injunction and Cross-Motion for Partial Summary Judgment. On

September 8, 2020, Plaintiff filed a Motion to Complete Administrative Record and a proposed Order. Also on September 8, 2020, the State filed the Intervenor-Defendant State of North Dakota's Cross-Motion for Partial Summary Judgment and Opposition to Plaintiff's Motion for Preliminary Injunction. On April 2, 2021, Plaintiff's Supplemental Submission Regarding Mootness by Mandan, Hidatsa, and Arikara Nation, State of North Dakota's Response to Mootness, and U.S. Department of Interior's Response to Order of the Court were filed.

Current Status:

- By letter dated April 1, 2021, Associate Solicitor Eric Shepard invited the State of North Dakota to submit materials relevant to the review of M-37056 issued by former Solicitor Daniel Jorjani.
- On April 12 & 27, Attorney General Stenehjem requested more time to participate due to the inability to access records to complete research.
- On May 7, 2021, Attorney General Stenehjem advised that we were unable to provide the requested information during the time allotted but are providing a report by Stevens Historical Research Associates that has been prepared to date and reiterated request for more time.
- On July 30, 2021, the parties filed the Joint Status Report.
- An Order was filed by the Court on August 2, 2021 dismissing Court I and II of the Complaint, the preliminary injunction motion was denied as moot, and Counts III and IV remain justiciable. The parties are ordered to meet and confer and submit a joint status report by August 13, 2021 that sets forth the parties' views on whether Counts III and IV should continue to be stayed pending issuance of a new M-Opinion and if not, proposing a scheduling for resolving those claims.

Newfield Litigation

Case: Newfield Exploration Company, Newfield Production Company, and Newfield RMI LLC v. State of North Dakota, ex rel. the North Dakota Board of University and School Lands and the Office of the Commissioner of University and School Lands, a/k/a the North Dakota Department of Trust Lands, Civ. No. 27-2018-CV-00143

Date Filed: March 7, 2018

Court: District Court/McKenzie County

Attorneys: David Garner

Opposing

Counsel: Lawrence Bender - Fredrikson & Byron, P.A. and Michelle P. Scheffler – Haynes and Boone, LLP

Judge: Robin Schmidt

Issues: Plaintiff is seeking a Declaratory Judgment that it is currently paying gas royalties properly under the Board's lease. Specifically, Plaintiff is asking the Court to order that gas royalty payments made by the Plaintiff be based on the gross amount received by the Plaintiff from an unaffiliated third-party purchaser, not upon the gross amount paid to a third party by a downstream purchaser, and that Plaintiff does not owe the Defendants any additional gas royalty payments based on previous payments.

- **History:** A Complaint and Answer with Counterclaims have been filed. Newfield filed an Answer to Counterclaims. A Scheduling conference was held July 27, 2018. Plaintiffs' filed a Motion for Summary Judgment on August 13,

(08/26/21)

2018 and Defendants filed a Cross-Motion for Summary Judgment. Plaintiffs' Response was filed October 19, 2018 and Defendants' Reply was filed November 9, 2018. A hearing on the Motions for Summary Judgment was held on January 4, 2019 at 1:30 p.m., McKenzie County. An Order on Cross Motions for Summary Judgment was issued on February 14, 2019, granting Plaintiff's motion for summary judgment and denying Defendants' motion for summary judgment. The Judgment was entered March 1, 2019, and the Notice of Entry of Judgment was filed March 4, 2019. Defendants have filed a Notice of Appeal to the North Dakota Supreme Court (Supreme Court). The trial scheduled in McKenzie County District Court for September 10 and 11, 2019 has been cancelled. Defendants/Appellants' Brief to the Supreme Court was filed April 29, 2019. Plaintiffs/Appellees filed their Brief of Appellees and Appendix of Appellees on June 7, 2019. Defendants/Appellants filed a reply brief on June 18, 2019. Oral Argument before the Supreme Court was held on June 20, 2019. On July 11, 2019, the Supreme Court entered its Judgment reversing the Judgment of the McKenzie County District Court. On July 25, 2019 Newfield filed Appellee's Petition for Rehearing. Also on July 25, 2019, a Motion for Leave to File Amicus Curiae Brief by Western Energy Alliance in Support of Newfield was filed with the Supreme Court. On July 26, 2019, a Motion for Leave to File Amicus Curiae Brief by North Dakota Petroleum Council in Support of Newfield was filed with the Supreme Court. On August 20, 2019, the North Dakota Supreme Court requested Defendants file a Response to the Petition for Rehearing and the two Amicus Curiae Briefs no later than September 4, 2019. Defendants/Appellants filed their Response to Petition for Rehearing on September 4, 2019. A Corrected Opinion was filed by the North Dakota Supreme Court on September 9, 2019, changing the page number of a citation. On September 12, 2019, the North Dakota Supreme Court entered an order denying Newfield's Petition for Rehearing. On September 20, 2019, the opinion and mandate of the Supreme Court was filed with McKenzie County District Court. A Telephonic Status Conference was held October 8, 2019. On October 9, 2019, the District Court issued an Order Setting Briefing Schedule which ordered "the parties to file a brief regarding how they suggest the case proceed after the Supreme Court's decision." The parties filed briefs with the District Court on November 6, 2019. Notice of Appearance for Michelle P. Scheffler of Hayes and Boone, LLP on behalf of Plaintiffs was filed November 7, 2019. Telephonic Status Conference scheduled for March 17, 2020 before the District Court. On May 14, 2020, the Court scheduled a five-day Court Trial to start on October 4, 2021, McKenzie County Courthouse. On July 28, 2020, a Stipulated Scheduling Order was entered, setting dates for various deadlines. On April 1, 2021, the State served Defendants State of North Dakota, ex re. the North Dakota Board of University and School Lands, and the Office of the Commissioner of University and School Lands, a/k/a the North Dakota Department of Trust Lands' Interrogatories, Requests for Production of Documents, and Requests for Admissions to Plaintiff. On April 1, 2021, the Plaintiffs served the following on the State: Plaintiffs' Notice of Intention to Take Oral and Videotaped Deposition of a Representative of the North Dakota Department of Trust Lands; Plaintiffs' Notice of Intention to Take Oral and Videotaped Deposition of Lance Gaebe; Plaintiffs' Notice of Intention to Take Oral and Videotaped Deposition of Taylor K. Lee; Plaintiffs' Notice of Intention to Take Oral and Videotaped Deposition of Jodi Smith; and Plaintiffs' First Set of Interrogatories, Requests for Production, and Requests for Admission to all Defendants. On July 1, 2021, Defendants filed their Motion for Summary Judgment and Plaintiffs filed their Motion for Partial Summary Judgment.

Status:

- **On August 2, 2021, Plaintiffs filed a Motion to Admit Garrett S. Martin Pro Hac Vice and their Response Brief in Opposition to Motion for Summary Judgment. Also on August 2, 2021, Defendants filed their Brief in Response to Plaintiffs' Motion for Partial Summary Judgment.**
- **On August 4, 2021, the parties filed an Expedited Joint Motion for Extension of Time to Reply to Briefs in Opposition/Response to Motions for Summary Judgment and the Joint Motion to Exceed Volume Limitations.**
- **On August 5, 2021, the Court issued its Order Granting Expedited Joint Motion for Extension of Time to Reply to Briefs in Opposition/Response to motions for Summary Judgment and the Order Granting Joint Motion to Exceed Volume Limitations. The parties now have until August 30, 2021 to file their opposition/response briefs and the page limit was extended from 12 pages to 30 pages for both parties.**
- **On August 9, 2021, Plaintiffs requested a hearing on Plaintiff's Motion for Partial Summary Judgment and Defendants Motion for Summary Judgment and scheduled that hearing for September 16, 2021, at 10 a.m. Also on August 9, 2021, a Pretrial Conference was scheduled for 10 a.m. on October 1, 2021.**

Repayment of Unpaid Gas Royalties Update

The Board of University and School Lands (Board) manages land, minerals, and proceeds as trustee for the exclusive benefit of constitutionally identified beneficiaries, with much of the income going towards funding North Dakota schools and institutions. The Board also manages oil, gas and other hydrocarbons underlying sovereign lands for the State of North Dakota.

The Department of Trust Lands (Department) has persistently worked with operators to collect payment or establish escrow accounts for royalties from the production of minerals, in accordance with the Board's lease, rules, and policies. Royalty audits began in the late 1980's and a Revenue Compliance Division was created in 2011 to ensure that royalty and other collections made on behalf of the trusts and other funds are complete and accurate.

A letter regarding Formal Notification of Gas Royalty Repayment Obligations dated February 11, 2020 (February 2020 Letter), was sent to all entities required to pay royalties to the Board pursuant to the Board's lease. The February 2020 Letter advised all entities who have been deducting post production costs from royalty payments made to the Department that they have been underpaying royalties, contrary to the terms of the Board's lease. Entities were advised that penalties and interest continue to accrue on any unpaid amounts in accordance with the February 2020 Letter until payment is received. On April 8, 2020, the Board extended the date to come into compliance with gas royalty payments, as outlined in the February 2020 Letter, to September 30, 2020. At the August 27, 2020, Board meeting, the Board extended the date to come into compliance with gas royalty payments, as outlined in the February 2020 Letter, to April 30, 2020.

Since the issuance of the February 2020 Letter, the Department has been working with payors who have been deducting post production costs from royalty payments made to the Department to ensure that they are in compliance with the terms of the Board's lease.

On July 29, 2021, the Board provided the Department with guidance as it relates to royalty repayment offers. Since August 1, 2021, the Department approved receipt of payment for:

- BTA Oil Producers, LLC
- Liberty Resources Management Co., LLC

- Lime Rock Resources
- Luff Exploration Company

The Department has several royalty repayment offers prepared to present to the Board in executive session pursuant to N.D.C.C. §§ 44-04-19.1 and 44-04-19.2.

The Board has requested royalty repayment offers from gas payors and litigation be discussed during executive session.

EXECUTIVE SESSION

Under the authority of North Dakota Century Code Sections 44-04-19.1 and 44-04-19.2, the Board close the meeting to the public and go into executive session for purposes of attorney consultation relating to:

- **MHA Civ. No 1:20-cv-01918-ABJ**
- **Newfield Exploration Company et al Civ. No. 27-2018-CV-00143**
- **Royalty Offers**

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger		X	X		
Superintendent Baesler			X		
Treasurer Beadle			X		
Attorney General Stenehjem	X		X		
Governor Burgum			X		

The Board entered into executive session at 10:35 AM.

EXECUTIVE SESSION

Members Present:

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Wayne Stenehjem	Attorney General
Thomas Beadle	State Treasurer (Via Teams)
Kirsten Baesler	Superintendent of Public Instruction

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Catelin Newell	Administrative Staff Officer
Kristie McCusker	Paralegal
Kate Schirado	Administrative Assistant
Adam Otteson	Revenue Compliance Director
Rick Owings	Administrative Staff Officer

Guests in Attendance:

Dave Garner	Office of the Attorney General
Charles Carvell	Office of the Attorney General-only present for MHA
Troy Seibel	Office of the Attorney General

The executive session adjourned at 11:35 AM and the Board returned to the open session and Teams meeting to rejoin the public. During the executive session meeting, the Board was provided information and no formal action was taken.

A D J O U R N

There being no further business, the meeting was adjourned at 11:40 AM.

Doug Burgum, Chairman
Board of University and School Lands

Jodi Smith, Secretary
Board of University and School Lands

**Minutes of the Meeting of the
Board of University and School Lands
September 9, 2021**

The September 9, 2021 special meeting of the Board of University and School Lands was called to order at 2:00 PM via Microsoft Teams by Chairman Doug Burgum. Roll call was taken and all meeting attendees were via Microsoft Teams.

Members Present:

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Wayne Stenehjem	Attorney General
Thomas Beadle	State Treasurer
Kirsten Baesler	Superintendent of Public Instruction

Department of Trust Lands Personnel Present:

Jodi Smith	Commissioner
Kristie McCusker	Paralegal
Catelin Newell	Administrative Staff Officer
Adam Otteson	Revenue Compliance Director
James Wald	Legal Counsel
Susan Dollinger	Unclaimed Property
Michael Shackelford	Investments Division Director
Rick Owings	EIIO Administrative Staff Officer

Guests in Attendance:

Leslie Bakken Oliver	Governor's Legal Counsel
Dave Garner	Office of the Attorney General
Troy Seibel	Office of the Attorney General
Jim Lodoen	Legal Counsel
Sophie Blake Baesler	Guest of Superintendent of Baesler

I N V E S T M E N T S

International Small Cap Equity Index

On August 26, 2021, the Board of University and School Lands' (Board) approved an investment in Northern Trust's International Small Cap Equity Index fund on behalf of the Permanent Trust Funds (PTFs). The investment in the index fund will give the PTFs a rebalancing tool for when the PTFs are waiting in Acadian's investment queue.

Due to an error by Northern Trust, the PTFs are not eligible to invest in their International Small Cap Equity Index fund. During the due diligence process staff and RVK engaged several index providers for quotes. Both Northern Trust and State Street Global Advisors (SSGA) offered the lowest fee (6 basis points).

Staff requested SSGA re-bid the mandate. SSGA agreed and re-bid at the same fee (6 basis points). SSGA has a strong track record managing index funds with low tracking error to the actual indices. SSGA is a multinational asset manager with \$3.90 Trillion in assets under management and over 40 years of history.

(09/09/21)

Motion: **The Board approve a \$25 Million investment with State Street Global Advisors, in place of Northern Trust, in the International Small Cap Index Fund mandate subject to final review and approval of all legal documents by the Office of the Attorney General.**

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger			X		
Superintendent Baesler			X		
Treasurer Beadle		X	X		
Attorney General Stenehjem	X		X		
Governor Burgum			X		

LITIGATION

Whiting Bankruptcy

Case: In re: Whiting Petroleum Corporation, et al., Chapter 11, Case No. 20-32021 (DRJ)

Date Filed: April 1, 2020

Court: United States Bankruptcy Court for the Southern District of Texas – Houston Division

Attorneys: James Wald, James A. Lodoen

Opposing

Counsel: Matthew D. Cavanaugh, Jennifer F. Wertz, and Vienna F. Anaya, Jackson Walker LLP

Judge: David R. Jones

Issues: Debtor filed for Chapter 11 Bankruptcy on April 1, 2020. The Department identified unclaimed property through a third-party audit as well as unpaid royalty liability.

History: Debtor filed for Chapter 11 Bankruptcy on April 1, 2020. The Board filed three separate proofs of claim on September 25, 2020: One claim pertaining to unremediated unclaimed property disbursement liability of \$11,933,098.40, and two claims pertaining to unpaid oil and gas royalties totaling \$6,399,811.63.

Documents filed can be accessed at: <https://cases.stretto.com/whitingpetroleum>.

Documents applicable to the interests of the Board include:

- 1) Document #566 Disclosure Statement and Plan
- 2) Document #733 Order Confirming Plan
- 3) Document #1081 Debtor's Objection to Claim

Current Status:

- On August 20, 2021, Debtor filed an objection to the Board's proof of claim pertaining to unclaimed property liability. The Board has until September 19, 2021 to respond.

- **Debtor has until February 28, 2022, to respond to the outstanding proofs of claim pertaining to oil and gas royalties.**

Newfield Litigation

Case: **Newfield Exploration Company, Newfield Production Company, and Newfield RMI LLC v. State of North Dakota, ex rel. the North Dakota Board of University and School Lands and the Office of the Commissioner of University and School Lands, a/k/a the North Dakota Department of Trust Lands, Civ. No. 27-2018-CV-00143**

Date Filed: **March 7, 2018**

Court: **District Court/McKenzie County**

Attorneys: **David Garner**

Opposing

Counsel: **Lawrence Bender - Fredrikson & Byron, P.A. and Michelle P. Scheffler – Haynes and Boone, LLP**

Judge: **Robin Schmidt**

Issues: Plaintiff is seeking a Declaratory Judgment that it is currently paying gas royalties properly under the Board's lease. Specifically, Plaintiff is asking the Court to order that gas royalty payments made by the Plaintiff be based on the gross amount received by the Plaintiff from an unaffiliated third-party purchaser, not upon the gross amount paid to a third party by a downstream purchaser, and that Plaintiff does not owe the Defendants any additional gas royalty payments based on previous payments.

- **History:** A Complaint and Answer with Counterclaims have been filed. Newfield filed an Answer to Counterclaims. A Scheduling conference was held July 27, 2018. Plaintiffs' filed a Motion for Summary Judgment on August 13, 2018 and Defendants filed a Cross-Motion for Summary Judgment. Plaintiffs' Response was filed October 19, 2018 and Defendants' Reply was filed November 9, 2018. A hearing on the Motions for Summary Judgment was held on January 4, 2019 at 1:30 p.m., McKenzie County. An Order on Cross Motions for Summary Judgment was issued on February 14, 2019, granting Plaintiff's motion for summary judgment and denying Defendants' motion for summary judgment. The Judgment was entered March 1, 2019, and the Notice of Entry of Judgment was filed March 4, 2019. Defendants have filed a Notice of Appeal to the North Dakota Supreme Court (Supreme Court). The trial scheduled in McKenzie County District Court for September 10 and 11, 2019 has been cancelled. Defendants/Appellants' Brief to the Supreme Court was filed April 29, 2019. Plaintiffs/Appellees filed their Brief of Appellees and Appendix of Appellees on June 7, 2019. Defendants/Appellants filed a reply brief on June 18, 2019. Oral Argument before the Supreme Court was held on June 20, 2019. On July 11, 2019, the Supreme Court entered its Judgment reversing the Judgment of the McKenzie County District Court. On July 25, 2019 Newfield filed Appellee's Petition for Rehearing. Also on July 25, 2019, a Motion for Leave to File Amicus Curiae Brief by Western Energy Alliance in Support of Newfield was filed with the Supreme Court. On July 26, 2019, a Motion for Leave to File Amicus Curiae Brief by North Dakota Petroleum Council in

Support of Newfield was filed with the Supreme Court. On August 20, 2019, the North Dakota Supreme Court requested Defendants file a Response to the Petition for Rehearing and the two Amicus Curiae Briefs no later than September 4, 2019. Defendants/Appellants filed their Response to Petition for Rehearing on September 4, 2019. A Corrected Opinion was filed by the North Dakota Supreme Court on September 9, 2019, changing the page number of a citation. On September 12, 2019, the North Dakota Supreme Court entered an order denying Newfield's Petition for Rehearing. On September 20, 2019, the opinion and mandate of the Supreme Court was filed with McKenzie County District Court. A Telephonic Status Conference was held October 8, 2019. On October 9, 2019, the District Court issued an Order Setting Briefing Schedule which ordered "the parties to file a brief regarding how they suggest the case proceed after the Supreme Court's decision." The parties filed briefs with the District Court on November 6, 2019. Notice of Appearance for Michelle P. Scheffler of Hayes and Boone, LLP on behalf of Plaintiffs was filed November 7, 2019. Telephonic Status Conference scheduled for March 17, 2020 before the District Court. On May 14, 2020, the Court scheduled a five-day Court Trial to start on October 4, 2021, McKenzie County Courthouse. On July 28, 2020, a Stipulated Scheduling Order was entered, setting dates for various deadlines. On April 1, 2021, the State served Defendants State of North Dakota, ex re. the North Dakota Board of University and School Lands, and the Office of the Commissioner of University and School Lands, a/k/a the North Dakota Department of Trust Lands' Interrogatories, Requests for Production of Documents, and Requests for Admissions to Plaintiff. On April 1, 2021, the Plaintiffs served the following on the State: Plaintiffs' Notice of Intention to Take Oral and Videotaped Deposition of a Representative of the North Dakota Department of Trust Lands; Plaintiffs' Notice of Intention to Take Oral and Videotaped Deposition of Lance Gaebe; Plaintiffs' Notice of Intention to Take Oral and Videotaped Deposition of Taylor K. Lee; Plaintiffs' Notice of Intention to Take Oral and Videotaped Deposition of Jodi Smith; and Plaintiffs' First Set of Interrogatories, Requests for Production, and Requests for Admission to all Defendants. On July 1, 2021, Defendants filed their Motion for Summary Judgment and Plaintiffs filed their Motion for Partial Summary Judgment. On August 2, 2021, Plaintiffs filed a Motion to Admit Garrett S. Martin Pro Hac Vice and their Response Brief in Opposition to Motion for Summary Judgment. Also on August 2, 2021, Defendants filed their Brief in Response to Plaintiffs' Motion for Partial Summary Judgment. On August 4, 2021, the parties filed an Expedited Joint Motion for Extension of Time to Reply to Briefs in Opposition/Response to Motions for Summary Judgment and the Joint Motion to Exceed Volume Limitations. On August 5, 2021, the Court issued its Order Granting Expedited Joint Motion for Extension of Time to Reply to Briefs in Opposition/Response to motions for Summary Judgment and the Order Granting Joint Motion to Exceed Volume Limitations. The parties now have until August 30, 2021 to file their opposition/response briefs and the page limit was extended from 12 pages to 30 pages for both parties. On August 9, 2021, Plaintiffs requested a hearing on Plaintiff's Motion for Partial Summary Judgment and Defendants Motion for Summary Judgment and scheduled that hearing for September 16, 2021, at 10 a.m. Also on August 9, 2021, a Pretrial Conference was scheduled for 10 a.m. on October 1, 2021.

Current Status:

- The Deposition of Adam Otteson is scheduled for August 31, 2021; Jodi Smith's deposition is scheduled for September 14, 2021; the deposition of Kelly Vandamme is scheduled for September 22, 2021; and the deposition of John Kemmerer is scheduled for September 23, 2021.
- Mediation is scheduled for September 2, 2021.

EXECUTIVE SESSION

Under the authority of North Dakota Century Code Sections 44-04-19.1 and 44-04-19.2, the Board close the meeting to the public and go into executive session for purposes of attorney consultation relating to:

- Whiting Petroleum Corporation, et al., Chapter 11, Case No. 20-32021
- Newfield Exploration Company et al Civ. No. 27-2018-CV-00143

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger		X	X		
Superintendent Baesler			X		
Treasurer Beadle			X		
Attorney General Stenehjem	X		X		
Governor Burgum			X		

EXECUTIVE SESSION**Members Present:**

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Wayne Stenehjem	Attorney General
Thomas Beadle	State Treasurer
Kirsten Baesler	Superintendent of Public Instruction

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Kristie McCusker	Paralegal
Catelin Newell	Administrative Staff Officer
Adam Otteson	Revenue Compliance Director
Kate Schirado	Administrative Assistant
Rick Owings	EIIO Administrative Staff Officer

Guests in Attendance:

Leslie Bakken Oliver	Governor's Legal Counsel
Dave Garner	Office of the Attorney General

(09/09/21)

Troy Seibel
Jim Lodoen
Sophie Blake Baesler

Office of the Attorney General
Legal Counsel (in attendance for Whiting only)
Guest of Superintendent of Baesler

The executive session adjourned at 3:11 PM and the Board returned to the open session Teams meeting to rejoin the public. During the executive session Teams meeting, the Board was provided information and no formal action was taken.

A D J O U R N

There being no further business, the meeting was adjourned at 3:14 PM.

Doug Burgum, Chairman
Board of University and School Lands

Jodi Smith, Secretary
Board of University and School Lands

**Minutes of the Meeting of the
Board of University and School Lands
September 30, 2021**

The September 30, 2021 meeting of the Board of University and School Lands was called to order at 9:00 AM in the Governor's Conference Room of the State Capitol and via Microsoft Teams by Chairman Doug Burgum.

Members Present:

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Wayne Stenehjem	Attorney General
Thomas Beadle	State Treasurer
Kirsten Baesler	Superintendent of Public Instruction

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Christopher Dingwall	Mineral Title Specialist
Dennis Chua	Investments
Rick Owings	EIIO Grants Administrator
Michael Humann	Surface Division Director
Kristie McCusker	Paralegal
Catelin Newell	Administrative Staff Officer
Adam Otteson	Revenue Compliance Director
Kate Schirado	Administrative Assistant
Michael Shackelford	Investments Director
Lynn Spencer	Minerals Title Specialist
Susan Dollinger	Unclaimed Property
Jessica Fretty	Unclaimed Property
James Wald	Legal Council
Scott Giere	Revenue Compliance

Guests in Attendance:

Dave Garner	Office of the Attorney General
Troy Seibel	Office of the Attorney General
Reice Haase	Office of the Governor
Leslie Bakken Oliver	Office of the Governor
Corey Barnes	K&L/M-Family LLC
Charles Tuttle	
Matt Perdue	
Brady Pelton	NDPC
C. Rajala	
Don Larson	
Gary Hagen	

A P P R O V A L O F M I N U T E S

A motion to approve the minutes of the August 26, 2021 regular meeting and September 9, 2021 Special meeting, was made by Attorney General Wayne Stenehjem and seconded by Secretary of State Alvin Jaeger and the motion carried unanimously on a voice vote.

