

**Minutes of the Meeting of the
Board of University and School Lands
August 22, 2024**

The August 22, 2024, meeting of the Board of University and School Lands was called to order at 9:05 AM by Chairman Doug Burgum and roll call was taken.

Members Present:

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

Members Absent:

Thomas Beadle	Treasurer
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Department of Trust Lands Personnel Present:

Joseph Heringer	Commissioner
Catelin Newell	Administrative Staff Officer
Kate Schirado	Executive Assistant
Rick Owings	Administrative Staff Officer
Frank Mihail	Chief Investment Officer
James Wald	Legal Council
Susan Sommerfeld	Unclaimed Property Director
Peggy Gudvangen	Finance Director
Amanda Parent	Minerals Management Officer
Joseph Stegmiller	Surface Division Director
Jessica Fretty	Unclaimed Property
Scott Giere	Revenue Compliance
Chris Suelzle	Minerals Division Director
Lynn Spencer	Minerals Title Specialist
Pam Reile	Revenue Compliance
Matthew Reile	IT
Maria Garcia	Finance
Teresa Hettinger	Investments Officer
Shaun Campbell	Investments Officer
Kathy Brandvold	Revenue Compliance
Elvedina Papalichev	Paralegal
Adam Otteson	Revenue Compliance Division Director

Guests in Attendance:

Josh Kevan	RVK
John Reiten	Office of the Governor
Nathan Svihovec	Office of the Governor
Dave Garner	Office of the Attorney General
Geoff Simon	Western Dakota Energy Association
Jacob Orledge	North Dakota Monitor
Michael Achterling	North Dakota Monitor
Lindsay Saienni	FIN News
Rakesh (Rick) Jain	Pantheon
Zachary Kropf	Pantheon

(08/22/24)

Will Waters
Matt Mullarkey

APPROVAL OF MINUTES

A motion to approve the minutes of the July 9, 2024, meeting was made by Secretary Howe and the motion was seconded by Superintendent Baesler and the motion carried unanimously on a voice vote.

OPERATIONS

Commissioner's Report

- North Dakota Trust Lands Completion Act – traveled to Washington, D.C. to testify on July 24, 2024, before the U.S. House Committee on Natural Resources - Subcommittee on Federal Lands; also meetings with congressional delegation and committee staffers; very productive and interesting trip; goal of advancing the bill later this Fall or after the November elections
- Agency Incentive Compensation Study – attended August 12, 2024, committee meeting where the draft RFP was reviewed and the committee authorized staff to finalize and issue; the RFP was issued August 15, 2024
- Cash Management Study - attended July 23, 2024, Cash Management Study Steering Committee meeting as a voting member; walked through draft report and compiled comments for RVK's review and response; final report due for presentation to the legislature this Fall
- 2025-27 Agency Budget – submitted to OMB by July 15th deadline; August 5th meeting with OMB and Legislative Council to review and discuss
- Department of Water Resources Irrigation Study – August 6, 2024, meeting with DWR during which they updated us on this study and we discussed potential collaboration opportunities
- State Investment Board Investment Committee - attended July 10, 2024, and August 9, 2024, meetings as a voting member
- State Investment Board - attended July 26, 2024, full State Investment Board meeting as a voting member
- Legislative Session Planning – compiling potential legislation ideas, including agency incentive compensation plan

Human Resources Update

(08/22/24)

- Admin Position – open due to retirement; filled with candidate starting September 3, 2024
- Minerals Officer – open due to private sector competition; reviewing candidate pool for interviews

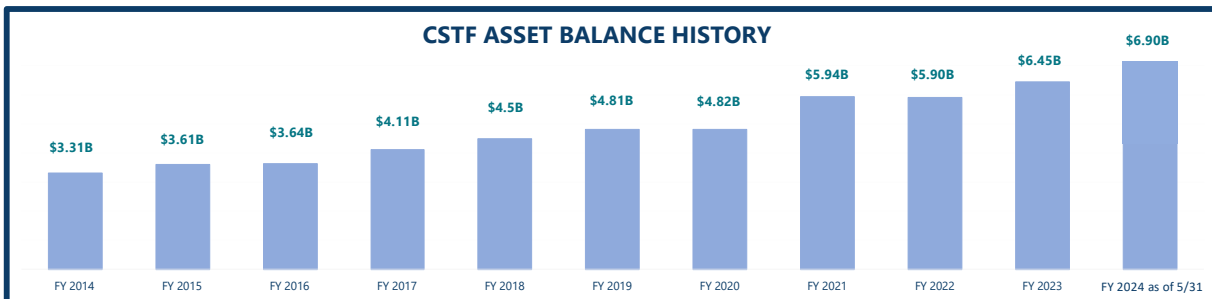
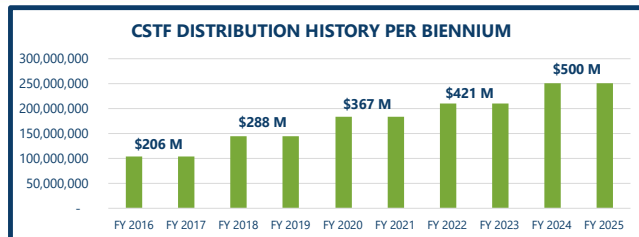
Financial Dashboard

COMMON SCHOOLS TRUST FUND (CSTF) OVERVIEW NORTH Dakota | Trust Lands
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CSTF ASSET BALANCE as of 5/31/2024 (unaudited)

\$6,906,391,732

+\$862 million year-over-year from 5/31/23 balance of \$6.04 billion



COMMON SCHOOLS TRUST FUND 2023 -25 (CSTF) DISTRIBUTIONS NORTH Dakota | Trust Lands
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Monthly Distribution to the State Tuition Fund for the 2023-25 Biennium \$27,770,000
 Multiplied by 9 months per year = \$250,000,000
 Divided by 115,740 students = \$2,160/student per year

North Dakota Cost to Educate Per Student \$13,778/year
 75.7% State Funding Share = \$10,430
 \$2,160 CSTF per Student Annual Distribution **=21% of state funding share**



