

**Minutes of the Meeting of the
Board of University and School Lands
September 1, 2023**

The September 1, 2023, meeting of the Board of University and School Lands was called to order at 9:08 AM by Chairman Doug Burgum and roll call was taken.

Members Present:

Doug Burgum	Governor
Michael Howe	Secretary of State
Drew Wrigley	Attorney General
Thomas Beadle	Treasurer
Kirsten Baesler	Superintendent of Public Instruction

Department of Trust Lands Personnel Present:

Joseph Heringer	Commissioner
Catelin Newell	Administrative Staff Officer
Kate Schirado	Executive Assistant
Frank Mihail	Chief Investment Officer
Teresa Hettinger	Investments Officer
Maria Garcia	Finance
Susan Dollinger	Unclaimed Property Director
Elvedina Papalichev	Paralegal
Peggy Gudvangen	Finance Director
Joseph Stegmiller	Surface Director
Garret Hecker	Surface Range Soils Management Specialist
Lynn Spencer	Minerals Title Specialist
Ryan Kobilansky	Surface Range Soils Management Specialist
Jessica Sanchez	Minerals Management Officer
Chris Suelzle	Minerals Division Director
Emily Bosch	Unclaimed Property

Guests in Attendance:

Ryan Norrell	Office of the Governor
John Reiten	Office of the Governor
Dave Garner	Office of the Attorney General
Jennifer Sandberg	RVK
Matt Sturdivan	RVK
Tony Troilo	Arrowstreet
Harry Gakidis	Arrowstreet
Garrett Zdolshek	Jacobs Levy
Brian Thomas	Jacobs Levy
David Sparacino	Jacobs Levy
Peter Lehrer	Jacobs Levy
Bruce Jacobs	Jacobs Levy
Ken Levy	Jacobs Levy
Geoff Simon	Western Dakota Energy Association
Brady Pelton	NDPC
Kevin Balaod	WithIntelligence

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 27, 2023 meeting was made by Secretary Howe and the motion was seconded by Treasurer Beadle and the motion carried unanimously on a voice vote.

O P E R A T I O N S

Commissioner's Report

- Oil royalties deductions settlement achieved with major North Dakota operator; first since Newfield gas case finalized
- August 11 – attended State Investment Board - Investment Committee meeting as voting member
- August 25 - attended full State Investment Board meeting as voting member
- August 28 – CIO Frank Mihail and I attended first legislative ESG study meeting
- August 29 – admin rules public hearing held at state capitol

HR Update

- Annual goal setting season – meetings to establish department, division, and individual team member goals
- Two Minerals Officer positions filled with September 1, 2023 start dates
- New Investment Officer position filled with October 1, 2023 start date

Commissioner Performance & Compensation Committee

During its June 2023 meeting, the Land Board voted to form a committee to study and provide recommendations to the Board regarding: 1) Land Commissioner performance review policy and 2) needed adjustments to the Land Commissioner's salary. The committee is to consist of two Land Board members, one HRMS representative, and one industry professional. Treasurer Beadle and Secretary Howe have agreed to serve as the two Land Board members. North Dakota Chief People Officer, Molly Harrington, has agreed to serve as the HRMS representative. North Dakota Retirement & Investment Office CFO/COO, Ryan Skor, has agreed to serve as the institutional investment professional.

For the industry professional, a North Dakota government industry representative was selected to avoid potential conflicts with private industry professionals that may do business with the Department. Mr. Skor has an excellent background for this Committee as the Retirement & Investment Office is extensively involved in institutional investment management, working with investment managers, analysts, and consultants throughout the country. Mr. Skor also serves as

a resource for the State Investment Board Executive Review and Compensation Committee and has done extensive research in these areas.

Motion: Appoint the following individuals to serve on the Commissioner Performance & Compensation Committee: Treasurer Beadle; Secretary of State Howe; Molly Harrington, Chief People Officer; and Ryan Skor, CFO/COO, Retirement & Investment Office.

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

DIVISION REPORTS

SURFACE

SURFACE DIVISION

NORTH

Dakota

Be Legendary.™

Trust Lands

Encumbrances issued by Commissioner during July 2023:

- 8 Right of Way Agreements generating \$16,045 in income for the Trusts

Williams County 146-104-36 (August 2023)
Photo Credit: Garret Hecker



SURFACE DIVISION



County Facts:

Highest number of total acres:
McKenzie Co. (64,587 acres)

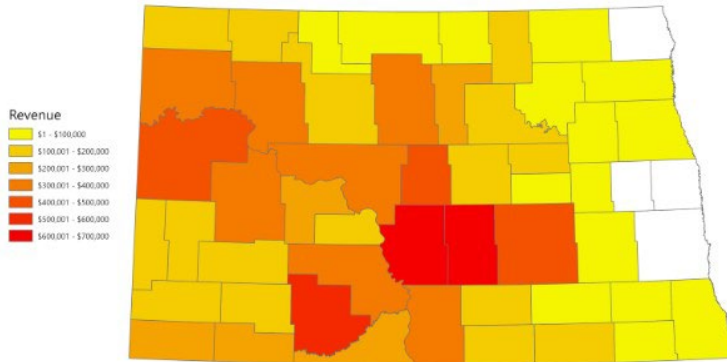
Highest agricultural lease revenue:
Burleigh Co. (\$650,725)

Highest amount of crop acres:
Towner Co. (1,381 acres)

Highest percentage of county land base:
Golden Valley Co. (4.5%)

