

**Minutes of the Meeting of the  
Board of University and School Lands  
September 26, 2024**

The September 26, 2024, meeting of the Board of University and School Lands was called to order at 9:04 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
Thomas Beadle	Treasurer

**Department of Trust Lands Personnel Present:**

Joseph Heringer	Commissioner
Catelin Newell	Director of Admin Svcs & IT
Rick Owings	Administrative Staff Officer
Frank Mihail	Chief Investment Officer
James Wald	Legal Council
Elvedina Papalichev	Paralegal
Adam Otteson	Revenue Compliance Division Director
Susan Sommerfeld	Unclaimed Property Director
Peggy Gudvangen	Finance Director
Catherine Brown	Administrative Assistant
Jacob Lardy	Land Management Specialist
Shaun Campbell	Investments Officer
Teresa Hettinger	Investments Officer
Scott Giere	Revenue Compliance
Joseph Stegmiller	Surface Division Director
Pam Reile	Revenue Compliance
Jessica Fretty	Unclaimed Property
Ryan Kobilansky	Surface Range Soils Management Specialist
Matthew Reile	IT Systems Administrator
Maria Garcia	Finance
Vicki Siegel	Finance
Lynn Spencer	Minerals Title Specialist
Chris Suelzle	Minerals Division Director
Garret Hecker	Surface Range Soils Management Specialist
Kisha Mitchell	Unclaimed Property
Kathy Brandvold	Revenue Compliance
Amanda Parent	Minerals Management Officer

**Guests in Attendance:**

Josh Kevan	RVK
John Reiten	Office of the Governor
Nathan Svihovec	Office of the Governor
Jacob Orledge	North Dakota Monitor
C. Rajala	

## APPROVAL OF MINUTES

A motion to approve the minutes of the August 22, 2024, meeting was made by Treasurer Beadle, the motion was seconded by Attorney General Wrigley and the motion carried unanimously on a voice vote.

## OPERATIONS

### **Commissioner's Report**

- New U.S. Bureau of Land Management North Dakota Resource Management Plan – BLM issued its final proposed plan August 9, 2024; it removes large areas from new oil, gas & coal development; areas of special concern are in the southwest corner of the state where there has been historical oil production and recent studies showing commercially viable rare earth minerals deposits in coal; this plan will hurt U.S. energy and national security; it will also negatively affect North Dakota's development of its natural resources and corresponding state revenues for decades to come; we worked as part of the statewide agencies response group to submit a protest letter within the 30-day period; the next important deadline is the Governor's 90 day Consistency Review Period that ends October 9, 2024
- State Investment Board Investment Committee - attended September 13, 2024, and September 16, 2024, meetings as a voting member
- 10<sup>th</sup> Annual Great Plains Institutional Investment Forum – attended this conference in Minneapolis on September 17, 2024
- Cash Management Study – RVK presented their report to the legislative Government Finance Committee on September 17, 2024; the presentation and full report can be found on the legislature's website
- Legislative Investment Report – presented our annual investment performance & fees report to Legislative Management's Budget Section on September 18, 2024
- State Investment Board Securities Litigation Committee – chaired committee meeting held on September 19, 2024
- Retirement & Investment Office Inaugural Investment Seminar – attended this seminar on September 25, 2024, and served as a panelist for discussion entitled "Investing and Economic Development Opportunities in North Dakota"

### **Human Resources Update**

- Minerals Officer – filled with candidate starting October 7, 2024
- We will be fully staffed!

(09/26/24)

**Board of University and School Lands Meeting Dates For 2025**

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 meetings are scheduled for three hours each month in anticipation of executive session needs.

The Board may choose not to convene if there are insufficient agenda items to discuss.

The following dates will be shared with Board members’ offices for scheduling purposes.