**COMMON SCHOOLS TRUST FUND
2023 -25 (CSTF) DISTRIBUTIONS**



**Current Biennium Distributions to the
State Tuition Fund through 5/31/2024**

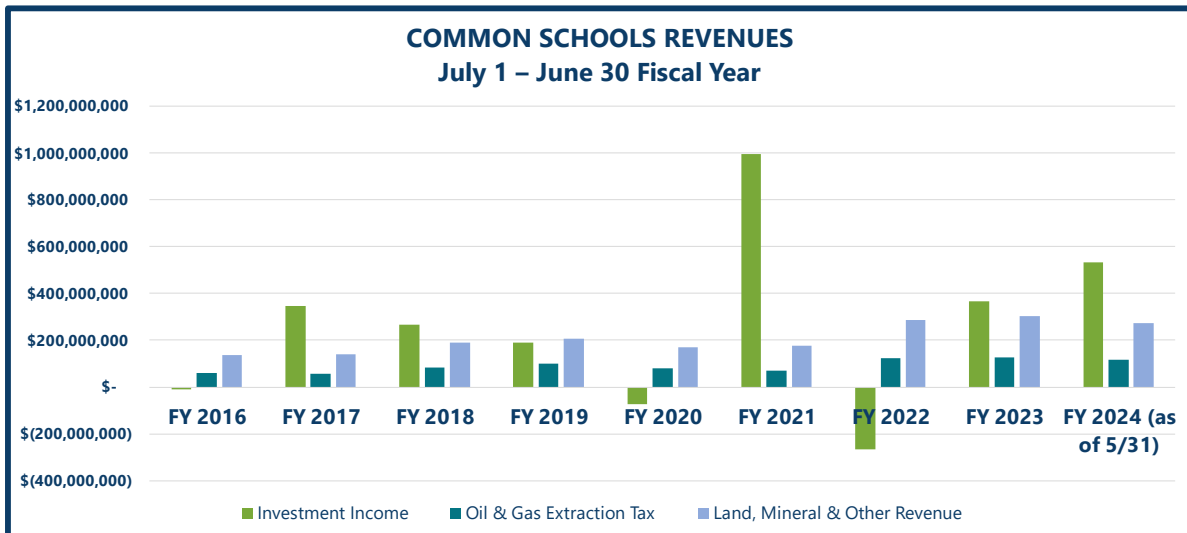
**\$250 million of
\$500 million total**

CSTF Distributions Since FY 2014

\$2 BILLION OF PROPERTY TAX RELIEF!



**COMMON SCHOOLS TRUST FUND
(CSTF) OVERVIEW**



STRATEGIC INVESTMENT & IMPROVEMENT FUND (SIIF) OVERVIEW



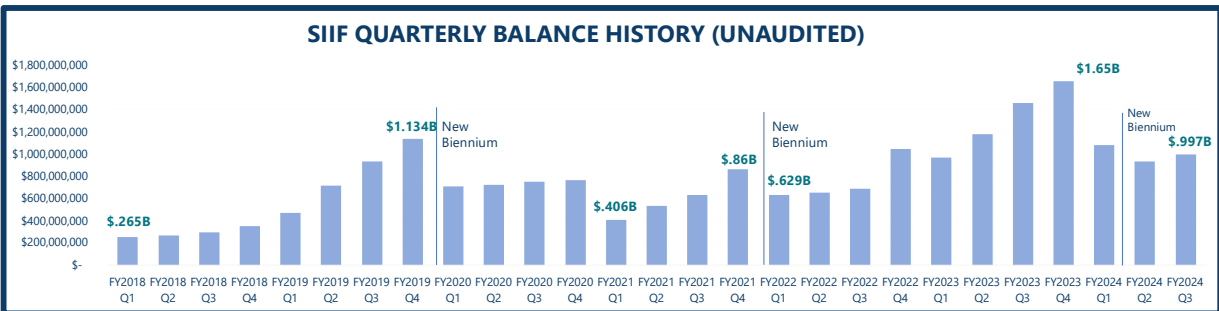
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SIIF BALANCE as of 3/31/2024 (unaudited)

- Total Balance - \$996,954,423
- Uncommitted Balance – \$590,630,306

SIIF BALANCE as of 5/31/2024 (unaudited)

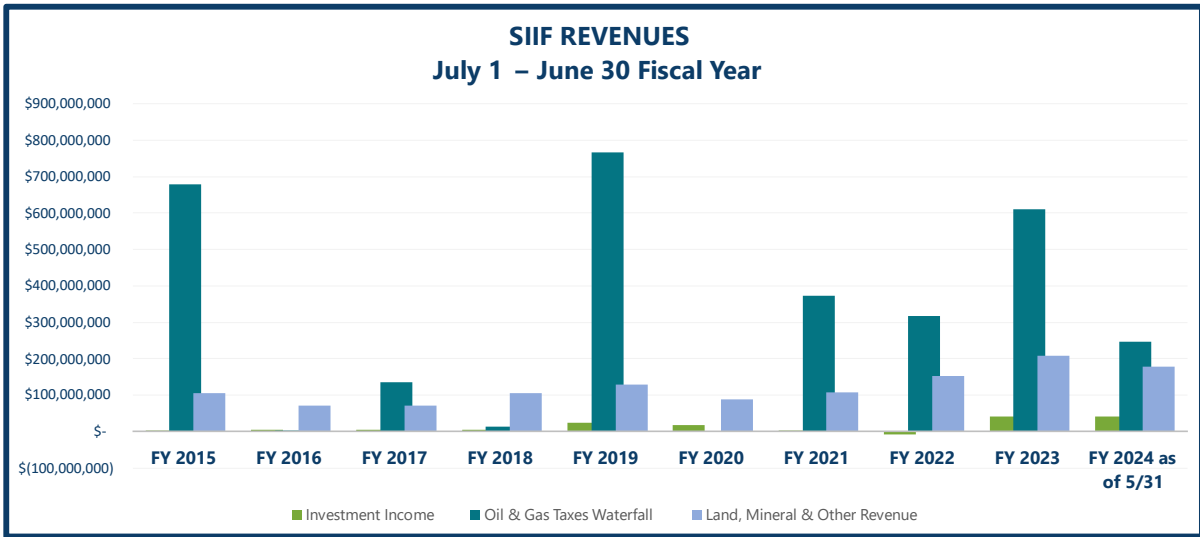
- Total Balance - \$1,203,950,371
- Uncommitted Balance – **\$809,492,447**



STRATEGIC INVESTMENT & IMPROVEMENT FUND (SIIF) HIGHLIGHTS



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ESTIMATED TOTAL NET ASSETS
as of 03/31/2024

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Mineral Tracker Valuation
as of June 30, 2023 on
2.6 million Mineral Acres
\$2,568,614,367