Total Revenue from Agricultural Leases in FY 2023 = \$9.9 Million

Total Yearly Agricultural Lease Revenue by County, FY 2023



MINERALS

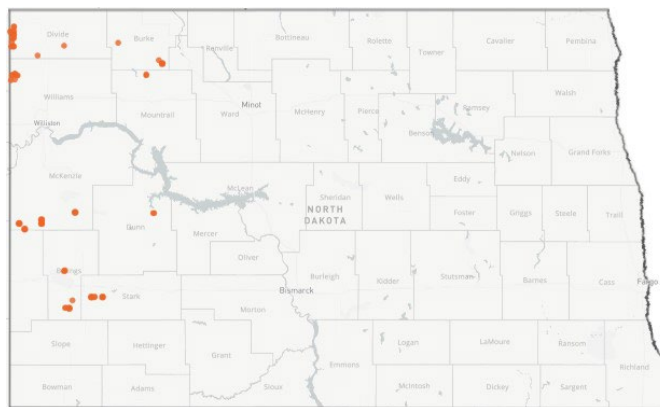
OIL & GAS LEASE AUCTION RESULTS



2023 Q3 (August) Online Oil & Gas Lease Auction

Summary

Bidding Snapshots	
Total tracts	78
Total acres	8,741.96
Total tracts receiving bids	78
Total registered bidders	36
Total bidders who placed bids	22
Average unique bidders on tract with bid	2.87
Total bids	711
High bid per tract	\$96,160.00
High bid per acre	\$1,970.00
Total bonus received	\$678,754.06



Auction data and map provided by EnergyNet.

OIL & GAS LEASE AUCTION RESULTS



2023 Q3 Auction Summary, *continued*

County	# Tracts	Net Min Acres	Total Bonus	Average Bonus/Net Acre
Billings	10	1440	\$4,800.00	\$3.33
Burke	6	688	\$219,760.00	\$319.42
Divide	20	2000	\$100,040.00	\$50.02
Dunn	2	160	\$168,320.00	\$1,052.00
McKenzie	20	3199.36	\$61,914.88	\$19.35
Mountrail	2	34.6	\$67,439.18	\$1,949.11
Stark	10	820	\$14,400.00	\$17.56
Williams	8	400	\$42,080.00	\$105.20
TOTAL	78	8741.96	\$678,754.06	\$77.64

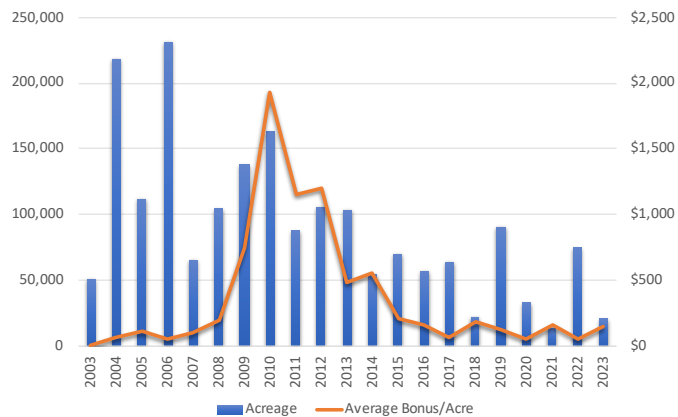
Trust/Fund	Trust/Fund Name	# Tracts	Total Bonus
A	Common Schools	56	\$504,434.88
D	School for the Deaf	1	\$1,680.00
E	Ellendale State College	1	\$6,080.00
I	Youth Correctional Center	2	\$640.00
L	SIIF (Strategic Investment & Improvements Fund)	14	\$130,700.88
N	NDSU	1	\$34,258.30
V	Valley City State U	1	\$320.00
W	State College of Science	2	\$640.00
	TOTAL	78	\$678,754.06

HISTORICAL AUCTION RESULTS



Year	Tracts	Acreage	Bonus	Average Bonus/Ac
2004	2,678	218,163.09	\$14,503,007.46	\$66.48
2005	1,350	111,808.20	\$12,309,350.04	\$110.09
2006	2,886	231,264.52	\$13,576,947.98	\$58.71
2007	829	65,134.94	\$6,211,340.61	\$95.36
2008	1,213	104,235.20	\$20,991,008.51	\$201.38
2009	1,735	138,109.87	\$103,212,375.99	\$747.32
2010	2,083	163,367.37	\$315,126,365.92	\$1,928.94
2011	1,132	87,432.04	\$100,553,811.94	\$1,150.08
2012	1,236	106,013.08	\$126,785,716.43	\$1,195.94
2013	1,267	103,586.18	\$50,109,863.59	\$483.75
2014	635	54,693.19	\$30,057,523.87	\$549.57
2015	779	69,987.56	\$14,522,817.52	\$207.51
2016	684	56,889.36	\$8,862,765.28	\$155.79
2017	720	64,291.10	\$4,496,748.14	\$69.94
2018	241	21,865.22	\$4,130,245.91	\$188.90
2019	1,065	90,698.40	\$10,876,517.31	\$119.92
2020	329	32,219.90	\$1,576,562.37	\$48.93
2021	151	13,525.98	\$2,175,579.72	\$160.84
2022	1,008	75,119.39	\$3,942,573.02	\$52.48
2023	207	21,268.01	\$3,090,459.52	\$145.31
TOTALS	22,228	1,829,672.60	\$847,111,580.63	\$462.99

Acreage Leased & Average Bonus/Acre Received by Year
(Past 20 Years)