R E P O R T S

August 2021 Report of Encumbrances Issued by Land Commissioner

Granted to: For the Purpose of: Right-of-Way Number: Trust: Legal Description:	WHITING OIL AND GAS CORPORATION, DENVER-CO Easement: Well-Subsurface Well Bore RW0008935 A - Common Schools WIL-156-97-36-SE4, SW4
Granted to: For the Purpose of: Right-of-Way Number: Trust: Legal Description:	HILAND CRUDE LLC, WILLISTON-ND Easement: Pipeline-Oil Gathering Pipeline RW0008817 A - Common Schools MCK-151-100-16-NW4
Granted to: For the Purpose of: Right-of-Way Number: Trust: Legal Description:	ONEOK ROCKIES MIDSTREAM LLC, SIDNEY-MT Easement: Pipeline-Gas Gathering Pipeline RW0008865 A - Common Schools MCK-149-96-36-SE4, SW4
Granted to: For the Purpose of: Right-of-Way Number: Trust: Legal Description:	CONTINENTAL RESOURCES INC, OKLAHOMA CITY-OK Easement: Pipeline-Pipeline & Communication Cable RW0008872 A - Common Schools DUN-146-96-36-NW4, SE4, SW4
Granted to: For the Purpose of: Right-of-Way Number: Trust: Legal Description:	HILAND CRUDE LLC, WILLISTON-ND Easement: Drop Line-Oil Gathering Pipeline RW0008886 A - Common Schools WIL-153-100-36-SE4
Granted to: For the Purpose of: Right-of-Way Number: Trust: Legal Description:	HILAND PARTNERS HOLDINGS LLC, WILLISTON-ND Easement: Drop Line-Gas Gathering Pipeline RW0008887 A - Common Schools WIL-153-100-36-NE4
Granted to: For the Purpose of: Right-of-Way Number: Trust: Legal Description:	ANDEAVOR FIELD SERVICES LLC, SAN ANTONIO-TX Easement: Pipeline-Gas Gathering Pipeline RW0008913 A - Common Schools MOU-153-92-16-NW4
Granted to: For the Purpose of: Right-of-Way Number: Trust: Legal Description:	THORSTEINSON & SONS CONSTRUCTION LLP, FARGO-ND Easement: Pipeline-Potable Water Pipeline RW0008820 A - Common Schools BIL-139-102-28-NE4
Granted to: For the Purpose of: Right-of-Way Number: Trust: Legal Description:	SLAWSON EXPLORATION COMPANY INC, DENVER-CO Easement-Amend: Pipeline-Salt Water Pipeline RW0008901 A - Common Schools MOU-152-92-14-SE4 MOU-152-92-23-NE4NW4
Granted to:	SLAWSON EXPLORATION COMPANY INC, DENVER-CO

For the Purpose of:	Easement-Amend: Pipeline-Oil Gathering Pipeline
Right-of-Way Number:	RW0008902
Trust:	A - Common Schools
Legal Description:	MOU-152-92-14-SE4 MOU-152-92-23-W2W2NE4NE4, NW4NE4
Granted to:	CONTINENTAL RESOURCES INC, OKLAHOMA CITY-OK
For the Purpose of:	Easement-Amend: Pipeline-Multiple Pipelines & Communication
Cable	
Right-of-Way Number:	RW0008921
Trust:	A - Common Schools
Legal Description:	WIL-153-99-22-SW4 LESS ACRES CONDEMNED
Granted to:	LIBERTY MIDSTREAM SOLUTIONS LLC, DENVER-CO
For the Purpose of:	Easement-Amend: Pipeline-Multiple Pipelines
Right-of-Way Number:	RW0008930
Trust:	A - Common Schools
Legal Description:	BRK-159-93-16-NW4, SW4
Granted to:	MCKENZIE ELECTRIC COOPERATIVE INC, WATFORD CITY-ND
For the Purpose of:	Easement-Amend: Electric-Transmission Line
Right-of-Way Number:	RW0008759
Trust:	A - Common Schools
Legal Description:	MCK-149-103-36-SE4, SW4
Granted to:	ROUGH RIDER ELECTRIC COOPERATIVE, INC., DICKINSON-ND
For the Purpose of:	Easement: Electric-Transmission Line
Right-of-Way Number:	RW0008862
Trust:	A - Common Schools
Legal Description:	BIL-144-98-16-SE4
Granted to:	MCKENZIE ELECTRIC COOPERATIVE INC, WATFORD CITY-ND
For the Purpose of:	Easement: Electric-Above Ground Distribution Line
Right-of-Way Number:	RW0008880
Trust:	A - Common Schools
Legal Description:	MCK-146-102-28-N2NE4
Granted to:	MOUNTRAIL-WILLIAMS ELECTRIC COOPERATIVE, WILLISTON-ND
For the Purpose of:	Easement: Drop Line-Above Ground Electric Distribution Line
Right-of-Way Number:	RW0008909
Trust:	A - Common Schools
Legal Description:	WIL-153-100-36-SE4
Granted to:	MOUNTRAIL-WILLIAMS ELECTRIC COOPERATIVE, WILLISTON-ND
For the Purpose of:	Easement: Drop Line-Above Ground Electric Distribution Line
Right-of-Way Number:	RW0008910
Trust:	A - Common Schools
Legal Description:	WIL-153-100-36-NE4
Granted to:	AMES SAVAGE WATER SOLUTIONS, WILLISTON-ND
For the Purpose of:	Permit: Temporary Water Layflat Line
Right-of-Way Number:	RW0008932
Trust:	A - Common Schools
Legal Description:	WIL-156-95-16-NE4, SE4 WIL-158-95-36-SE4
Granted to:	SELECT ENERGY SERVICES LLC, WILLISTON-ND
For the Purpose of:	Permit: Temporary Water Layflat Line
Right-of-Way Number:	RW0008938
(09/30/21)	

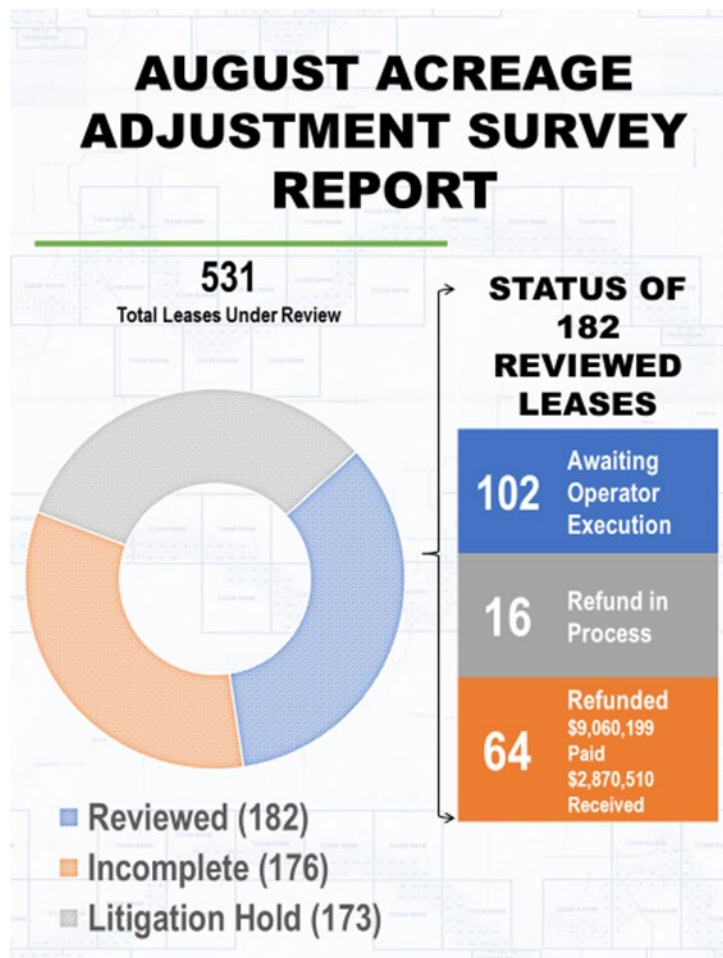
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Trust: A - Common Schools
Legal Description: WIL-154-100-36-SE4, SW4

Granted to: **CHERRY CREEK WATER LLC, CALEDONIA-ND**
For the Purpose of: Permit: Temporary Water Layflat Line
Right-of-Way Number: RW0008329
Trust: A - Common Schools
Legal Description: MCK-149-97-16-NW4, SE4
MCK-149-97-36-NW4
MCK-149-97-36-SW4SE4, LOTS 2,3,7, W2SW4, LOTS 4,5,6

Granted to: **NORTHWEST WATER TRANSFER, WILLISTON-ND**
For the Purpose of: Permit: Temporary Water Layflat Line
Right-of-Way Number: RW0008941
Trust: A - Common Schools
Legal Description: MOU-153-89-16-NW4 W OF RD, SW4 W OF RD
August 2021 Consideration Total: \$445,344.64

Acreage Adjustment Report



NDDTL River Tracts map was also presented to the Board and is available upon request.

August Unclaimed Property Report

Unclaimed property is all property held, issued, or owing in the ordinary course of a holder's business that has remained unclaimed by the owner for more than the established time frame for the type of property. It can include checks, unpaid wages, stocks, amounts payable under the terms of insurance policies, contents of safe deposit boxes, etc.

An owner is a person or entity having a legal or equitable interest in property subject to the unclaimed property law. A holder can include a bank, insurance company, hospital, utility company, retailer, local government, etc.

Since 1975, the Unclaimed Property Division (Division) of the Department of Trust Lands (Department) has been responsible for reuniting individuals with property presumed abandoned. The Division acts as custodian of the unclaimed property received from holders. The property is held in trust in perpetuity by the State and funds are deposited in the Common Schools Trust Fund. The 1981 Uniform Unclaimed Property Act created by the national Uniform Law Commission was adopted by the State in 1985.

For the month of August 2021, the Division received 38 holder reports with a property value of \$44,616 and paid 530 claims with a total value of \$741,848.

Investment Updates

Portfolio Rebalancing Updates

Staff is reviewing agreements of recently approved investments namely: Arrowstreet Emerging Market Fund, Northern Emerging Market Index Fund, Acadian, Acadian International Small Cap Fund, SSGA International Small Cap Index Fund. Both GCM Secondaries Fund and Owl Rock are targeted to close at the end of September.

Apollo made \$3.25M capital distribution last 8/31 increasing its unfunded commitment to \$84.8M. While Ares Pathfinder Fund and Angelo Gordon DL Fund IV made capital calls amounting to approximately \$10M each on 9/17 and 9/23 respectively. With the recent distribution and capital calls, total unfunded commitments as of 9/23 stands at \$641.9M. These are as follows:

1. JPM Infrastructure Fund, \$130M
2. Harrison Street Core Property Fund LP, \$130M
3. Apollo Accord Fund, \$84.8M
4. Varde Dislocation Fund, \$50M
5. GCM Private Equity, \$115.1M
6. ARES Pathfinder Fund, \$74.5M
7. Angelo Gordon DL IV, \$57.5M.

Asset Allocation

The table below shows the status of the permanent trusts' asset allocation as of Sept. 22, 2021. The figures provided are unaudited.

As of September 22, 2021	Market Value \$	Actual	Target	Lower Range	Upper Range
Broad US Equity	1,176,088,631.56	19.5%	19.0%	14.0%	24.0%
Broad Int'l Equity	1,127,415,549.04	18.7%	19.0%	14.0%	24.0%
Fixed Income	1,411,862,708.34	23.4%	22.0%	17.0%	27.0%
Transition Account	586,330,802.88	9.7%	0.0%	-5.0%	5.0%
Absolute Return	868,613,088.74	14.4%	15.0%	10.0%	20.0%
DIS	-	0.0%	0.0%	-5.0%	5.0%
Real Estate	783,770,403.00	13.0%	15.0%	10.0%	20.0%
Private Equity (Grosvenor)	15,029,716.00	0.2%	5.0%	0.0%	10.0%
Private Infrastructure (JPM-Infra)	-	0.0%	5.0%	0.0%	10.0%
Opportunistic Investments (Varde & Apollo)	74,922,427.00	1.2%	0.0%	-5.0%	5.0%
Portfolio Total	6,044,033,326.56	100.0%			

SURFACE

Central Power Electric Cooperative, Inc.'s Request to Purchase Trust Land Under N.D.C.C. ch. 15-09 & N.D. Admin. Code ch. 85-04-09 (0.46 acres in the NW4 of Section 16, Township 152 North, Range 78 West, McHenry County)

Central Power Electric Cooperative, Inc. ("Central Power") is requesting consideration of a land sale for a public purpose or quasi-public purpose in lieu of condemnation consisting of approximately 0.46 acres in the NW4 of Section 16, Township 152 North, Range 78 West, McHenry County ("Parcel"). The Parcel is located approximately 15 miles southeast of Velva, North Dakota, along U.S. Highway 52. The Parcel is being requested to expand their existing substation, purchased by Central Power in 1980, which provides service to residents in the surrounding area.

In accordance with N.D. Admin. Code ch. 85-04-09, a notice of application was placed on the Department's website from August 8th through August 20th, 2021, to allow the public an opportunity to provide comment on the proposed sale. No comments were received.

As required under N.D.C.C. ch. 15-09, an appraisal was completed by McHenry County which stated an estimated value of \$1,400.00 per acre for the Parcel. The North Dakota 2021 County Rents and Prices Survey exhibits a 5-year average value of cropland of \$1,409.00 per acre in McHenry County.

N.D.C.C. § 15-09-04 states:

The board of university and school lands may sell the property described in the application to the applicant at a price not less than the appraised value if the board concludes that the land described in the application is required for the purposes stated in such application and that a conveyance of the property is consistent with

(09/30/21)

this title and the fiduciary responsibilities of the board. If the land described in the application is less than an entire tract, the board, in fixing the price at which such partial tract will be conveyed, shall take its value into consideration together with all detriment caused to the remaining portions of the tract by the conveyance of the partial tract. If the applicant agrees to the price fixed by the board for the land described in the application and pays the full purchase price therefor, the board shall cause the tract to be conveyed to the applicant.

The sale of a 0.46-acre parcel in this tract of land would leave 131 acres more or less in the tract for pasture and meadow purposes.

Motion: The Board 1) approve the requested public purpose or quasi-public purpose in lieu of condemnation land sale to Central Power Electric Cooperative, Inc. of 0.46 acres of land within the NW4 of Section 16, Township 152 North, Range 78 West, McHenry County and set the minimum acceptable sale price at the appraised value of \$1,400.00 per acre (\$1,400 x 0.46 = \$644.00 purchase price), along with Central Power Electric Cooperative, Inc.'s payment of all associated land sale fees and costs, as applicable; and 2) authorize the Commissioner to advertise the proposed sale, conduct a public hearing, and refer the matter to the Board if needed or complete the sale on the Board's behalf.

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger		X	X		
Superintendent Baesler			X		
Treasurer Beadle			X		
Attorney General Stenehjem	X		X		
Governor Burgum			X		

Central Power Electric Cooperative Inc. – N.D.C.C. ch. 15-09 Land Sale – Location Map and Central Power Electric Cooperative Inc. – N.D.C.C. ch. 15-09 Land Sale – Survey Plat were also presented to the Board and are available upon request from the Department.

No Net Loss Preliminary Land Sale Approval T136N R86W Section 28 NW1/4, Section 32 N1/2N1/2, Section 36 SE1/4 expansion of public comment period

The Board of University and School Lands (Board) received an application from Kelly and Launa Moldenhauer for the purchase of approximately 480 acres of trust land in Grant County as part of a no net loss land sale in accordance with Chapter 85-04-07 and Chapter 85-04-08 of the North Dakota Administrative Code.

Per N.D. Admin. Code § 85-04-07-03(3) and N.D. Admin. Code § 85-04-08-03(4) concerning the sale procedure:

Upon a determination that the application covers a tract the board is willing to sell, the department shall post on the department's website a notice of the application for sale, any supporting documentation, and instructions for submitting public comments. The department also shall publish notice of a letter of application for sale in the official newspaper of the county where the nominated tract is located and in the Bismarck Tribune. Notice must be published once each week for three consecutive weeks prior to the deadline for comments. The notice must contain the legal description of the proposed tract and the deadline for comments. If publication of any notice is omitted inadvertently by any newspaper or the notice contains typographical errors, the department may proceed with the scheduled comment period if it appears the omission or error is not prejudicial to the department's interest. All comments must be in writing and contain the following:

(09/30/21)

- a. Name and address of the interested person;
- b. Applicant's name and address;
- c. The legal description of the proposed tract for sale as shown on the published notice; and
- d. A detailed statement as to whether the interested person supports or opposes the sale.

The Department of Trust Lands (Department) received comments from several constituents concerning the public notification of the potential No Net Loss Land Sale.

The Department posted notification in the Bismarck Tribune, the Grant County News and the Hettinger County Herald, and on the Department’s website with comments received until 5:00 pm on September 10, 2021. With that being said, many constituents subscribe to newspapers in their area and not always the official county newspaper. The concerns provided in the comments were that not enough notification to the public had been achieved and requested the comment period be extended and that advertising cover a much larger area to allow more citizens an opportunity to comment.

Motion: The Board authorizes the Commissioner to extend the posting for public comment on the Department’s website a notice of the application for sale, any supporting documentation, and instructions for submitting public comments regarding the sale. The Board also authorizes the Commissioner to provide notice in an appropriate manner, including listing in the appropriate newspapers.

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger			X		
Superintendent Baesler			X		
Treasurer Beadle		X	X		
Attorney General Stenehjem	X		X		
Governor Burgum			X		

Energy Infrastructure and Impact Office Quarterly Program Report

The Energy Infrastructure and Impact Office (EIO) is a division within the Department of Trust Lands (Department). EIO provides financial assistance to local units of government that are impacted by oil and gas activity. In turn, EIO receives a portion of the Oil and Gas Gross Production Tax. The office has been a part of the Department since 1977 and was formally known as the Energy Development Impact Office created under N.D.C.C. ch. 57-62. Over the course of the past 40 years, EIO has dispersed over \$626 million in funding.

The Oil and Gas Impact Grant Fund currently has 6 grants with a balance of \$794,932.56 as of September 7, 2021. The following shows grant activity for the last six months:

Oil and Gas Impact Grant Fund	Grants with balances	Current Balance Obligated to Grants
3/9/2021	12	\$1,591,589.01
6/7/2021	9	\$972,069.49
9/7/2021	6	\$794,932.56

The Energy Impact Fund, established within Senate Bill 2013 as enacted by the Sixty-fifth Legislative Assembly, was created to supplement the Oil and Gas Impact Grant Fund for the 2017-2019 biennium.

EIO collaborated with the Williston Basin International Airport and the North Dakota Aeronautics Commission regarding the timeline to get these grants closed out by June 30, 2021. On June 2, 2021, the last payment was made to the Williston Basin International Airport, thus closing out this fund reimbursing the full \$15 Million to the airport. The following shows grant activity for the last six months:

Energy Impact Fund	Grants with balances	Current Balance Obligated to Grants
3/9/2021	3	\$1,434,396.94
6/7/2021	0	\$0.00
9/7/2021	0	\$0.00

EIO is currently managing 6 grants for a total of \$794,932.56. The following shows grant activity for the last six months:

Oil and Gas Impact Grant Fund	Grants with balances	Current Balance Obligated to Grants	Energy Impact Fund	Grants with balances	Current Balance Obligated to Grants	Total between both Funds
3/9/2021	12	\$1,591,589.01	3/9/2021	3	\$1,434,396.94	\$3,025,985.95
6/7/2021	9	\$972,069.49	6/7/2021	0	\$0.00	\$972,069.49
9/7/2021	6	\$794,932.56	9/7/2021	0	\$0.00	\$794,932.56

I N V E S T M E N T S

Investment Fee Report – FY 2021

Attached is a report of the Board of University and School Land's (Board) investment fees paid for the twelve months ending June 31, 2021 (Fiscal Year 2021).

Summary:

- During fiscal year 2021 the Permanent Trust Funds (PTFs) paid \$36,499,278 in total investment fees (including investment manager fees, custodial expenses, general consultant fees, and specialty consultant fees); this is an increase over the \$22,335,336 in fees paid in FY 2020. The PTFs' average asset balance increased during the same period (including contributions and withdrawals), from \$4.85 billion in FY 2020 to \$5.46 billion in FY 2021. The primary driver of the increase in fees is a result of a significant increase in incentive fees paid over the period.
- The PTFs paid incentive fees totaling \$14,756,277 during FY 2021 due to outperformance in the Morgan Stanley Prime Property Fund, Prologis U.S. Logistics Fund, Ares Pathfinder Fund, Varde Dislocation Fund, Apollo Accord Fund IV, and Angelo Gordon's Direct Lending Funds III and IV; this equals 26.3 basis points on the average value of total trust assets during FY 2021, and 40.4% of the total investment cost of managing the PTF's investment program. Incentive fees totaled \$898,695 during FY 2020, the equivalent of 1.4 basis points and 4.0% of the total investment cost to manage the program.

(09/30/21)

- The specialty consultant fee is paid by the PTFs to Novarca for negotiating a fee reduction for the Payden & Rygel Aggregate Bond fund in which fees were lowered from 20 basis points to 17.5 basis points on the first \$250 million and 15 basis points on assets above \$250 million. Novarca is paid 27.5% of realized fee savings for 3 years; there remains 18 months on the specialty consultant fee.
- The pooled investments of the Strategic Investment and Improvements Fund, Coal Development Trust Fund, and Capitol Building Trust Fund paid \$211,420 in investment management expenses during FY 2021, down from \$437,862 in management fees paid in FY 2020. The decrease in management fees is due to the decrease in the average balance from \$718.0 million in FY 2020 to \$361.4 million in FY 2021.
- The PTFs entered a fee reduction agreement with JP Morgan based on the total amount of fees paid to JP Morgan each year. The agreement will reduce fees from 10% to 25% depending on fees paid each year.

Investment Fee Report was also presented to the Board and is available upon request.

O P E R A T I O N S

Information Technology Project Status Update

The Department of Trust Land's (Department) 2017-2019 biennial budget appropriation includes \$3.6 million to replace legacy information technology (IT) systems as authorized by Senate Bill 2013 of the Sixty-fifth Legislative Assembly.

Severe limitations in the current IT system, including redundant manual processes, have hampered efficiencies. Many of the Department's core data management systems were developed in the 1980s and 1990s, using designs and tools no longer supported by vendors. Some supplemental system improvements and purchases have been implemented; however, the outdated database structure restricts many potential improvements.

On April 29, 2019, the new system for Unclaimed Property was successfully launched.

On July 1, 2020, the new Financial Management and Accounting system successfully launched.

On September 14, 2020, the Revenue Compliance Division successfully launched updated software system.

The Surface Land Management was scheduled to go-live on September 25, 2021. However, a two-week delay was necessary to ensure team members had adequate time to train. Thus, the Surface Land Management system will go-live on October 9, 2021.

Additional capital funding was approved through Senate Bill 2013 during the Sixty-seventh Legislative Assembly to support the implementation of software for the Minerals Division. A kick-off for the implementation of the new system occurred on September 20, 2021.

Board of University and School Lands Meeting Dates For 2022

(09/30/21)

North Dakota Century Code 15-01-03 states that the Board shall meet on the last Thursday of each month, unless it appears a quorum will not be present at which time it may be rescheduled. Special meetings of the Board may be held at any time at the written call of the chairman, the commissioner, or any two members of the Board.

The statutory meeting dates serve as the starting point in efforts to schedule meetings of the Board. The meetings are set at 9:00 AM in the Governor's Conference Room, unless otherwise noted. Board members should anticipate the meetings will last three hours each month in anticipation of executive session needs.

The following dates will be shared with Board members' offices for scheduling purposes.