Surface Fair Market Value
as of April 18, 2024 on
706,000 Surface Acres
\$671,978,325



Estimated Total Net Assets*
as of May 31, 2024

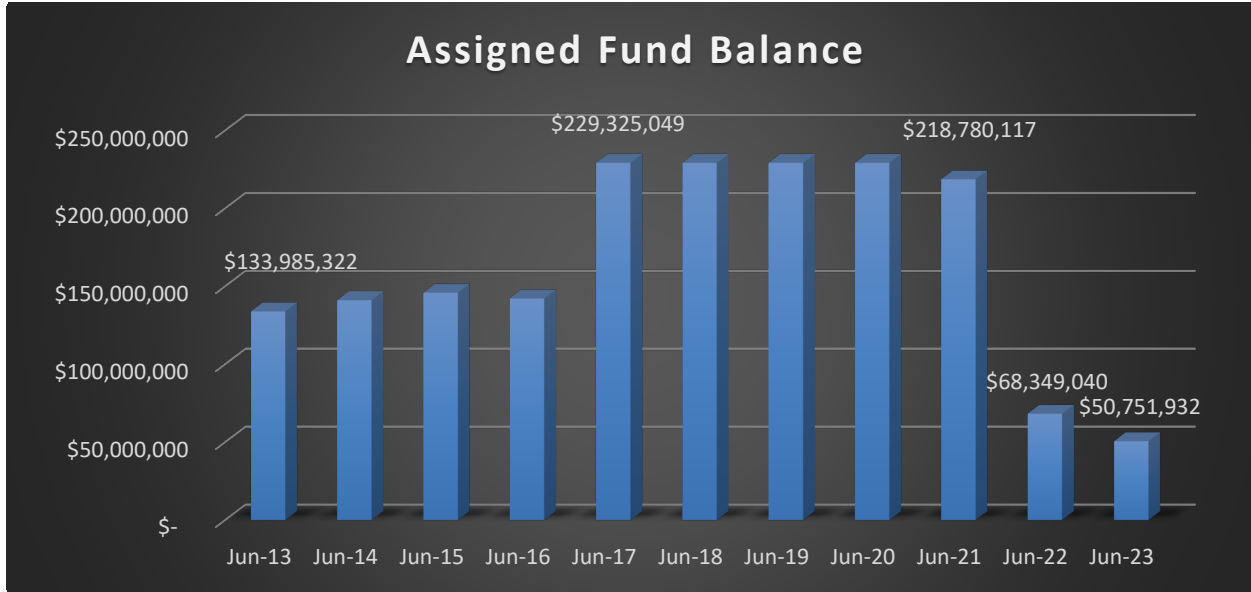
\$10,661,559,513

* Total excluding SIIF

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

On September 1, 2023, the Board approved the existing Assigned Fund Balance of \$50,751,932. Since then, the Department of Trust Lands (Department) has completed a review of active leases and wells in the disputed area. The recommended reduction is based upon a reduction in the amount of bonus money associated with active leases within the disputed area and a reduction in the amount of royalties paid. The table below details the recommended Assigned Fund Balance which is \$7,685,529 less than the prior year.

	6/30/2024 Recommended Assigned Fund Balance
Fort Berthold Reservation Riverbed Bonus	\$ 34,379,816
Fort Berthold Reservation Riverbed Royalties	1,778,344
Wenck Line Litigation Hold Bonus	6,908,243
Recommended Assigned Fund Balance	\$ 43,066,403



Motion: For purposes of its financial reporting, the Board affirms the “Assigned Fund Balance” of the Strategic Investment and Improvements Fund be set at \$43,066,403 as of June 30, 2024.

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

DIVISION REPORTS

SURFACE

**SURFACE DIVISION
ENCUMBRANCES ISSUED**



Encumbrances issued by the Commissioner during June and July of 2024: 14 Right of Way Agreements generating \$163,772 in income for the Trusts in June and 23 Right of Way Agreements generating \$321,863 in income for the Trusts in July.



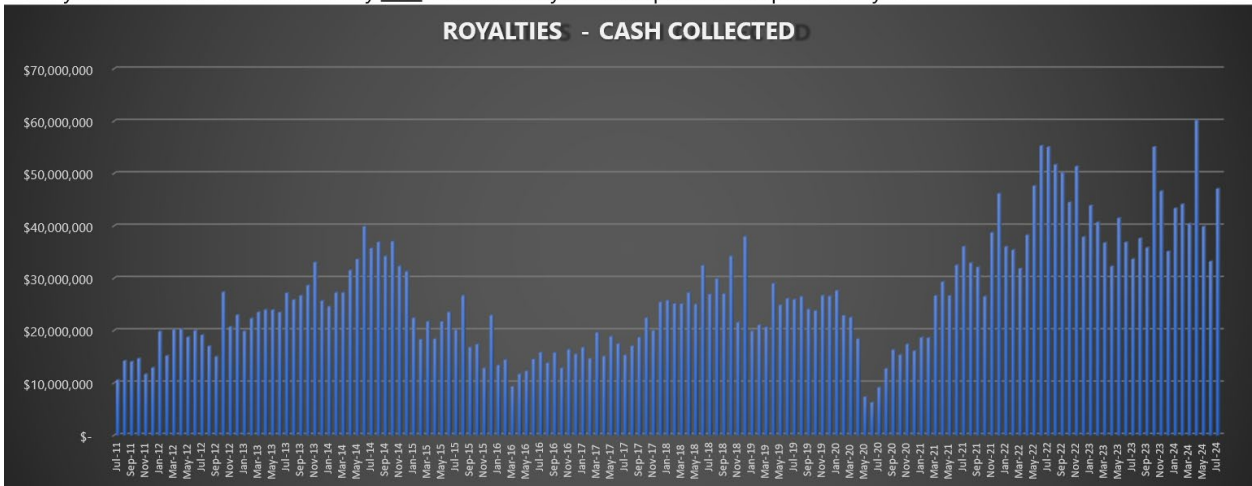
Beautiful Blue Skies in McKenzie County 151-95-16 June 2024. Photo Credit: Jacob Lardy

MINERALS

**MINERALS DIVISION
FISCAL YTD O/G ROYALTIES**



As of July 31, 2024*, for fiscal year 2024-25 the Department has received **\$47,075,187** in royalties as compared to **\$33,669,470** last fiscal year at this time. This was a nearly **40%** increase in royalties compared to the prior fiscal year!

