

BOARD OF UNIVERSITY AND SCHOOL LANDS

**Governor's Conference Room
Ground Floor, State Capitol
February 27, 2020 at 9:00 AM**

AGENDA

➤ = Board Action Requested

1. Approval of Meeting Minutes – Jodi Smith

Consideration of Approval of Land Board Meeting Minutes by voice vote.

- A. January 21, 2020 – pg. 1
- B. January 27, 2020 – pg. 16
- C. February 11, 2020 – pg. 18

2. Litigation – Jodi Smith

- A. Paul Sorum et al. Civ. No. 09-2018-CV-00089 – pg. 20
- B. North Range et al. Case No. 27-2020-CV-00028 – pg. 23

➤ **Executive session under the authority of NDCC §§ 44-04-19.1 and 44-04-19.2 for attorney consultation with the Board's attorneys to discuss current and pending litigation.**

3. Surface – Michael Humann

- A. Construction Aggregate Lease Application – pg. 27
- B. XTO Holdings Request for Temporary Gas Storage – pg. 30

4. Reports – Jodi Smith

- A. Report of Encumbrances Issued by the Commissioner – pg. 32
- B. Financial Position – pg. 35
- C. Investments Update - pg. 44
- D. Unclaimed Property Report – pg. 45
- E. Energy Infrastructure and Impact Office Report – pg. 46
- F. Acreage Adjustment Survey – pg. 47
- G. Summary of Oil & Gas Lease Auction – pg. 49
- H. Information Technology Project Status Update – pg. 51

5. Operations – Jodi Smith

- A. Repayment of Unpaid Gas Royalty Update - pg. 52
- B. Reconsideration of Gas Royalty Repayment Notification – Requested by Governor Burgum No Memo Provided

Next Meeting Date – March 26, 2020 9:00 AM

**Minutes of the Meeting of the
Board of University and School Lands
January 21, 2020**

The January 21, 2020 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 by Chairman Doug Burgum.

Members Present:

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

Members Absent:

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

Jodi Smith	Commissioner
Kristie McCusker	Paralegal
Catelin Newell	Office Manager
Kate Schirado	Administrative Assistant
Adam Otteson	Revenue Compliance
Michael Shackelford	Investments

Guests in Attendance:

Dave Garner	Attorney General's Office
Leslie Bakken Oliver	Governor's Legal Counsel
Reice Haase	Governor's Office
Craig Smith	Crowley Fleck
Brady Pelton	ND Petroleum Council
Ron Ness	ND Petroleum Council
Tyler Gludt	Fredrikson & Byron, P.A.

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 December 18, 2019 meeting was made by Attorney General Wayne Stenehjem and seconded by Secretary Alvin Jaeger and the motion carried unanimously on a voice vote.

R E P O R T S

Report of Encumbrances Issued by Land Commissioner 12/11/2019 to 1/14/2020

Granted to:	TRUE OIL LLC, CASPER-WY
For the Purpose of:	Surface Damage Agreement Amend: Well-Horizontal Oil Well
Right-of-Way Number:	RW0008273
Trust:	A-Common Schools
Legal Description:	MCK-148-101-36-NE4

Granted to: CATES EARTH SCIENCE TECHNOLOGIES INC, BISMARCK-ND

For the Purpose of: Permit: Temporary Water Layflat Line
 Right-of-Way Number: RW0008629
 Trust: A-Common Schools
 Legal Description: MOU-151-92-36-W2NE4SW4, NW4SW4, S2SW4

Granted to: SELECT ENERGY SERVICES LLC, WILLISTON-ND

For the Purpose of: Permit: Temporary Water Layflat Line
 Right-of-Way Number: RW0008634
 Trust: A-Common Schools
 Legal Description: WIL-158-95-36-SE4, SW4

Granted to: EAST VALLEY INDUSTRIAL PARK LLC, DENVER-CO

For the Purpose of: Easement Amend: Railroad Right-of-Way
 Right-of-Way Number: RW0008638
 Trust: A-Common Schools
 Legal Description: WIL-154-100-16-NE4, NW4

Granted to: TABLEROCK SURVEY, LLC, THE WOODLANDS-TX

For the Purpose of: Permit: Planning & Preconstruction Survey
 Right-of-Way Number: RW0008644
 Trust: A-Common Schools
 Legal Description: N/A

Granted to: WEST DAKOTA WATER LLC, WILLISTON-ND

For the Purpose of: Permit: Temporary Water Layflat Line
 Right-of-Way Number: RW0008645
 Trust: A-Common Schools
 Legal Description: WIL-156-95-16-SE4, SW4

Granted to: ND GEOLOGICAL SURVEY, BISMARCK-ND

For the Purpose of: Permit Amend: Rare Earth Elements Exploration
 Right-of-Way Number: RW0008646
 Trust: A-Common Schools
 Legal Description: SLO-136-102-16-NE4

The Financial Position was provided to the Board and is available at the Department upon request.

Unclaimed Property Program 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 2019, the Division received 49 holder reports with a property value of \$779,445 and paid 569 claims with a total value of \$296,952.

Energy Infrastructure and Impact Office 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 \$624 million in funding.

The Oil and Gas Impact Grant Fund currently has 30 grants with a balance of \$14,388,087.28 as of December 31, 2019. The following shows grant activity for the last four months:

Oil and Gas Impact Grant Fund	Grants with balances	Current Balance Obligated to Grants
10/11/2019	41	\$17,695,025.25
11/15/2019	40	\$17,164,734.70
12/9/2019	36	\$15,477,345.77
12/31/2019	30	\$14,388,087.28

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 four grants with a balance of \$4,108,325.39 as of December 31, 2019. 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. The following shows grant activity for the last four months:

Energy Impact Fund	Grants with balances	Current Balance Obligated to Grants
10/11/2019	4	\$4,940,103.06
11/15/2019	4	\$4,793,191.14
12/9/2019	4	\$4,793,191.14
12/31/2019	4	\$4,108,325.39

The Energy Infrastructure and Impact Office is currently managing 34 grants for a total of \$20,270,536.91. The following shows grant activity for the last four 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
10/11/2019	41	\$17,695,025.25	10/11/2019	4	\$4,940,103.06	\$22,635,128.31
11/15/2019	40	\$17,164,734.70	11/15/2019	4	\$4,793,191.14	\$21,957,925.84
12/9/2019	36	\$15,477,345.77	12/9/2019	4	\$4,793,191.14	\$20,270,536.91
12/31/2019	30	\$14,388,087.28	12/31/2019	4	\$4,108,325.39	\$18,496,412.67

Acreage Adjustment Survey

Senate Bill 2211 of 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 Department executed a contract with Kadrmass, Lee & Jackson, Inc. “to analyze the final review findings and determine the acreage 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 industrial commission.” The contract’s scope of work concludes twelve months from the date of execution, at a total cost of \$1,088,635.

Attachments were provided to the Board and are available 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.

There are several key IT systems related themes throughout the Department. They include:

Systems Limitations

- Accounting and financial systems do not have internal controls and standard reporting
- Paper-centric processes
- Document creation tools require manual editing
- Systems are not integrated with each other (e.g., Accounting and Minerals)
- Lack of up-to-date GIS capabilities

Automation and Efficiency

- Lack of computer systems to support and enforce process consistency
- Manual tasks require keying and re-keying inputs
- Lack of automated workflows and workflow tracking

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Reporting

- Lack of automated reports and dashboards
- Inability to provide timely financial reports and analysis
- Limited visibility into performance information

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

In 2017, Department created a Request for Proposals (RFP) for the Land Management and Accounting functions; however, the number of responses were limited and those proposals did not meet the Department's requirements. Subsequently, the Department issued an RFP for the Financial Management and Accounting (FMA) system in October 2018. In December 2019, the Department awarded a contract to Ernst and Young to implement the Microsoft Dynamics 365 for Finance and Operations system with an estimated go-live date of June 2020. On December 16, 2019, the Department issued the RFP for the Land Management system with responses due February 2020.