- January 27, 2022 9:00 AM – 12:00 AM
- February 24, 2022 9:00 AM – 12:00 PM
- March 31, 2022 9:00 AM – 12:00 PM
- April 28, 2022 9:00 AM – 12:00 PM
- May 26, 2022 9:00 AM – 12:00 PM
- June 30, 2022 9:00 AM – 12:00 PM
- July 28, 2022 9:00 AM – 12:00 PM
- August 25, 2022 9:00 AM – 12:00 PM
- September 29, 2022 9:00 AM – 12:00 PM
- October 27, 2022 9:00 AM – 12:00 PM
- November 17, 2022 9:00 AM – 12:00 PM Thursday before Thanksgiving
- December 19, 2022 9:00 AM – 12:00 PM Monday before Christmas

M I N E R A L S

Repayment of Unpaid Gas Royalties Update

The Board of University and School Lands (Board) manages land, minerals, and proceeds as trustee for the exclusive benefit of constitutionally identified beneficiaries, with much of the income going towards funding North Dakota schools and institutions. The Board also manages oil, gas and other hydrocarbons underlying sovereign lands for the State of North Dakota.

The Department of Trust Lands (Department) has persistently worked with operators to collect payment or establish escrow accounts for royalties from the production of minerals, in accordance with the Board's lease, rules, and policies. Royalty audits began in the late 1980's and a Revenue Compliance Division was created in 2011 to ensure that royalty and other collections made on behalf of the trusts and other funds are complete and accurate.

A letter regarding Formal Notification of Gas Royalty Repayment Obligations dated February 11, 2020 (February 2020 Letter), was sent to all entities required to pay royalties to the Board pursuant to the Board's lease. The February 2020 Letter advised all entities who have been deducting post production costs from royalty payments made to the Department that they have been underpaying royalties, contrary to the terms of the Board's lease. Entities were advised that penalties and interest continue to accrue on any unpaid amounts in accordance with the February 2020 Letter until payment is received. On April 8, 2020, the Board extended the date to come into compliance with gas royalty payments, as outlined in the February 2020 Letter, to September 30, 2020. At the August 27, 2020, Board meeting, the Board extended the date to come into compliance with gas royalty payments, as outlined in the February 2020 Letter, to April 30, 2020.

Since the issuance of the February 2020 Letter, the Department has been working with payors who have been deducting post production costs from royalty payments made to the Department to ensure that they are in compliance with the terms of the Board's lease.

On August 26, 2021, the Board provided the Department with guidance as it relates to royalty repayment offers.

The Department has several royalty repayment offers prepared to present to the Board in executive session pursuant to N.D.C.C. §§ 44-04-19.1 and 44-04-19.2.

LITIGATION

Newfield Litigation

Case: **Newfield Exploration Company, Newfield Production Company, and Newfield RMI LLC v. State of North Dakota, ex rel. the North Dakota Board of University and School Lands and the Office of the Commissioner of University and School Lands, a/k/a the North Dakota Department of Trust Lands, Civ. No. 27-2018-CV-00143**

Date Filed: March 7, 2018

Court: District Court/McKenzie County

Attorneys: David Garner

Opposing

Counsel: Lawrence Bender - Fredrikson & Byron, P.A., and Michelle P. Scheffler, Garrett Martin and Ryan Pitts – Haynes and Boone, LLP

Judge: Robin Schmidt

Issues: Plaintiff is seeking a Declaratory Judgment that it is currently paying gas royalties properly under the Board's lease. Specifically, Plaintiff is asking the Court to order that gas royalty payments made by the Plaintiff be based on the gross amount received by the Plaintiff from an unaffiliated third-party purchaser, not upon the gross amount paid to a third party by a downstream purchaser, and that Plaintiff does not owe the Defendants any additional gas royalty payments based on previous payments.

History: A Complaint and Answer with Counterclaims have been filed. Newfield filed an Answer to Counterclaims. A Scheduling conference was held July 27, 2018. Plaintiffs' filed a Motion for Summary Judgment on August 13, 2018 and Defendants filed a Cross-Motion for Summary Judgment. Plaintiffs' Response was filed October 19, 2018 and Defendants' Reply was filed November 9, 2018. A hearing on the Motions for Summary Judgment was held on January 4, 2019 at 1:30 p.m., McKenzie County. An Order on Cross Motions for Summary Judgment was issued on February 14, 2019, granting Plaintiff's motion for summary judgment and denying Defendants' motion for summary judgment. The Judgment was entered March 1, 2019, and the Notice of Entry of Judgment was filed March 4, 2019. Defendants have filed a Notice of Appeal to the North Dakota Supreme Court (Supreme Court). The trial scheduled in McKenzie County District Court for September 10 and 11, 2019 has been cancelled. Defendants/Appellants' Brief to the Supreme Court was filed April 29, 2019. Plaintiffs/Appellees filed their Brief of Appellees and Appendix of Appellees on June 7, 2019. Defendants/Appellants filed a reply brief on June 18, 2019. Oral Argument before the Supreme Court was held on June 20, 2019. On July 11, 2019, the Supreme Court entered its Judgment

(09/30/21)

reversing the Judgment of the McKenzie County District Court. On July 25, 2019 Newfield filed Appellee's Petition for Rehearing. Also on July 25, 2019, a Motion for Leave to File Amicus Curiae Brief by Western Energy Alliance in Support of Newfield was filed with the Supreme Court. On July 26, 2019, a Motion for Leave to File Amicus Curiae Brief by North Dakota Petroleum Council in Support of Newfield was filed with the Supreme Court. On August 20, 2019, the North Dakota Supreme Court requested Defendants file a Response to the Petition for Rehearing and the two Amicus Curiae Briefs no later than September 4, 2019. Defendants/Appellants filed their Response to Petition for Rehearing on September 4, 2019. A Corrected Opinion was filed by the North Dakota Supreme Court on September 9, 2019, changing the page number of a citation. On September 12, 2019, the North Dakota Supreme Court entered an order denying Newfield's Petition for Rehearing. On September 20, 2019, the opinion and mandate of the Supreme Court was filed with McKenzie County District Court. A Telephonic Status Conference was held October 8, 2019. On October 9, 2019, the District Court issued an Order Setting Briefing Schedule which ordered "the parties to file a brief regarding how they suggest the case proceed after the Supreme Court's decision." The parties filed briefs with the District Court on November 6, 2019. Notice of Appearance for Michelle P. Scheffler of Hayes and Boone, LLP on behalf of Plaintiffs was filed November 7, 2019. Telephonic Status Conference scheduled for March 17, 2020 before the District Court. On May 14, 2020, the Court scheduled a five-day Court Trial to start on October 4, 2021, McKenzie County Courthouse. On July 28, 2020, a Stipulated Scheduling Order was entered, setting dates for various deadlines. On April 1, 2021, the State served Defendants State of North Dakota, ex re. the North Dakota Board of University and School Lands, and the Office of the Commissioner of University and School Lands, a/k/a the North Dakota Department of Trust Lands' Interrogatories, Requests for Production of Documents, and Requests for Admissions to Plaintiff. On April 1, 2021, the Plaintiffs served the following on the State: Plaintiffs' Notice of Intention to Take Oral and Videotaped Deposition of a Representative of the North Dakota Department of Trust Lands; Plaintiffs' Notice of Intention to Take Oral and Videotaped Deposition of Lance Gaebe; Plaintiffs' Notice of Intention to Take Oral and Videotaped Deposition of Taylor K. Lee; Plaintiffs' Notice of Intention to Take Oral and Videotaped Deposition of Jodi Smith; and Plaintiffs' First Set of Interrogatories, Requests for Production, and Requests for Admission to all Defendants. On July 1, 2021, Defendants filed their Motion for Summary Judgment and Plaintiffs filed their Motion for Partial Summary Judgment. On August 2, 2021, Plaintiffs filed a Motion to Admit Garrett S. Martin Pro Hac Vice and their Response Brief in Opposition to Motion for Summary Judgment. Also on August 2, 2021, Defendants filed their Brief in Response to Plaintiffs' Motion for Partial Summary Judgment. On August 4, 2021, the parties filed an Expedited Joint Motion for Extension of Time to Reply to Briefs in Opposition/Response to Motions for Summary Judgment and the Joint Motion to Exceed Volume Limitations. On August 5, 2021, the Court issued its Order Granting Expedited Joint Motion for Extension of Time to Reply to Briefs in Opposition/Response to motions for Summary Judgment and the Order Granting Joint Motion to Exceed Volume Limitations. The parties now have until August 30, 2021 to file their opposition/response briefs and the page limit was extended from 12 pages to 30 pages for both parties. On August 9, 2021, Plaintiffs requested a hearing on Plaintiff's Motion for Partial Summary Judgment and Defendants Motion for Summary Judgment and scheduled that hearing for September 16, 2021, at 10 a.m. Also on August 9, 2021, a Pretrial Conference was scheduled for 10 a.m. on October 1, 2021. Mediation was held September 2, 2021. The Deposition of Adam Otteson was held August 31, 2021; Jodi Smith's deposition was held September 14, 2021; the deposition of Kelly Vandamme was held September 22, 2021; and the deposition of John Kemmerer was held for September 23, 2021.

Current Status:

- On September 3, 2021, Plaintiffs filed a Motion to Compel which was later withdrawn on September 16, 2021.
- On September 8, 2021, Plaintiffs submitted a Motion to Admit Ryan Pitts Pro Hac Vice. The Order of Admission was signed September 9, 2021.
- On September 10, 2021, Plaintiffs filed a Motion to Exclude Evidence Attached to Defendants Summary Judgment Brief. They also filed an Emergency Motion for Expedited Briefing Schedule and a request for the hearing on both of these motions be held with the motions for summary judgment.
- Judge Schmidt sent an email to the parties on September 10, 2021 regarding the status.
- On September 14, 2021, the Order Extending Deadline to Submit Motions in Limine and Pretrial Statements to be due September 20, 2021 was signed.
- On September 15, 2021, Defendants filed a Motion to Exclude Evidence and Response to Plaintiffs’ Motion to Exclude.
- The parties attending the oral argument on September 16, 2021 and an Order on Cross Motions for Summary Judgment was issued that date.
- On September 17, 2021, the parties filed a Stipulation regarding Trial Witnesses and the Order Adopting the Stipulation was signed on September 20, 2021.
- On September 20, 2021, the Defendants filed an Expedited Motion to Supplement Exhibits and Plaintiffs filed a Motion in Limine or to Exclude and Limit Anticipated Testimony. The parties also filed their Pretrial Statements and a Combined Exhibit list.

EXECUTIVE SESSION

Under the authority of North Dakota Century Code Sections 44-04-19.1 and 44-04-19.2, the Board close the meeting to the public and go into executive session for purposes of attorney consultation relating to:

- Newfield Exploration Company et al Civ. No. 27-2018-CV-00143
- Royalty Offers

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger		X	X		
Superintendent Baesler					
Treasurer Beadle			X		
Attorney General Stenehjem	X		X		
Governor Burgum			X		

The Board entered into executive session at 10:09 AM.

EXECUTIVE SESSION**Members Present:**

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Wayne Stenehjem	Attorney General
Thomas Beadle	State Treasurer
Kirsten Baesler	Superintendent of Public Instruction (Via Teams)

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Catelin Newell	Administrative Staff Officer
Kristie McCusker	Paralegal
Kate Schirado	Administrative Assistant
Adam Otteson	Revenue Compliance Director

Guests in Attendance:

Dave Garner	Office of the Attorney General
Troy Seibel	Office of the Attorney General
Reice Haase	Office of the Governor
Leslie Bakken Oliver	Office of the Governor

The executive session adjourned at 11:02 AM and the Board returned to the open session and Teams meeting to rejoin the public. During the executive session meeting, the Board was provided information and no formal action was taken.

A D J O U R N

There being no further business, the meeting was adjourned at 11:02 AM.

Doug Burgum, Chairman
Board of University and School Lands

Jodi Smith, Secretary
Board of University and School Lands

**Minutes of the Meeting of the
Board of University and School Lands
October 15, 2021**

The October 15, 2021 special meeting of the Board of University and School Lands was called to order at 10:30 AM via Microsoft Teams by Chairman Doug Burgum. Roll call was taken and all meeting attendees were via Microsoft Teams.

Members Present:

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Wayne Stenehjem	Attorney General
Thomas Beadle	State Treasurer
Kirsten Baesler	Superintendent of Public Instruction

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Christopher Dingwall	Mineral Title Specialist
Rick Owings	EIO Grants Administrator
Kristie McCusker	Paralegal
Catelin Newell	Administrative Staff Officer
Kate Schirado	Administrative Assistant
Susan Dollinger	Unclaimed Property
Vicki Siegel	Accounting Division
Peggy Gudvangen	Accounting Division Director
Jessica Fretty	Unclaimed Property

Guests in Attendance:

Reice Haase	Office of the Governor
Leslie Bakken Oliver	Office of the Governor
Tammy Miller	Office of the Governor
Mike Nowatzki	Office of the Governor
Amy Sisk	Bismarck Tribune

O P E R A T I O N S

Commissioner Hiring Process

Motion: All Board members appoint or serve as a designee on a committee to begin the search and selection for a Land Commissioner by submitting a name and contact information via email to Tammy Miller, Chief Operating Officer of the Governor's Office, by October 18, 2021.

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger		X	X		
Superintendent Baesler			X		
Treasurer Beadle			X		
Attorney General Stenehjem	X		X		
Governor Burgum			X		

A D J O U R N

There being no further business, the meeting was adjourned at 10:43 AM.

Doug Burgum, Chairman
Board of University and School Lands

Jodi Smith, Secretary
Board of University and School Lands

**Minutes of the Meeting of the
Board of University and School Lands
October 28, 2021**

The October 28, 2021 meeting of the Board of University and School Lands was called to order at 9:01 AM in the Governor's Conference Room of the State Capitol and via Microsoft Teams by Chairman Doug Burgum.

Members Present:

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Wayne Stenehjem	Attorney General (Via Teams)
Thomas Beadle	State Treasurer
Kirsten Baesler	Superintendent of Public Instruction

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Christopher Dingwall	Mineral Title Specialist
Dennis Chua	Investments
Rick Owings	Administrative Staff Officer
Michael Humann	Surface Division Director
Kristie McCusker	Paralegal
Adam Otteson	Revenue Compliance Director
Michael Shackelford	Investments Director
Lynn Spencer	Minerals Title Specialist
Susan Dollinger	Unclaimed Property
James Wald	Legal Council
Scott Giere	Revenue Compliance
Peggy Gudvangen	Finance Division Director
Kayla Spangelo	Surface Range Soils Management Specialist
Rob Dixon	ITD
Shari Duppong	Administrative Support

Guests in Attendance:

Dave Garner	Office of the Attorney General
Troy Seibel	Office of the Attorney General
Reice Haase	Office of the Governor
Leslie Bakken Oliver	Office of the Governor
Hillary Ripley	First Sentier Investors
John DiMarro	First Sentier Investors
Kirby Frances	First Sentier Investors
John Ma	First Sentier Investors
Mark Dunn	Millennium
Ron Ness	NDPC
Brady Pelton	NDPC
Michael Kelly	Pine Bridge
Brian Conry	Pine Bridge
Reed Harmon	Pine Bridge
Alexander Leiken	Millennium
Josh Kevan	RVK
Amy Sisk	Bismarck Tribune
Cyril Espanol	Journalist
David Mackie	
Gary Hagen	
Kristen Hamman	
Andrea Pfennig	
Randy Paas	

C. Rajala
 Craig Smith
 Ron Rauschenberger
 Shelly Shelby
 Lawrence Bender

A P P R O V A L O F M I N U T E S

A motion to approve the minutes of the September 30, 2021 regular meeting and October 15, 2021 Special meeting, was made by Secretary of State Alvin Jaeger and seconded by Superintendent Baesler and the motion carried unanimously on a voice vote.

R E P O R T S

September 2021 Report of Encumbrances Issued by Land Commissioner

Granted to:	OVINTIV USA INC, THE WOODLANDS-TX
For the Purpose of:	Easement: Well-Subsurface Well Bore
Right-of-Way Number:	RW0008884
Trust:	A - Common Schools
Legal Description:	MCK-153-96-16: NE4, NW4
Granted to:	MARATHON OIL COMPANY INC, DICKINSON-ND
For the Purpose of:	Easement: Well-Subsurface Well Bore
Right-of-Way Number:	RW0008940
Trust:	A - Common Schools
Legal Description:	DUN-146-93-16-NE4
Granted to:	HESS TIOGA GAS PLANT LLC, MINOT-ND
For the Purpose of:	Easement: Air Monitoring Station
Right-of-Way Number:	RW0008952
Trust:	A - Common Schools
Legal Description:	WIL-158-95-36-SE4
Granted to:	STREAMLINE WATER SERVICES LLC, WATFORD CITY-ND
For the Purpose of:	Permit: Temporary Water Layflat Line
Right-of-Way Number:	RW0008957
Trust:	A - Common Schools
Legal Description:	MCK-149-96-16: NW4, SW4
Granted to:	TESORO HIGH PLAINS PIPELINE COMPANY LLC, BISMARCK-ND
For the Purpose of:	Permit: Temporary Construction
Right-of-Way Number:	RW0008960
Trust:	A - Common Schools
Legal Description:	WIL-154-95-16-SE4
Granted to:	OASIS PETROLEUM NORTH AMERICA LLC, HOUSTON-TX
For the Purpose of:	Permit-Amend: Temporary Layflat Line
Right-of-Way Number:	RW0008951
Trust:	A - Common Schools
Legal Description:	WIL-153-100-36: NE4, SE4, SW4

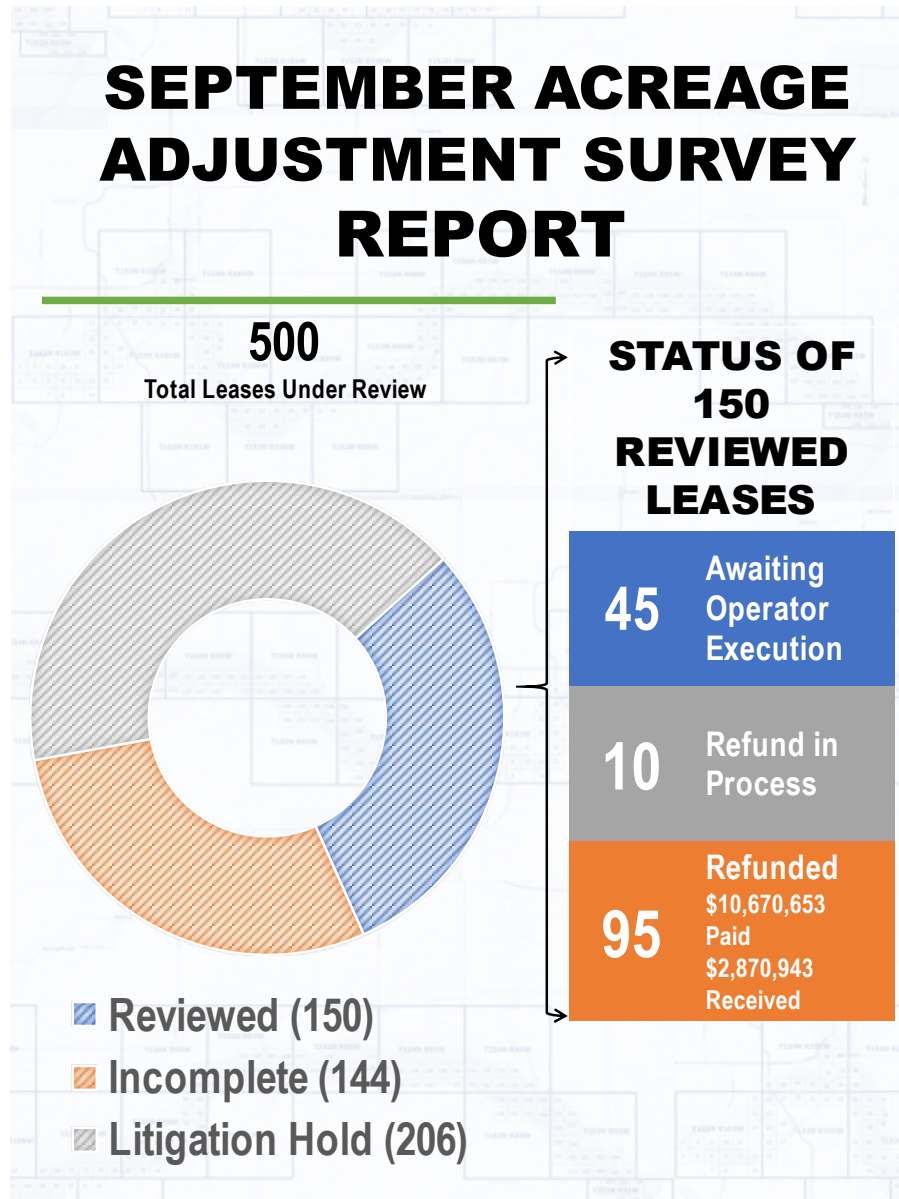
September 2021 Consideration Total: \$45,500.00

(10/28/21)

September 2021 Report of Shut-Ins Approved by Land Commissioner

Granted to: XTO Energy Inc.
For the Purpose of: Operations
Date Issued: 09/08/2021
Application Fee: \$100.00
Trust: A - Common Schools
Lease: OG-04-00436, OG-04-00437, OG-04-00438, OG-04-00439

Acreage Adjustment Report



NDDTL River Tracts map was also presented to the Board and is available upon request.

September Unclaimed Property Report

Unclaimed property is all property held, issued, or owing in the ordinary course of a holder's business that has remained unclaimed by the owner for more than the established time frame for the type of property. It can include checks, unpaid wages, stocks, amounts payable under the terms of insurance policies, contents of safe deposit boxes, etc.

An owner is a person or entity having a legal or equitable interest in property subject to the unclaimed property law. A holder can include a bank, insurance company, hospital, utility company, retailer, local government, etc.

Since 1975, the Unclaimed Property Division (Division) of the Department of Trust Lands (Department) has been responsible for reuniting individuals with property presumed abandoned. The Division acts as custodian of the unclaimed property received from holders. The property is held in trust in perpetuity by the State and funds are deposited in the Common Schools Trust Fund. The 1981 Uniform Unclaimed Property Act created by the national Uniform Law Commission was adopted by the State in 1985.

For the month of September 2021, the Division received 261 holder reports with a property value of \$613,300 and paid 431 claims with a total value of \$733,069.

Investment Updates

Portfolio Rebalancing Updates

Staff is reviewing Agreements of recently approved investments namely: Arrowstreet EM Fund, Northern EM Index Fund, Acadian, Int'l Small Cap Fund, SSGA Int'l Small Cap Index Fund.

GCM Secondary Opportunities Fund and Owl Rock Diversified Lending Fund agreements were finalized and executed. These two new funds added \$250M to unfunded commitments. Owl Rock Diversified lending has already made its initial capital call amounting to \$43.5M on October 18, 2021. Additionally, Varde Dislocation made a \$7.5M capital call on October 6, 2021, and Angelo Gordon DL IV will be making a capital call of \$15M scheduled for October 27, 2021. Therefore, with the addition of two new commitments and the capital calls in October, total unfunded commitments as of October 28, 2021, stands at approximately \$825.9M. These are as follows:

1. Apollo Accord Fund, \$84.8M
2. Varde Dislocation Fund, \$42.5M
3. GCM Private Equity, \$115.1M
4. ARES Pathfinder Fund, \$74.5M
5. Angelo Gordon DL IV, \$42.5M
6. Owl Rock Diversified Lending, \$56.5M
7. GCM Secondary Opportunities Fund, \$150M
8. JPM Infrastructure Fund, \$130M
9. Harrison Street Core Property Fund LP, \$130M

Asset Allocation

The table below shows the status of the permanent trusts' asset allocation as of October 20, 2021. The figures provided are unaudited.