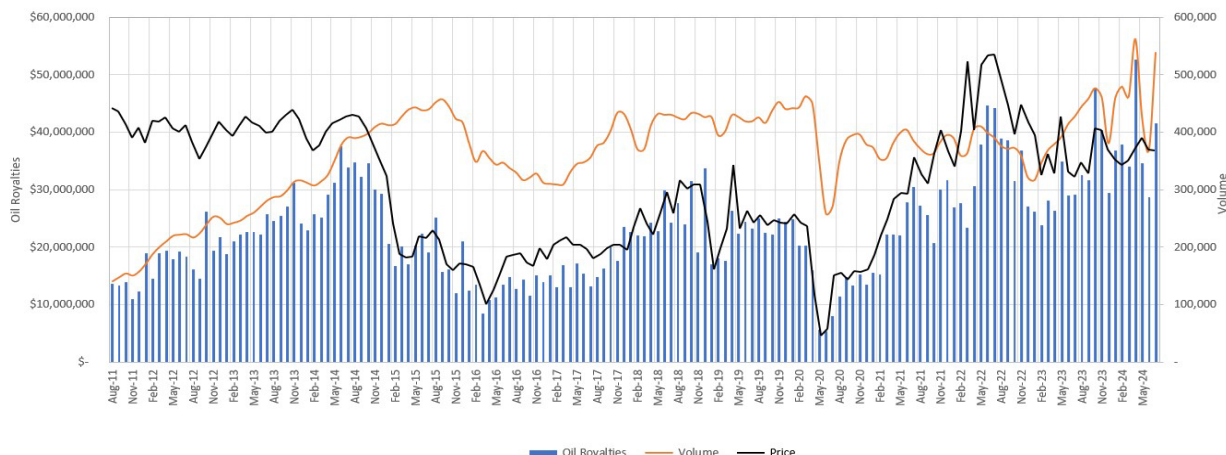


*July royalty revenue is from May gas production and June oil production.

PRICE MAIN DRIVER OF O/G ROYALTIES



In the early years production growth was the driver of the Department's royalty increases. Now that our net monthly production has been more stable, averaging 460,327 barrels per month over the past twelve months, the price of oil & gas is the main driver of monthly royalty variations.

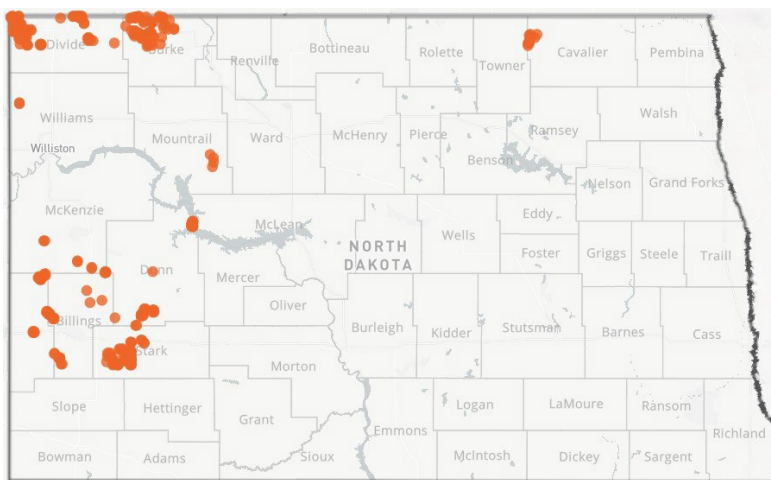


OIL & GAS LEASE AUCTION RESULTS SUMMARY



2024 Q3 (August) Online Oil & Gas Lease Auction

Bidding Snapshots	
Total tracts	315
Total acres	25,478.89
Total tracts receiving bids at auction	303
Total registered bidders	49
Total bidders who placed bid	36
Average unique bidders on tract with bid	2.94
Total bids	2,107
High bid per tract	\$462,080
High bid per acre	\$5,776
Total bonus received	\$4,976,864



Auction data and map provided by EnergyNet.

OIL & GAS LEASE AUCTION RESULTS SUMMARY, CONTINUED



2024 Q3 (August) Online Oil & Gas Lease Auction

County	# Tracts	Net Min Acres	Total Bonus	Average Bonus/Net Acre
Billings	19	2,410.78	\$97,353	\$40
Burke	66	5,184.34	\$1,055,507	\$204
Cavalier	11	883.30	\$883	\$1
Divide	97	7,724.07	\$1,744,805	\$226
Dunn	31	1,830.12	\$305,042	\$167
Golden Valley	19	2,683.20	\$89,063	\$33
McKenzie	10	367.95	\$1,269,586	\$3,450
McLean	5	494.50	\$251,840	\$509
Mountrail	4	104.00	\$16,704	\$161
Stark	51	3,716.63	\$89,481	\$24
Williams	2	80.00	\$56,600	\$708
TOTAL	315	25,478.89	\$4,976,864	\$195

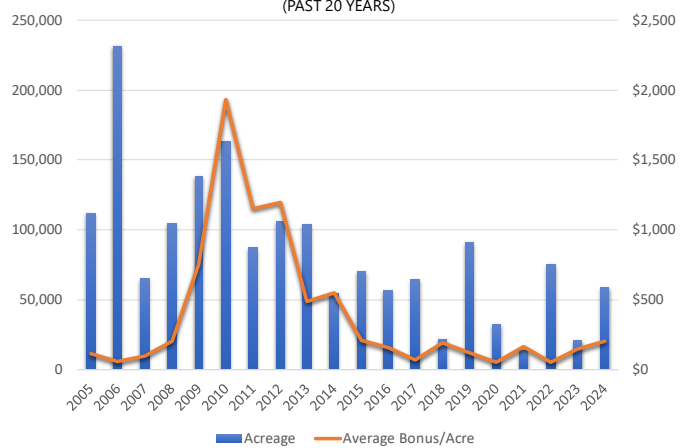
Trust/Fund	Trust/Fund Name	# Tracts	Total Bonus
A	Common Schools	162.5	\$3,260,868
B	School for the Blind	2	\$1,814
D	School for the Deaf	3	\$192,240
E	Ellendale State College	2	\$160
H	State Hospital	1	\$1,120
I	ND Industrial School	4	\$6,242
L, R	SIIF (Strategic Investment & Improvements Fund)	130.5	\$1,431,164
M	School of Mines	1	\$1,280
N	NDSU	1	\$247
U	UND	5	\$58,854
V	Valley City	1	\$480
W	ND School of Science	1	\$22,316
Z	Valley City and Mayville State Universities	1	\$80
	TOTAL	315	\$4,976,864