- January 23, 2025 9:00 AM – 12:00 PM (earlier date for compensation study presentation)
- February 27, 2025 9:00 AM – 12:00 PM
- March 27, 2025 9:00 AM – 12:00 PM
- April 24, 2025 9:00 AM – 12:00 PM
- May 29, 2025 9:00 AM – 12:00 PM
- July 17, 2025 9:00 AM – 12:00 PM (Combined June/July meeting)
- August 28, 2025 9:00 AM – 12:00 PM
- September 25, 2025 9:00 AM – 12:00 PM
- October 30, 2025 9:00 AM – 12:00 PM
- December 11, 2025 9:00 AM – 12:00 PM (Combined Nov/Dec meeting)

**DIVISION REPORTS**

**SURFACE**

<p><b>SURFACE DIVISION</b> ENCUMBRANCES ISSUED</p>	<p>NORTH <b>Dakota</b>   Trust Lands <small>Be Legendary.™</small></p>
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Encumbrances issued by the Commissioner during August 2024: 24 Right of Way Agreements generating \$572,223 in income for the Trusts



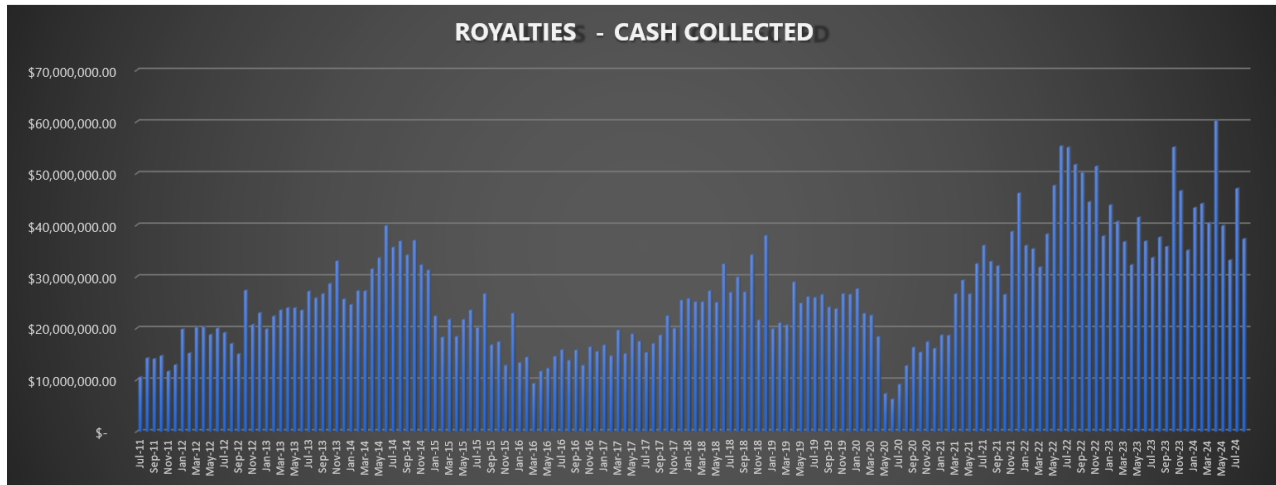
Foxtail cactus (*escobaria vivipara*)  
McKenzie County 149-98-16 May 28, 2024.  
Photo Credit: Garret Hecker

MINERALS

MINERALS DIVISION  
FISCAL YTD O/G ROYALTIES



As of August 31, 2024\*, for fiscal year 2024-25 the Department has received **\$84,380,808** in royalties as compared to **\$71,270,177** last fiscal year at this time.