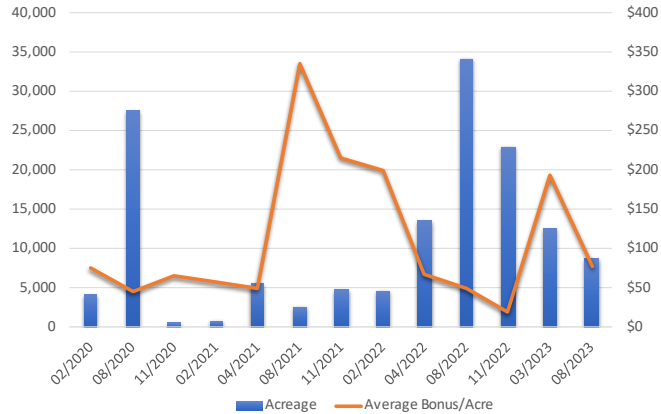


HISTORICAL AUCTION RESULTS



Auction	Tracts	Acreage	Bonus	Average Bonus/Ac
02/2020	36	4089.36	\$308,874.33	\$75.53
08/2020	288	27,572.15	\$1,230,769.90	\$44.64
11/2020	5	558.39	\$36,918.14	\$66.12
02/2021	6	719.02	\$40,752.60	\$56.68
05/2021	63	5592.27	\$281,476.25	\$50.33
08/2021	23	2481.29	\$831,534.87	\$335.12
11/2021	59	4733.4	\$1,021,816.00	\$215.87
02/2022	57	4596.24	\$916,142.26	\$199.32
05/2022	177	13,492.13	\$904,093.74	\$67.01
08/2022	459	34,147.30	\$1,670,404.15	\$48.92
11/2022	315	22,883.72	\$451,932.87	\$19.75
03/2023	129	12,526.05	\$2,411,705.46	\$192.54
08/2023	78	8741.96	\$678,754.06	\$77.64
TOTALS	1695	142,133.28	\$10,785,174.63	\$75.88

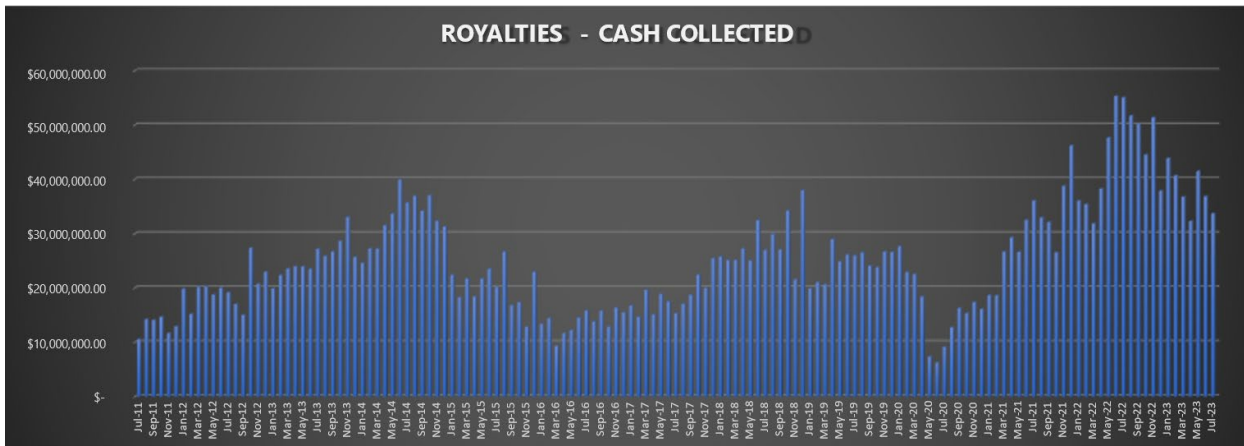
Acreage Leased & Average Bonus/Acre Received by Auction
(2020 through 2023)



FISCAL YTD O/G ROYALTIES



As of July 2023, for fiscal year 2023-24 the Department has received **\$33,669,470** in royalties as compared to **\$55,047,797** last fiscal year at this time. While production volume was similar, Bakken Crude was trading at over \$110/barrel in June of 2022 versus just over \$70/barrel in June of 2023.



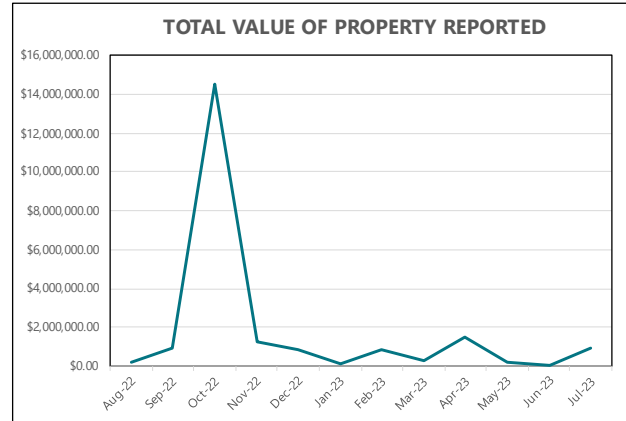
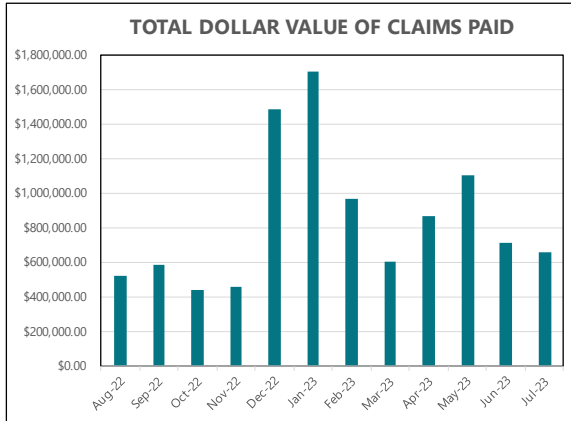
UNCLAIMED PROPERTY

UNCLAIMED PROPERTY DIVISION

<https://unclaimedproperty.nd.gov/>



For the month of July 2023, the Division paid 476 claims with \$661,209.83 returned to rightful owners/heirs. It also received 122 holder reports with a dollar value of \$909,230.57.