HISTORICAL AUCTION RESULTS



Year	# Tracts	Net Acreage	Bonus	Average Bonus/Ac
2005	1,350	111,808.20	\$12,309,350	\$110
2006	2,886	231,264.52	\$13,576,948	\$59
2007	829	65,134.94	\$6,211,341	\$95
2008	1,213	104,235.20	\$20,991,009	\$201
2009	1,735	138,109.87	\$103,212,376	\$747
2010	2,083	163,367.37	\$315,126,366	\$1,929
2011	1,132	87,432.04	\$100,553,812	\$1,150
2012	1,236	106,013.08	\$126,785,716	\$1,196
2013	1,267	103,586.18	\$50,109,864	\$484
2014	635	54,693.19	\$30,057,524	\$550
2015	779	69,987.56	\$14,522,818	\$208
2016	684	56,889.36	\$8,862,765	\$156
2017	720	64,291.10	\$4,496,748	\$70
2018	241	21,865.22	\$4,130,246	\$189
2019	1,065	90,698.40	\$10,876,517	\$120
2020	329	32,219.90	\$1,576,562	\$49
2021	151	13,525.98	\$2,175,580	\$161
2022	1,008	75,119.39	\$3,942,573	\$52
2023	207	21,268.01	\$3,090,459	\$145
2024	690	59,153.37	\$11,934,332	\$202
TOTALS	20,240	1,670,662.88	\$844,542,906	\$506

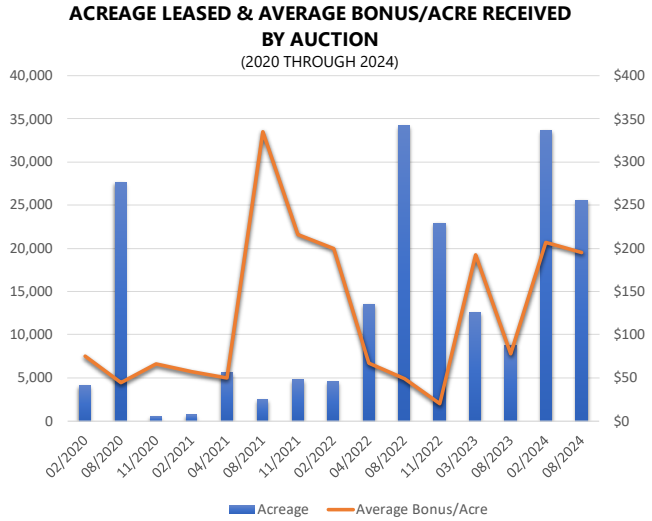
ACREAGE LEASED & AVERAGE BONUS/ACRE RECEIVED BY YEAR (PAST 20 YEARS)



HISTORICAL AUCTION RESULTS, CONTINUED



Auction	# Tracts	Net Acreage	Bonus	Average Bonus/Acre
Feb-20	36	4089.36	\$308,874	\$76
Aug-20	288	27,572.15	\$1,230,770	\$45
Nov-20	5	558.39	\$36,918	\$66
Feb-21	6	719.02	\$40,753	\$57
May-21	63	5592.27	\$281,476	\$50
Aug-21	23	2481.29	\$831,535	\$335
Nov-21	59	4733.4	\$1,021,816	\$216
Feb-22	57	4596.24	\$916,142	\$199
May-22	177	13,492.13	\$904,094	\$67
Aug-22	459	34,147.30	\$1,670,404	\$49
Nov-22	315	22,883.72	\$451,933	\$20
Mar-23	129	12,526.05	\$2,411,705	\$193
Aug-23	78	8741.96	\$678,754	\$78
Feb-24	375	33,674.48	\$6,957,468	\$207
Aug-24	315	25,478.89	\$4,976,864	\$195
TOTALS	2,385	201,286.65	\$22,719,506	\$113



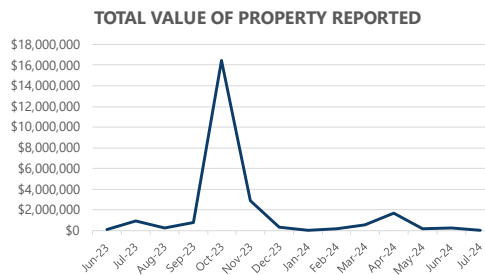
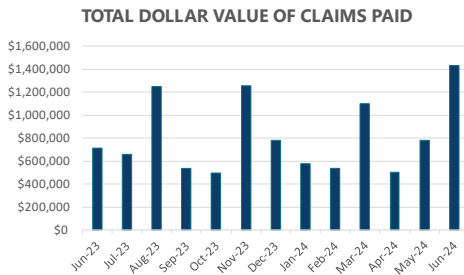
UNCLAIMED PROPERTY

UNCLAIMED PROPERTY DIVISION

<https://unclaimedproperty.nd.gov>



For the month of June 2024, the Division paid 367 claims with \$1,248,557 returned to rightful owners/heirs. The Division also received 153 holder reports with a dollar value of \$209,205.

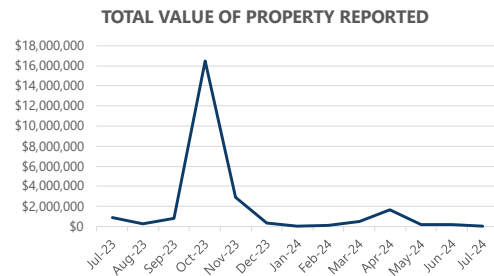
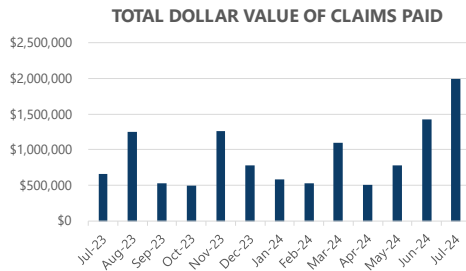


UNCLAIMED PROPERTY DIVISION

<https://unclaimedproperty.nd.gov>

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For the month of July 2024, the Division paid 590 claims with \$1,993,343 returned to rightful owners/heirs. The Division also received 75 holder reports with a dollar value of \$56,879.