Energy Infrastructure and Impact Office Retirement of Grant

In August 2014, the Board of University and School Lands (Board) awarded a \$1 million grant, Grant G150012, to the City of Ross to repair its sewage lagoon system and to begin expanding the capacity on the interior and exterior walls of the current lagoon. The City of Ross did not begin the project in 2016 due to mis-communication resulting in the city believing the grant was one of the 59 suspended in February of 2016 as a result of declining tax revenue.

The City of Ross requested, and the Board approved in June 2017, an extension until December 31, 2019 to overcome obstacles including to purchase easements, design the repair, seek bids, and complete the lagoon repairs. Another extension was requested and approved by the Director of EIIO, to June 15, 2019.

In the spring of 2019, it was determined that unanticipated erosion occurred on the berms of the cells of the lagoon due to a lack of protection from wind. The original plan was to reconstruct the berms but not add riprap due to cost. With funds remaining in Grant G150012, the City of Ross added riprap, a permanent layer of large, angular stone used to protect the soil surface against erosion, so the ponds could continue to operate for many years to come with minimal if any repairs anticipated. The final project completion date was October 2019.

The City of Ross completed the project and had grant funds left in the amount of \$394,109.24.

The following recommended retirement of Grant G150012 is provided for the Board's consideration:

Political Sub	Grant	Awarded	Paid	Balance	Project
CITY OF ROSS	G150012	\$1,000,000	\$605,890.76	\$394,109.24	WASTEWATER TREATMENT FACILITY EXPANSION

Motion: The Board retire Grant G150012 in the amount of \$394,109.24 and that the Board declare these funds within the Oil and Gas Impact Grant Fund as contingent for future unmet needs.

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

City of Ross Memo Attachment was provided to the Board and is available upon request.

(01/21/20)

I N V E S T M E N T S

Investment Policy Statement Proxy Voting Second Reading

Although it is the policy of the Board of University and School Lands (Board) to review the Investment Policy Statement (IPS) at least every four years, it is the practice of the Commissioner to review the IPS annually and more frequently, as needed.

At the September 26, 2019 Board meeting the current IPS was adopted. During the following weeks the State Treasurer, Commissioner and staff have discussed modifying the proxy voting section of the IPS to ensure investment managers continue to vote shares in a manner that is to the best interest of the trusts as it relates to environmental, social and governance (ESG) issues. ESG has become a tool for some large investors who are pushing managers to use proxy votes to virtue signal, particularly on environmental issues related to oil and gas exploration and production.

As such, it is recommended the IPS's Proxy Voting section be revised. The revision makes clear that the Board expects proxy votes on behalf of the trusts to be:

1. "...in a manner consistent with the long-term interests and objectives of the investment program."
2. "...based solely on enhancing or protecting long-term value to the assets under its control and not on establishing or endorsing social policy."
3. "...only those factors that relate to the economic value of the Board's investments and shall not subordinate the interests of the Funds to unrelated objectives."

The revision also requires that:

1. "Managers shall submit written reports to the Commissioner by December 31 of each year advising of the manner in which each proxy was voted during the preceding calendar year and notify the Commissioner of controversial matters which may be subject to proxy voting."
2. "...the Commissioner [specifically the investment staff] shall regularly review related proxy votes by the Managers. Any proxy votes deemed by the Commissioner to be contrary to the interests of the Funds under the Board's responsibility, shall be fully explained by the Manager in writing and brought to the Board for its review."

If approved after this second reading, the Commissioner will transmit the new policy to all of the investment managers currently managing funds on the Board's behalf.

Motion: That the Board approve the update to the Investment Policy Statement's Proxy Voting section.

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

Attachments were provided to the Board and are available upon request.

MINERALS

Mineral Valuation

Senate Bill 1013 of the Sixty-Sixth Legislative Assembly approved one-time funding for a mineral valuation study.

The Department of Trust Lands (Department) has been 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 oil and gas mineral estate assessment (Assessment) will reflect the estimated value of oil and gas mineral assets managed by the Board. This Assessment is complicated by the mineral assets' sheer size, variance in geological aspects, and topography.

The Request for Proposal for the Assessment was released September 20, 2019. A Notice of Intent to Award was issued to MineralTracker LLC on January 2, 2020. The Department expects to execute a contract in January 2020 with MineralTracker, LLC. MineralTracker is based in Watford City, North Dakota, and is owned and operated by petroleum engineers with extensive experience in the valuation of non-operated oil and gas properties, including mineral and royalty interests in the Williston Basin of North Dakota. To execute on the mineral valuation, MineralTracker shall consider all Proved Developed Producing wells currently under the Board's management and perform decline curve analysis to project future oil, gas, and water production for each well. For any undeveloped mineral acreage in which oil and gas reserves are prospective but unproven, market rate conversions related to the recent leasing bonus payments shall be employed. Once the data is compiled and the findings completed, those findings will be presented to the Board.

The Department looks forward to the opportunity to lead the nation in this effort, as no other state agency or federal entity has embarked on such an endeavor to summarize the estimated value of their assets.

Repayment of Unpaid Gas Royalties

For over a decade, 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 of University and School Land's lease, rules, and policies.

In 2012, the Department sent letters to operators and lessees who reported deductions for royalties paid. In July 2017, letters were sent to all operators and lessees regarding the proper method to calculate gas royalties. Companies who were audited and found to be non-complaint with the proper calculation of gas royalties, as outlined in the July 2017 letter, received audit finding letters. All companies who have continued to be non-compliant have received additional communication regarding the proper calculation of gas royalties.

The Department's 2016 performance audit found the Department was not consistently issuing penalties and interest and recommended a policy be established. The Department adopted an internal policy regarding penalties and interest. Additionally, the Board of University and School Lands (Board) adopted a policy regarding penalties and interest, which is included in our proposed Administrative Rules.

Current Department and Board policy assesses the maximum interest (18%) under N.D.C.C. § 47-16-39.1, and penalty (12%) allowed on all late royalty payments unless a request is made to the Commissioner to negotiate the interest rate. The Department's revenue compliance procedures

are configured to calculate and generate interest and penalty notices in accordance with these policies.

Under the Board's rules and policies once penalties and interest over \$25,000 are assessed for late payment of royalties, only the Board can modify the amount.

N.D.C.C. § 47-16-39.1 provides interest may not be applied on royalties that were escrowed since this statute permits the suspension of interest payments "in the event of a dispute of title existing that would affect distribution of royalty payments"

Recommendation: The Board delegates the Commissioner to determine gas royalty repayments as discussed.

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

No formal action taken at this time.

Oil and Gas Lease Amendment

In House Bill 1300, the Sixty Fifth Legislative Assembly directed the Board of University and School Lands (Board) no longer be exempt from the Administrative Agencies Practice Act (Act). In Senate Bill 2264, the Sixty Sixth Legislative Assembly directed the Board be exempt from the adjudicative proceeding requirements and procedures under North Dakota Century Code §§ 28-32-21 through 28-31-51 of the Act. Those rules became effective January 1, 2020. A final version of the Administrative Rules has been posted on the Department's website.