SURCH – States Unclaimed Retirement Clearing House



- A multi-state cooperative effort to facilitate state collection of unclaimed private sector retirement plan checks to overcome ERISA pre-emption of state laws
- Created through the National Association of State Treasurers (NAST) in conjunction with the National Association of Unclaimed Property Administrators (NAUPA) in collaboration with the US Department of Labor (DOL)
- These funds are currently not being reported by retirement plan administrators due to legal uncertainty and lack of a comprehensive system
- Reduces risk of further “federalization” of unclaimed property (states are already doing it)
- Designed NOT to place additional demands on state programs
- Contract fully executed on 8/10/2023

FINANCIALS

Financial Statements Position Report (Unaudited) for period ended May 31, 2023

The following statements represent the unaudited financial position for the various trusts and funds managed by the Department of Trust Lands. The unaudited financial positions are two months delayed as a significant portion of the revenue for Commons Schools Trust, Strategic Investment and Improvements Fund, and Coal Development Trust includes gross production tax, oil extraction tax and coal severance tax distributions which are received two months after production date.

(09/01/23)

The Financial Report (Unaudited) for period ending May 31, 2023, was presented to the Board for review and is available at the Department upon request.

Executive Estimate of Board Assets

EXECUTIVE ESTIMATE OF ASSETS					
NORTH DAKOTA DEPARTMENT OF TRUST LANDS					
As of July 31, 2023					
	7/31/2023	MOM\$	MOM%	YOY\$	YOY%
	Value	6/30/2023	Change	7/31/2022	Change
	Value	Value		Value	
Cash	864,002,526	769,244,735		433,035,689	
Investments ^[1]	7,483,235,889	7,387,811,095		6,493,576,462	
Tax Receivables ^[2]	-	-		240,168,506	
Loans ^[3]	37,876,494	38,015,765		40,555,377	
Receivables ^[4]	7,755,851	10,805,125		13,418,297	
Sub-Total Net Assets	\$8,392,870,761	8,205,876,719	2.28%	\$7,220,754,331	16.23%
Mineral Rights ^[5]	2,813,480,347	2,813,480,347		2,813,480,347	
Surface Rights ^[6]	518,077,274	518,077,274		511,088,869	
Building Value ^[7]	1,015,196	1,015,196		-	
Total Net Assets	\$11,725,443,578	\$11,538,449,536	1.62%	\$10,545,323,547	11.19%

[1] Approximately 60% of the portfolio is publicly traded for which values are current to the as of date. The remaining 40% is private assets, the values of which are updated as the managers provide them, typically 30-60 days after the end of each quarter.

[2] Estimated value of production, extraction, and severance tax payments not yet received by the Department because they are not distributed until two months after production date.

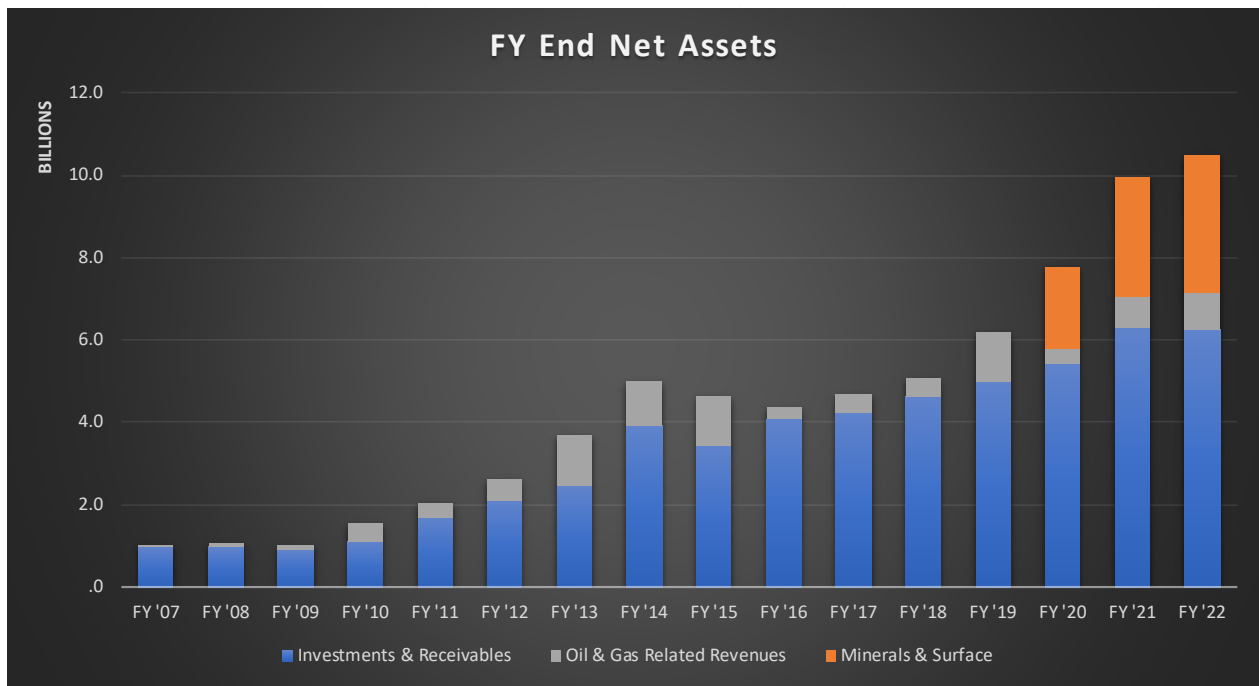
[3] Various loan programs funded with trust assets.