Settlement of Litigation: *Arkansas v. Delaware*

Background

In 2016, Arkansas, together with North Dakota and 28 other states, filed an action in the United States Supreme Court seeking over \$250 million in unclaimed funds from uncashed MoneyGram official check products that had been improperly escheated to Delaware.

The case focused on determining which state has the right to take custody of funds from certain unclaimed official checks issued by MoneyGram, a money transfer service operating across all 50 states.

The Federal Disposition Act provides that proceeds from unclaimed money orders, traveler's checks, and similar items must be turned over to the state where the item was purchased. However, since 2005, MoneyGram had been turning over these checks to Delaware, its state of incorporation.

On February 28, 2023, the U.S. Supreme Court unanimously ruled that these funds fall under the Federal Disposition Act and should have been turned over to the states where the checks were purchased, not to Delaware.

Settlement

Following the Court's opinion, Delaware cast doubt on the accuracy of available data and the parties began engaging in settlement discussions. The parties ultimately agreed on settlement terms and amounts to be distributed to each state. The Land Board approved North Dakota joining in the settlement during its June 3, 2024, meeting. Highlights of the settlement agreement include:

(08/22/24)

- North Dakota will receive approximately \$2.2 million plus escrow interest (less pro rata litigation expenses and examination fees).
- Delaware will pay to each state its respective settlement payment.
- Delaware will keep all amounts escheated to Delaware between the years 2005-2010.
- All parties will assume liability for the unclaimed checks it receives.
- All parties relinquish rights to pursue further action regarding the subject checks.
- Funds will be deposited to North Dakota's Unclaimed Property Program where they can be claimed by rightful owners.

I N V E S T M E N T S

Investment Updates

Q3-Q4 Pipeline

Public Equity: international equity recommendation

Infrastructure: core infrastructure recommendation

Capital Calls Funded (as of July 31, 2024):

2023 \$80M

2024 YTD \$221M

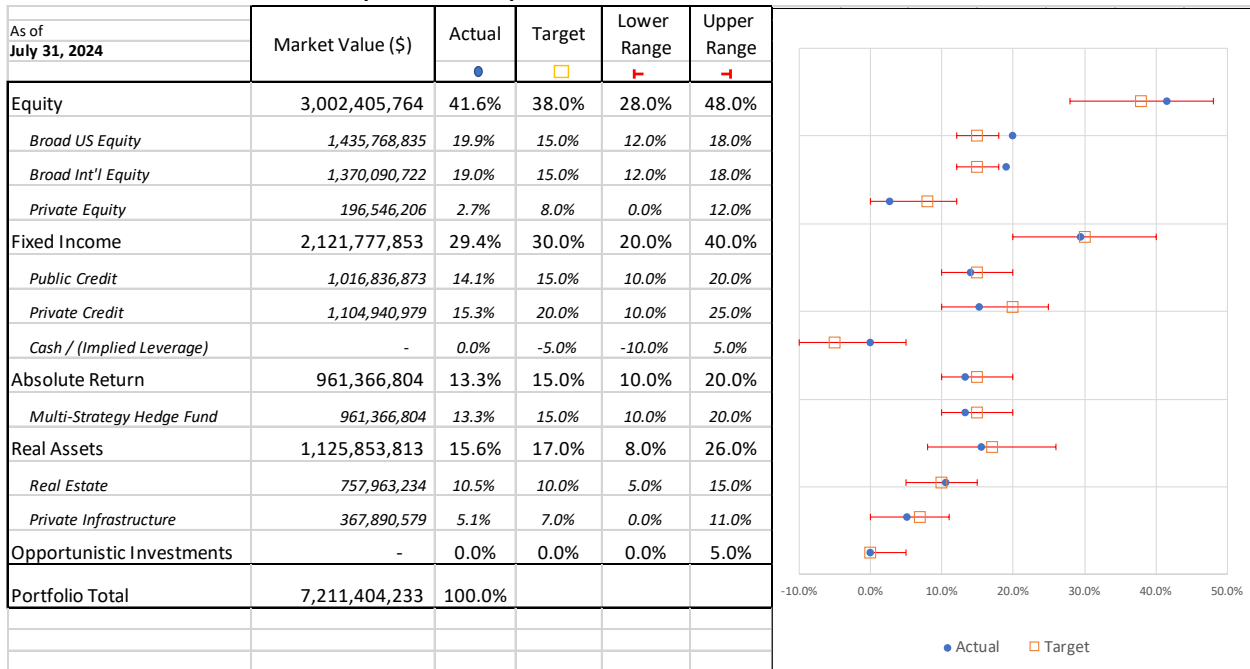
Total Unfunded Commitments \$994M (as of July 31, 2024):

1. Private Credit, \$308M
 - i. Ares Pathfinder Fund, \$14M
 - ii. Blue Owl Diversified Lending, \$40M
 - iii. Monarch Capital VI, \$54M
 - iv. Ares Pathfinder Core, \$200M