As of October 20, 2021	Market Value \$	Actual	Target	Lower Range	Upper Range
		●	□	└	┘
Broad US Equity	1,213,809,610.33	19.9%	19.0%	14.0%	24.0%
Broad Int'l Equity	1,134,536,245.10	18.6%	19.0%	14.0%	24.0%
Fixed Income	1,391,915,979.16	22.9%	22.0%	17.0%	27.0%
Transition Account	586,201,379.31	9.6%	0.0%	-5.0%	5.0%
Absolute Return	879,560,223.35	14.4%	15.0%	10.0%	20.0%
DIS	-	0.0%	0.0%	-5.0%	5.0%
Real Estate	783,770,403.00	12.9%	15.0%	10.0%	20.0%
Private Equity (Grosvenor)	15,029,716.00	0.2%	5.0%	0.0%	10.0%
Private Infrastructure (JPM-Infra)	-	0.0%	5.0%	0.0%	10.0%
Opportunistic Investments (Varde & Apollo)	82,422,427.00	1.4%	0.0%	-5.0%	5.0%
Portfolio Total	6,087,245,983.25	100.0%			

OPERATIONS

Information Technology Project Status Update

The Department of Trust Land's (Department) 2017-2019 biennial budget appropriation includes \$3.6 million to replace legacy information technology (IT) systems as authorized by Senate Bill 2013 of the Sixty-fifth Legislative Assembly.

Severe limitations in the current IT system, including redundant manual processes, have hampered efficiencies. Many of the Department's core data management systems were developed in the 1980s and 1990s, using designs and tools no longer supported by vendors. Some supplemental system improvements and purchases have been implemented; however, the outdated database structure restricts many potential improvements.

On April 29, 2019, the new system for Unclaimed Property was successfully launched.

On July 1, 2020, the new Financial Management and Accounting system was successfully launched.

On September 14, 2020, the Revenue Compliance Division successfully launched the migrated and updated software system.

The Surface Land Management System is scheduled to go-live on November 8, 2021. The Department will eliminate the ability for web forms to be completed and submitted online at 5:00 on October 28, 2021. The web portal is currently scheduled to go-live on November 29, 2021. The Department will not allow for information to be input into the old IT system (Surfviewer) after 5:00 on October 29, 2021. On November 1, 2021, the Financial Management and Accounting will be shut-down until go-live is complete to allow for final migration of data into the Land Management System; no new vendors or invoices will be allowed to be created for 10 days.

Communications to assist the Department have been prepared and are being deployed via:

- [Facebook](#)
- [County Newspapers](#)
- [Letters to State Agencies](#)
- [Department website](#)
- [NDPC newsletter](#)
- [Enewsletter](#)

Additional capital funding was approved through Senate Bill 2013 to support the implementation of software for the Minerals Division. The Department will work with our vendor to determine an appropriate schedule for the building and implementation of a Minerals Management system.

S U R F A C E

Outdoor Heritage Fund Grant Application

At the April 29, 2021 Board of University and School Lands (Board) meeting, the Board authorized the Commissioner to submit a grant application to the Outdoor Heritage Fund (OHF) to support the Department of Trust Lands (Department) acquiring accurate geospatial data on school trust lands.

The Department submitted a grant to the OHF to leverage current efforts to improve management of the 706,600 acres of Trust Lands that will improve boundary identification and access while enhancing the geospatial information available to state agencies and the public.

Agricultural lessees in North Dakota are eligible for various assistance programs to aid in the implementation of conservation practices; many of these important conservation programs are supported by the OHF. The grant would have been used to provide accurate information and clarity over tract boundaries. Uncertainty over tract boundaries has resulted in lost opportunities to better manage Trust Lands for economic and environmental goals. This uncertainty has also led to instances of conflict and confusion regarding leasing and appropriate access in the state. Advances in technology and policy changes regarding land access have allowed the Department to begin addressing these issues. However, the benefits of this project warranted a state investment larger than what the Department can fund alone.

The OHF denied the Board's grant application for the following reasons:

- It was unclear how helpful this would be for the public.
- It should be the responsibility of the landowner to identify property lines.
- It doesn't seem like an appropriate use of OHF money.

Having an accurate geospatial representation of Trust Lands managed by the Department will improve the economic, ecological, and recreational management of these tracts. Thus, the Department will move forward with the project on a smaller scale.

I N V E S T M E N T S

Absolute Return Allocation

In November 2013, the Board of University and School Lands' (Board) approved the implementation of a new strategic asset allocation (SAA) for the Permanent Trust Funds (PTFs), including the addition of Absolute Return strategies. In April 2014, the Board approved an equal investment in the Absolute Return asset class divided amongst three managers: GMO, Westwood and PIMCO.

As a result of consistent underperformance over the past seven years, Department Staff and RVK recommend terminating GMO's Benchmark-Free Allocation Fund (~\$400 Million). The GMO mandate has underperformed both in its benchmark and with its peers. RVK's research shows the GMO mandate has a worse risk/return performance than its index and peer group.

Staff and RVK recommend moving to two new active managers, which should decrease portfolio risk while increasing returns. Staff and RVK began the manager search by compiling a list of the top performing managers within RVK's database. Staff and RVK reviewed the return performance and risk history of each manager, along with fees, investment staff, operations, and process. Staff and RVK selected and interviewed top managers to review their investment strategies and process.

After conducting a thorough due diligence of each manager it was determined that Staff and RVK would recommend the Board approve new mandates with Millennium and PineBridge:

Millennium Management LLC manages multi-strategy hedge funds with over \$54 Billion in assets under management, and has over 2,000 investment personnel managing assets in relative value fundamental equity, equity arbitrage, quantitative strategies, and fixed income strategies across the Americas, Europe and Asia. Millennium has an outstanding performance track record. Millennium manages these assets within a strong risk culture that closely measures and tracks investment performance and risk.

PineBridge Investments manages the PineBridge Dynamic Asset Allocation Fund an open-end mutual fund. PineBridge has a strong investment process and portfolio characteristics that Staff and RVK felt would well suit the PTFs. PineBridge is an investment manager spun out of AIG in 2010 and headquartered in New York, with 24 offices worldwide. They have over \$141 Billion in assets under management and over 200 investment professionals.

Staff and RVK are currently satisfied with the performance of PIMCO's All Asset All Authority mutual fund (~\$480 Million) within the Absolute Return asset class. However, Staff and RVK recommend reallocating the Absolute Return's 15% allocation evenly amongst PIMCO, Millennium and PineBridge.

Motion: The Board approve terminating investment with GMO and reallocating the Absolute Return assets (~\$880 Million) evenly to maintain investment with PIMCO at a reduced amount, and to add investments with Millennium and PineBridge (~\$290 Million each). Subject to final review and approval of all legal documents by the Office of the Attorney General.

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger	X		X		
Superintendent Baesler			X		
Treasurer Beadle		X	X		
Attorney General Stenehjem			X		
Governor Burgum			X		

RVK Absolute Return Millennium Memo and Presentation; RVK Absolute Return PineBridge Memo and Presentation were presented to the Board and are available upon request.

Private Infrastructure Investments

In April 2020, the Board of University and School Lands' (Board) approved an asset allocation to Private Infrastructure within the broader Strategic Asset Allocation (SAA) for the Permanent Trust Funds (PTFs). In September 2020, the Board approved JPMorgan as the inaugural infrastructure manager with an investment that represented about half the 5% allocation within the new SAA.

Department Staff and RVK believe it is time to complete the initial 5% allocation to Private Infrastructure. Staff and RVK agreed upon certain goals for the PTFs initial investments in infrastructure:

- Open-end fund structure – Allows for reinvestment potential without conducting a new RFP or waiting for a new fund to open. Ability to withdraw investment under partnership terms. Provides greater manager flexibility to hold and trade assets, and generally have greater diversity of assets (both sector and geography).
- Core infrastructure strategy – Core infrastructure has higher expected yields and lower risk versus non-core which has higher expected total return and a higher risk profile.
- Low exposure to fossil fuels to reduce correlation to PTF revenues.
- Geographically diverse, primarily in developed countries.

Staff began the manager search by requesting RVK compile a list of the highest rated managers within their private infrastructure manager database. Staff and RVK interviewed three of the top managers on the list. Staff and RVK reviewed the return performance and risk history of each manager, along with fees, investment staff, operations, and process.

This due diligence process has resulted in Staff and RVK recommending First Sentier Investors' (FSI) Global Diversified Infrastructure Fund to the Board. FSI has over 25 years of infrastructure investment experience. They have a globally diversified portfolio with low exposure to revenue sources that mirror the PTFs' revenues. FSI has nearly \$13 Billion in assets under management, managed by 54 investment professionals located out of three offices: Sydney, New York and London. Their fund consists of 25 portfolio companies in 11 countries.

Motion: The Board approve up to a \$150 Million initial investment in First Sentier Investors' Global Diversified Infrastructure Fund, subject to final review and approval of all legal documents by the Office of the Attorney General.

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger			X		
Superintendent Baesler	X		X		
Treasurer Beadle		X	X		
Attorney General Stenehjem			X		
Governor Burgum			X		

RVK Infrastructure Recommendation Memo, First Sentier Investors Presentation were presented to the Board and are available upon request.

Commercial Real Estate – UBS Redemption

In July 2014, the Board of University and School Lands’ (Board) approved an investment with UBS’ Trumbull Property Fund (TPF) as part of the commercial real estate asset allocation.

Due to continued underperformance Department Staff and RVK believe it is time to enter TPF’s redemption queue. TPF’s performance has been hampered by over allocation to retail, hospitality and office, and under allocation to apartments and industrial versus their peer group.

RVK’s real estate research team has outlined three items of primary concern:

1. Loss of confidence in UBS’ ability to manage the Fund’s competing issues.
2. Extended period of underperformance.
3. Growing redemption pool despite incentive programs to boost support.

Staff concurs with RVK’s concerns and recommendation.

Motion: The Board approve notification to UBS of full redemption on or before November 2, 2021.

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger	X		X		
Superintendent Baesler			X		
Treasurer Beadle			X		
Attorney General Stenehjem		X	X		
Governor Burgum			X		

RVK Recommendation Memo was presented to the Board and is available upon request.

LITIGATION

Newfield Litigation

Case: **Newfield Exploration Company, Newfield Production Company, and Newfield RMI LLC v. State of North Dakota, ex rel. the North Dakota Board of University and School Lands and the Office of the Commissioner of University and School Lands, a/k/a the North Dakota Department of Trust Lands, Civ. No. 27-2018-CV-00143**

Date Filed: March 7, 2018
 Court: District Court/McKenzie County
 Attorneys: David Garner
 Opposing Counsel: Lawrence Bender - Fredrikson & Byron, P.A. and Michelle P. Scheffler – Haynes and Boone, LLP
 Judge: Robin Schmidt

Issues: Plaintiff is seeking a Declaratory Judgment that it is currently paying gas royalties properly under the Board’s lease. Specifically, Plaintiff is asking the Court to order that gas royalty payments made by the Plaintiff be based on the gross amount

received by the Plaintiff from an unaffiliated third-party purchaser, not upon the gross amount paid to a third party by a downstream purchaser, and that Plaintiff does not owe the Defendants any additional gas royalty payments based on previous payments.

History:

A Complaint and Answer with Counterclaims have been filed. Newfield filed an Answer to Counterclaims. A Scheduling conference was held July 27, 2018. Plaintiffs' filed a Motion for Summary Judgment on August 13, 2018 and Defendants filed a Cross-Motion for Summary Judgment. Plaintiffs' Response was filed October 19, 2018 and Defendants' Reply was filed November 9, 2018. A hearing on the Motions for Summary Judgment was held on January 4, 2019 at 1:30 p.m., McKenzie County. An Order on Cross Motions for Summary Judgment was issued on February 14, 2019, granting Plaintiff's motion for summary judgment and denying Defendants' motion for summary judgment. The Judgment was entered March 1, 2019, and the Notice of Entry of Judgment was filed March 4, 2019. Defendants have filed a Notice of Appeal to the North Dakota Supreme Court (Supreme Court). The trial scheduled in McKenzie County District Court for September 10 and 11, 2019 has been cancelled. Defendants/Appellants' Brief to the Supreme Court was filed April 29, 2019. Plaintiffs/Appellees filed their Brief of Appellees and Appendix of Appellees on June 7, 2019. Defendants/Appellants filed a reply brief on June 18, 2019. Oral Argument before the Supreme Court was held on June 20, 2019. On July 11, 2019, the Supreme Court entered its Judgment reversing the Judgment of the McKenzie County District Court. On July 25, 2019 Newfield filed Appellee's Petition for Rehearing. Also on July 25, 2019, a Motion for Leave to File Amicus Curiae Brief by Western Energy Alliance in Support of Newfield was filed with the Supreme Court. On July 26, 2019, a Motion for Leave to File Amicus Curiae Brief by North Dakota Petroleum Council in Support of Newfield was filed with the Supreme Court. On August 20, 2019, the North Dakota Supreme Court requested Defendants file a Response to the Petition for Rehearing and the two Amicus Curiae Briefs no later than September 4, 2019. Defendants/Appellants filed their Response to Petition for Rehearing on September 4, 2019. A Corrected Opinion was filed by the North Dakota Supreme Court on September 9, 2019, changing the page number of a citation. On September 12, 2019, the North Dakota Supreme Court entered an order denying Newfield's Petition for Rehearing. On September 20, 2019, the opinion and mandate of the Supreme Court was filed with McKenzie County District Court. A Telephonic Status Conference was held October 8, 2019. On October 9, 2019, the District Court issued an Order Setting Briefing Schedule which ordered "the parties to file a brief regarding how they suggest the case proceed after the Supreme Court's decision." The parties filed briefs with the District Court on November 6, 2019. Notice of Appearance for Michelle P. Scheffler of Hayes and Boone, LLP on behalf of Plaintiffs was filed November 7, 2019. Telephonic Status Conference scheduled for March 17, 2020 before the District Court. On May 14, 2020, the Court scheduled a five-day Court Trial to start on October 4, 2021, McKenzie County Courthouse. On July 28, 2020, a Stipulated Scheduling Order was entered, setting dates for various deadlines. On April 1, 2021, the State served Defendants State of North Dakota, ex re. the North Dakota Board of University and School Lands, and the Office of the Commissioner of University and School Lands, a/k/a the North Dakota Department of Trust Lands' Interrogatories, Requests for Production of Documents, and Requests for Admissions to Plaintiff. On April 1, 2021, the Plaintiffs served the following on the State: Plaintiffs' Notice of Intention to Take Oral and Videotaped Deposition of a Representative of the North Dakota Department of Trust Lands; Plaintiffs' Notice of Intention to Take Oral and Videotaped Deposition of Lance Gaebe; Plaintiffs' Notice of Intention to Take Oral and Videotaped Deposition of Taylor K. Lee; Plaintiffs' Notice of Intention to Take Oral and Videotaped Deposition of Jodi Smith; and Plaintiffs' First Set of Interrogatories, Requests for Production,

and Requests for Admission to all Defendants. On July 1, 2021, Defendants filed their Motion for Summary Judgment and Plaintiffs filed their Motion for Partial Summary Judgment. On August 2, 2021, Plaintiffs filed a Motion to Admit Garrett S. Martin Pro Hac Vice and their Response Brief in Opposition to Motion for Summary Judgment. Also on August 2, 2021, Defendants filed their Brief in Response to Plaintiffs' Motion for Partial Summary Judgment. On August 4, 2021, the parties filed an Expedited Joint Motion for Extension of Time to Reply to Briefs in Opposition/Response to Motions for Summary Judgment and the Joint Motion to Exceed Volume Limitations. On August 5, 2021, the Court issued its Order Granting Expedited Joint Motion for Extension of Time to Reply to Briefs in Opposition/Response to motions for Summary Judgment and the Order Granting Joint Motion to Exceed Volume Limitations. The parties now have until August 30, 2021 to file their opposition/response briefs and the page limit was extended from 12 pages to 30 pages for both parties. On August 9, 2021, Plaintiffs requested a hearing on Plaintiff's Motion for Partial Summary Judgment and Defendants Motion for Summary Judgment and scheduled that hearing for September 16, 2021, at 10 a.m. Also on August 9, 2021, a Pretrial Conference was scheduled for 10 a.m. on October 1, 2021. Mediation was held September 2, 2021. The Deposition of Adam Otteson was held August 31, 2021; Jodi Smith's deposition was held September 14, 2021; the deposition of Kelly Vandamme was held September 22, 2021; and the deposition of John Kemmerer was held for September 23, 2021. On September 3, 2021, Plaintiffs filed a Motion to Compel which was later withdrawn on September 16, 2021. On September 8, 2021, Plaintiffs submitted a Motion to Admit Ryan Pitts Pro Hac Vice. The Order of Admission was signed September 9, 2021. On September 10, 2021, Plaintiffs filed a Motion to Exclude Evidence Attached to Defendants Summary Judgment Brief. They also filed an Emergency Motion for Expedited Briefing Schedule and a request for the hearing on both of these motions be held with the motions for summary judgment. Judge Schmidt sent an email to the parties on September 10, 2021 regarding the status. On September 14, 2021, the Order Extending Deadline to Submit Motions in Limine and Pretrial Statements to be due September 20, 2021 was signed. On September 15, 2021, Defendants filed a Motion to Exclude Evidence and Response to Plaintiffs' Motion to Exclude. The parties attending the oral argument on September 16, 2021 and an Order on Cross Motions for Summary Judgment was issued that date. On September 17, 2021, the parties filed a Stipulation regarding Trial Witnesses and the Order Adopting the Stipulation was signed on September 20, 2021. On September 20, 2021, the Defendants filed an Expedited Motion to Supplement Exhibits and Plaintiffs filed a Motion in Limine or to Exclude and Limit Anticipated Testimony. The parties also filed their Pretrial Statements and a Combined Exhibit list.

**Current
Status:**

- **On September 23, 2021, Plaintiffs filed their Response in Opposition to Defendants' Expedited Motion to Supplement Exhibits and the Court entered the Order Granting Expedited Motion to Supplement Exhibits filed by Defendants.**
- **On September 24, 2021, Plaintiffs filed their Response in Opposition to Defendants' Motion to Exclude Evidence, an Expedited Motion to Take Joy Barnett's Testimony by Reliable Electronic Means, and a Special Motion to Exclude and Motion in Limine. Defendants filed a Supplemented Exhibit List.**
- **On September 27, 2021, the Court entered its order Granting Plaintiffs' Expedited Motion to Take Joy Barnett's Testimony by Reliable Electronic Means. Defendants filed a Second Supplemented Exhibit List and their response to Plaintiff's Special Motion to Exclude and Motion in Limine.**

- On September 28, 2021, Defendants filed their response to Plaintiff's Motion in Limine or to Exclude and Limit Anticipated Testimony.
- A pretrial conference was held on October 1, 2021.
- The trial was held on October 4, 5 & 6.
- The Court issued its Memorandum Opinion, Findings of Fact, Conclusions of Law and Order for Judgment on October 13, 2021.
- On October 22, 2021, Plaintiffs filed their Statement of Costs and Disbursements of Lawrence Bender, Statement of Costs and Disbursements of Michelle P. Scheffler, and proposed Judgment.

M I N E R A L S

Repayment of Unpaid Gas Royalties Update

The Board of University and School Lands (Board) manages land, minerals, and proceeds as trustee for the exclusive benefit of constitutionally identified beneficiaries, with much of the income going towards funding North Dakota schools and institutions. The Board also manages oil, gas and other hydrocarbons underlying sovereign lands for the State of North Dakota.

The Department of Trust Lands (Department) has persistently worked with operators to collect payment or establish escrow accounts for royalties from the production of minerals, in accordance with the Board's lease, rules, and policies. Royalty audits began in the late 1980's and a Revenue Compliance Division was created in 2011 to ensure that royalty and other collections made on behalf of the trusts and other funds are complete and accurate.

A letter regarding Formal Notification of Gas Royalty Repayment Obligations dated February 11, 2020 (February 2020 Letter), was sent to all entities required to pay royalties to the Board pursuant to the Board's lease. The February 2020 Letter advised all entities who have been deducting post production costs from royalty payments made to the Department that they have been underpaying royalties, contrary to the terms of the Board's lease. Entities were advised that penalties and interest continue to accrue on any unpaid amounts in accordance with the February 2020 Letter until payment is received. On April 8, 2020, the Board extended the date to come into compliance with gas royalty payments, as outlined in the February 2020 Letter, to September 30, 2020. At the August 27, 2020, Board meeting, the Board extended the date to come into compliance with gas royalty payments, as outlined in the February 2020 Letter, to April 30, 2020.

Since the issuance of the February 2020 Letter, the Department has been working with payors who have been deducting post production costs from royalty payments made to the Department to ensure that they are in compliance with the terms of the Board's lease.

The Department has several royalty repayment offers prepared to present to the Board in executive session pursuant to N.D.C.C. §§ 44-04-19.1 and 44-04-19.2.

S U R F A C E

Request for Carbon Dioxide Storage Easement Agreement – Minnkota Power Cooperative, Inc. – Project Tundra

As companies look at a carbon constrained future, sequestration and geologic storage of carbon is being explored on a national and global level as an alternative to reduce the amount of and (10/28/21)

mitigate impacts from anthropogenic carbon. This process is known as carbon capture and storage (“CCS”) or geologic sequestration. CCS operations capture carbon dioxide (CO₂) from a large industrial source (such as a power plant), compresses it, and injects the CO₂ into the pore space in an underground geologic formation. While large scale carbon sequestration technology is new, carbon injection technology has been used for enhanced oil recovery (EOR) operations in many areas. Geologic storage of CO₂ requires the correct form of CO₂, the correct underground conditions, and the correct geologic layers for storage (porous and permeable) and cap rock/seals (non-porous and non-permeable) of the storage layer to be successful.

Project Tundra will capture carbon at the Milton R. Young Station and inject it into the Broom Creek and the Deadwood formations. According to the proponents of Project Tundra, the project will capture 90% of CO₂ emissions from the flue gas which equates to 4 million tons per year of carbon capture. Project Tundra will utilize the federal tax credit, 45Q, which pays per ton for CO₂ stored underground. The 45Q tax credit provides \$50 per ton of CO₂ that is permanently stored underground over a 12-year period. North Dakota-based Minnkota Power Cooperative, Inc. (Minnkota) is leading the project, along with research support from the Energy & Environmental Research Center at the University of North Dakota. Minnkota will need to establish relationships with financing parties in order to monetize the credits, as Minnkota is a not-for-profit cooperative. Once Minnkota has received a Certificate of Completion from the NDIC, the State of North Dakota is expected to become the owner of the injected CO₂ and all associated liabilities.

Minnkota is requesting an agreement allowing for the injection and permanent storage of CO₂ into Trust pore space. Under North Dakota law, title to pore space and all strata underlying the surface of lands and waters is vested in the owner of the overlying surface estate. The applicable laws taken into consideration of this agreement include Article IX “Trust Lands” of the North Dakota State Constitution, title 15 “Education”, chapter 47-31 “Subsurface Pore Space Policy”, and chapter 38-22 “Carbon Dioxide Underground Storage” of the North Dakota Century Code, and Articles 43-05 “Geological Storage of Carbon Dioxide” and 85-04 “Board of University and School Lands” of the North Dakota Administrative Code.

EXECUTIVE SESSION

Under the authority of North Dakota Century Code Sections 44-04-19.1 and 44-04-19.2, the Board close the meeting to the public and go into executive session for purposes of attorney consultation relating to:

- **Royalty Offers**
- **Newfield Exploration Company et al Civ. No. 27-2018-CV-00143**
- **Continental Resources, Inc. et al Case No. 1:17-CV-00014**
- **Carbon Storage Agreement**

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger		X	X		
Superintendent Baesler			X		
Treasurer Beadle			X		
Attorney General Stenehjem	X		X		
Governor Burgum			X		

The Board entered into executive session at 11:06 AM.

EXECUTIVE SESSION**Members Present:**

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Wayne Stenehjem	Attorney General (Via Teams)
Thomas Beadle	State Treasurer
Kirsten Baesler	Superintendent of Public Instruction

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Rick Owings	Administrative Staff Officer
Kristie McCusker	Paralegal
Adam Otteson	Revenue Compliance Director
Michael Humann	Surface Division Director
James Wald	Legal Council

Guests in Attendance:

Dave Garner	Office of the Attorney General
Troy Seibel	Office of the Attorney General
Reice Haase	Office of the Governor
Leslie Bakken Oliver	Office of the Governor
Charles Carvell	Office of the Attorney General - Newfield and Continental

The executive session adjourned at 1:19 PM and the Board returned to the open session and Teams meeting to rejoin the public. During the executive session meeting, the Board was provided information and no formal action was taken.

Post executive session, the Board took the following formal action relating to the Carbon Storage Agreement.

Motion: The Board supports alignment with the state legislature, other state agencies and organizations in the creation of the Project Tundra initiative. The Board approved the issuance of the Carbon Capture Easement subject to final review and approval of all legal documents by the Office of the Attorney General.