[4] Loans and investments interest accrued, but not yet paid.

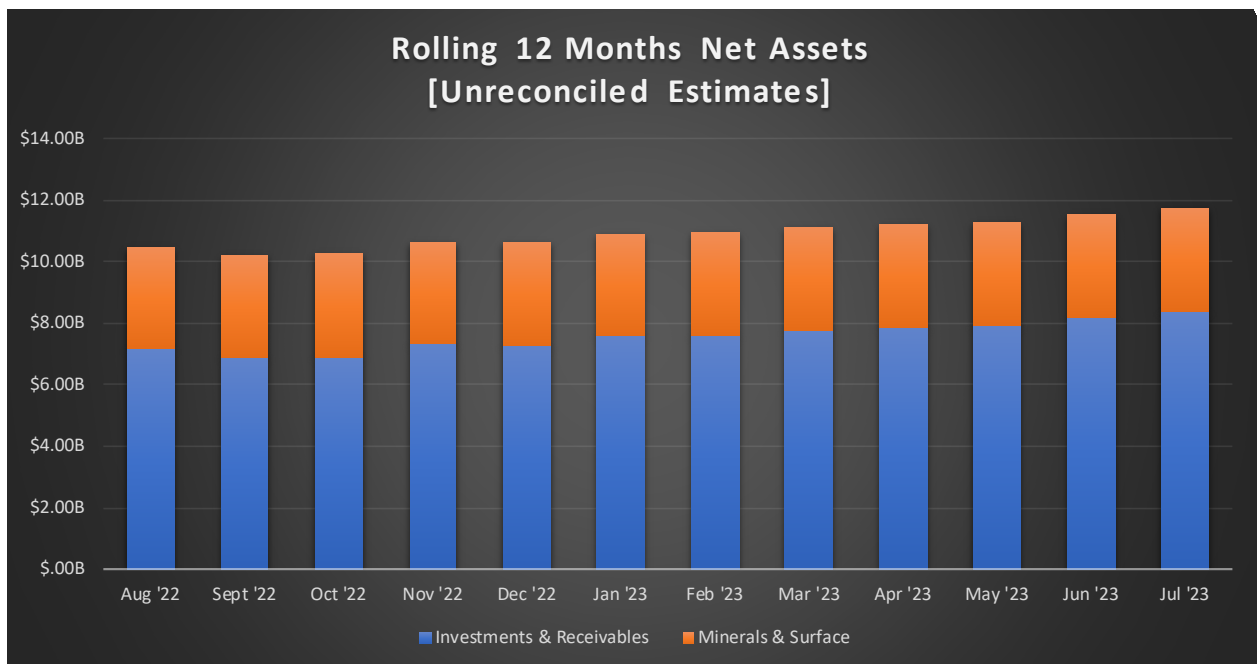
[5] Valued annually via contract with Mineral Tracker. Valuation as of December 31, 2021.

[6] Valued annually via Department fair market value policy. Valuation as of March 2023, based off agricultural values.

[7] Updated annually via broker price opinion. Valuation as of Sept. 15, 2022.



- [1] FY End 2020 - included initial Mineral valuations as of 12/31/19 amounting to \$1,449,002,408 and surface fair market value as of 12/31/19 amounting to \$538,179,773.
- [2] FY End 2021 - included new Mineral valuations as of 12/31/20 amounting to \$2,391,439,503 and surface fair market value as of 12/31/20 amounting to \$523,938,730.
- [3] FY End 2022 - included most recent Mineral valuations as of 12/31/21 amounting to \$2,813,480,347 and surface fair market value as of 12/31/21 amounting to \$511,088,869.



- [1] Dec 2021 includes mineral rights value of \$2,813,480,347
- [2] Sep 2022 includes appraised building value of \$1,015,196
- [3] Mar 2023 includes surface rights value of \$518,077,274

I N V E S T M E N T S

Investment Updates

Q3-Q4 Pipeline

Private Credit: distressed credit manager recommendation

Absolute Return: multi-strategy hedge fund recommendation

Portfolio Rebalancing Updates

Capital Calls Funded and Pending:

07/06 Owl Rock Diversified Lending \$7.5M

07/25 Hamilton Lane Infrastructure Opportunities Fund \$1.5M

Total Unfunded Commitments Remaining \$467.8M (as of July 31, 2023):

1. Private Credit, \$97.5M
 - i. Ares Pathfinder Fund, \$32M
 - ii. Owl Rock Diversified Lending, \$45M
 - iii. Varde Dislocation Fund, \$20.5M