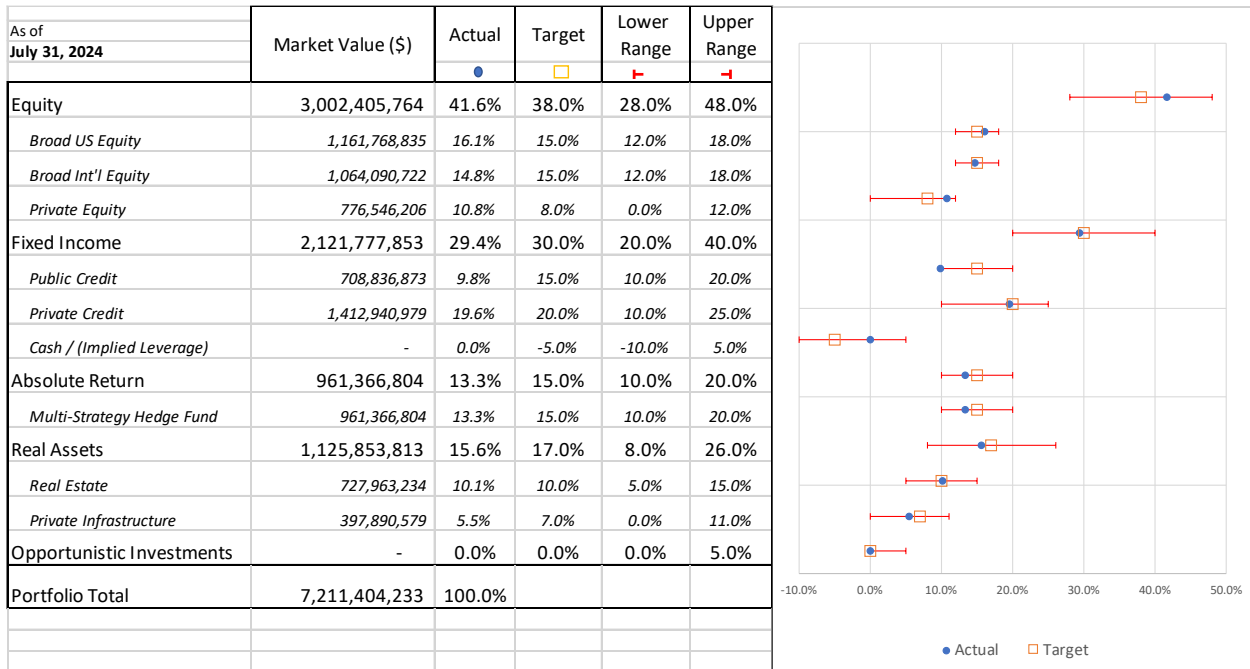
2. Private Equity, \$579M
 - i. GCM Grosvenor Private Equity, \$74M
 - ii. GCM Grosvenor Secondary Opportunities Fund III, \$88M
 - iii. Morgan Stanley Ashbridge TS Fund II, \$9M
 - iv. Khosla Ventures, \$25M
 - v. Blue Owl Strategic Equity, \$25M
 - vi. GCM Grosvenor Private Equity Series 2, \$274M
 - vii. Industry Ventures Partnership Holdings VII, \$50M
 - viii. Andreessen Horowitz Multiplexer, \$35M

3. Real Assets, \$30M
 - i. Hamilton Lane Infrastructure Opportunities Fund, \$5M
 - ii. Hamilton Lane Infrastructure Opportunities Fund II, \$25M

Current Asset Allocation (unaudited)



Hypothetical Asset Allocation (after funding all commitments)



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.

Private Credit – Secondaries

The current private credit allocation sits at 15.3%, which represents a \$330M underweight to the 20% long term strategic asset allocation target. The goal of this proposal is to increase the private credit commitment and take advantage of discounts in the evolving credit secondaries market.

Staff recommends allocating to secondaries within the private credit portfolio. As a result of the higher interest rate environment, there has been a proliferation of private credit funds in recent years. As these funds enter maturity, opportunities arise for investors who are willing to provide capital to those seeking liquidity. There are two types of secondary deals. (1) LP-led deals – institutional investors willing to sell primary funds at a discount to clean up their books or rebalance to meet asset allocation targets. (2) GP-led deals – fund managers willing to sell underlying single loans or loan portfolios at a discount to wind down the fund in a timely fashion.

Secondary investments have been a boon to the Land Board’s private equity portfolio and offer similar advantages in private credit. (1) Diversification – primary funds are made up of 100 underlying loans, on average, whereas a secondary fund of funds will be comprised of over 1,000 underlying loans. (2) Transparency – most defaults tend to occur in the first three years. A secondary fund manager can cherry-pick seasoned loans. (3) Shorter Duration – primary credit fund life ranges from 4-6 years. Secondary investments have a shorter duration due to seasoned underlying loans, typically with 2-4 years remaining. (4) J-curve Mitigation - Pull to par is the immediate markup from purchasing at a discount, which reduces J-curve effect (negative performance during early years of a primary fund when expenses exceed returns).

Staff and RVK recommend a commitment to Pantheon Credit Opportunities (PCO III). Pantheon is a global private markets investment firm founded in 1982 and headquartered in London with over 125 investment professionals across 12 global offices and \$65B in discretionary assets under management. The private credit team launched in 2018 and manages \$4.9B with investment professionals in London and New York.

PCO III is targeting a \$750M fundraise with a 3-year investment period and 8-year fund life. The fund will invest across the risk spectrum from senior secured to specialty finance and distressed. Allocation targets include 50-80% LP / 30-40% GP and 50-80% US / 20-40% Europe / 0-10% ROW.

Motion: The Board approve \$100M commitment to Pantheon Credit Opportunities III, subject to standard legal review/documentation.

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

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

Public Credit – Bond Overlay

The purpose of this memo is to inform the board of staff’s intention to turn on the bond overlay program that was approved at the July 2023 board meeting. The bond overlay account setup was completed last quarter and current asset allocation targets indicate a need for additional core fixed income exposure. The current core fixed income allocation sits at 12.6%, which represents a \$175M underweight to the 15% long term strategic asset allocation target.

Core Fixed Income	Value (\$M)	Weight (%)
Current	\$902	12.6%
Target	\$1,077	15.0%
Difference	\$175	-2.4%

Staff worked with the bond overlay manager to design and build a market monitor report. The report guides decision-making in a systematic approach using market signals. The signals include Federal Reserve Board activity, inflation measures, unemployment measures and yield curve dynamics.

In the last 18 months from December 2022 to June 2024, most signals have flipped from short to neutral, indicating an appropriate time to activate the bond overlay program.

Dashboard Indicator	Short	Neutral	Long
Overlay (exposure)	OFF (underweight)	ON (target)	ON (overweight)

NISA Market Monitor Report was presented to the Board and is available at the Department upon request.

Building Maintenance Report

In April of 2021, the Department started gathering bids to replace the current retaining wall on the north side of the building. Several delays happened causing this project to get pushed back. The project was finally completed in May of 2024.

The retaining wall was redone, making it significantly smaller. A new black fence on the retaining wall was installed. The rocks and dirt were taken out and replaced with cement. Gutters were added and downspouts were installed. The dryvit along the arches was done during the remodel in 1997 and needed some work, as patches had peeled off, and a fresh coat of paint was applied. The entire non brick parts of the building were repainted, along with the front canopy, pillars, the railing, and small lights on the sidewalk path in a dark gray. Photocell LED lights were added and replaced an outdated timer system for employee and customer safety, along with reducing unnecessary energy consumption.