The Board's Oil and Gas rules are long-standing. Each lease that is entered into is bound by the rules in place at the time of the lease execution. With the Board revising the rules into Board Policies, the Board's Oil and Gas Lease will need to be revised to reflect the word "rules" instead of "policies".

Motion: The Board amended the Board Oil and Gas Lease to reflect the Administrative Rules.

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

Attachment was provided to the Board and is available upon request.

LITIGATION

Vitesse

Case: Vitesse Oil, LLC; Vitesse Energy, LLC; and Iron Oil Operating LLC v. State of North Dakota; North Dakota Board of University and School Lands; and Jodi A. Smith, Commissioner of University and School Lands, Case No. 27-2019-CV-00266;

Date Filed: June 11, 2019

Court: McKenzie County District Court

Judge: Robin Schmidt

Attorney: David Garner

Opposing

Counsel: Lawrence Bender, Spencer Ptacek

Issues: On June 7, 2019, the Attorney General's Office was served with a complaint in the above referenced case. This case is requesting a judgment be entered under Chapter 32-12 of the North Dakota Century Code quieting title in Leases in favor of Plaintiffs; a judgment be entered under Chapter 32-12 of the North Dakota Century Code declaring that the Leases remain valid and in effect with respect to all of the Subject Lands based on the force majeure provision of the Board's lease; that the Court enter a temporary restraining order, preliminary injunction, and permanent injunction, prohibiting Defendants from selling or attempting to sell new leases covering the oil and gas in and under the Subject Lands or otherwise interfering with Plaintiffs exclusive right to explore for and produce the same; and that Plaintiffs be awarded their costs and reasonable attorney fees.

History: The Summons and Complaint were served on the State of North Dakota and the Board of University and School Lands, by service on the Attorney General's Office on June 7, 2019. The action was filed on June 11, 2019. The State's Answer was filed with the District Court June 28, 2019. A scheduling conference was held on October 2, 2019. The parties will work on a scheduling order. Lessee's Motion for Leave to Amend complaint filed October 14, 2019. Order Granting Plaintiffs' Motion for Leave to Amend was entered on October 30, 2019.

Current Status:

- On December 17, 2019, a Notice of Telephonic Scheduling Conference was filed by the court, setting a telephonic scheduling conference for January 22, 2020 at 11:15 a.m.

Continental

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, John S. Most

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 lands underlying Continental operated wells located in

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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 the property interests for 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 pursuant to the Board’s rules.

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 appropriations are restored and Department attorneys and the Bureau of Land Management personnel are permitted to resume their usual civil litigation functions.” A January 10, 2019 docket entry provides “Deadlines and Hearings Terminated.” 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, due to appointment of Magistrate Judge Clare Hochalter, replacing Magistrate Judge Charles Miller, and the recusal of Shaun Pettigrew of the Environment and Natural Resources Division of the Department of Justice, with John S. Most as his replacement. 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.”

Current Status:

- **Status conference was held January 13, 2020 and another status conference was set for April 7, 2020.**

Wilkinson

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, Lyle Kirmis**

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.

Current Status:

- 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.

North Range Resources

Case: North Range Resources, LLC v. State of North Dakota, North Dakota Board of University and School Lands, Jodi Smith, Commissioner of University and School Lands, Case No. 27-2020-CV-00028

Date Filed: January 16, 2020

Court: McKenzie County District Court

Judge: Honorable Daniel El-Dweek

Attorney: David Garner

Opposing

Counsel: Lawrence Bender, Spencer D. Ptacek

Issues: On January 15, 2020, North Range Resources served a Summons and Complaint on State of North Dakota, the North Dakota Board of University and School Lands, and the Commissioner. This case is requesting a judgment be entered under Chapter 32-12 of the North Dakota Century Code quieting title in Leases in favor of Plaintiffs; a judgment be entered under Chapter 32-23 of the North Dakota Century Code declaring that the Leases remain valid and in effect with respect to all of the Subject Lands; and that Plaintiffs be awarded their costs and reasonable attorney fees.

History:**Current Status:**

- Summons and Complaint was served on January 15, 2020, with the Answer being due in 21 days.

The Commissioner recommends the Board consider entering executive session for consultation with legal counsel regarding pending and potential litigation. Executive session began at 9:29 AM.

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
- North Range et al. Case No. 27-2020-CV-00028
- Repayment of Unpaid Gas Royalty

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger		X	X		
Superintendent Baesler					X
Treasurer Schmidt			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
Kelly Schmidt	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	Office Manager
Kate Schirado	Administrative Assistant
Adam Otteson	Revenue Compliance
Kristie McCusker	Paralegal

Guests in Attendance:

Brent Sanford	Lieutenant Governor
Leslie Bakken Oliver	Governor's Legal Counsel
Reice Haase	Governor's Office
Dave Garner	Attorney General's Office

The executive session adjourned at 11:14 AM and the Board returned to open session and the public was invited to return to the meeting. During the executive session, the Board was provided information regarding the litigation of William S. Wilkinson, et. al.; North Range et al.; and Repayment of Unpaid Gas Royalty.

A D J O U R N

There being no further business, the meeting was adjourned at 11:15 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 27, 2020**

The January 27, 2020 special meeting of the Board of University and School Lands was called to order at 10:00 AM in the Governor’s Conference Room of the State Capitol by Chairman Doug Burgum.

Members Present:

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Wayne Stenehjem	Attorney General
Kelly Schmidt	State Treasurer (via Telephone)
Kirsten Baesler	Superintendent of Public Instruction

Department of Trust Lands Personnel present:

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

Guests in Attendance:

Brent Sanford	Lt. Governor
Dave Garner	Attorney General’s Office
Leslie Bakken Oliver	Governor’s Legal Counsel
Reice Haase	Governor’s Office
Craig Smith	Crowley Fleck
Brady Pelton	ND Petroleum Council
Ron Rauschenberg	Rauschenberg Minerals
Tyler Gludt	Fredrikson & Byron, P.A.

OPERATIONS

The Commissioner recommends the Board consider entering executive session for consultation with legal counsel regarding pending and potential litigation.

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:

- **Repayment of Unpaid Gas Royalty**

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		

At 10:05 AM the Board entered executive session for the purposes outlined in its adopted motion.

EXECUTIVE SESSION

Members Present:

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Wayne Stenehjem	Attorney General
Kelly Schmidt	State Treasurer (via Telephone)
Kirsten Baesler	Superintendent of Public Instruction

Department of Trust Lands Personnel present:

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

Guests in Attendance:

Brent Sanford	Lt. Governor
Dave Garner	Attorney General's Office
Leslie Bakken Oliver	Governor's Legal Counsel
Reice Haase	Governor's Office

The executive session adjourned at 11:15 AM and the Board returned to open session and the public was invited to return to the meeting. During the executive session, the Board was provided information regarding the repayment of unpaid gas royalties.

A D J O U R N

There being no further business, the meeting was adjourned at 11:15 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 11, 2020**

The February 11, 2020 special meeting of the Board of University and School Lands was called to order at 10:00 AM in the Governor’s Conference Room of the State Capitol by Chairman Doug Burgum.

Members Present:

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Wayne Stenehjem	Attorney General
Kelly Schmidt	State Treasurer
Kirsten Baesler	Superintendent of Public Instruction (via Telephone)

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Kristie McCusker	Paralegal
Catelin Newell	Office Manager
Adam Otteson	Revenue Compliance Director

Guests in Attendance:

Brent Sanford	Lt. Governor
Dave Garner	Attorney General’s Office
Leslie Bakken Oliver	Governor’s Legal Counsel
Reice Haase	Governor’s Office
Craig Smith	Crowley Fleck
Brady Pelton	ND Petroleum Council
Ron Rauschenberg	Rauschenberg Minerals
Tyler Gludt	Fredrikson & Byron, P.A.
Lynn Helms	NDIC-DMR
Ron Ness	ND Petroleum Council

OPERATIONS

Governor Burgum invites Lynn Helms, Director of Department of Mineral Resources, to speak to the Board.