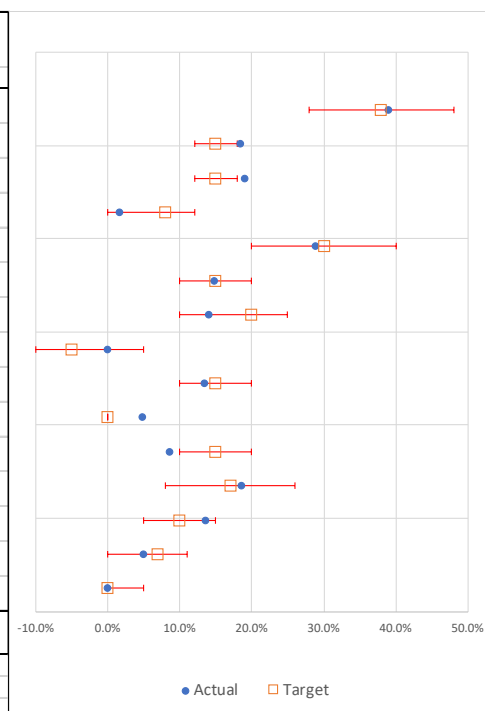
2. Private Equity, \$212M
 - i. GCM Grosvenor Private Equity, \$94M
 - ii. GCM Grosvenor Secondary Opportunities Fund III, \$106.5M
 - iii. Morgan Stanley Ashbridge TS Fund II, \$11.5M

3. Private Infrastructure, \$8.3M
 - i. Hamilton Lane Infrastructure Opportunities Fund, \$8.3M

4. Absolute Return, \$150M
 - i. Millennium USA LP (Hedge Fund), \$150M

Current Asset Allocation (unaudited)

As of July 31, 2023	Market Value \$	Actual	Target	Lower Range	Upper Range
Equity	2,554,956,353	39.1%	38.0%	28.0%	48.0%
Broad US Equity	1,203,124,642	18.4%	15.0%	12.0%	18.0%
Broad Int'l Equity	1,243,396,012	19.0%	15.0%	12.0%	18.0%
Private Equity	108,435,699	1.7%	8.0%	0.0%	12.0%
Fixed Income	1,887,715,361	28.9%	30.0%	20.0%	40.0%
Public Credit	971,090,035	14.8%	15.0%	10.0%	20.0%
Private Credit	916,625,326	14.0%	20.0%	10.0%	25.0%
Cash / (Implied Leverage)	-	0.0%	-5.0%	-10.0%	5.0%
Absolute Return	881,088,935	13.5%	15.0%	10.0%	20.0%
Global Tactical Asset Allocation	318,010,527	4.9%	0.0%	0.0%	0.0%
Multi-Strategy Hedge Fund	563,078,408	8.6%	15.0%	10.0%	20.0%
Real Assets	1,216,028,105	18.6%	17.0%	8.0%	26.0%
Real Estate	889,074,292	13.6%	10.0%	5.0%	15.0%
Private Infrastructure	326,953,813	5.0%	7.0%	0.0%	11.0%
Opportunistic Investments	-	0.0%	0.0%	0.0%	5.0%
Portfolio Total	6,539,788,755	100.0%			



Hypothetical Asset Allocation (after funding all commitments)

As of July 31, 2023	Market Value \$	Actual	Target	Lower Range	Upper Range
Equity	2,554,956,353	39.1%	38.0%	28.0%	48.0%
Broad US Equity	1,109,124,642	17.0%	15.0%	12.0%	18.0%
Broad Int'l Equity	1,125,396,012	17.2%	15.0%	12.0%	18.0%
Private Equity	320,435,699	4.9%	8.0%	0.0%	12.0%
Fixed Income	1,887,715,361	28.9%	30.0%	20.0%	40.0%
Public Credit	873,590,035	13.4%	15.0%	10.0%	20.0%
Private Credit	1,014,125,326	15.5%	20.0%	10.0%	25.0%
Cash / (Implied Leverage)	-	0.0%	-5.0%	-10.0%	5.0%
Absolute Return	881,088,935	13.5%	15.0%	10.0%	20.0%
Global Tactical Asset Allocation	168,010,527	2.6%	0.0%	0.0%	0.0%
Multi-Strategy Hedge Fund	713,078,408	10.9%	15.0%	10.0%	20.0%
Real Assets	1,216,028,105	18.6%	17.0%	8.0%	26.0%
Real Estate	880,774,292	13.5%	10.0%	5.0%	15.0%
Private Infrastructure	335,253,813	5.1%	7.0%	0.0%	11.0%
Opportunistic Investments	-	0.0%	0.0%	0.0%	5.0%
Portfolio Total	6,539,788,755	100.0%			

Assumptions: No other new cash is expected to fund calls. No redemption proceeds or distributions were received. All capital calls came in at the same time.

Real Estate – Portfolio Restructuring

The current real estate allocation sits at 13.6%, which represents a \$235 million overweight to the 10% long term Strategic Asset Allocation (SAA) target. The goal of this proposal is twofold: (1) diversify the portfolio and (2) speed up liquidity without sacrificing value in the secondary markets.