Department retaining wall North side of the building before repair, June 23, 2022



Department retaining wall on North side of the building before repair, June 23, 2022



Department retaining wall North side of the building after wall repair, July 23, 2024



Looking North from Divide Avenue, after painting July 25, 2024



South Side of the building before painting, April 23, 2024 and after painting, July 25, 2024



West Side of the building before painting, April 23, 2024 and after painting, July 25, 2024



West Side of the building before painting, April 23, 2024 and after painting, July 25, 2024

Future Project

The parking lot is in need of some repairs and possibly will need to be resurfaced. We will begin looking into our options with plans to have the work done in 2025.



Parking lot photos taken July 25, 2024

All photos in the building maintenance and repair report are credited to Rick Owings.

LITIGATION

Litigation Update

- **Mandan, Hidatsa, and Arikara Nation v. United States Department of the Interior**

- **Case Summary:** 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. On July 23, 2024, the Court issued its rulings on these two issues: 1) granting the United States’ motion for a quiet title action; and 2) denying our motion to venue the case in North Dakota. The parties are now working to agree on a motions, discovery, and trial schedule venued in Washington D.C.

Commencement: July 2020

ND Assigned Attorneys: James Auslander, Kathryn Tipple, Peter Schaumberg, and Nessa Coppinger (Beveridge & Diamond, Washington, D.C.)
Matthew Sagsveen, AG Dir. of Natural Resources and Native American Affairs

Counsel for MHA: Steven D. Gordon (Holland & Knight's Washington, D.C.)
Philip Merle Baker-Shenk (Holland & Knight's Washington, D.C.)
Timothy Purdon (Robins Kaplan, Bismarck, ND)
Timothy Billion (Robins Kaplan, Minneapolis, MN)

Counsel for United States Department of Interior: Reuben S. Schifman (Washington, D.C.)

Court: United States District Court for the District of Columbia

Judge: Honorable Amy Berman Jackson

Win = North Dakota owns historical Missouri Riverbed (mineral rights) through Fort Berthold Indian Reservation resulting in release to state of tens of millions of dollars in withheld oil & gas royalties.

Lose = U.S. owns the riverbed in trust for MHA Nation so royalties are released to the tribe

- **State of North Dakota, ex. rel. v Virginia Leland, et.al.**

- **Case Summary:** OHWM river island ownership; trial was held September 12-16, 2022; Judge Schmidt issued a Phase I Memorandum Decision on April 30, 2024, finding 1) the at issue Yellowstone River segment was navigable at statehood; 2) the at issue west bank of the river is owned by the state; 3) the at issue north island is not

owned by the state; 4) the at issue south island is owned by the state; and 5) the state's claim is not barred by laches. The remaining issues of conveyances, mineral acreage calculations, etc. are now being presented in Phase II proceedings.

- The state's response to motions for summary judgement is due on September 6th with a bench trial scheduled for December 17-19, 2024.

Commencement: January 2016

ND Assigned Attorneys: Matthew Sagsveen, AG Dir. of Natural Resources and Native American Affairs
James Wald, DTL General Counsel

Counsel for Whiting Oil and Gas Corp: Paul Forster (Crowley Fleck, PLLP, Bismarck, ND)
Shane Hanson (Crowley Fleck, PLLP, Bismarck, ND)

Counsel for Defendant(s): Kevin Chapman (Chapman Law Firm, P.C., Williston, ND)
Ariston Johnson (Johnson & Sundeen, Watford City, ND)
and Others

Court: State District Court, McKenzie County

Judge: Honorable Robin Schmidt

Win = State owns at issue Yellowstone River islands and related mineral interests

Lose = Plaintiffs owns at issue Yellowstone River islands and related mineral interests

- **Continental Resources, Inc. v. North Dakota Board of University & School Lands and North Dakota Department of Trust Lands**

- **Case Summary:** Continental Oil Royalty Deductions – Now that the Newfield gas royalty deductions case has been resolved, this has come off stay and the parties have filed a joint scheduling order laying out the discovery and preparation timeline for trial that is currently scheduled for August 4-8, 2025, in McKenzie County.

Commencement: December 2017

ND Assigned Attorney(s): David Garner, Assistant Attorney General

Counsel for Continental Resources, Inc.: Jeffrey King (K&L Gates, Fort Worth, TX)

Court: State District Court, McKenzie County

Judge: Honorable Robin Schmidt

Win = Clarity that Land Board oil & gas lease does not allow for deductions from oil royalties resulting in tens of millions of dollars in deductions being repaid to the state.

Lose = Deductions from oil royalties are allowed under the lease, requiring additional administrative rules/case law to clarify extent

- **Continental Resources, Inc. v. North Dakota Board of University and School Lands and the United States of America (Interpleader)**

- **Case Summary:** OHWM fed/state dispute – ND Federal District Court issued opinion March 21, 2023, granting Board’s motion for partial summary judgment on “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; final brief was filed January 10, 2024; oral arguments likely to be scheduled this Fall.

Commencement: December 2016

ND Assigned Attorneys: Philip Axt, ND Solicitor General

Counsel for Continental: Lawrence Bender (Fredrikson & Byron P.A., Bismarck, ND)
Spencer Ptacek (Fredrikson & Byron P.A., Bismarck, ND)

Counsel for USA: Shaun Pettigrew (Environment and Natural Resources Division (ENRD)) of the U.S. Department of Justice

Court: United States District Court, District of North Dakota

Judge: Magistrate Judge Clare R. Hochhalter

Win = State survey controls where U.S. lands abut the Wenck line resulting in retention of 2,500 mineral acres

Lose = Federal surveys control resulting in net loss of approximately 2,500 mineral acres

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 and to discuss negotiating strategy regarding:

- **Continental Resources, Inc. v. North Dakota Board of University and School Lands (Royalty Deductions Case)**

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

The Board entered into executive session at 11:06 AM.

EXECUTIVE SESSION

Members Present:

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

Members Absent:

Thomas Beadle	Treasurer
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Department of Trust Lands Personnel present:

Joseph Heringer	Commissioner
Adam Otteson	Revenue Compliance Division Director
Chris Suelzle	Minerals Division Director
Catelin Newell	Administrative Staff Officer
Kate Schirado	Executive Assistant
James Wald	DTL General Counsel

Guests in Attendance:

Nathan Svihovec	Office of the Governor
John Reiten	Office of the Governor
Dave Garner	Office of the Attorney General

The executive session adjourned at 11:29 AM and the Board returned to the open session meeting to rejoin the public. During executive session, the Board discussed the Continental Resources (royalty deductions) case 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 11:29 AM.

Doug Burgum, Chairman
Board of University and School Lands

Joseph Heringer, Secretary
Board of University and School Lands