The Commissioner recommends the Board consider entering executive session for consultation with legal counsel regarding pending and potential litigation.

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:

- **Repayment of Unpaid Gas Royalty**

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

At 10:28 AM the Board entered executive session for the purposes outlined in its adopted motion.

EXECUTIVE SESSION

Members Present:

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Wayne Stenehjem	Attorney General
Kelly Schmidt	State Treasurer
Kirsten Baesler	Superintendent of Public Instruction (via Telephone)

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Kristie McCusker	Paralegal
Catelin Newell	Office Manager
Adam Otteson	Revenue Compliance Director

Guests in Attendance:

Brent Sanford	Lt. Governor
Dave Garner	Attorney General's Office
Leslie Bakken Oliver	Governor's Legal Counsel
Reice Haase	Governor's Office

The executive session adjourned at 11:08 AM and the Board returned to open session and the public was invited to return to the meeting. During the executive session, the Board was provided information regarding the repayment of unpaid gas royalties.

A D J O U R N

There being no further business, the meeting was adjourned at 11:08 AM.

Doug Burgum, Chairman
Board of University and School Lands

Jodi Smith, Secretary
Board of University and School Lands

MEMORANDUM TO THE BOARD OF UNIVERSITY AND SCHOOL LANDS

February 27, 2020

RE: Sorum Litigation
(No Action Requested)

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

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

ITEM 2A

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.

**Current
Status:**

- **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.**

MEMORANDUM TO THE BOARD OF UNIVERSITY AND SCHOOL LANDS

February 27, 2020

RE: North Range Litigation
(No Action Required)

Case: North Range Resources, LLC v. State of North Dakota, North Dakota Board of University and School Lands, Jodi Smith, Commissioner of University and School Lands, Case No. 27-2020-CV-00028

Date Filed: January 16, 2020

Court: McKenzie County District Court

Judge: Honorable Daniel El-Dweek

Attorney: David Garner

Opposing

Counsel: Lawrence Bender, Spencer D. Ptacek

Issues: On January 15, 2020, North Range Resources served a Summons and Complaint on State of North Dakota, the North Dakota Board of University and School Lands, and the Commissioner. This case is requesting a judgment be entered under Chapter 32-12 of the North Dakota Century Code quieting title in Leases in favor of Plaintiffs; a judgment be entered under Chapter 32-23 of the North Dakota Century Code declaring that the Leases remain valid and in effect with respect to all of the Subject Lands; and that Plaintiffs be awarded their costs and reasonable attorney fees.

History: Summons and Complaint was served on January 15, 2020, with the Answer being due in 21 days.

Current Status:

- **Notice of Lis Pendens was filed on January 23, 2020.**
- **Answer filed on February 4, 2020.**

Procedures for Executive Session regarding Attorney Consultation and Consideration of Closed Records

Overview

- 1) The governing body must first meet in open session.
- 2) During the meeting's open session the governing body must announce the topics to be discussed in executive session and the legal authority to hold it.
- 3) If the executive session's purpose is attorney consultation, the governing body must pass a motion to hold an executive session. If executive session's purpose is to review confidential records a motion is not needed, though one could be entertained and acted on. The difference is that attorney consultation is not necessarily confidential but rather has "exempt" status, giving the governing body the option to consult with its attorney either in open session or in executive session. Confidential records, on the other hand, cannot be opened to the public and so the governing body is obligated to review them in executive session.
- 4) The executive session must be recorded (electronically, audio, or video) and the recording maintained for 6 months.
- 5) Only topics announced in open session may be discussed in executive session.
- 6) When the governing body returns to open session, it is not obligated to discuss or even summarize what occurred in executive session. But if "final action" is to be taken, the motion on the decision must be made and voted on in open session. If, however, the motion would reveal "too much," then the motion can be abbreviated. A motion can be made and voted on in executive session so long as it is repeated and voted on in open session. "Final actions" DO NOT include guidance given by the governing body to its attorney or other negotiator regarding strategy, litigation, negotiation, etc. (See NDCC §44-04-19.2(2)(e) for further details.)

Recommended Motion to be made in open 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:

- Paul Sorum, et. al. Civ. No. 09-2018-CV-00089
- North Range et al. Case No. 27-2020-CV-00028

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

Statement:

“This executive session will be recorded and all Board members are reminded that the discussion during executive session must be limited to the announced purpose for entering into executive session, which is anticipated to last approximately one hour.

The Board is meeting in executive session to provide guidance or instructions to its attorneys regarding the identified litigation. Any formal action by the Board will occur after it reconvenes in open session.

Board members, their staff, employees of the Department of Trust Lands and counsel with the Attorney General staff will remain, but the public is asked to leave the room.

The executive session will begin at: _____AM, and will commence with a new audio recording device. When the executive session ends the Board will reconvene in open session.”

Statements upon return to open session:

State the time at which the executive session adjourned and that the public has been invited to return to the meeting room.

State that the Board is back in open session.

State that during its executive session, the Board provided its attorney with guidance regarding litigation relating to the sovereign lands' minerals claims.

[The guidance or instructions to attorney does not have to be announced or voted upon.]

State that no final action will be taken at this time as a result of the executive session discussion

-or- .

Ask for a formal motion and a vote on it.

Move to the next agenda item.

MEMORANDUM TO THE BOARD OF UNIVERSITY AND SCHOOL LANDS

February 27, 2020

RE: Construction Aggregate Lease Applications
(No Action Requested)

Aggregate Construction, Inc., of Minot, North Dakota, submitted three applications for Construction Aggregate Mining Leases on the following tracts of land in Mountrail and Williams Counties:

Application 1:

Mountrail County Township 158 North, Range 92 West, Section 16: N½ North of Road (see attached map for location)

Application 2:

Mountrail County Township 158 North, Range 92 West, Section 16: NW¼ South of Road (see attached map for location)

Application 3:

Williams County Township 156 North, Range 100 West, Section 16: NW¼

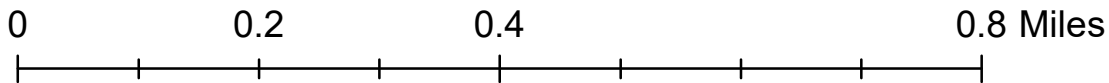
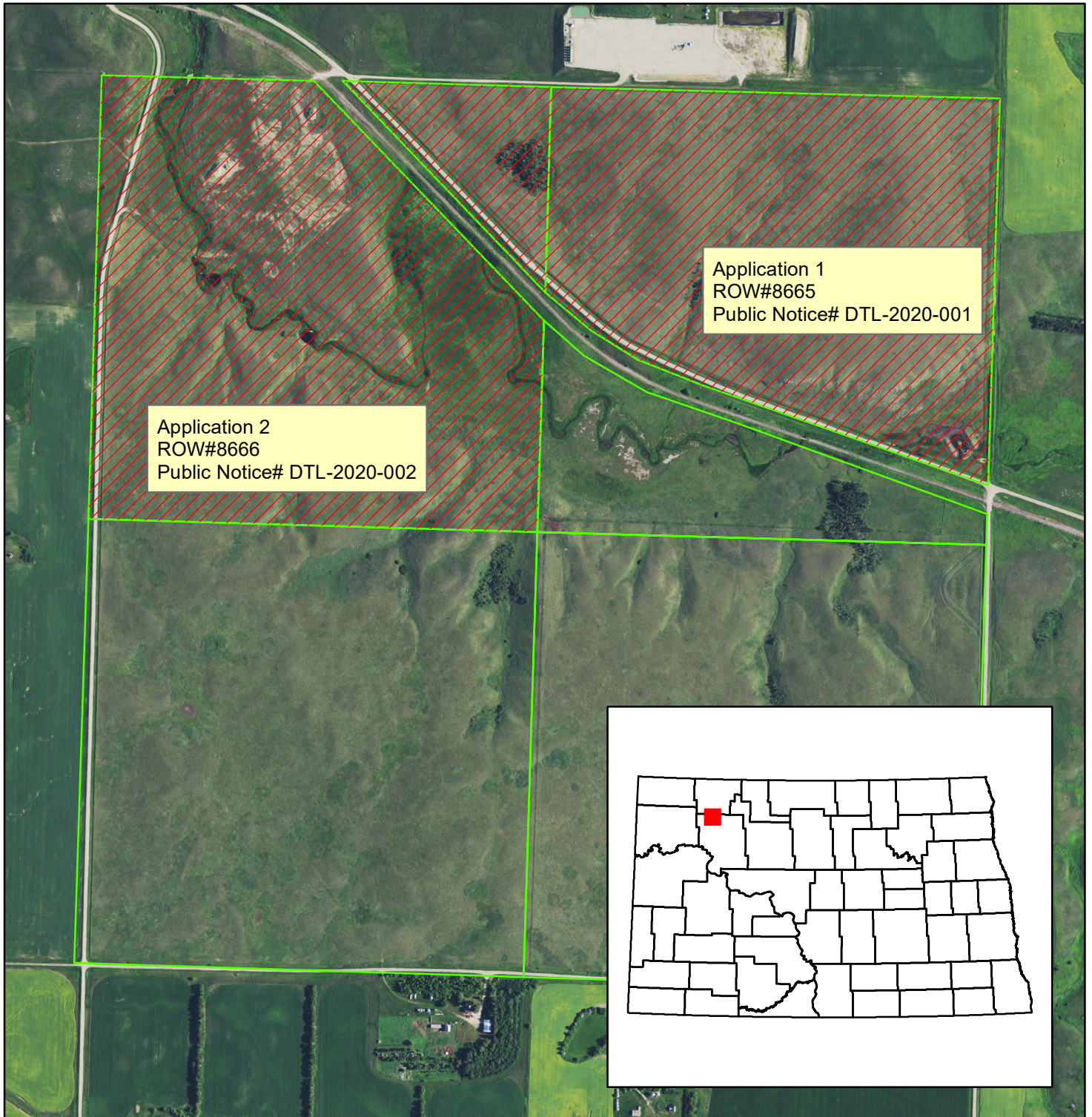
The applications for Construction Aggregate Leases were submitted under authority of North Dakota Administrative Code chapter 85-04-02 which requires posting a Notice of Construction Aggregate Leasing on the Department of Trust Land's (Department) website and allowing for a 14-day period comment. The applications located in Mountrail County Township have been posted for the 14-day comment period and no comments were received. The application located in Williams County Township is currently posted.



The applications will be prepared for public auction by publishing a notice of the auction at least 10 days prior to the auction in the official newspaper of the county where the proposed construction aggregate leased premises is located and in the Bismarck Tribune. The Commissioner is authorized to approve and issue a construction aggregate lease on the board's behalf N.D.A.C. § 85-04-02-03. Any Construction Aggregate Leases approved by the Commissioner would appear on the Encumbrance Report at a future Board meeting.

Attachment: Application Location Maps

16-T158-R92

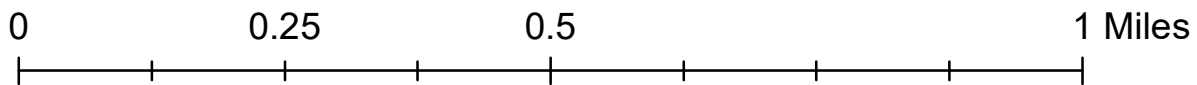
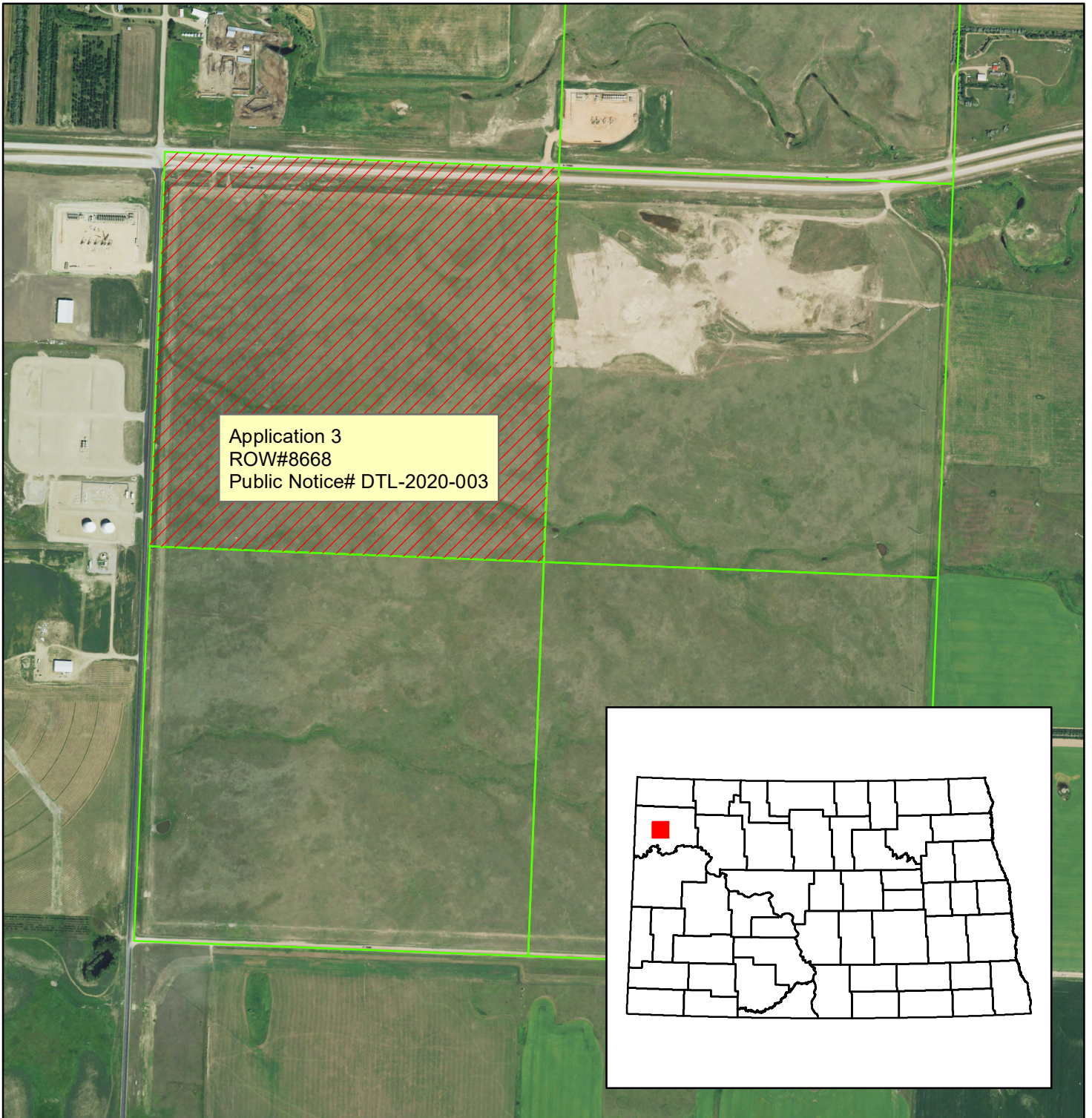
MOUNTRAIL County





-  Proposed Lease Area
-  Surface Trust Land

16-T156-R100

WILLIAMS County



-  Proposed Leased Area
-  Surface Trust Land

MEMORANDUM TO THE BOARD OF UNIVERSITY AND SCHOOL LANDS

February 27, 2020

RE: XTO Holdings Request for Temporary Gas Storage – Pilot Program

Extraction of oil and gas from the Bakken petroleum system has dramatically increased over the past decade without commensurate augmentation of gas capture infrastructure, which has resulted in continued flaring of produced gas. The North Dakota Industrial Commission (NDIC) has worked with industry to establish gas capture requirements to reduce the volume of flared gas.