Staff recommends building a core-satellite portfolio targeting a core NCREIF Open End Diversified Core Equity (ODCE) Index manager and 2-3 satellite managers to drive excess returns through a geographic or industry focus. To accomplish this, staff recommends the following changes:

- **Hire IDR Investment Management (~\$413M).** Staff and RVK recommend hiring IDR Investment Management to manage the core real estate portfolio. IDR created an investable ODCE Index in 2018 with initial funding from a group of large US pension plans. The firm manages \$5B in assets across 75 institutional client accounts. Advantages of moving into the investable ODCE Index include reduced fees and increased liquidity. IDR achieves favorable fee breakpoints because of its size. This creates enough fee savings where IDR earns a management fee and the Board benefits from fee savings. IDR receives favorable pro rata liquidity based on size which can benefit the Board's goal of speeding up liquidity. The index is invested across 21 manager names, which reduces single name risk in the portfolio.
- **Transfer Morgan Stanley PRIME to IDR (~\$273M).** A component of the ODCE Index that can be transitioned into the investable ODCE Index and diversified across 21 manager names.
- **Transfer UBS Trumbull to IDR (~\$140M).** A component of the ODCE Index that can be transitioned into the investable ODCE Index and diversified across 21 manager names.

- **Full Redemption JPM Morgan Income & Growth (~\$164M).** As a diversified strategy not included in the ODCE Index, this strategy is misplaced in a core-satellite approach as it does not fit within the core or the satellite buckets.

- **Full Redemption State Street US REIT Index (~\$21M).** This account acts as a liquid placeholder and transition account for hiring/firing active managers. IDR serves as a replacement for this need.

Motion: The Board approve (1) full redemption of JP Morgan Income & Growth (2) full redemption of State Street US REIT Index (3) in-kind transfer of Morgan Stanley PRIME to IDR and (4) in-kind transfer of UBS Trumbull to IDR, subject to standard legal review/documentation.

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

RVK Executive Summary and IDR Presentation were presented to the Board and are available at the Department upon request.

Broad US Equity – Extended Equities (130-30)

The US Equity portfolio is currently at \$1.2 billion with a 15% long term target and is comprised of three building blocks – large cap, mid cap and small cap. The goal of this proposal is to drive excess returns in the US Equity portfolio.

Staff recommends introducing long-short active management in the US Equity portfolio. By relaxing the short constraint, extended equity strategies give our investment managers the tools to profit when the market moves in either direction. Staff and RVK began a manager search by reaching out to 8 well-known extended equity managers. After interviewing and conducting due diligence on potential extended equity managers, Staff and RVK recommend the following:

- **Hire Arrowstreet US Equity Small Cap 130-30-20 (Russell 2000) (10% of US Equity ~\$120M).** Arrowstreet was founded in 1999 and is headquartered in Boston. They have over \$130 billion in assets under management across 296 client relationships and a team of over 100 investment professionals. Staff and RVK know Arrowstreet’s firm and investment process well as they are a current manager in good standing. US small cap is a sub asset class with less efficient markets, creating the opportunity to deliver excess returns and Arrowstreet has a 5-year track record of delivering over 6% net excess returns in this strategy.

- **Hire Jacobs Levy 130-30 Large Cap (Russell 1000) (40% of US Equity ~\$480M).** Jacobs Levy was founded in 1986 and is headquartered in New Jersey. They have over \$18 billion in assets under management across 46 institutional relationships and a 61-person team. Jacobs Levy has a 16-year track record in 130-30 strategies, one of the longest in the space. The US large cap strategy has a 14-year track record of delivering over 4% net excess returns.

- **Full Redemption Northern Trust Small Cap Core (~\$185M).** Small cap long-only active management will no longer be needed. Proceeds will be used to fund the small cap extended equity strategy.

- **Full Redemption State Street Russell Mid Cap Index (~\$111M).**

A passive tilt toward mid cap will no longer be needed. Proceeds will be used to rebalance into the Russell 1000 index, which is comprised of both large cap and mid cap names.

Motion: The Board approve (1) full redemption of Northern Trust Small Cap Core (2) full redemption of State Street Russell Mid Cap Index (3) investment with Arrowstreet US Equity Small Cap 130-30-20 and (4) investment with Jacobs Levy 130-30 Large Cap, subject to standard legal review/documentation.

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

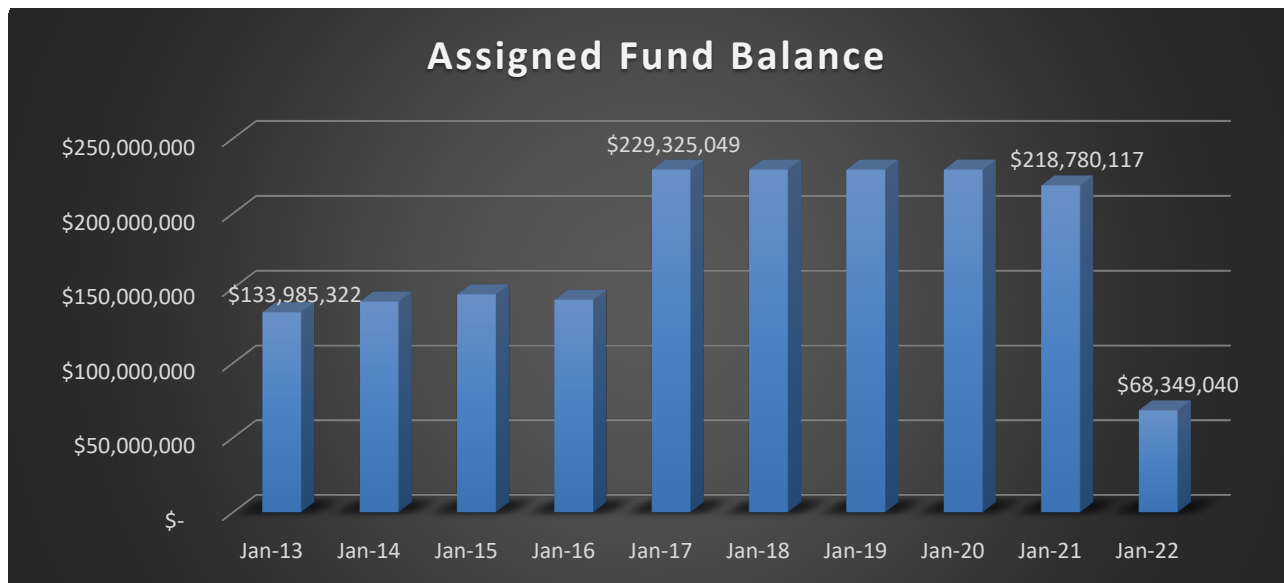
RVK US Equity Structure and Manager Recommendations, Arrowstreet Presentation, and Jacobs Levy Presentation were presented to the Board and are available at the Department upon request.