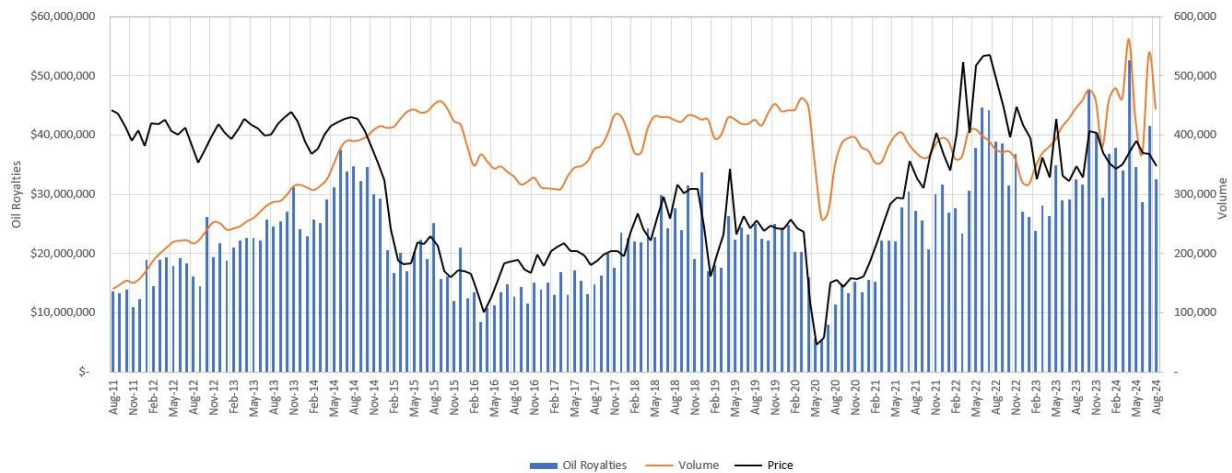


\*August royalty revenue is from June gas production and July oil production.

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 460,318 barrels per month over the past twelve months, the price of oil & gas is the main driver of monthly royalty variations.



(09/26/24)

UNCLAIMED PROPERTY

## UNCLAIMED PROPERTY DIVISION

<https://unclaimedproperty.nd.gov>

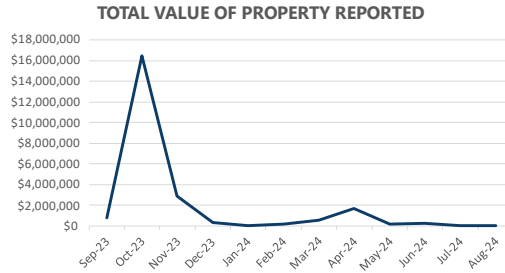
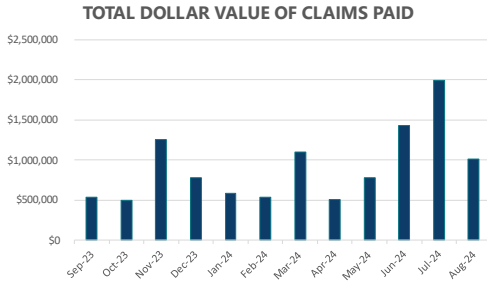
NORTH

# Dakota

Be Legendary.™

Trust Lands

For the month of August 2024, the Division paid 667 claims with \$1,009,195 returned to rightful owners/heirs. The Division also received 71 holder reports with a dollar value of \$279,990.



INVESTMENTS

**Investments Update New Format - Solovis Investment Performance Reporting Software**

The purpose of this memo is to introduce the Land Board to a new reporting format for monthly investment updates. Last year, Staff launched an RFP in search of investment performance reporting software. Staff selected Solovis, a cloud-based solution designed for institutional investment portfolios. Historically Staff created investment reports manually using Excel, which has worked well for many years. As the portfolio grows increasingly complex with alternative investments, a need arises for more robust reporting tools. In addition to helping Staff streamline the monthly reconciliation process of verifying market values between the manager, custody bank and consultant, Solovis capabilities include:

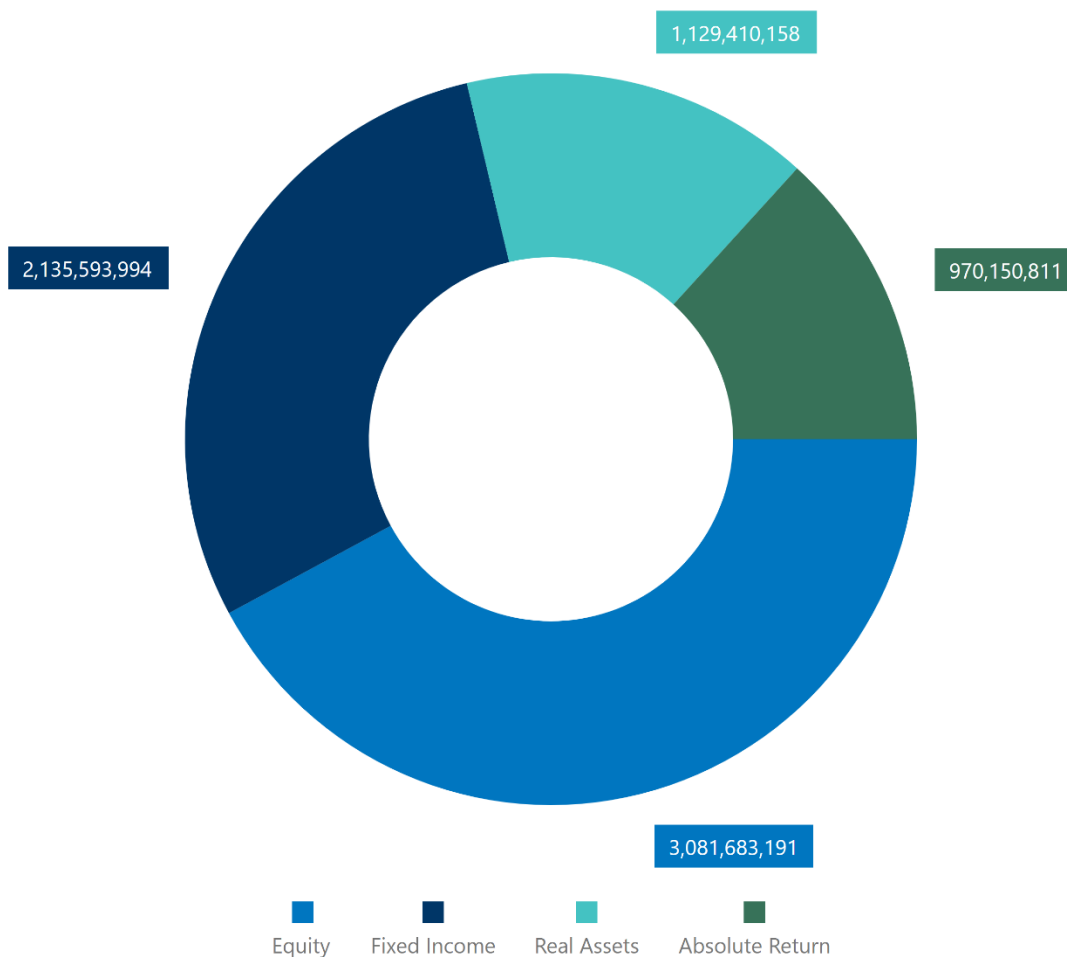
- Public market performance reporting at underlying level for separately managed accounts
- Private market performance reporting – vintage, commitment, IRR, DPI, TVPI
- Exposure reporting across sector and geography
- Attribution reporting at the manager level
- Liquidity analysis
- Pro forma portfolio modeling
- Risk analytics

Going forward Staff intends to provide the board with the following five charts as of the most recent month-end. These reports will be based on unaudited preliminary estimates that will be superseded by the standard quarterly RVK performance reporting once available.

Chart	Description
Allocation	Pie chart illustrating current asset class allocation
Actual vs Target Weight	Bar chart illustrating current under- and over-weights
Flash Report	Performance estimates for the most recent period
Uncalled Commitments	Total amount of outstanding commitments across asset classes
Liquidity Waterfall	Cash availability across the entire portfolio