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger		X	X		
Superintendent Baesler			X		
Treasurer Beadle					X
Attorney General Stenehjem	X		X		
Governor Burgum			X		

A D J O U R N

There being no further business, the meeting was adjourned at 1:20 PM.

Doug Burgum, Chairman
Board of University and School Lands

Jodi Smith, Secretary
Board of University and School Lands

(10/28/21)

**Minutes of the Meeting of the
Board of University and School Lands
November 29, 2021**

The November 29, 2021 meeting of the Board of University and School Lands was called to order at 9:01 AM in the Governor's Conference Room of the State Capitol and via Microsoft Teams by Chairman Doug Burgum.

Members Present:

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Wayne Stenehjem	Attorney General
Thomas Beadle	State Treasurer
Kirsten Baesler	Superintendent of Public Instruction

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Kate Schirado	Administrative Assistant
Christopher Dingwall	Minerals Title Specialist
Dennis Chua	Investments
Rick Owings	Administrative Staff Officer
Michael Humann	Surface Division Director
Kristie McCusker	Paralegal
Adam Otteson	Revenue Compliance Director
Michael Shackelford	Investments Director
Lynn Spencer	Minerals Title Specialist
Susan Dollinger	Unclaimed Property
James Wald	Legal Council
Scott Giere	Revenue Compliance
Peggy Gudvangen	Finance Division Director
Kayla Spangelo	Surface Range Soils Management Specialist
Derek Lowstuter	Surface Land Management Specialist
Catelin Newell	Administrative Staff Officer
Vicki Siegel	Finance Administrative Officer
Jessica Fretty	Unclaimed Property Administrative Assistant
Emily Bosch	Unclaimed Property Claims
Chris Suelzle	Minerals Division Director
Matthew Reile	ITD Data Management Intern
Joseph Stegmiller	Natural Resources Professional
Jacob Lardy	Surface Land Management Specialist

Guests in Attendance:

Dave Garner	Office of the Attorney General
Troy Seibel	Office of the Attorney General
Reice Haase	Office of the Governor
Leslie Bakken Oliver	Office of the Governor
Jared Mack	Eide Bailly
Quentin Obrigewitsch	KLJ
Renae Bloms	Office of Management and Business
David Mackie	Continental Resources
Geoff Simon	Western Dakota Energy Association
Joel Brown	MineralTracker
Cathrine Grimsrud	MineralTracker
Joe Ebisa	Journalist
Ron Ness	NDPC
Brady Pelton	NDPC

Amy Sisk
 Adam Willis
 Curtis Krapp
 Cheryl Brown
 Gary Hagen
 Sarah Mixon
 Launa Moldenhauer
 Kelly Moldenhauer

Bismarck Tribune
 Fargo Forum
 Shelly Shelby
 Matt Simmons
 Will Houser
 Kyle Brown
 Eric Sundberg

APPROVAL OF MINUTES

A motion to approve the minutes of the October 28, 2021 regular meeting was made by Attorney General Stenehjem and seconded by Treasurer Beadle and the motion carried unanimously on a voice vote.

REPORTS

October 2021 Report of Encumbrances Issued by Land Commissioner

Granted to:
 For the Purpose of:

Right-of-Way Number:
 Trust:
 Legal Description:

DENBURY ONSHORE LLC, PLANO-TX
 On-lease Activity: Pipeline-Water and CO2
 Injection Pipeline
 RW0008894
 A - Common Schools
 BOW-131-105-16-SW4

Granted to:
 For the Purpose of:

Right-of-Way Number:
 Trust: A - Common Schools
 Legal Description:

DENBURY ONSHORE LLC, PLANO-TX
 On-lease Activity: Pipeline-Water and CO2
 Injection Pipeline
 RW0008895
 BOW-132-106-36-S2SW4, LOTS 6,7

Granted to:
 For the Purpose of:

Right-of-Way Number:
 Trust:
 Legal Description:

DENBURY ONSHORE LLC, PLANO-TX
 On-lease Activity: Pipeline-Water and CO2
 Injection Pipeline
 RW0008897
 A - Common Schools
 BOW-131-106-36-SW4

Granted to:
 For the Purpose of:
 Right-of-Way Number:
 Trust:
 Legal Description:

MARATHON OIL COMPANY INC, DICKINSON-ND
 Easement: Pipeline-Salt Water Pipeline
 RW0008939
 A - Common Schools
 DUN-146-93-16-NE4

Granted to:
BISMARCK-ND
 For the Purpose of:
 Right-of-Way Number:
 Trust:
 Legal Description:

NORTH DAKOTA GAME AND FISH DEPARTMENT,
 Permit: Access to School Land
 RW0008956
 A - Common Schools
 MOR-135-83-36-NE4, SE4, SW

Granted to:
 For the Purpose of:
 Right-of-Way Number:
 Trust:
 Legal Description:

SELECT ENERGY SERVICES LLC, WILLISTON-ND
 Permit: Temporary Water Layflat Line
 RW0008972
 A - Common Schools
 MCK-153-94-36-SW4

(11/29/21)

October 2021 Report of Shut-Ins Approved by Land Commissioner

Granted to: Crescent Point Energy U.S. Corp
For the Purpose of: Operations
Date Issued: 10/15/2021
Application Fee: \$100.00
Trust: SIIF – Strategic Investment and Improvements Fund
Lease: OG-09-01773, OG-09-01774

Summary of Oil and Gas Lease Auction

On behalf of the Board of University and School Lands (Board), the Department of Trust Lands conducted an oil and gas lease auction on www.energynet.com which concluded on November 2, 2021.

There were 59 tracts offered, and 52 received competitive bids (if the Board does not receive a competitive bid, the lease is awarded to the nominator). The highest bid per acre was \$4,824.00 (\$96,480.00 for 20.00 net acres) in Williams County. 21 tracts benefit the Common Schools Trust Fund, two tracts benefit the North Dakota State University Trust Fund, and 36 tracts benefit the Strategic Investment and Improvements Fund (SIIF).

County	Tracts/County	Net Mineral Acres	Total Bonus	Average Bonus/Acre
Bottineau	1	80.00	\$8,320.00	\$104.00
Burke	8	637.66	\$5,108.30	\$8.01
Divide	14	1043.63	\$175,337.86	\$168.01
McKenzie	8	853.04	\$233,007.47	\$273.15
Sioux	7	719.24	\$719.24	\$1.00
Williams	21	1399.83	\$599,323.13	\$428.14
GRAND TOTAL	59	4733.40	\$ 1,021,816.00	\$215.87

There was a total of 18 bidders who submitted 728 bids on 52 tracts. The bidders were from 10 states and one Canadian province (AZ, CO, MN, MT, NC, ND, TX, WA, WY and AB Canada).

A total of \$1,021,816.00 of bonus was collected from the auction.

October Unclaimed Property Report

Unclaimed property is all property held, issued, or owing in the ordinary course of a holder's business that has remained unclaimed by the owner for more than the established time frame for the type of property. It can include checks, unpaid wages, stocks, amounts payable under the terms of insurance policies, contents of safe deposit boxes, etc.

An owner is a person or entity having a legal or equitable interest in property subject to the unclaimed property law. A holder can include a bank, insurance company, hospital, utility company, retailer, local government, etc.

Since 1975, the Unclaimed Property Division (Division) of the Department of Trust Lands (Department) has been responsible for reuniting individuals with property presumed abandoned. The Division acts as custodian of the unclaimed property received from holders. The property is held in trust in perpetuity by the State and funds are deposited in the Common Schools Trust Fund.

The 1981 Uniform Unclaimed Property Act created by the national Uniform Law Commission was adopted by the State in 1985.

For the month of October 2021, the Division received 2,169 holder reports with a property value of \$10,339,023 and paid 215 claims with a total value of \$199,461.

At the October 28, 2021, Board meeting the Treasurer requested the estimated amount of property held by the Unclaimed Property Division. As of June 30, 2021, the Department estimates \$104,284,403 is held.

N.D.C.C. § 47-30.2-44 provides:

1. Except as otherwise provided in this section, the department shall deposit to the credit of the common schools trust fund all funds received under this chapter, including proceeds from the sale of property under sections 47-30.2-40, 47-30.2-41, 47-30.2-42, and 47-30.2-43.
2. The department shall maintain an account with an amount of funds the commissioner reasonably estimates is sufficient to pay claims allowed under this chapter.

The Department's fiscal Cash Management policy states:

Unclaimed Property: The target range for Unclaimed Property operating cash is between \$1.5 and \$2.5 million. Any amounts over \$2.5 million will be invested in the Permanent Trust Fund investment pool. If the balance falls below \$1.5 million, it may be replenished through holder remittances or through the liquidation of a portion of the Unclaimed Property fund's investments.

Per the North Dakota Constitution Article IX Section 1:

All proceeds of the public lands that have been, or may be granted by the United States for the support of the common schools in this state; all such per centum as may be granted by the United States on the sale of public lands; the proceeds of property that fall to the state by escheat; all gifts, donations, or the proceeds thereof that come to the state for support of the common schools, or not otherwise appropriated by the terms of the gift, and all other property otherwise acquired for common schools, must be and remain a perpetual trust fund for the maintenance of the common schools of the state. All property, real or personal, received by the state from whatever source, for any specific educational or charitable institution, unless otherwise designated by the donor, must be and remain a perpetual trust fund for the creation and maintenance of such institution, and may be commingled only with similar funds for the same institution. If a gift is made to an institution for a specific purpose, without designating a trustee, the gift may be placed in the institution's fund; provided that such a donation may be expended as the terms of the gift provide. Revenues earned by a perpetual trust fund must be deposited in the fund. The costs of administering a perpetual trust fund may be paid out of the fund. The perpetual trust funds must be managed to preserve their purchasing power and to maintain stable distributions to fund beneficiaries.

Once funding is placed in the Common Schools Trust Fund, it cannot be moved back into a cash account for the purposes of fulfilling a claim the Department has received. Thus, funds are kept available at the Bank of North Dakota and at Northern Trust to ensure adequate funding is available to meet claims obligations.

(11/29/21)

Investment Updates

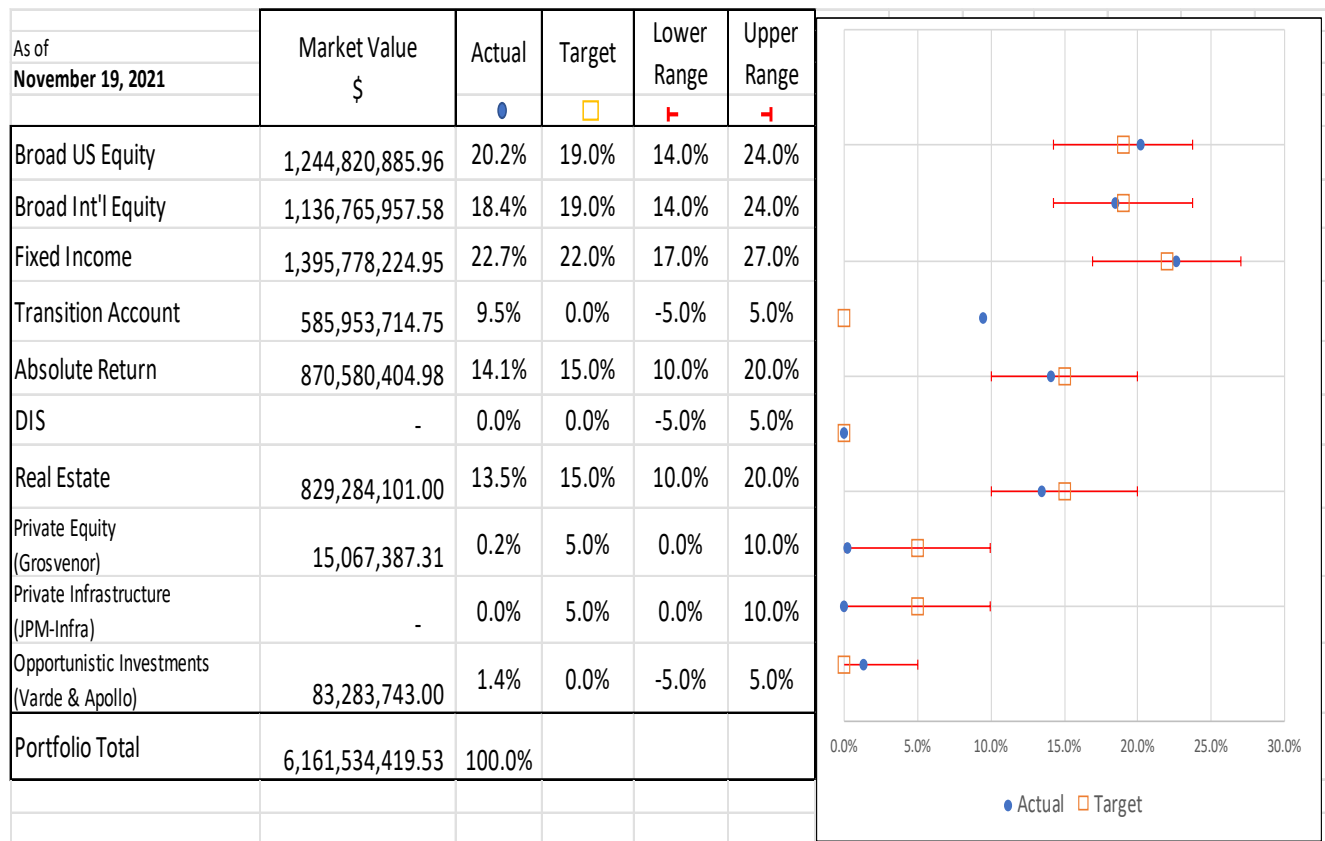
Portfolio Rebalancing Updates

There were no capital calls made since the last Board meeting hence unfunded commitments as of November 19, 2021, still stands at around \$825.9M. These are as follows:

1. Apollo Accord Fund, \$84.8M
2. Varde Dislocation Fund, \$42.5M
3. GCM Private Equity, \$115.1M
4. ARES Pathfinder Fund, \$74.5M
5. Angelo Gordon DL IV, \$42.5M.
6. Owl Rock Diversified Lending, \$56.5M
7. GCM Secondary Opportunities Fund, \$150M
8. JPM Infrastructure Fund, \$130M
9. Harrison Street Core Property Fund LP, \$130M

Asset Allocation

The table below shows the status of the permanent trusts' asset allocation as of Nov. 19, 2021. The figures provided are unaudited.



S U R F A C E

No Net Loss Preliminary Land Sale Approval T136N R86W Section 28 NW1/4, Section 32 N1/2N1/2, Section 36 SE1/4
Trust Land (Attachment 1 - aerial map)
 Grant County
Township 136 North, Range 86 West

Section 28: NW $\frac{1}{4}$
 Section 32: N $\frac{1}{2}$ N $\frac{1}{2}$
 Section 36 SE $\frac{1}{4}$

Provided accessible and leasable land (Attachment 2 - aerial map)

Hettinger County

Township 136 North, Range 94 West

Section 20: S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$

The Board of University and School Lands (Board) received an application from Kelly and Launa Moldenhauer for the purchase of approximately 480 acres of trust land in Grant County (see trust land legal description above) as part of a no net loss land sale in accordance with Chapter 85-04-07 and Chapter 85-04-08 of the North Dakota Administrative Code. To meet the requirements of a no net loss land sale, the applicants/purchasers are required to provide land (see provided accessible and leasable land legal description above) as payment.

The properties were evaluated and appraised as part of a no net loss property sale. The attached Land Evaluations (Attachments 3 and 4) contain land and environmental assessment, rental, and appraisal information for these properties. The Requirements of Sale – Sale Criteria Evaluation is also attached (Attachment 5).

The following is a summary of sale criteria (Attachment 5) considered by the Department of Trust Lands in consideration of a no net loss sale in accordance with subsections a through f of N.D. Admin. Code 85-04-07-02(2) and 85-04-08-02(2).

a. Equal of greater value

Trust Land Value:	Grant County Appraisal	\$262,625
	Allied Appraisals Inc.	\$293,000
Land to be provided:	Allied Appraisals Inc.	\$382,500

b. Equal or greater income

Annual Rental Income

Trust Land Fair Market Value (FMV) minimum rent Grant County	\$6,726
Land to be provided FMV minimum rent Hettinger County	\$6,721
Land to be provided current private rent Hettinger County	\$9,360

Annual Income Return (rent less tax obligations)

Trust Land FMV minimum rent less taxes Grant County	\$6,624
Land to be provided FMV minimum rent less taxes Hettinger County	\$5,677
Land to be provided current rent less taxes Hettinger County	\$8,586

Comments: The highest and best use for the trust land and the land to be provided is agricultural. The trust land in Grant County for which the sale application was received would have an annual income return of \$6,624. The land to be provided in Hettinger County would have a projected annual income, when applying the Board's FMV rent policy, of \$5,677, resulting in an estimated decrease in annual income of \$957 to the various trusts. Using the current cash rent value (obtained from applicant) there would be an annual income of \$8,586, resulting in an estimated increase in annual income of \$1,962 to the various trusts. It should be noted that the FMV minimum rent is lower because the major soil, Vebar-Cohagen, has a low cropland productivity index which results in the average cropland rental rate for Hettinger County being adjusted downward. The current rental rate of \$40 per acre (\$9,360) is indicative

(11/29/21)

of good demand to rent cropland and a willingness for prospective lessees to pay average to above average rental rates for lower producing cropland.

- c. Acreage. A no net loss sale should result in the board receiving equal or greater acreage. The board may, however, consider receiving less acreage in return for one or more of the following:
- (1) Improved dedicated access;
 - (2) Substantially higher value; or
 - (3) Substantially higher income.

Comments: Although this transaction would not result in the Board receiving equal or greater acreage, the land to be provided has excellent dedicated access when compared to the N $\frac{1}{2}$ N $\frac{1}{2}$ of Section 32 and the SE $\frac{1}{4}$ of Section 36. The land to be provided is of higher value than trust land (\$382,500 versus \$293,000 – Allied Appraisal Values) and would provide similar income (\$5,677 versus \$6,624) using the Board’s FMV rent policy and greater income (\$8,586 versus \$6,624) using the current private rental rate.

- d. Consolidation of trust lands. The proposed no net loss sale must not fragment trust land holdings by creating isolated parcels of trust land. In all no net loss sales, the Board shall reserve all minerals underlying the trust lands pursuant to section 5 of article IX of the Constitution of North Dakota subject to applicable law.

Comments: The proposed no net loss sale will not fragment trust land holdings by creating an isolated parcel of trust land. All minerals underlying the trust lands would be reserved pursuant to section 5 of article IX of the Constitution of North Dakota subject to applicable law.

- e. Potential for long-term appreciation. The proposed no net loss sale must have similar revenue potential as the trust lands.

Comments: The potential long-term appreciation for the land tracts involved in this sale would be similar for this proposed no net loss sale.

- f. Access. A no net loss sale must not diminish access to trust lands. The no net loss land should provide equal or improved access.

Comments: The land to be provided has excellent dedicated access. This land is 1 $\frac{1}{2}$ miles west of the Enchanted Highway and has a good County gravel road (St. Michaels Road) with access approaches along the south side of the tract and good section line access trails along the east and north sides of the tract. Two of the three proposed sale tracts do not have improved dedicated access. The N $\frac{1}{2}$ N $\frac{1}{2}$ of Section 32 is an isolated tract which requires access permission across surrounding private land. Access to the SE $\frac{1}{4}$ of Section 36 from the west would be across private land, while access from the east would be by section line trail to the southeast corner. The NW $\frac{1}{4}$ of Section 28 has excellent dedicated access as a County Road traverses the tract (58th St SW).

Land adjacent to the proposed land is Wildlife Habitat to the north and east, as the United States Bureau of Reclamation owns the entire section 21 (640 acres), three quarters of section 22 (480 acres) to the east. Land to the north of Section 20 the S $\frac{1}{2}$ of Section 17 is owned by the Mott 30 Mile Creek Hunt Club. Land to the south and west is privately owned land used for cropland production.

Per N.D. Admin. Code § 85-04-07-03(3) and N.D. Admin. Code § 85-04-08-03(4) concerning the sale procedure:

Upon a determination that the application covers a tract the board is willing to sell, the department shall post on the department's website a notice of the application for sale, any supporting documentation, and instructions for submitting public

comments. The department also shall publish notice of a letter of application for sale in the official newspaper of the county where the nominated tract is located and in the Bismarck Tribune. Notice must be published once each week for three consecutive weeks prior to the deadline for comments. The notice must contain the legal description of the proposed tract and the deadline for comments. If publication of any notice is omitted inadvertently by any newspaper or the notice contains typographical errors, the department may proceed with the scheduled comment period if it appears the omission or error is not prejudicial to the department's interest. All comments must be in writing and contain the following:

- a. Name and address of the interested person;
- b. Applicant's name and address;
- c. The legal description of the proposed tract for sale as shown on the published notice; and
- d. A detailed statement as to whether the interested person supports or opposes the sale.

After public comment and in accordance with N.D. Admin. Code §§ 85-04-07-03 and 85-04-08-03, the Board shall review all appraisals, any public comments, other relevant information including title examinations, and determine whether to proceed with the sale. If the Board decides to proceed with the sale, the Board shall establish a minimum acceptable sale price.

The Department posted notification in the Bismarck Tribune, the Grant County News, the Hettinger County Herald, and on the Department's website with comments received until 5:00 p.m. on September 10, 2021. The comments raised a concern that since many constituents subscribe to a newspaper in their area, which is not always the official county newspaper, not enough notification was provided to the public. It was requested that the comment period be extended and the notice of application for sale be advertised in a much larger area to allow more citizens an opportunity to comment.

On September 30, 2021, the Board authorized the Commissioner to extend the posting for public comment on the Department's website and that notice be published in necessary newspapers in areas surrounding the land for sale. The website included a notice of the application for sale, any supporting documentation, and instructions for submitting public comments regarding the sale. The notice provided a second public comment period set for October 25, 2021 through November 5, 2021. The Department posted in the following papers:

Adams County Record
 Grant County News
 Carson Press
 Hettinger County Herold
 Mandan News
 Dickinson Press
 Bismarck Tribune

The Department received a total of thirteen comments regarding the no net loss sale. A summary of the comments can be reviewed in Attachment 6.

Proposed Sale of Property in Grant County

Tract 1 Township 136 North, Range 86 West, Section 28 NW¼: This tract of land is located approximately 12 miles north and 2 miles east of Carson, North Dakota. There is a gravel road that provides access through the tract. This tract was acquired by foreclosure of the James N. Lester farm mortgage on January 27, 1927 and assigned to the North Dakota State University

Trust Fund. The property was appraised by Allied Appraisals Inc., Bismarck, North Dakota, on February 25, 2021, having a current appraised value of \$99,000.

Tract 2 Township 136 North, Range 86 West, Section 32 N½N½: This tract of land is located approximately 9 miles north and 1 mile east of Carson North Dakota. There is no vehicular section line access to this tract. This tract was acquired by foreclosure of the Mina H. Aasved farm mortgage on August 3, 1935 and assigned to the Common Schools Trust Fund. The property was appraised by Allied Appraisals Inc., Bismarck, North Dakota, on February 25, 2021, having a current appraised value of \$93,000.

Tract 3 Township 136 North, Range 86 West, Section 36 SE¼: This tract of land is located approximately 8 miles north and 5½ miles east of Carson, North Dakota. There is a section line trail that allows access from the east to the southeast corner of this tract. This tract is also adjacent to trust land to the north (NE¼). This land was granted to North Dakota at statehood and assigned to the Common Schools Trust Fund. The property was appraised by Allied Appraisals Inc., Bismarck, North Dakota, on February 25, 2021, having a current appraised value of \$101,000.

Motion: The Board authorizes the Commissioner to proceed with the no-net loss sale with a minimum opening bid(s) for:

DESCRIPTION	Minimum Opening Bid
T136N R86W Section 28 NW1/4	\$99,000
T136N R86W Section 32 N1/2N1/2	\$93,000
T136N R86W Section 36 SE1/4	\$101,000

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger	X		X		
Superintendent Baesler			X		
Treasurer Beadle		X	X		
Attorney General Stenehjem			X		
Governor Burgum			X		

Tract map documents were also presented to the Board and are available upon request.