SPECIAL PROJECTS

Strategic Investment and Improvements Fund (SIIF) - Assigned Fund Balance

On August 25, 2022, the Board approved the existing Assigned Fund Balance of \$68,349,040. Since then, the Department of Trust Lands (Department) has completed acreage adjustments pursuant to N.D.C.C. ch. 61-33.1. Based upon the completion of these lease corrections, the Department has determined the Board can reduce the amount preserved in the Assigned Fund Balance. The recommended reduction is based upon the lease corrections and royalty adjustments that have been executed. The table below details the recommended Assigned Fund Balance which is \$17,597,108 less than the prior year.

	6/30/2023 Recommended Assigned Fund Balance	
Fort Berthold Reservation Riverbed Bonus	\$	42,019,220
Fort Berthold Reservation Riverbed Royalties		1,825,469
Wenck Line Litigation Hold Bonus		6,908,243
Recommended Assigned Fund Balance	\$	50,751,932



Motion: For purposes of its financial reporting, the Board affirms the “Assigned Fund Balance” of the Strategic Investment and Improvements Fund be set at \$50,751,932 as of June 30, 2023.

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

LITIGATION

Litigation Update

- EEE (OHWM title dispute / takings claim) – ND Federal District Court issued order May 31, 2022, granting Board’s motion to dismiss on all counts: federal preemption, sovereign immunity, takings; Plaintiffs appealed to 8th Circuit; on August 30, 2023, the 8th Circuit issued its opinion in our favor affirming the trial court’s dismissal on all counts; Plaintiffs have 14 days to request reconsideration by the 8th Circuit and 90 days to appeal to the U.S. Supreme Court
- Continental Oil Royalty Deductions – Now that the Newfield gas royalty deductions case has been resolved, this case comes off stay and the parties are required to file a status report with the Court by November 1, 2023.
- MHA (Missouri riverbed ownership) – On July 7, 2023, the United States filed a motion to amend its pleading to add a quiet title crossclaim against North Dakota as a new Intervenor in the case. We filed a motion requesting a change of venue to North Dakota that the Court is now considering.
- Continental Interpleader (OHWM fed/state dispute) – ND Federal District Court issued opinion March 21, 2023, granting Board’s motion for partial summary judgment on
(09/01/23)

“Acquired Federal Lands” issue; this means the Wenck survey controls for establishing the historical ordinary high-water mark of the Missouri River in areas where the uplands were acquired by the federal government, and not original “public domain lands”; federal government appealed and we filed cross appeal; briefing scheduled to be completed in October

- Leland/Whiting (OHWM river island ownership) – Watford City trial September 12-16, 2022; currently in post-trial briefing stage
- Whitetail Wave (OHWM title dispute / takings claim) – On August 22, 2023, Whitetail Wave appealed the trial court’s rulings for the state (takings, Wenck Line, quiet title) and the award of attorney fees to co-defendant XTO Energy. Briefings and oral arguments before the North Dakota Supreme Court to follow.

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 consultations regarding:

- **Continental Resources, Inc. v. North Dakota Board of University and School Lands and the United States of America – Case No. 1:17-cv-014**
- **Oil Royalty Settlements**

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

The Board entered into executive session at 11:34 AM.

EXECUTIVE SESSION

Members Present:

Doug Burgum	Governor
Michael Howe	Secretary of State
Kirsten Baesler	Superintendent of Public Instruction
Drew Wrigley	Attorney General
Thomas Beadle	Treasurer

Department of Trust Lands Personnel present:

Joseph Heringer	Commissioner
Kate Schirado	Administrative Assistant
Catelin Newell	Administrative Staff Officer
Chris Suelzle	Minerals Director
Jessica Sanchez	Minerals Management Officer
Adam Otteson	Revenue Compliance Director
Elvedina Papalichev	Paralegal

Guests in Attendance:

Ryan Norrell	Office of the Governor
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(09/01/23)

John Reiten
Dave Garner
Jennifer Verleger
Charles Carvell

Office of the Governor
Office of the Attorney General
Office of the Attorney General
Office of the Attorney General (Continental Case Discussion)

The executive session adjourned at 12:30 PM and the Board returned to the open session via Teams meeting to rejoin the public. During executive session, the Board discussed the Continental Resources case and oil royalty settlements with its attorneys. No formal action was taken when the open meeting reconvened.

A D J O U R N

There being no further business, the meeting was adjourned at 12:31 PM.

Doug Burgum, Chairman
Board of University and School Lands

Joseph Heringer, Secretary
Board of University and School Lands