To evaluate potential options to alleviate flaring, conserve natural resources and optimize oil production from the Bakken, the Sixty-Sixth Legislative Assembly of North Dakota allocated funding to the EERC under Section 25 of House Bill 1014 “for pilot projects relating to the underground storage of produced natural gas.” The intent of the funding is to enable the assessment of produced gas injection into geologic targets in the Williston Basin as a mechanism to reduce flaring and achieve gas capture goals in Bakken oilfield locations with limited gas capture and transportation infrastructure.

XTO Holdings, LLC (XTO) in collaboration with the EERC is evaluating a pilot demonstration project relating to temporary underground storage of produced natural gas on Trust Land involving the injection, storage and withdrawal of natural gas and other associated gaseous substances (“Natural Gas”) into the pore space of the Broom Creek Formation Reservoir (Minnelusa Group). Temporary gas storage may enable XTO to bring drilled well bores into production and provide additional revenue to the Trust in areas where there is not adequate infrastructure.

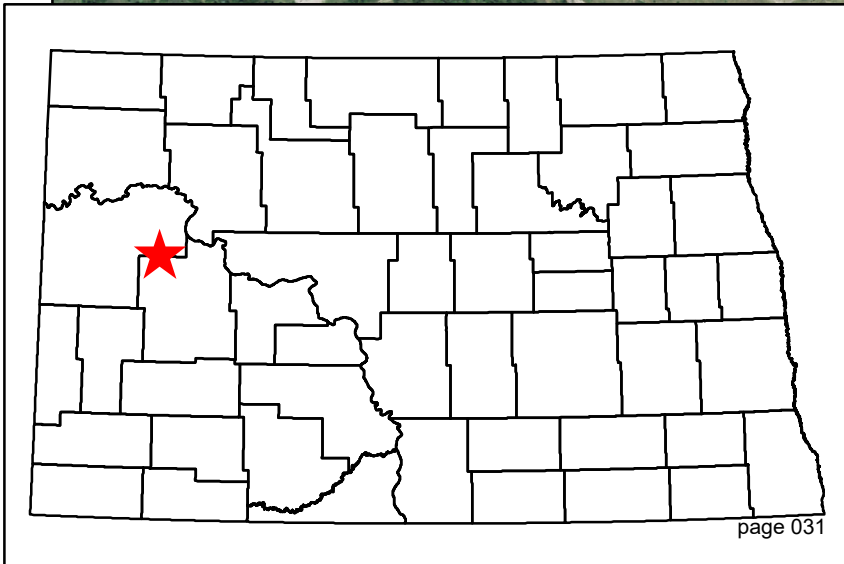
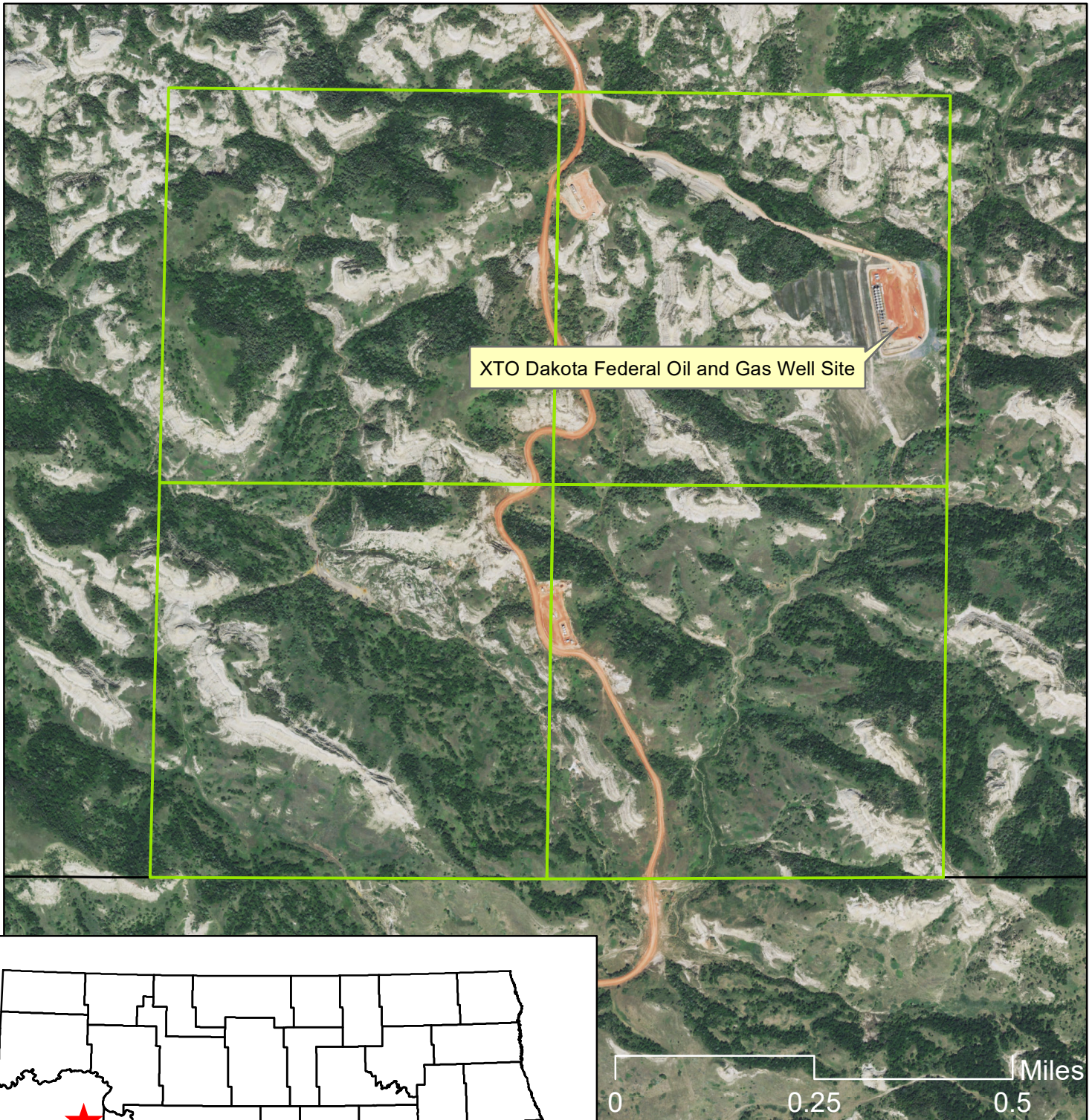
XTO requests the Department to obtain authority to issue an easement allowing for the injection, temporary storage and withdrawal of Natural Gas. Through the site granted by the easement, EERC would be able to study and collect monitoring information regarding gas storage. The general terms and conditions of an easement would be developed in consultation with the Attorney General office and approval to negotiate and grant such easement. Any easements issued to XTO would also include reclamation responsibility.