Summary of Fall Surface Lease Auctions

The 2021 fall lease auctions were completed in October. The following table is a summary of the fall lease results as compared to the 2019 in-person fall auctions and the 2020 online auctions.

	2019	2020	2021
Number of counties	34	36	34
Total tracts offered	1146	1039	1503
Number of tracts bid unleased	78	43	34
Number of tracts bid-up	146	208	174
Total amount of minimum advertised bids	\$2,546,925	\$2,001,193	\$2,729,707
Total amount received	\$2,418,748	\$2,330,000	\$3,062,820
Total amount collected over minimum bid	\$128,177	\$328,807	\$333,113

All payments from the fall auctions have cleared and no issues remain.

The 34 unleased tracts will be offered again in March of 2022 at the spring auctions.

With the Board's approval of leases today the Department will process the lease documents for the lessees.

Motion: The Board approves the 1,469 surface leases resulting from the fall 2021 surface lease auctions.

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger		X	X		
Superintendent Baesler			X		
Treasurer Beadle	X		X		
Attorney General Stenehjem			X		
Governor Burgum			X		

O P E R A T I O N S

Information Technology Project Status Update

The Department of Trust Land's (Department) 2017-2019 biennial budget appropriation includes \$3.6 million to replace legacy information technology (IT) systems as authorized by Senate Bill 2013 of the Sixty-fifth Legislative Assembly.

Severe limitations in the current IT system, including redundant manual processes, have hampered efficiencies. Many of the Department's core data management systems were developed in the 1980s and 1990s, using designs and tools no longer supported by vendors. Some supplemental system improvements and purchases have been implemented; however, the outdated database structure restricts many potential improvements.

On April 29, 2019, the new system for Unclaimed Property was successfully launched.

On July 1, 2020, the new Financial Management and Accounting system was successfully launched.

On September 14, 2020, the Revenue Compliance Division successfully launched the migrated and updated software system.

On November 8, 2021, the Surface Land Management System successfully launched. The Department is currently working through the implementation of specific processes that were considered non-critical for go-live. Additionally, the web-portal launched on December 8, 2021. Funding was requested through the American Rescue Plan Act to support expansion of the web portal to enhance and to allow for online transactions; however, the funding request was not appropriated.

Additional capital funding was approved through Senate Bill 2013 to support the implementation of software for the Minerals Division. The Department will work with our vendor to determine an appropriate schedule for the building and implementation of a Minerals Management system.

Motion: The Board authorizes the Commissioner to utilize continuing authority in the amount not to exceed \$600,000 for web portal enhancements and online transactions.

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger			X		
Superintendent Baesler			X		
Treasurer Beadle	X		X		
Attorney General Stenehjem		X	X		
Governor Burgum			X		

Definitions, Unclaimed Property, Surface Land Management, and Minerals Management Administrative Rules

(11/29/21)

Due to statutory changes made during the Sixty-seventh Legislative Assembly, the Department of Trust Lands (Department) proposes changes to Title 85, Board of University and School Lands, of the North Dakota Administrative Code as follows:

North Dakota Administrative Code § 85-01-01-01:

Repeal of N.D.A.C. ch. 85-06-01, Administrative Rules relating to public access, necessitated revisions to the N.D.A.C. § 85-01-01-01, including removal of the definition of the word vehicle, which resulted in renumbering the remaining definitions. The definition of encumbrance was revised to be more encompassing of all types of encumbrances. Due to the repeal and reenactment of the Unclaimed Property Act it was necessary to make a clerical correction as to the chapter number. All revisions are spelled out in the attached proposed rules.

North Dakota Administrative Code ch. 85-03:

Due to the repeal of the Unclaimed Property Act (N.D.C.C. ch. 47-30.1), and the enactment of the Revised Uniform Unclaimed Property Act (N.D.C.C. ch. 47-30.2) under Senate Bill 2048, the Department proposes revisions to Article 85-03, Unclaimed Property, of the North Dakota Administrative Code. Many of the revisions relate to clerical corrections regarding references to the North Dakota Century Code chapter, general authority, and law implemented. Further, certain administrative rules were repealed to reflect information that now appears in statute as part of N.D.C.C. ch. 47-30.2, while other proposed rules were added based on new requirements under the law. The most significant change relates to the addition of a chapter regarding Examinations. All revisions are spelled out in the attached proposed rules.

North Dakota Administrative Code ch. 85-04-05:

House Bill 1081 was brought to address enforcement mechanism concerns for N.D.A.C. ch. 85-04-05, Public Access and Use. With the passage of HB 1081, all of N.D.A.C. ch. 85-04-05 was incorporated into N.D.C.C. ch. 15-08. Therefore, the Department requests repeal of this chapter in its entirety. All revisions are spelled out in the attached proposed rules.

North Dakota Administrative Code § 85-06-01-12:

Due to changes in N.D.C.C. §§ 15-05-10 and 47-16-39.1, as provided in House Bill 1080, the Department proposes revising N.D.A.C. § 85-06-01-12 as it relates to penalty and interest calculations. Waiver of penalty and interest was also removed from this section of the administrative code based on the revised language in N.D.C.C. § 15-05-10. All revisions are spelled out in the attached proposed rules.

On August 26, 2021, the Board authorized the Commissioner to proceed with a public comment period and the collection of comments. Additionally, the Board authorized the Commissioner to submit to Legislative Council the Administrative Rules.

The Department received comments relating to Article 85-03, Unclaimed Property. The Department is recommending revising the originally proposed Administrative Rules, as shown in the attached red-line version (Attachment 1), prior to submitting to the Attorney General's Office for review. Attachment 2 is a summary of the comments received, the discussion and review by the Department, and the action taken concerning the proposed rules and changes made based on the comments and discussions.

The following is a summary of the changes provided in Attachment 1, the proposed Administrative Rules as revised after the public comment period. Changes after comments include:

85-03-02-05:

- Title changed.
- Narrowed the scope to further define due diligence requirements for specific types of securities accounts.

Motion: The Board approves the Commissioner to proceed in submitting the proposed revised Administrative Rules for Unclaimed Property, Surface Land Management, and Minerals Management.

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger		X	X		
Superintendent Baesler			X		
Treasurer Beadle			X		
Attorney General Stenehjem	X		X		
Governor Burgum			X		

Administrative Rules (showing redlines to 85-03-02) and Summary of Comments were also presented to the Board and are available upon request.

Audited Financial Statements for the Year Ended June 30, 2021

Eide Bailly CPAs and Business Advisors has completed its review of the financial statements of the Department of Trust Lands for the year ended June 30, 2021 and provided an opinion on the fair presentation of the financial statements.

The draft report identified two audit findings and recommendations, see pages 89 and 90 of financial statement report

The electronic version of the audited financial statement has not been posted, but when finalized will be available on the State Auditor's website at: www.nd.gov/auditor/trust-lands-nddepartment and on the Department of Trust Lands website at: www.land.nd.gov.

The Department of Trust Lands Audited Financial Statement Fiscal Year 2021 booklet report was also presented to the Board and are available upon request.

2019-2021 Biennial Report

In accordance with N.D.C.C. Section 54-06-04, the biennial report submitted by agencies is "covering operations for the two preceding fiscal years." The Department of Trust Lands (Department) developed a biennial report that is informative, a historical record and an excellent reference source covering the periods from July 1, 2019, to June 30, 2021.

The Department has submitted a printed copy of the report to the Governor and Secretary of State's Office. Additionally, an electronic version has been uploaded to the Department's [website](#).

The Department of Trust Lands 2019-2021 Biennial Report booklet was also presented to the Board.

North Dakota Trust Lands Completion Act

On November 26, 2019, the Board of University and School Lands (Board) approved the Commissioner to identify potential tracts for coal acreage exchange with the Federal Government.

The Department of Trust Lands (Department) worked to draft a Federal bill that would allow the Board to relinquish land and minerals and select in lieu thereof equal value Federal land and minerals within North Dakota.

The 67th Legislative Assembly unanimously passed Senate Concurrent Resolution 4013, a concurrent resolution urging Congress to pass the North Dakota Trust Lands Completion Act.

On November 4, 2021, the North Dakota Trust Lands Completion Act (S.3200) “[t]o 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” was introduced to the Senate Energy and Natural Resources Committee

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.

Established in 1960, the Little Missouri National Grasslands occupy more than 1,033,271 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.

S.3200 will 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. Further, S.3200 will accomplish the following:

- Provide to the Indian Tribes control of land and minerals within the reservations;
- Land 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 and minerals in the State of North Dakota of equal value.

The land conveyed under S.3200 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 land and minerals. It is not the intent for these transactions to impact any treaty lands or any possible unceded territory lands.

S.3200 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 is property defined as "nongrant" and "other than original grant lands" in N.D.C.C. § 15-07-01.

S.3200 was also presented to the Board and is available upon request.

M I N E R A L S

Mineral Valuation

Senate Bill 1013 of the Sixty-Sixth Legislative Assembly approved funding for a mineral valuation study.

The Department of Trust Lands (Department) was tasked with conducting a study to determine the estimated value of the mineral assets, 2.6 million acres, held in trust by the Board of University and School Lands (Board).

The Request for Proposal for the Assessment was released September 20, 2019. A Notice of Intent to Award was issued to MineralTracker on January 2, 2020. On June 30, 2020, MineralTracker was acquired by First International Bank & Trust and continues to provide mineral valuations and mineral management software subscriptions as part of First International's Mineral and Land Services Department.

Joel Brown, a petroleum engineer and appraiser for MineralTracker, will present the opinion of the value using fair market determination in conjunction with directives provided by the Board of University and School Lands Mineral Valuation Policy that was adopted on June 25, 2020.

At the July 29, 2021, Board meeting, the Board instructed the Commissioner to undertake a study on the formula written in the North Dakota Constitution Article IX Section 2 relative to payouts from the funds to ensure a formula that will maintain the long term financial health of the Trusts.

The analysis employed to form the opinion of value was conducted in compliance with the Society for Mining, Metallurgy, and Exploration (SME) Standards and Guidelines for the Valuation of Mineral Properties and the Society of Petroleum Engineers (SPE) Petroleum Resource Management System. The valuation techniques that were performed utilized both an Income Approach and a Market Approach to provide a deterministic value of all Subject Minerals, which have been more fully described herein. The data—such as oil and gas production, well information,

mapping information, etc.—that was assembled for the purposes of the Mineral Estate Valuation, was obtained from reputable public sources, including the North Dakota Department of Mineral Resources. Additional information related to the ownership of the Subject Minerals was provided by the State.

In consideration of all relevant information, and the interpretation thereof, as thoroughly described in this report, it is the opinion of this qualified appraiser that the value of all Subject Minerals as of December 31, 2020 is \$2,363,837,827.

Mineral Estate Valuation presentation as of December 31, 2020 was presented to the Board and is available upon request.

Acreage Adjustment Survey - T153N, R102W Sections 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 34, and 36

Under North Dakota law, the Board of University and School Lands (Board) is vested with the authority to manage state-owned minerals including the oil, gas, and related hydrocarbons within the beds of the State's navigable waters. On behalf of the State, the Board oversees the Strategic Investment and Improvements Fund (SIIF) which collects the revenues from these sovereign minerals.

Timeline of State Activity Related to Sovereign Lands

- The 1977 Legislature defined “sovereign lands” as “those beds, islands, accretions, and relictions lying within the ordinary high watermark of navigable lakes and streams.” 1977 N.D. Sess. Laws, ch. 144, § 1, codified as N.D.C.C. § 15-08.2-02 (repealed 1989 N.D. Sess. Laws, ch. 552, § 4).
- From 1977 to 1989, the Board had authority over both the surface and subsurface of sovereign lands, including the power to convey interests.
- In 1989, the Legislature again defined state title as “those beds, islands, accretions, and relictions lying within the ordinary high watermark of navigable lakes and streams.” 1989 N.D. Sess. Laws, ch. 552, § 3, codified as N.D.C.C. § 61-33-01.
- The 1989 Legislature gave the State Engineer’s Office authority to manage the surface and the Board authority over the oil, gas, and related hydrocarbons within the subsurface, with each agency having the power to convey interests.
- In 2007, the Office of the State Engineer issued the North Dakota Sovereign Land Management Plan and Ordinary High Water (OHWM) Delineation Guidelines.
- In 2009, the Board and the State Engineer engaged Bartlett & West, a private engineering company, to undertake a comprehensive study of the OHWM along the Yellowstone River and the Missouri River from the Montana border to river mile marker 1549 near Williston (Phase I Delineation).
- In 2010, the Board again contracted with Bartlett & West to approximate the location of the OHWM for the historic Missouri River under Lake Sakakawea from river mile marker 1574 near the Furlong Loop to river mile marker 1482, the border of the Fort Berthold Reservation (Phase II). This study was completed using historical aerial photography, elevation data, and topographic maps.
- In 2010, the Board authorized Phase III to investigate specific and isolated sections of the Missouri and Yellowstone Rivers between Williston to the Montana border that could not be fully completed under Phase I due to location and complexity (this includes the Trenton Lake area.)
- In 2012, the Board initiated the review of the estimated historic OHWM between the Four Bears Bridge and the Garrison Dam (Phase IV) using the same techniques as Phase II.
- In 2013, the North Dakota Supreme Court issued decisions in *Reep v. State* and *Brigham v. State* holding that the State owns the mineral interests up to the OHWM of navigable rivers and water bodies.

- In 2017, the Sixty-Fifth Legislative Assembly's adoption of Senate Bill 2134 (SB 2134), codified as N.D.C.C. ch. 61-33.1, sought to establish state ownership of minerals below the OHWM of the historical Missouri riverbed channel (Historical OHWM) inundated by Pick-Sloan Missouri basin project dams.
- In 2019, the Sixty-Sixth Legislative Assembly amended N.D.C.C. ch. 61-33.1 relating to the ownership of mineral rights of land subject to inundation by Pick-Sloan Missouri basin project dams. Under N.D.C.C. § 61-33.1-03(8), the Board contracted with Kadrmass, Lee & Jackson, Inc. (KLJ) "to analyze the final review findings and determine the acreage on a quarter-quarter basis or government lot basis above and below the [Historical OHWM] as delineated by the final review findings of the industrial commission."

On June 25, 2020, the Board formally requested the North Dakota Industrial Commission complete further review of T153N, R102W Sections 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 34, and 36. The North Dakota Industrial Commission entered Order No. 31104 providing the Department of Trust Lands (Department) with necessary information to complete the acreage adjustment survey in T153N, R102W Sections 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 34, and 36.

The Department consulted with the State Engineer as to the State's sovereign land ownership in Sections 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 34, and 36 of Township 153 North, Range 102 West, Williams/McKenzie Counties, North Dakota (more commonly referred to as the Trenton Lake area.) On November 24, 2020, the State Engineer presented a technical memorandum to the Board. The Board requested the Department provide an outline of options for the Board to review.

On January 28, 2021, the Board was presented with options relating to T153N, R102W Sections 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 34, and 36. The Board requested the Department work with the State Engineer's Office to provide additional insight.

On July 29, 2021, the Board authorized the Commissioner to request that KLJ complete the Acreage Adjustment Survey for T153N, R102W Sections 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 34, and 36.

KLJ is available to review the methodology they used to calculate the acreage adjustments and answer any questions the Board may have regarding the acreage adjustment results. KLJ has provided the Department with a Final Report for Acreage Determination along the Ordinary High Water Mark for T153N, R102W Sections 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 34, and 36 as adopted by the North Dakota Industrial Commission Order No. 29129 which will be available on the Department's website.

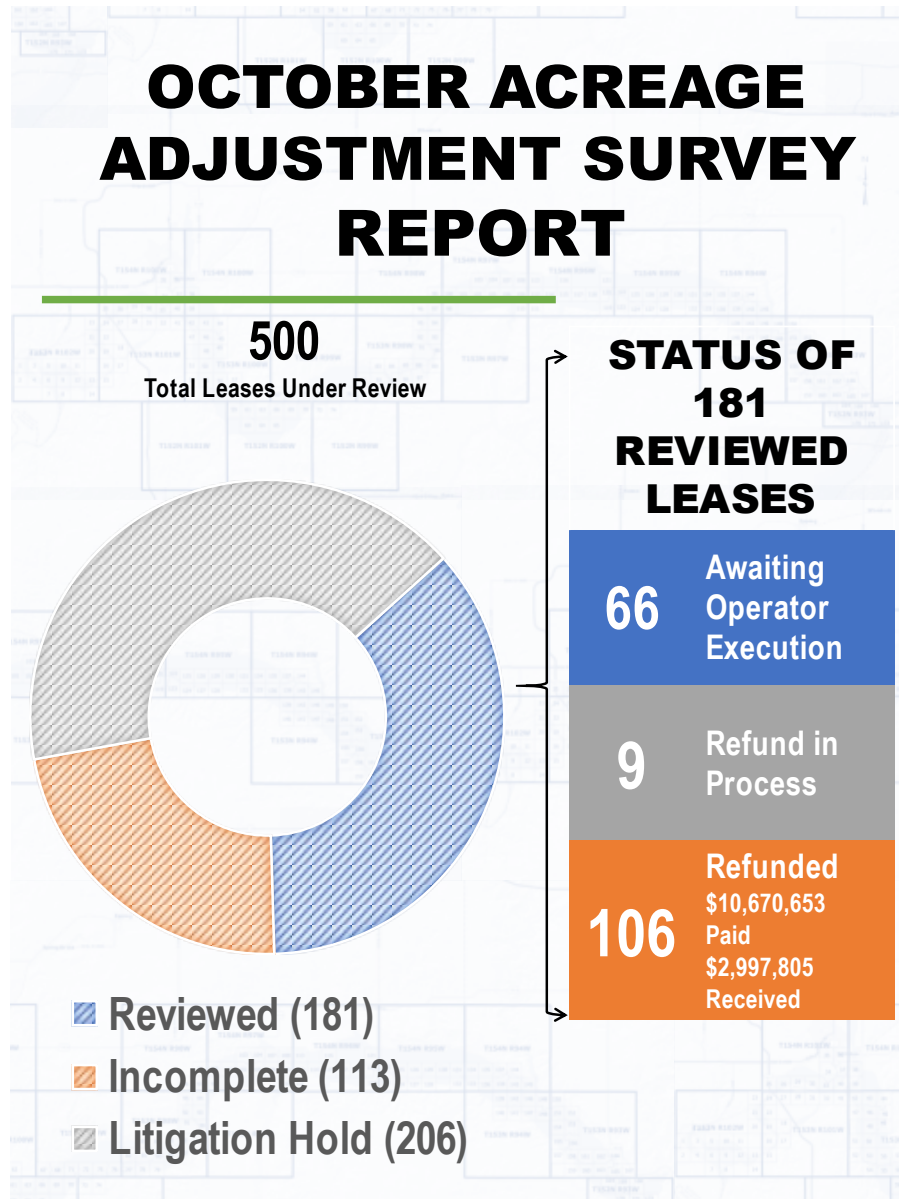
Upon the Board's adoption of the Acreage Adjustment Survey for T153N, R102W Sections 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 34, and 36 as prepared by KLJ, the Department will promptly begin updating records to satisfy the Board's duty under N.D.C.C. § 61-33.1-04(2)(a).

Motion: The Board adopts the acreage adjustment survey on a quarter-quarter basis or government lot basis above and below the ordinary high water mark as delineated by the final review findings of the North Dakota Industrial Commission for T153N, R102W Sections 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 34, and 36.

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger			X		
Superintendent Baesler		X	X		
Treasurer Beadle			X		
Attorney General Stenehjem	X		X		
Governor Burgum			X		

Map T153N, R102W Sections 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 34, and 36 were presented to the Board and are available upon request.

Acreage Adjustment Report



NDDTL River Tracts map was also presented to the Board and is available upon request.

Repayment of Unpaid Gas Royalties Update

The Board of University and School Lands (Board) manages land, minerals, and proceeds as trustee for the exclusive benefit of constitutionally identified beneficiaries, with much of the income going towards funding North Dakota schools and institutions. The Board also manages oil, gas and other hydrocarbons underlying sovereign lands for the State of North Dakota.

The Department of Trust Lands (Department) has persistently worked with operators to collect payment or establish escrow accounts for royalties from the production of minerals, in accordance with the Board's lease, rules, and policies. Royalty audits began in the late 1980's and a Revenue

Compliance Division was created in 2011 to ensure that royalty and other collections made on behalf of the trusts and other funds are complete and accurate.

A letter regarding Formal Notification of Gas Royalty Repayment Obligations dated February 11, 2020 (February 2020 Letter), was sent to all entities required to pay royalties to the Board pursuant to the Board's lease. The February 2020 Letter advised all entities who have been deducting post production costs from royalty payments made to the Department that they have been underpaying royalties, contrary to the terms of the Board's lease. Entities were advised that penalties and interest continue to accrue on any unpaid amounts in accordance with the February 2020 Letter until payment is received. On April 8, 2020, the Board extended the date to come into compliance with gas royalty payments, as outlined in the February 2020 Letter, to September 30, 2020. At the August 27, 2020, Board meeting, the Board extended the date to come into compliance with gas royalty payments, as outlined in the February 2020 Letter, to April 30, 2020.

Since the issuance of the February 2020 Letter, the Department has been working with payors who have been deducting post production costs from royalty payments made to the Department to ensure that they are in compliance with the terms of the Board's lease.

The Department has several royalty repayment offers prepared to present to the Board in executive session pursuant to N.D.C.C. §§ 44-04-19.1 and 44-04-19.2.

LITIGATION

Newfield Litigation

Case: **Newfield Exploration Company, Newfield Production Company, and Newfield RMI LLC v. State of North Dakota, ex rel. the North Dakota Board of University and School Lands and the Office of the Commissioner of University and School Lands, a/k/a the North Dakota Department of Trust Lands, Civ. No. 27-2018-CV-00143**

Date Filed: March 7, 2018

Court: District Court/McKenzie County

Attorneys: David Garner

Opposing

Counsel: Lawrence Bender - Fredrikson & Byron, P.A. and Michelle P. Scheffler – Haynes and Boone, LLP

Judge: Robin Schmidt

Issues: Plaintiff is seeking a Declaratory Judgment that it is currently paying gas royalties properly under the Board's lease. Specifically, Plaintiff is asking the Court to order that gas royalty payments made by the Plaintiff be based on the gross amount received by the Plaintiff from an unaffiliated third-party purchaser, not upon the gross amount paid to a third party by a downstream purchaser, and that Plaintiff does not owe the Defendants any additional gas royalty payments based on previous payments.

History: A Complaint and Answer with Counterclaims have been filed. Newfield filed an Answer to Counterclaims. A Scheduling conference was held July 27, 2018. Plaintiffs' filed a Motion for Summary Judgment on August 13, 2018 and Defendants filed a Cross-Motion for Summary Judgment. Plaintiffs' Response was filed October 19, 2018 and Defendants' Reply was filed November 9, 2018. A hearing on the Motions for Summary Judgment was held on January 4, 2019 at 1:30 p.m., McKenzie County. An Order on Cross Motions for Summary Judgment was issued on February 14, 2019, granting Plaintiff's motion for summary judgment and denying Defendants' motion for summary judgment. The Judgment was entered March 1, 2019, and the Notice of Entry of Judgment was filed March 4, 2019.