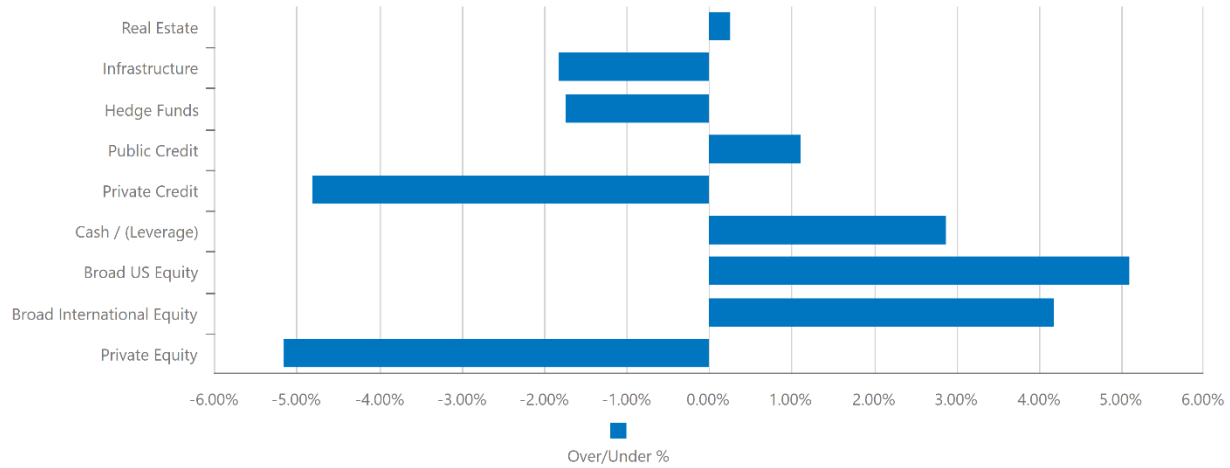
Below Reporting is as of 8/31/2024

### Asset Allocation



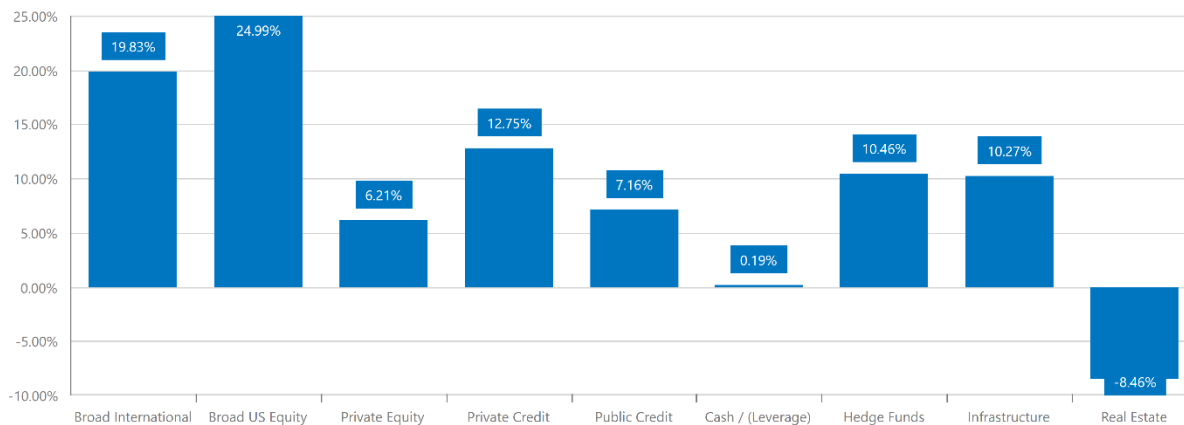
Asset	Total Value	% Of All Value
All	7,316,838,154	100 %
Equity	3,081,683,191	42 %
Fixed Income	2,135,593,994	29 %
Real Assets	1,129,410,158	15 %
Absolute Return	970,150,811	13 %