Recommendation: The Commissioner recommends Board approval to develop an easement for the purpose of injecting, storing and withdrawing natural gas subject to review of the easement document by the Attorney’s General Office.

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

36-T149-R96

MCKENZIE County



 Surface Trust Land

MEMORANDUM TO THE BOARD OF UNIVERSITY AND SCHOOL LANDS

February 27, 2020

RE: Report of Encumbrances Issued by Land Commissioner

(1/15/2020 to 2/14/2020): No Action Requested

Granted to: **SLAWSON EXPLORATION COMPANY INC, DENVER-CO**
For the Purpose of: Easement-Amend: Well-Directional Wellsite Location
Right-of-Way Number: RW0006937
Date Issued: 2/12/2020
Application Fee: \$100.00
Right-of-way Income: \$130,290.00
Damage Payment to Lessee: \$363.05
Trust: A – Common Schools
Length (Rods): 63.03
Area (Acres): 10.32
Legal Description: MOU-152-92-14-SE4

Granted to: **WHITING OIL & GAS CORPORATION, DENVER-CO**
For the Purpose of: Easement-Amend: Drop Line-Pipeline
Right-of-Way Number: RW0008431
Date Issued: 2/4/2020
Application Fee: \$100.00
Right-of-way Income: N/A
Damage Payment to Lessee: N/A
Trust: A – Common Schools
Length (Rods): 52.64
Area (Acres): 0.66
Legal Description: MOU-153-92-16-NW4

Granted to: **MOUNTRAIL COUNTY, STANLEY-ND**
For the Purpose of: Easement: Road Right-of-Way
Right-of-Way Number: RW0008477
Date Issued: 1/20/2020
Application Fee: \$100.00
Right-of-way Income: \$2,378.75
Damage Payment to Lessee: N/A
Trust: A – Common Schools
Length (Rods): N/A
Area (Acres): 2.01
Legal Description: MOU-155-94-36-NE4, SE4

Granted to: **BRIDGER PIPELINE LLC, CASPER-WY**
For the Purpose of: Easement: Pipeline-Oil Gathering Pipeline
Right-of-Way Number: RW0008535
Date Issued: 2/10/2020
Application Fee: \$100.00
Right-of-way Income: \$139,016.50
Damage Payment to Lessee: \$297.88
Trust: A – Common Schools
Length (Rods): 397.18
Area (Acres): 4.96
Legal Description: MCK-149-96-16-NW4, SW4

Granted to: **ONEOK BAKKEN PIPELINE LLC, TULSA-OK**
For the Purpose of: Easement: Pipeline-Gas Transmission Pipeline
Right-of-Way Number: RW0008575
Date Issued: 1/30/2020
Application Fee: \$100.00
Right-of-way Income: \$21,230.00
Damage Payment to Lessee: \$26.55
Trust: A – Common Schools
Length (Rods): 38.60
Area (Acres): 0.48
Legal Description: WIL-155-99-16-SW4
WIL-155-102-16-NE4

Granted to: **WHITING OIL & GAS CORPORATION, DENVER-CO**
For the Purpose of: Permit: Road-Access Road
Right-of-Way Number: RW0008594
Date Issued: 1/21/2020
Application Fee: \$100.00
Right-of-way Income: \$5,604.00
Damage Payment to Lessee: \$126.89
Trust: A – Common Schools
Length (Rods): 169.19
Area (Acres): 2.11
Legal Description: MOU-153-92-16-NW4

Granted to: **ONEOK ROCKIES MIDSTREAM LLC, SIDNEY-MT**
For the Purpose of: Easement-Amend: Pipeline-Gas Gathering Pipeline
Right-of-Way Number: RW0008598
Date Issued: 1/24/2020
Application Fee: \$200.00
Right-of-way Income: \$195,000.00
Damage Payment to Lessee: \$480.06
Trust: A – Common Schools
Length (Rods): 640.09
Area (Acres): 8.00
Legal Description: MCK-149-96-16-NE4,NW4,SW4

Granted to: CONTINENTAL RESOURCES INC, OKLAHOMA CITY-OK
For the Purpose of: Permit-Amend: Road-Access Road
Right-of-Way Number: RW0008604
Date Issued: 1/20/2020
Application Fee: \$150.00
Right-of-way Income: \$581.00
Damage Payment to Lessee: N/A
Trust: A – Common Schools
Length (Rods): 316.86
Area (Acres): 3.85
Legal Description: MCK-153-94-16-NE4, NW4, SW4

Granted to: CONTINENTAL RESOURCES INC, OKLAHOMA CITY-OK
For the Purpose of: On-lease Act. Amend: Well-Horizontal Oil Well
Right-of-Way Number: RW0008605
Date Issued: 1/21/2020
Application Fee: N/A
Right-of-way Income: N/A
Damage Payment to Lessee: N/A
Trust: A – Common Schools
Length (Rods): N/A
Area (Acres): N/A
Legal Description: MCK-153-94-16-NW4, SW4

Granted to: PURITY OILFIELD SERVICES LLC, WILLISTON-ND
For the Purpose of: Permit: Temporary Water Layflat Line
Right-of-Way Number: RW0008649
Date Issued: 1/21/2020
Application Fee: \$100.00
Right-of-way Income: \$500.00
Damage Payment to Lessee: N/A
Trust: A – Common Schools
Length (Rods): 30.30
Area (Acres): N/A
Legal Description: BRK-159-94-16-NW4

Granted to: AMES SAVAGE WATER SOLUTIONS, WILLISTON-ND
For the Purpose of: Permit: Temporary Water Layflat Line
Right-of-Way Number: RW0008654
Date Issued: 1/24/2020
Application Fee: \$100.00
Right-of-way Income: \$1,350.00
Damage Payment to Lessee: N/A
Trust: A – Common Schools
Length (Rods): 81.82
Area (Acres): N/A
Legal Description: WIL-156-97-16-S2SW4 LESS THE N 248 FT

NORTH DAKOTA
BOARD OF UNIVERSITY AND SCHOOL LANDS

Financial Position Report
(Unaudited)

For period ended December 31, 2019



Board of University and School Lands

Comparative Financial Position (Unaudited)

Schedule of Net Assets

Assets by Trust:	December 31, 2019	December 31, 2018
Common Schools	\$4,878,006,216	\$4,160,621,380
North Dakota State University	76,337,891	66,381,737
School for the Blind	13,522,661	11,297,859
School for the Deaf	22,518,440	19,904,705
State Hospital	15,349,141	13,743,823
Ellendale *	23,758,352	20,158,801
Valley City State University	13,680,321	11,938,519
Mayville State University	8,701,580	7,227,733
Youth Correctional Center	25,363,783	21,849,706
State College of Science	19,491,512	15,919,136
School of Mines **	23,347,602	19,769,109
Veterans Home	5,664,379	5,066,160
University of North Dakota	36,645,112	31,067,163
Capitol Building	6,039,317	5,334,281
Strategic Investment and Improvements	720,712,396	715,468,318
Coal Development	71,055,021	70,381,461
Indian Cultural Education Trust	1,339,315	1,203,165
Theodore Roosevelt Presidential Library	15,859,082	-
Total	\$5,977,392,121	\$5,197,333,056
Assets by Type:		
Cash	\$85,685,487	\$72,013,512
Receivables	12,389,537	11,422,949
Investments ***	5,815,701,107	4,923,668,433
Office Building (Net of Depreciation)	400,092	455,931
Farm Loans	9,467,138	12,549,626
Energy Construction Loans	948,180	1,010,016
Energy Development Impact Loans	10,905,771	11,623,980
School Construction Loans (Coal)	41,391,562	44,670,542
Due to/from Other Trusts and Agencies	503,247	119,918,067
Total	\$5,977,392,121	\$5,197,333,056

*** Ellendale Trust**

The following entities are equal beneficiaries of the Ellendale Trust:

Dickinson State University	School for the Blind
Minot State University	Veterans Home
Dakota College at Bottineau	State Hospital
	State College of Science - Wahpeton

**** School of Mines**

Benefits of the original grant to the School of Mines are distributed to the University of North Dakota.