Defendants have filed a Notice of Appeal to the North Dakota Supreme Court (Supreme Court). The trial scheduled in McKenzie County District Court for September 10 and 11, 2019 has been cancelled. Defendants/Appellants' Brief to the Supreme Court was filed April 29, 2019. Plaintiffs/Appellees filed their Brief of Appellees and Appendix of Appellees on June 7, 2019. Defendants/Appellants filed a reply brief on June 18, 2019. Oral Argument before the Supreme Court was held on June 20, 2019. On July 11, 2019, the Supreme Court entered its Judgment reversing the Judgment of the McKenzie County District Court. On July 25, 2019 Newfield filed Appellee's Petition for Rehearing. Also on July 25, 2019, a Motion for Leave to File Amicus Curiae Brief by Western Energy Alliance in Support of Newfield was filed with the Supreme Court. On July 26, 2019, a Motion for Leave to File Amicus Curiae Brief by North Dakota Petroleum Council in Support of Newfield was filed with the Supreme Court. On August 20, 2019, the North Dakota Supreme Court requested Defendants file a Response to the Petition for Rehearing and the two Amicus Curiae Briefs no later than September 4, 2019. Defendants/Appellants filed their Response to Petition for Rehearing on September 4, 2019. A Corrected Opinion was filed by the North Dakota Supreme Court on September 9, 2019, changing the page number of a citation. On September 12, 2019, the North Dakota Supreme Court entered an order denying Newfield's Petition for Rehearing. On September 20, 2019, the opinion and mandate of the Supreme Court was filed with McKenzie County District Court. A Telephonic Status Conference was held October 8, 2019. On October 9, 2019, the District Court issued an Order Setting Briefing Schedule which ordered "the parties to file a brief regarding how they suggest the case proceed after the Supreme Court's decision." The parties filed briefs with the District Court on November 6, 2019. Notice of Appearance for Michelle P. Scheffler of Hayes and Boone, LLP on behalf of Plaintiffs was filed November 7, 2019. Telephonic Status Conference scheduled for March 17, 2020 before the District Court. On May 14, 2020, the Court scheduled a five-day Court Trial to start on October 4, 2021, McKenzie County Courthouse. On July 28, 2020, a Stipulated Scheduling Order was entered, setting dates for various deadlines. On April 1, 2021, the State served Defendants State of North Dakota, ex re. the North Dakota Board of University and School Lands, and the Office of the Commissioner of University and School Lands, a/k/a the North Dakota Department of Trust Lands' Interrogatories, Requests for Production of Documents, and Requests for Admissions to Plaintiff. On April 1, 2021, the Plaintiffs served the following on the State: Plaintiffs' Notice of Intention to Take Oral and Videotaped Deposition of a Representative of the North Dakota Department of Trust Lands; Plaintiffs' Notice of Intention to Take Oral and Videotaped Deposition of Lance Gaebe; Plaintiffs' Notice of Intention to Take Oral and Videotaped Deposition of Taylor K. Lee; Plaintiffs' Notice of Intention to Take Oral and Videotaped Deposition of Jodi Smith; and Plaintiffs' First Set of Interrogatories, Requests for Production, and Requests for Admission to all Defendants. On July 1, 2021, Defendants filed their Motion for Summary Judgment and Plaintiffs filed their Motion for Partial Summary Judgment. On August 2, 2021, Plaintiffs filed a Motion to Admit Garrett S. Martin Pro Hac Vice and their Response Brief in Opposition to Motion for Summary Judgment. Also on August 2, 2021, Defendants filed their Brief in Response to Plaintiffs' Motion for Partial Summary Judgment. On August 4, 2021, the parties filed an Expedited Joint Motion for Extension of Time to Reply to Briefs in Opposition/Response to Motions for Summary Judgment and the Joint Motion to Exceed Volume Limitations. On August 5, 2021, the Court issued its Order Granting Expedited Joint Motion for Extension of Time to Reply to Briefs in Opposition/Response to motions for Summary Judgment and the Order Granting Joint Motion to Exceed Volume Limitations. The parties now have until August 30, 2021 to file their opposition/response briefs and the page limit was extended from 12 pages to 30 pages for both parties. On August 9, 2021, Plaintiffs requested a

hearing on Plaintiff's Motion for Partial Summary Judgment and Defendants Motion for Summary Judgment and scheduled that hearing for September 16, 2021, at 10 a.m. Also on August 9, 2021, a Pretrial Conference was scheduled for 10 a.m. on October 1, 2021. Mediation was held September 2, 2021. The Deposition of Adam Otteson was held August 31, 2021; Jodi Smith's deposition was held September 14, 2021; the deposition of Kelly Vandamme was held September 22, 2021; and the deposition of John Kemmerer was held for September 23, 2021. On September 3, 2021, Plaintiffs filed a Motion to Compel which was later withdrawn on September 16, 2021. On September 8, 2021, Plaintiffs submitted a Motion to Admit Ryan Pitts Pro Hac Vice. The Order of Admission was signed September 9, 2021. On September 10, 2021, Plaintiffs filed a Motion to Exclude Evidence Attached to Defendants Summary Judgment Brief. They also filed an Emergency Motion for Expedited Briefing Schedule and a request for the hearing on both of these motions be held with the motions for summary judgment. Judge Schmidt sent an email to the parties on September 10, 2021 regarding the status. On September 14, 2021, the Order Extending Deadline to Submit Motions in Limine and Pretrial Statements to be due September 20, 2021 was signed. On September 15, 2021, Defendants filed a Motion to Exclude Evidence and Response to Plaintiffs' Motion to Exclude. The parties attending the oral argument on September 16, 2021 and an Order on Cross Motions for Summary Judgment was issued that date. On September 17, 2021, the parties filed a Stipulation regarding Trial Witnesses and the Order Adopting the Stipulation was signed on September 20, 2021. On September 20, 2021, the Defendants filed an Expedited Motion to Supplement Exhibits and Plaintiffs filed a Motion in Limine or to Exclude and Limit Anticipated Testimony. The parties also filed their Pretrial Statements and a Combined Exhibit list. On September 23, 2021, Plaintiffs filed their Response in Opposition to Defendants' Expedited Motion to Supplement Exhibits and the Court entered the Order Granting Expedited Motion to Supplement Exhibits filed by Defendants. On September 24, 2021, Plaintiffs filed their Response in Opposition to Defendants' Motion to Exclude Evidence, an Expedited Motion to Take Joy Barnett's Testimony by Reliable Electronic Means, and a Special Motion to Exclude and Motion in Limine. Defendants filed a Supplemented Exhibit List. On September 27, 2021, the Court entered its order Granting Plaintiffs' Expedited Motion to Take Joy Barnett's Testimony by Reliable Electronic Means. Defendants filed a Second Supplemented Exhibit List and their response to Plaintiff's Special Motion to Exclude and Motion in Limine. On September 28, 2021, Defendants filed their response to Plaintiff's Motion in Limine or to Exclude and Limit Anticipated Testimony. A pretrial conference was held on October 1, 2021. The trial was held on October 4, 5 & 6. The Court issued its Memorandum Opinion, Findings of Fact, Conclusions of Law and Order for Judgment on October 13, 2021. On October 22, 2021, Plaintiffs filed their Statement of Costs and Disbursements of Lawrence Bender, Statement of Costs and Disbursements of Michelle P. Scheffler, and proposed Judgment.

**Current
Status:**

- **On October 27, 2021, the State sent a letter to the Honorable Robin A. Schmidt advising that the State intended to submit a response to the proposed Judgment filed by Plaintiffs.**
- **On November 5, 2021, the State filed its Objection to Plaintiff's Proposed Judgment.**
- **On November 12, 2021, Plaintiffs filed a Notice of Motion, Motion, and Brief in Support of Motion for Leave to File a Response to Defendants Objections to the Proposed Judgment.**
- **Order for Judgment was entered on November 16, 2021.**

- The Notice of Entry of Judgment and Judgment were entered on November 17, 2021.

EXECUTIVE SESSION

Under the authority of North Dakota Century Code Sections 44-04-19.1 and 44-04-19.2, the Board close the meeting to the public and go into executive session for purposes of attorney consultation relating to:

- Acreage Adjustment Survey
- Royalty Offers
- Newfield Exploration Company et al Civ. No. 27-2018-CV-00143

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger			X		
Superintendent Baesler					X
Treasurer Beadle		X	X		
Attorney General Stenehjem	X		X		
Governor Burgum			X		

The Board entered into executive session at 11:09 AM.

EXECUTIVE SESSION

Members Present:

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Wayne Stenehjem	Attorney General (Via Teams)
Thomas Beadle	State Treasurer

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Kate Schirado	Administrative Assistant
Catelin Newell	Administrative Staff Officer
Kristie McCusker	Paralegal
Adam Otteson	Revenue Compliance Director
Chris Dingwall	Minerals Title Specialist (only for Acreage Adjustment Survey)

Guests in Attendance:

Dave Garner	Office of the Attorney General
Reice Haase	Office of the Governor
Leslie Bakken Oliver	Office of the Governor

The executive session adjourned at 11:49 AM and the Board returned to the open session and Teams meeting to rejoin the public. During the executive session meeting, the Board was provided information and no formal action was taken.

A D J O U R N

There being no further business, the meeting was adjourned at 11:50 AM.

Doug Burgum, Chairman
Board of University and School Lands

Jodi Smith, Secretary
Board of University and School Lands

(11/29/21)

**Minutes of the Meeting of the
Board of University and School Lands
December 21, 2021**

The December 21, 2021 meeting of the Board of University and School Lands was called to order at 9:01 AM in the Governor's Conference Room of the State Capitol and via Microsoft Teams by Chairman Doug Burgum.

Members Present:

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Wayne Stenehjem	Attorney General
Thomas Beadle	State Treasurer
Kirsten Baesler	Superintendent of Public Instruction

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Kate Schirado	Administrative Assistant
Christopher Dingwall	Minerals Title Specialist
Dennis Chua	Investments
Rick Owings	Administrative Staff Officer
Kristie McCusker	Paralegal
Adam Otteson	Revenue Compliance Director
Michael Shackelford	Investments Director
Lynn Spencer	Minerals Title Specialist
James Wald	Legal Council
Scott Giere	Revenue Compliance
Catelin Newell	Administrative Staff Officer
Rob Dixon	ITD
Chris Suelzle	Minerals Division Director
Matthew Reile	ITD Data Management Intern
Kayla Spangelo	Surface Range Soils Management Specialist

Guests in Attendance:

Dave Garner	Office of the Attorney General
Jennifer Verleger	Office of the Attorney General
Charles Carvell	Office of the Attorney General
Mike Nowatski	Office of the Governor
Reice Haase	Office of the Governor
Leslie Bakken Oliver	Office of the Governor
Geoff Simon	Western Dakota Energy Association
Amy Sisk	Bismarck Tribune
Janet Guarberg	Apollo Global
Akila Grewal	Apollo Global
John Zito	Apollo Global
Ellie Shaw	Apollo Global
Drew Guyette	Angelo Gordon
Trevor Clark	Angelo Gordon
William P. Cullinan	Angelo Gordon
Austin Head-Jones	RVK
Josh Kevan	RVK

(12/21/21)

Joe Ebisa
 Brady Pelton
 Craig Smith
 Gary Hagen
 Eric Ocwieja

Journalist
 NDPC
 Crowley Fleck

APPROVAL OF MINUTES

A motion to approve the minutes of the November 29, 2021 regular meeting was made by Attorney General Stenehjem and seconded by Secretary Jaeger and the motion carried unanimously on a voice vote.

REPORTS

Right of Way R-8974			
Granted To	Paragon Geophysical Services Inc, Wichita, Kansas		
For the Purpose Of	Original Permit - Geophysical Operation		
Initial Payment	\$12,800.00	Permanent Rods	0.00
Date Issued	11/10/2021	Permanent Acres	0.00
Surface Tracts/Trusts			
Legal Description			Trust
Mercer-141-88-36-SW4			A
Oliver-141-86-36-NW4			A
Oliver-142-85-30-E2NW4, LOTS 1,2			A
Oliver-142-86-36-NE4, SE4			A
Oliver-142-87-16-SE4, SW4			A
Oliver-143-86-26-NW4			D
Right of Way Terms			
Financial Type			Payment Amt
Application Fee	Set Amount	\$250.00	
Initial	Set Amount	\$12,800.00	

Total Initial Payment Amount \$12,800.00

November Unclaimed Property Report

Unclaimed property is all property held, issued, or owing in the ordinary course of a holder's business that has remained unclaimed by the owner for more than the established time frame for the type of property. It can include checks, unpaid wages, stocks, amounts payable under the terms of insurance policies, contents of safe deposit boxes, etc.

An owner is a person or entity having a legal or equitable interest in property subject to the unclaimed property law. A holder can include a bank, insurance company, hospital, utility company, retailer, local government, etc.

Since 1975, the Unclaimed Property Division (Division) of the Department of Trust Lands (Department) has been responsible for reuniting individuals with property presumed abandoned. The Division acts as custodian of the unclaimed property received from holders. The property is held in trust in perpetuity by the State and funds are deposited in the Common Schools Trust Fund. The 1981 Uniform Unclaimed Property Act created by the national Uniform Law Commission was adopted by the State in 1985.

For the month of November 2021, the Division received 179 holder reports with a property value of \$1,989,555 and paid 309 claims with a total value of \$901,650.

The Financial Report (Unaudited) for period ending September 30, 2021 was presented to the Board for review and is available at the Department upon request.

Investment Updates

Portfolio Rebalancing Updates

Since the November Board meeting, several capital calls were executed or are scheduled to be executed within 30 days:

- Angelo Gordon DL IV \$17.5M
- Ares Pathfinder \$10M
- GCM Private Equity, \$5.1M
- GCM Secondary, \$29M on 12/15
- JPM Infrastructure, \$130M on 1/3/22
- Harrison Street Core Property, \$60.6M on 1/5/22

When all capital calls are made, unfunded commitments will stand at \$573.7M. These are:

1. Apollo Accord Fund, \$84.8M
2. Varde Dislocation Fund, \$42.5M
3. GCM Private Equity, \$110M
4. ARES Pathfinder Fund, \$64.5M
5. Angelo Gordon DL IV, \$25M
6. Owl Rock Diversified Lending, \$56.5M
7. GCM Secondary Opportunities Fund, \$121M
8. Harrison Street Core Property Fund LP, \$69.4M

Asset Allocation

The table below shows the status of the permanent trusts' asset allocation as of Dec.14, 2021. The figures provided are unaudited.

(12/21/21)

By January 5, 2022, the Transition Account will be reduced to \$351M once all capital calls listed above are funded.

As of December 14, 2021	Market Value \$	Actual	Target	Lower Range	Upper Range
Broad US Equity	1,205,887,836.15	19.7%	19.0%	14.0%	24.0%
Broad Int'l Equity	1,111,502,172.45	18.2%	19.0%	14.0%	24.0%
Fixed Income	1,426,297,285.71	23.3%	22.0%	17.0%	27.0%
Transition Account	570,771,509.62	9.3%	0.0%	-5.0%	5.0%
Absolute Return	863,971,833.91	14.1%	15.0%	10.0%	20.0%
DIS	-	0.0%	0.0%	-5.0%	5.0%
Real Estate	839,841,995.00	13.7%	15.0%	10.0%	20.0%
Private Equity (Grosvenor)	21,131,648.31	0.3%	5.0%	0.0%	10.0%
Private Infrastructure (JPM-Infra)	-	0.0%	5.0%	0.0%	10.0%
Opportunistic Investments (Varde & Apollo)	80,533,743.00	1.3%	0.0%	-5.0%	5.0%
Portfolio Total	6,119,938,024.15	100.0%			

ENERGY INFRASTRUCTURE AND IMPACT

Quarterly Program Report

The Energy Infrastructure and Impact Office (EIIO) is a division within the Department of Trust Lands (Department). EIIO provides financial assistance to local units of government that are impacted by oil and gas activity. In turn, EIIO receives a portion of the Oil and Gas Gross Production Tax. The office has been a part of the Department since 1977 and was formally known as the Energy Development Impact Office created under N.D.C.C. ch. 57-62. Over the course of the past 40 years, EIIO has dispersed over \$626 million in funding.

The Oil and Gas Impact Grant Fund currently has 4 grants with a balance of \$297,596.76 as of December 7, 2021. The following shows grant activity for the last six months:

Oil and Gas Impact Grant Fund	Grants with balances	Current Balance Obligated to Grants
6/7/2021	9	\$972,069.49
9/7/2021	6	\$794,932.56
12/7/2021	4	\$297,596.76

INVESTMENTS

March Investment Reports – 3rd Quarter 2021

Josh Kevan from RVK will review the performance of the Board of University and School Land's (Board) investment program for the period ending September 30, 2021 and discuss current market conditions.

The first report to be reviewed was prepared by RVK to enable the Board to monitor and evaluate the collective performance of the permanent trusts' investments and the performance of individual managers within the program. In order to provide an overview of the program and highlight critical information, an executive summary has been incorporated into the Board report.

Next, Josh will touch on the performance of the Ultra-Short portfolio in which the Strategic Investment and Improvements Fund, the Coal Development Trust Fund and the Capitol Building Fund are invested.

RVK Permanent Trust Fund Performance Analysis Report was presented to the Board for review and is available at the Department upon request.

Apollo Defined Return Fund

Over the last several months the Department of Trust Land's Staff (Staff) has reviewed options for generating greater returns in the fixed income asset class and to reduce the transition account balance. The first issue is well known given the ultra-low interest rate environment that prevails globally. The issue is compounded by the fact that most higher yielding private credit funds are closed-end, limited term funds that begin making distributions within a few months or a year after initial investment. This return of capital creates reinvestment risk, the risk of having to reinvest distributions at lower returns until a sufficient amount is accumulated to make a meaningful investment in a new or follow-on private credit fund.

The second issue of expediting the investment of capital in the transition account is related to the lack of capital calls within the opportunistic investment asset class and the slow pacing of calls in private equity and private infrastructure asset classes. In the last few months, we have sought to partially address these issues by adding a second private infrastructure manager and adding a private equity secondaries fund. Nevertheless, there will continue to be a slow pacing of private equity primary investments.

To address these issues Staff has engaged one of its best in class fixed income managers to customize a solution for the Permanent Trust Funds (PTFs). Apollo has agreed to create a new fund with an initial seed investment of \$200 million, under highly favorable fee terms to the PTFs as the founding investor. Further, it's proposed that as distributions are made to the PTFs from its prior investment, those amounts will flow into the new fund, thus allowing for continuously investment with little cash drag and reinvestment risk.

Apollo is one of the best performing private credit managers and a top manager within RVK's database, and highly regarded by RVK's fixed income research team. Through June 30th this year Apollo Accord Fund IV has generated 11.24% net return in 2021 and 18.29% since inception 10/1/2020. The new fund has a target annual return of 8-12%. The PTFs made a \$100 million commitment to Fund IV, of which less than \$20 million has been called.

Motion: The Board approve a \$200 Million investment in the Apollo Defined Return Fund and allow for all distributions from the investment in Apollo Accord Fund IV to be reinvested into the Apollo Defined Return Fund; subject to final review and approval of all legal documents by the Office of the Attorney General.

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger	X		X		
Superintendent Baesler			X		
Treasurer Beadle		X	X		
Attorney General Stenehjem					
Governor Burgum					

RVK Recommendation Memo and Apollo Defined Return Fund Presentation were presented to the Board for review and are available at the Department upon request.

Angelo Gordon Direct Lending Separately Managed Account

Over the last several months the Department of Trust Land's Staff (Staff) has reviewed options for generating greater returns in the fixed income asset class and to reduce the transition account balance. The first issue is well known given the ultra-low interest rate environment that prevails globally. The issue is compounded by the fact that most higher yielding private credit funds are closed-end, limited term funds that begin making distributions within a few months or a year after initial investment. This return of capital creates reinvestment risk, the risk of having to reinvest distributions at lower returns until a sufficient amount is accumulated to make a meaningful investment in a new or follow-on private credit fund.

The second issue of expediting the investment of capital in the transition account is related to the lack of capital calls within the opportunistic investment asset class and the slow pacing of calls in private equity and private infrastructure asset classes. In the last few months, we have sought to partially address these issues by adding a second private infrastructure manager and adding a private equity secondaries fund. Nevertheless, there will continue to be a slow pacing of private equity primary investments.

To address these issues Staff has engaged one of its best in class fixed income managers to customize a solution for the Permanent Trust Funds (PTFs). Angelo Gordon has agreed to create a separately managed account (SMA) with an initial investment of \$50 million, under the same fee terms as our current investment in their funds. Further, as distributions are made to the PTFs out of the existing funds, those amounts will flow into the SMA, thus allowing for continuously investment with little cash drag and reinvestment risk. Eventually, all of the PTFs' direct lending investment with Angelo Gordon will reside in the SMA and will receive the appropriate fee breaks.

Angelo Gordon is one of the best performing direct lending investment managers and a top manager within RVK's database, and highly regarded by RVK's fixed income research team. Through June 30th this year AG Direct Lending Fund III has averaged 9.89% net return per year since inception 9/1/2018. The Fund IV should deliver similar results, although it is currently too new to have meaningful results. The PTFs made a \$150 million commitment to Fund III and a \$100 million commitment to Fund IV.

Motion: The Board approve an initial \$50 Million investment with Angelo Gordon's direct lending platform in a separately managed account, and allow for all distributions from previous investments with Angelo Gordon's direct lending funds to be reinvested into the separately managed account; subject to final review and approval of all legal documents by the Office of the Attorney General.

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger			X		
Superintendent Baesler	X		X		
Treasurer Beadle		X	X		
Attorney General Stenehjem			X		
Governor Burgum			X		

RVK Recommendation Memo and AG Direct Lending SMA Presentation were presented to the Board for review and are available at the Department upon request.

O P E R A T I O N S

Cash Management

On November 29, 2021, the Board of University and School Lands (Board) informally requested a review of the Department of Trust Land's (Department) cash management by Department Staff (Staff). Staff reviewed the four primary account categories within the Department: Common Schools' Trust Fund (CSTF) account, other Permanent Trust Funds' (PTFs) accounts, Unclaimed Property (UP) account, and the appropriated accounts (Strategic Investment and Improvement Fund, Capitol Building Fund and Coal Development Trust Fund accounts).

The CSTF is required to make regular monthly payments to the Department of Public Instruction (DPI) during the school year. The CSTF account generally holds an amount that represents between 2 and 3 months of cash owed to DPI at the Bank of North Dakota (BND). BND has agreed with the Department to pay a rate of interest equivalent to the rate paid by Northern Trust's (NT) money market fund. The 2 and 3 months of cash holdings reflects the Staff's long held view of the prudent amount to retain in case of significant economic stress. This view was vindicated in 2020 when the CSTF revenues dropped precipitously, and the cash amount at BND was drawn down to just over one month's amount.

The other PTFs are treated differently than CSTF, because unlike CSTF, the other PTFs only make one annual payment to the beneficiaries in January of each year. As such, the accounts are limited to a target of 1/12 portion of the annual payment each month. As the year progresses the cash amount in the accounts increase by a targeted maximum of 1/12 per month. So that by January of the following year there would be enough to make its annual payment. This limits the amount of cash accumulated in the other PTFs' accounts at any point in time.

[The holdings in the PTF transition account related to the significant changes in the strategic asset allocation was not considered here due to its transient nature, and its investment in short-term bonds.]

The UP account has a Department policy range of \$1.5 million to \$2.5 million. This reflects the experience of the UP Division's cash needs on a monthly basis. The Staff reviews its policies the January after each legislative session, including the UP cash policy range. During the review of policy, the actual monthly distribution experience of UP Division is used to confirm the appropriate policy range.

The appropriated accounts all hold cash in amounts reflective of the outstanding appropriations made by the State Legislature. Excess cash above the appropriated amounts are invested in short-term bonds at NT in the Ultra-Short account. In addition, the Department may invest additional cash in the Ultra-Short account, to the extent that it is informed by the Office of Management and Budget that a particular appropriation may not be called for some time. Unfortunately, there is typically little visibility with regard to cash calls under these appropriations, which means the most prudent course is to hold the cash at BND, earning money market returns.

L I T I G A T I O N

Whitetail Wave Litigation

Case: Whitetail Wave LLC v. XTO Energy, Inc.; the Board of University and School Lands; and the State of North Dakota – 27-2015-CV-00164

Date Filed: June 4, 2015

Court: McKenzie County District Court

(12/21/21)

Judge: Robin Schmidt
Attorney: David Garner/Jennifer Verleger
Opposing Counsel: Whitetail Wave – Christopher Sweeney; XTO Energy – Lawrence Bender

Issues: On August 1, 2015, the Attorney General's Office was served with a complaint in the above referenced case. This case is challenging the State's determination of the OHWM east of the Highway 85 Bridge, near the northern border of the Fort Berthold Indian Reservation. The Board has currently leased minerals pursuant to the Phase II Investigation for this tract. The Plaintiff is requesting that title to the minerals be quieted and has alleged claims of Unconstitutional takings, trespass, slander of title, and constructive trust/unjust enrichment against the State. The complaint also makes a number of claims specific to XTO Energy Inc., the operator of the wells on the tracts in dispute. Specifically, the Plaintiff is requesting that the State's claim to sovereign lands' mineral interest be restricted to those minerals located below the OHWM of the Missouri River prior to inundation of the Lake Sakakawea.

An answer was filed on behalf of the Board on July 21, 2015. In January 2016, the State Engineer intervened in the case.