### Actual vs. Target Weight



Asset	Total Value	% Of All Value	Target Weight	Over/Under %	Over/Under \$
<b>All (MTD)</b>	7,316,838,154	100.00 %	100.00 %	--	--
<b>Equity</b>	3,081,683,191	42.12 %	38.00 %	4.12 %	301,284,692
<b>Private Equity</b>	208,371,558	2.85 %	8.00 %	-5.15 %	-376,975,495
<b>Broad International Equity</b>	1,403,465,039	19.18 %	15.00 %	4.18 %	305,939,315
<b>Broad US Equity</b>	1,469,846,595	20.09 %	15.00 %	5.09 %	372,320,871
<b>Fixed Income</b>	2,135,593,994	29.19 %	30.00 %	-0.81 %	-59,457,452
<b>Cash / (Leverage)</b>	-155,295,976	-2.12 %	-5.00 %	2.88 %	210,545,932
<b>Private Credit</b>	1,111,734,128	15.19 %	20.00 %	-4.81 %	-351,633,503
<b>Public Credit</b>	1,179,155,842	16.12 %	15.00 %	1.12 %	81,630,119
<b>Absolute Return</b>	970,150,811	13.26 %	15.00 %	-1.74 %	-127,374,913
<b>Hedge Funds</b>	970,150,811	13.26 %	15.00 %	-1.74 %	-127,374,913
<b>Real Assets</b>	1,129,410,158	15.44 %	17.00 %	-1.56 %	-114,452,328
<b>Infrastructure</b>	378,848,109	5.18 %	7.00 %	-1.82 %	-133,330,561
<b>Real Estate</b>	750,562,049	10.26 %	10.00 %	0.26 %	18,878,233

### Flash Performance Report

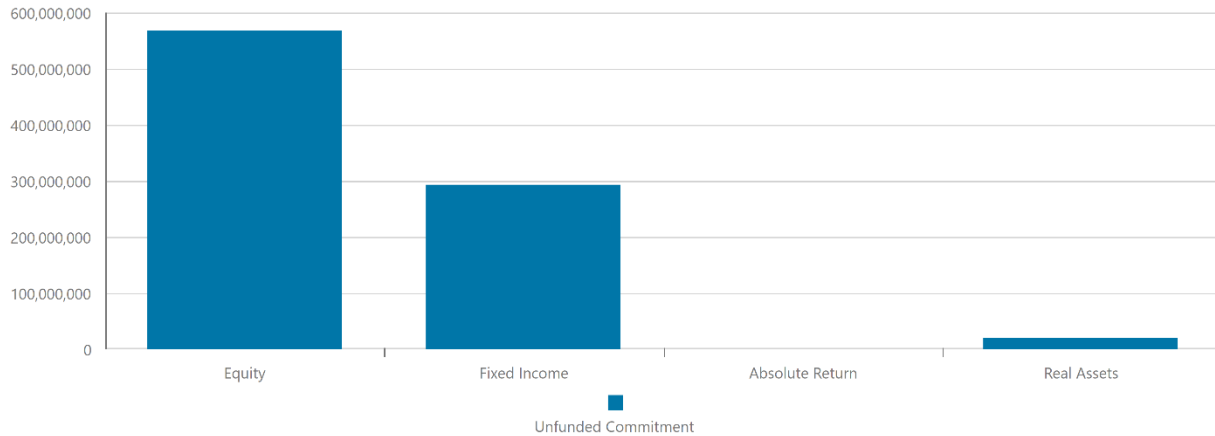


1Y : Net Of Fee Tx's : Cumulative Return

Asset	MTD	QTD	YTD	FYTD	1Y
	Net Of Fee Tx's				
Cumulative Return	Cumulative Return	Cumulative Return	Cumulative Return	Cumulative Return	Cumulative Return
<b>Total Portfolio</b>	1.25 %	2.29 %	8.33 %	2.29 %	11.60 %
<b>Equity</b>	2.24 %	3.91 %	14.56 %	3.91 %	21.32 %
Broad International Equity	2.44 %	4.59 %	13.17 %	4.59 %	19.83 %
Broad US Equity	2.37 %	3.82 %	17.73 %	3.82 %	24.99 %
Private Equity	--	--	1.00 %	--	6.21 %
<b>Fixed Income</b>	0.64 %	1.92 %	5.45 %	1.92 %	9.90 %
Private Credit	0.13 %	0.70 %	6.77 %	0.70 %	12.75 %
Public Credit	1.17 %	3.25 %	4.51 %	3.25 %	7.16 %
Cash / (Leverage)	0.19 %	0.19 %	0.19 %	0.19 %	0.19 %
<b>Absolute Return</b>	0.92 %	0.69 %	7.28 %	0.69 %	8.67 %
Hedge Funds	0.92 %	0.69 %	7.28 %	0.69 %	10.46 %
<b>Real Assets</b>	0.05 %	0.06 %	0.22 %	0.06 %	-3.22 %
Infrastructure	0.14 %	0.19 %	4.81 %	0.19 %	10.27 %
Real Estate	--	--	-1.84 %	--	-8.46 %

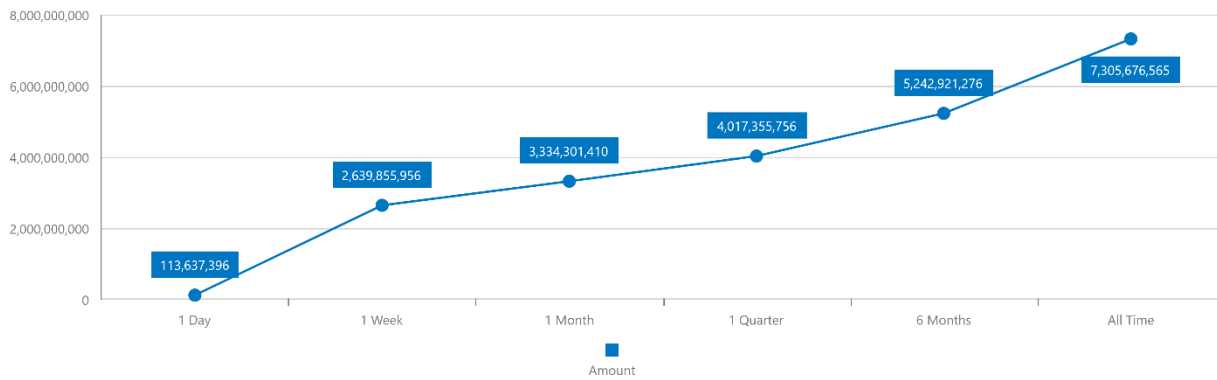


### Uncalled Capital



Asset	Commitment (\$M)	Funded Commitment (\$M)	Uncalled Capital (\$M)
All (MTD)	3,763	2,882	881
Equity	750	183	567
Fixed Income	1,376	1,082	294
Absolute Return	223	223	--
Real Assets	1,414	1,394	19

### Liquidity Waterfall



Entity	1 Day (\$M)	1 Week (\$M)	1 Month (\$M)	1 Quarter (\$M)	6 Months (\$M)	1 Year (\$M)	All Time (\$M)
All	114	2,640	3,334	4,017	5,243	5,623	7,306
Equity	--	1,618	2,313	2,873	2,873	2,873	3,082
Fixed Income	114	1,022	1,022	1,022	1,299	1,338	2,136
Absolute Return	--	--	--	122	299	460	965
Real Assets	--	--	--	--	772	951	1,123

Measures how long it would take to liquidate the entire portfolio

### 2nd Quarter 2024 Investment Performance Report

**RVK 2nd Quarter 2024 Investment Performance Report was presented to the Board and is available at the Department upon request.**

(09/26/24)

## 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. A schedule for next steps has been agreed to with expert reports due by November 13, 2024, and a discovery completion deadline of January 10, 2025.

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.

- Opposing parties' motion for summary judgment has been fully briefed and we await the judge's decision. If needed, a bench trial is 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; 8<sup>th</sup> Circuit oral arguments scheduled for October 22, 2024.

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:**

- **Royalty Settlements**
- **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		
Superintendent Baesler			X		
Treasurer Beadle		X	X		
Attorney General Wrigley	X		X		
Governor Burgum			X		

**The Board entered into executive session at 10:41 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
Rick Owings	Administrative Staff Officer
Adam Otteson	Revenue Compliance Division Director
Catelin Newell	Director of Administrative Svcs. & IT
James Wald	DTL General Counsel
Elvedina Papalichev	Paralegal

**Guests in Attendance:**

Nathan Svihovec	Office of the Governor
John Reiten	Office of the Governor

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The executive session adjourned at 11:12 AM and the Board returned to the open session meeting to rejoin the public. During executive session, the Board discussed pending royalty settlements and 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 11:15 AM.

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Doug Burgum, Chairman  
Board of University and School Lands

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Joseph Heringer, Secretary  
Board of University and School Lands