History: Due to the passage of S.B. 2134, the Court ordered the case stayed and all deadlines be held in abeyance until the final review findings under S.B. 2134 are issued by the Industrial Commission. The Board and State Engineer filed a Motion for Continued Stay of Proceedings on October 19, 2018 and XTO filed a Response in Support of Continued Stay on October 26, 2018. On November 5, 2018, the Court entered its Order for Continued Stay of Proceedings, staying the proceedings, holding all deadlines in abeyance, and ordering that upon final disposition of the Sorum lawsuit the parties will request a status conference to schedule a new trial date and reset other deadlines. The continued stay was affirmed on November 27, 2018. On September 30, 2020, the District Court scheduled a Telephonic Status Conference for October 6, 2020. On October 6, 2020, Spencer Ptacek filed a Notice of Appearance on behalf of XTO. On October 7, 2020, the District Court scheduled a pretrial conference for August 10, 2021, and scheduled a five day, six person jury trial for August 16-20, 2021. On October 22, 2020, the Board of University and School Lands and State Engineer filed their Motion to Dismiss and Supporting documents. On November 5, 2020, Plaintiff filed a Notice of Hearing on the Board of University and School Lands and State Engineer's Brief in Support of Motion to Dismiss for 9:00 a.m. on December 3, 2020, at the McKenzie County Courthouse, Watford City, ND. Also filed was Whitetail Wave LLC's Response to State's Motion to Dismiss. On November 12, 2020, the Board of University and School Lands and State Engineer's Reply Brief in Support of Motion to Dismiss was filed. Also on November 12, 2020, the Response to the State Defendants' Motion to Dismiss was filed by XTO. On January 4, 2021, Whitetail Wave filed its Surreply to State's Motion to Dismiss. On January 19, 2021 the Board of University and School Lands and State Engineer filed their Response to Whitetail Wave's Surreply Regarding State's Motion to Dismiss. On April 13, 2021, the Court entered its Order on State's Motion to Dismiss, denying the State's Motion.

Current Status:

- **On May 13, 2021, a status conference was scheduled for May 20, 2021. That conference was held and the 6 person jury trial was rescheduled from August 2021 to December 13-17, 2021, in Watford City.**

- On June 11, 2021, the Notice of Rescheduled trial was received setting deadlines for pretrial conference statement and dispositive motions. Also set the pretrial conference for December 3, 2021.
- On October 12, 2021, the Department of Water Resources filed a Notice of Agency Name Change.
- On October 14, 2021, Defendants filed their Motion for Summary Judgment.
- On November 3, 2021, a status conference hearing was scheduled for November 4, 2021 at 1 p.m.
- On November 15, 2021, Board and Department of Water Resources filed their Response Brief Opposing Plaintiff's Motion for Partial Summary Judgment; XTO filed responses to the Board's Motion for Summary Judgment and Plaintiff's Partial Motion for Summary Judgment; and Plaintiff filed a Response to Defendants' Motions for Summary Judgment.
- On November 29, 2021, the following documents were filed: Board of University and School Lands and Dept. of Water Resources' Reply Brief in Support of Motion for Summary Judgment, XTO Energy, Inc.'s Reply Brief in Support of Motion for Summary Judgment; and the service documents.
- On November 30, 2021, the following documents were filed: Brief in Support of Partial Motion for Summary Judgment - Whitetail Wave LLC's Reply; Declaration of Joshua Swanson; and a Request to Appear Telephonically.
- Hearing held December 3, 2021.
- On December 17, 2021, the Order on Cross Motions for Summary Judgment was entered granting the State summary judgment quieting title in the acreage in Section 27 of Township 154 North, Range 96 West, and dismissing with prejudice the remaining claims against the State.

Wilkinson Litigation

Case: William S. Wilkinson, et. al. v. Board of University & School Lands, Brigham Oil & Gas, LLP; EOG Resources, Inc.; Case No. 53-2012-CV-00038

Date Filed: January, 2012

Court: Williams County District Court

Judge: Paul Jacobson

Attorney: Jennifer Verleger/Matthew Sagsveen/David Garner

Opposing Counsel: Josh Swanson/Rob Stock, Lawrence Bender, John Ward

Issues: The Wilkinson lawsuit was filed on January 10, 2012. The Plaintiffs assert that they own minerals in a 200 acre tract west of Williston. This suit was initially filed in state court as a quiet title action. The Attorney General's Office filed an Answer and Counterclaim on February 27, 2012.

On July 1, 2014, the Plaintiffs filed an amended complaint in the case and added claims of unconstitutional takings, conversion, constructive trust and unjust enrichment, civil conspiracy and deprivation of rights under 42 U.S.C. § 1983. Plaintiffs assert in their amended complaint that the Board should be issuing leases on the west side of the Highway 85 bridge pursuant to the Phase II Investigation – the estimated location of the ordinary high watermark (OHWM) prior to inundation

of Lake Sakakawea – rather than the Phase I Delineation – current location of the OHWM. Plaintiffs argue that the subject property is located under Lake Sakakawea, which did not exist at statehood, and thus the state did not acquire title to it as sovereign lands. Therefore, the State’s title to the Missouri River is limited to the channel as it existed prior to inundation of Lake Sakakawea as determined by the Phase II investigation.

In January of 2016, the State Engineer sought and was granted intervention. A joint motion for summary judgment was filed by the Board and the State Engineer on March 1, 2016. On May 18, 2016, the district court granted the motion for summary judgment finding that: (1) the subject property is located along the Missouri River, which is no doubt navigable; (2) The Phase I Delineation should be used to determine the OHWM for the subject property rather than the Phase II Investigation, and therefore the property is determined to be sovereign land of the state of North Dakota; (3) to the extent Plaintiffs are aggrieved by the Phase I Delineation, they must exhaust their administrative remedies through the State Engineer before making a claim in district court; and (4) there are no grounds to support Counts II through VII. Plaintiffs filed a notice of appeal on June 1, 2016. Both EOG Resources, Inc. and Statoil Oil and Gas LP filed cross-appeals.

On September 28, 2017, the North Dakota Supreme Court reversed the district court’s decision and remanded the case back to the district court. The Supreme Court held that:

1. Surface ownership could not be determined without the United States as a party to the action;
2. N.D.C.C. ch. 61-33.1 has a retroactive clause and the district court did not have an opportunity to determine if it applies and governs ownership of the minerals at issue;
3. A “takings” analysis must be conducted if the district court determines the State owns the disputed minerals; and
4. The district court erroneously made findings of disputed fact.

History:

Due to the passage of S.B. 2134, the District Court ordered the case stayed and all deadlines be held in abeyance until the final review findings under S.B. 2134 are issued by the North Dakota Industrial Commission (NDIC). Plaintiff, after NDIC issued the review findings, requested a status conference with the Court to set a new trial date and other deadlines. The Board and State Engineer filed a Motion for Continued Stay of Proceedings on October 11, 2018. The telephonic status conference scheduled for November 2, 2018 was cancelled. A Hearing on the Motion for Continued Stay was held November 30, 2018. Defendants submitted a proposed Order and the Judge asked for Plaintiffs to submit a proposed Order, which was filed December 4, 2018. The Court issued its Order on December 12, 2018, denying the Motion for Continued Stay and requiring the parties confer on a scheduling order and submit a Rule 16 scheduling order by January 26, 2019. The State filed a Motion for Proposed Scheduling Order on January 28, 2019, and Plaintiffs filed a notice of hearing on January 31, 2019, and filed their Response to State’s Motion for Proposed Scheduling Order and Plaintiffs’ Request for Rule 16(F) Sanctions on February 1, 2019. State Defendants filed a Reply Brief in Support of Motion for Proposed Scheduling Order on February 8, 2019. Statoil & Gas LP filed a Response to State’s Motion for Proposed Scheduling Order and Plaintiff’s Proposed Scheduling Order on February 11, 2019. Plaintiffs scheduled a hearing in District Court on the Motion for Scheduling Order which was held March 5, 2019, at 2:00 p.m. The District Court didn’t rule on the scheduling motions but granted Plaintiffs’ request to file a motion for Summary Judgment within 30 days of the

hearing. On April 15, 2019, Plaintiffs' filed with the District Court a Notice of Motion, Motion for Summary Judgment, Brief in Support of Motion for Summary Judgment, Affidavit of Joshua Swanson, Notice of Hearing (requesting a hearing be held at the earliest possible date available on the Court's calendar), and proposed Order Granting Plaintiffs' Motion for Summary Judgment. On April 17, 2019, Plaintiffs' filed a Notice of Hearing scheduling a hearing for 2:00 p.m. on July 30, 2019 before the Honorable Paul W. Jacobson, at the Williams County Courthouse, Williston. The parties entered into a Stipulation Extending Time to Respond to Plaintiffs' Motion for Summary Judgment and Plaintiffs' Time to Reply which was entered May 1, 2019. The Order Extending Time to Respond was entered May 2, 2019, extending Defendants' time to respond to June 14, 2019, and extending Plaintiffs' deadline to file reply to July 1, 2019. On June 10, 2019 Statoil & Gas LP filed its Opposition to Plaintiffs' Motion for Summary Judgment. Also, on June 10, 2019, the Stipulated Motion to Dismiss Defendant XTO Energy Inc. was filed in which Plaintiffs, Cross-claimant EOG, and Defendant XTO stipulated and requested the Court dismiss XTO from the action with prejudice and without costs and disbursements to any party, as it holds no ownership interest in, right to, claim or title to any mineral interests as alleged by Plaintiffs. The Board of University and School Lands filed its Brief in Opposition to Plaintiffs' Motion for Summary Judgment on June 14, 2019. Also filed on June 14, 2019 where the State Engineer's Response to Brief in Opposition to Plaintiffs' Motion for Summary and the Response of EOG Resources, Inc., to Plaintiffs' Motion for Summary Judgment. On June 17, 2019, the Court entered its Order Dismissing Defendant XTO Energy, Inc. from the Action. On July 1, 2019, Plaintiff's filed their Reply Brief in Support of Motion for Summary Judgment. The hearing on the Motion for Summary Judgment was held on July 30, 2019. Order Granting Plaintiffs' Motion for Summary Judgment was entered on September 6, 2019. The proposed Judgment was submitted on September 12, 2019. The Judgment and Notice of Entry of Judgment were filed with the District Court on September 16, 2019. Board of University and School Lands' Notice of Appeal to the North Dakota Supreme Court was filed on November 15, 2019. State Engineer's Notice of Appeal to the North Dakota Supreme Court was filed on November 15, 2019. Notice of Appeal to North Dakota Supreme Court filed by Statoil Oil & Gas LP f/k/a Brigham Oil & Gas, LLP on November 27, 2019. Appellant's Initial Briefs were due December 12, 2019; however, a Joint Motion for Extension of Time to File Briefs was filed and an extension was granted on December 13, 2019, with all briefs being due to the Supreme Court as follows:

- Appellants' (including Board of University and School Lands) Initial Briefs - January 13, 2020;
- Appellees' Response Briefs – March 2, 2020; and
- Appellants' (including Board of University and School Lands) Reply Briefs – March 16, 2020.

On January 13, 2020, the Brief of Appellant, Board of University and School Lands was filed with the Supreme Court. Appellant North Dakota State Engineer's Principal Brief was also filed on January 13, 2020. Plaintiffs/Appellees Response Brief filed with the Supreme Court on March 2, 2020. Plaintiffs/Appellees Response Brief filed with the Supreme Court on March 2, 2020. Reply Brief of Defendant and Appellant, Board of University and School Lands filed on March 16, 2020. Appellant North Dakota State Engineer's Reply Brief filed March 16, 2020. The North Dakota Supreme Court issued its Opinion of the Court on August 27, 2020. On September 18, 2020 a Notice of Hearing was filed in the District Court setting a status conference for October 13, 2020, at 3:30 p.m. The Court issued an Order After Status Conference dated October 13, 2020, stating that a two day bench trial will be scheduled. A telephonic scheduling conference was scheduled for October 29, 2020, at 10:00 a.m. On October 23, 2020, the Supreme Court Judgment/Opinion was filed with the District Court. On October 30, 2020, the Court issued its Order

After Scheduling Conference. The matter was set for Court Trial on April 16, 2021, for one day and July 23, 2021, also for one day. Defense council expressed concerns with a conflict with other scheduled trials. Therefore, a status conference was set for February 4, 2021 to determine if any conflicts have been obviated. The Court indicated it would consult with the scheduling clerk to determine second priority dates for one day trials in 2021. The Court set backup Court Trial dates of May 27, 2021 and May 28, 2021. Plaintiffs' Combined Discovery Requests to Defendant, the Board of University and School Lands of the State of North Dakota were served on the Board on January 26, 2021. The Board has 30 days to respond. On February 25, 2021, the Board served its Answers to Plaintiffs' Combined Discovery Requests to Defendant, the Board of University and School Lands of the State of North Dakota, and the State Engineer served its answers to interrogatories. State Engineer's Interrogatories, Request for Admissions, and Request for Production of Documents Regarding Damages (Request II) was served March 12, 2021. On March 19, 2021, Defendant Statoil Oil and Gas, LP's Answers to Plaintiffs' Combined Discovery Requests to Defendant, Statoil Oil & Gas, LP was served. On March 22, 2021, Defendant Statoil Oil and Gas, LP's First Supplemental Answers to Plaintiffs' Combined Discovery Requests to Defendant, Statoil Oil & Gas, LP was served. Plaintiff's Responses to State Engineer's Interrogatories, Requests for Admissions, and Requests for Production of Documents regarding Damages (Request II) was served April 14, 2021. On April 20, 2021, Plaintiffs filed their Motion for Attorneys' Fees and Costs against the State of North Dakota. Plaintiffs scheduled a hearing on this motion for July 22, 2021. Plaintiffs scheduled a status conference for April 27, 2021. At that hearing, it was decided that the trial for May 2021 would be scheduled for July 22 & 23, 2021, in Williston. On May 18, 2021, the Board of University and School Lands and the State Engineer filed their Response Brief Opposing Plaintiffs' Motion for Attorneys Fees and Costs. On June 8, 2021, Plaintiffs filed their Reply to State's Response Brief Opposing Plaintiffs' Motion for Attorneys' Fees and costs. On June 22, 2021, Plaintiffs filed their Pretrial Statement and Defendants, Board and State Engineer, filed their Pre-Trial Brief. Bringham Oil & Statoil brought a Motion to Dismiss on July 7, 2021. On July 8, 2021, the parties exchanged their witness and exhibit lists. Motions in Limine were filed on July 8, 2021 by Bringham Oil and Statoil and the Board and State Engineer.

**Current
Status:**

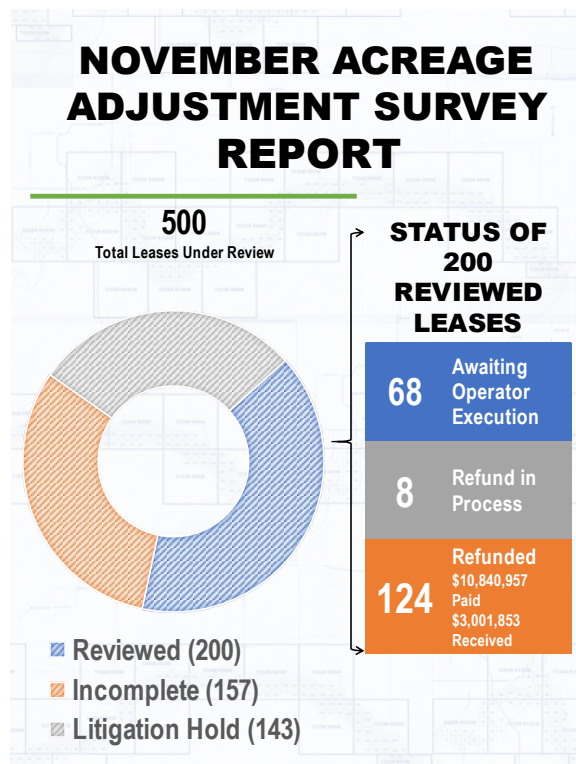
- **The parties shared various drafts of witness and exhibit lists prior to trial.**
- **On July 12, 2021, the State filed its Motion in Limine to Exclude Evidence Regarding Statutory Interest of 6.5% or 18% on Royalties and Motion in Limine to Exclude Evidence Regarding S&P Vanguard 500 Index Fund Investor Shares (VFINX) Damages.**
- **On July 14, 2021, Statoil and Bringham filed Bringham Oil & Gas, L.P. s and Statoil Oil & Gas, L.P. s nka Equinor Energy, O.P. s (Collectively Statoil) Unopposed Request for Leave to Allow Witness Amy Becker to Appear by Reliable Electronic Means and the request was granted the same day.**
- **On July 15, 2021, Plaintiffs Plaintiffs' Request for Witness to Participate by Telephone or Electronic Means and the requested was granted the same day.**
- **On July 19, 2021, Plaintiffs filed Supplemental Affidavit of Joshua A. Swanson in Support of Plaintiffs' Motion for Attorneys' Fees and Costs against the State of North Dakota.**

- On July 21, 2021, Plaintiffs filed Plaintiff s Brief in Response to Defendant Brigham Oil & Gas LP s (Collectively Statoil) Motion to Dismiss, Plaintiffs Response Brief in Opposition to Brigham Oil & Gas, L.P. s nka Equinor Energy, LP s (Collectively Statoil) Motion in Limine, Plaintiffs Response Brief in Opposition to Board of University and School Lands and North Dakota State Engineer s Motion in Limine Regarding S&P 500 Vanguard 500 Index Fund Investor Shares (VFINX) Damages, Plaintiffs Response Brief in Opposition to Board of University and School Lands and North Dakota State Engineer s Motion in Limine Regarding Statutory Interest.
- The trial was held on July 22 and 23, 2021.
- On July 22, 2021, the parties filed a joint exhibit list.
- On July 28, 2021, Brigham Oil & Gas, L.P.'s and Statoil Oil & Gas L.P.'s nka Equinor Energy, L.P.'s (Collectively "Equinor") Reply Brief in Support of Motion to Dismiss was filed, as was the Stipulation/Agreement to Dismiss Plaintiffs' Claims Against Defendant EOG Resources, Inc.
- On July 30, 2021, the Order Dismissing Plaintiffs' Claims Against Defendant EOG Resources, Inc. was filed.
- On August 11, 2021 the parties stipulated and the court entered its Order Dismissing Crossclaims Between Defendant EOG Resources, Inc., and Defendant Statoil Oil & Gas LP.
- On October 4, 2021, an Order Granting Extension of Time for Brigham and Statoil to File Reply Filings was filed.
- On October 5, 2021 Plaintiffs filed their Post-Trial Reply Brief and the Board and the State Engineer filed their Post Trial Response Brief.
- On December 10, 2021, the Court entered the Order for Judgment, which ordered:
 - Statoil's motion to dismiss (Index #594) is denied.
 - Statoil's motion in limine (Index #600) is denied as moot.
 - The State's motions in limine (Index #607 and #615) are denied as moot.
 - Petrogulf's crossclaims against EOG (Index #84) are dismissed with prejudice for failure to prosecute.
 - EOG's counterclaim against Plaintiffs and crossclaims against the Land Board, OXY USA, Inc., and Petrogulf (Index #65) are dismissed with prejudice for failure to prosecute.
 - Statoil's counterclaims against the Plaintiffs are dismissed because it is a prevailing party.
 - Based on the Supreme Court's ruling in *Wilkinson II* and the application of N.D.C.C. ch. 61-33.1 to the Disputed Property "the State of North Dakota does not own title to the mineral interests in the [Disputed] Property."
 - The takings claims in Counts II and III against the State are dismissed with prejudice.
 - The conversion claims in Count IV against Statoil and the State are dismissed with prejudice.

- The unjust enrichment and constructive trust claims in Count V against Statoil and the State are dismissed with prejudice.
- The civil conspiracy claims in Count VI against Statoil and the State are dismissed with prejudice.
- The 42 U.S.C. § 1983 claim in Count VII against the State is dismissed with prejudice.
- The Plaintiffs are not entitled to statutory damages under either N.D.C.C. § 47-16-39.1 or N.D.C.C. § 28-20-34, and are prohibited from claiming statutory damages until June 2022 under N.D.C.C. § 61-33.1-04(2)(b).
- The Plaintiffs are not entitled to special damages attributable to lost investment opportunities in the S&P 500 VFINX.
- The Plaintiffs request for \$1,441,086.73 in interest is denied.
- The Plaintiffs are not entitled to damages under N.D.C.C. § 32-03-23(3) for Jon Patch’s time. The request for \$180,000 in damages is denied.
- The Plaintiffs are not entitled to damages for unjust enrichment and the Plaintiffs’ request for bonus/rental payments and royalty payments through disgorgement under the State’s contracts in the amount of \$207,336.61 is denied.
- The Plaintiffs are not entitled to attorneys’ fees or costs. The Plaintiffs’ requests for attorneys’ fees and costs are denied.
- Let Judgment be entered accordingly.

MINERALS

Acreage Adjustment Report



NDDTL River Tracts map and outstanding requests for acreage adjustment stipulation and lease correction were presented to the Board and are available upon request.

Repayment of Unpaid Gas Royalties Update

The Board of University and School Lands (Board) manages land, minerals, and proceeds as trustee for the exclusive benefit of constitutionally identified beneficiaries, with much of the income going towards funding North Dakota schools and institutions. The Board also manages oil, gas and other hydrocarbons underlying sovereign lands for the State of North Dakota.

The Department of Trust Lands (Department) has persistently worked with operators to collect payment or establish escrow accounts for royalties from the production of minerals, in accordance with the Board's lease, rules, and policies. Royalty audits began in the late 1980's and a Revenue Compliance Division was created in 2011 to ensure that royalty and other collections made on behalf of the trusts and other funds are complete and accurate.

A letter regarding Formal Notification of Gas Royalty Repayment Obligations dated February 11, 2020 (February 2020 Letter), was sent to all entities required to pay royalties to the Board pursuant to the Board's lease. The February 2020 Letter advised all entities who have been deducting post production costs from royalty payments made to the Department that they have been underpaying royalties, contrary to the terms of the Board's lease. Entities were advised that penalties and interest continue to accrue on any unpaid amounts in accordance with the February 2020 Letter until payment is received. On April 8, 2020, the Board extended the date to come into compliance with gas royalty payments, as outlined in the February 2020 Letter, to September 30, 2020. At the August 27, 2020, Board meeting, the Board extended the date to come into compliance with gas royalty payments, as outlined in the February 2020 Letter, to April 30, 2020.

Since the issuance of the February 2020 Letter, the Department has been working with payors who have been deducting post production costs from royalty payments made to the Department to ensure that they are in compliance with the terms of the Board's lease.

The Department has several royalty repayment offers prepared to present to the Board in executive session pursuant to N.D.C.C. §§ 44-04-19.1 and 44-04-19.2.

EXECUTIVE SESSION

Under the authority of North Dakota Century Code Sections 44-04-19.1 and 44-04-19.2, the Board close the meeting to the public and go into executive session for purposes of attorney consultation relating to:

- **Acreage Adjustment Survey**
- **Royalty Offers**
- **Newfield Exploration Company et al Civ. No. 27-2018-CV-00143**
- **William S. Wilkinson et al. Case No. 53-2012-CV-00038**
- **Whitetail Wave LLC Case No. 27-2015-CV-00164**

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger		X	X		
Superintendent Baesler			X		
Treasurer Beadle			X		
Attorney General Stenehjem	X		X		
Governor Burgum			X		

The Board entered into executive session at 10:30 AM.

EXECUTIVE SESSION

Members Present:

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Wayne Stenehjem	Attorney General
Thomas Beadle	State Treasurer
Kirsten Baesler	Superintendent of Public Instruction

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Kate Schirado	Administrative Assistant
Catelin Newell	Administrative Staff Officer
Kristie McCusker	Paralegal
Adam Otteson	Revenue Compliance Director
James Wald	Legal Counsel (via Teams)

Guests in Attendance:

Charles Carvell	Office of the Attorney General
Dave Garner	Office of the Attorney General
Reice Haase	Office of the Governor
Leslie Bakken Oliver	Office of the Governor

The executive session adjourned at 11:50 AM and the Board returned to the open session and Teams meeting to rejoin the public. During the executive session meeting, the Board was provided information and no formal action was taken.

A D J O U R N

There being no further business, the meeting was adjourned at 11:52 AM.

Doug Burgum, Chairman
Board of University and School Lands

Jodi Smith, Secretary
Board of University and School Lands