***** Investments**

Board of University and School Lands

Comparative Financial Position (Unaudited)

Combined Permanent Trusts	December 31, 2019	December 31, 2018
Balance Sheet		
Assets:		
Cash	\$69,490,689	\$42,919,866
Interest Receivable	9,335,842	8,277,688
Investments	5,088,881,908	4,345,258,975
Farm Loans	9,467,138	12,549,626
Energy Construction Loans	948,180	1,010,016
Due from Other Agencies	463,581	12,023,355
Office Building (Net of Depreciation)	400,092	455,931
Total Assets	\$5,178,987,430	\$4,422,495,457
Liabilities:		
Unclaimed Property Claimant Liability	\$16,551,604	\$17,510,901
Due to Other Trusts	-	-
Due to Other Funds	48,838	38,727
Accounts Payable	-	-
Total Liabilities	16,600,442	17,549,628
Equity:		
Fund Balance	4,919,177,984	4,571,686,280
Net Income/(Loss)	243,209,004	(166,740,451)
Total Liabilities and Equity	\$5,178,987,430	\$4,422,495,457
Income Statement		
Income:		
Investment Income	\$63,823,657	\$70,801,400
Realized Gain/(Loss)	6,962,684	(24,914,796)
Unrealized Gain/(Loss)	148,132,965	(281,973,071)
Royalties - Oil and Gas	67,900,324	86,189,526
Royalties - Coal	245,866	223,170
Royalties - Aggregate	42,784	22,735
Bonuses - Oil and Gas	8,105,513	272,831
Bonuses - Coal	24,000	-
Rents - Surface	9,283,926	8,160,456
Rents - Mineral	114,792	21,090
Rents - Coal	22,732	36,500
Rents - Office Building	-	-
Gain/Loss on Sale of Land - OREO	-	-
Sale of Capital Asset	25,000	-
Oil Extraction Tax Income	35,794,764	49,873,383
Unclaimed Property Income	9,869,889	9,590,350
Total Income	350,348,896	(81,696,426)
Expenses and Transfers:		
Investment Expense	3,504,422	3,499,057
In-Lieu and 5% County Payments	-	-
Administrative Expense	1,536,969	1,502,961
Operating Expense - Building	223,501	42,007
Transfers to Beneficiaries	101,875,000	80,000,000
Total Expense and Transfers	107,139,892	85,044,025
Net Income/(Loss)	\$243,209,004	(\$166,740,451)

Board of University and School Lands

Comparative Financial Position (Unaudited)

Capitol Building Trust

	December 31, 2019	December 31, 2018
Balance Sheet		
Assets:		
Cash	\$415,929	\$102,333
Interest Receivable	32,753	32,760
Investments	5,590,636	5,199,187
Total Assets	\$6,039,318	\$5,334,280
Liabilities:		
Due to Other Trusts and Agencies	\$0	\$0
Equity:		
Fund Balance	6,548,608	4,723,483
Net Income	(509,290)	610,797
Total Liabilities and Equity	\$6,039,318	\$5,334,280
Income Statement		
Income:		
Investment Income	\$85,812	\$68,979
Realized Gain(Loss)	19,203	3,540
Unrealized Gain/(Loss)	(14,943)	15,748
Rents - Surface	125,882	80,680
Rents - Mineral	1,602	240
Royalties - Oil and Gas	440,509	453,643
Bonuses - Oil and Gas	802	-
Royalties - Coal	-	-
Royalties - Aggregate	-	-
Total Income	658,867	622,830
Expenses and Transfers:		
Investment Expense	1,888	864
In-Lieu and 5% County Payments	-	-
Administrative Expense	11,909	11,169
Transfers to Facility Management	1,154,360	-
Total Expense and Transfers	1,168,157	12,033
Net Income/(Loss)	(\$509,290)	\$610,797

Board of University and School Lands

Comparative Financial Position (Unaudited)

Coal Development Trust

	December 31, 2019	December 31, 2018
Balance Sheet		
Assets:		
Cash	\$432,470	\$112,198
Interest Receivable	527,975	509,573
Investments	17,757,263	13,386,046
Coal Impact Loans	10,905,771	11,623,980
School Construction Loans	41,391,562	44,670,542
Due from other Trusts and Agencies	133,268	263,736
Total Assets	\$71,148,309	\$70,566,075
Liabilities:		
Accounts Payable	\$93,287	\$184,615
Equity:		
Fund Balance	70,296,353	69,591,292
Net Income	758,669	790,168
Total Liabilities and Equity	\$71,148,309	\$70,566,075
Income Statement		
Income:		
Investment Income	\$221,336	\$140,364
Interest on School Construction Loans	421,844	401,303
Realized Gain/(Loss)	52,889	9,552
Unrealized Gain/(Loss)	(42,931)	41,811
Coal Severance Tax Income	194,092	252,985
Total Income	847,230	846,015
Expenses and Transfers:		
Investment	5,654	2,344
Administrative	429	831
Transfers to General Fund	82,478	52,672
Total Expense and Transfers	88,561	55,847
Net Income/(Loss)	\$758,669	\$790,168

Board of University and School Lands

Comparative Financial Position (Unaudited)

Strategic Investment and Improvements Fund

December 31, 2019

December 31, 2018

Balance Sheet

Assets:

Cash	\$15,169,414	\$28,875,932
Interest Receivable	2,492,493	2,601,642
Investments	703,050,488	576,175,153
Due from other Trusts or Agencies	-	107,815,591
Total Assets	\$720,712,395	\$715,468,318

Liabilities:

Accounts Payable	\$0	\$0
------------------	-----	-----

Equity:

Fund Balance	1,134,326,018	354,701,097
Net Income	(413,613,623)	360,767,221
Total Liabilities and Equity	\$720,712,395	\$715,468,318

Income Statement

Income:

Investment Income	\$8,709,645	\$3,480,746
Realized Gain/(Loss)	1,960,936	250,773
Unrealized Gain/(Loss)	(1,612,442)	1,288,549
Interest on Fuel Prod Facility	-	100,433
Royalties - Oil and Gas	39,926,898	54,660,721
Bonuses - Oil and Gas	1,160,500	2,140,464
Royalties - Coal	201,657	194,828
Rents - Mineral	50,550	34,406
Tax Income - Oil Extraction & Production Distribution	-	424,606,047
Total Income	50,397,744	486,756,967

Expenses and Transfers:

Administrative	762,571	436,941
Investment Expense	181,148	33,335
Transfers to General Fund	382,200,000	124,000,000
Transfer to State Highway Patrol	-	358,000
Transfer to Commerce Department	3,000,000	1,000,000
Transfer to Adjutant General	2,502,253	300,000
Transfer to ND Department of Health	-	75,736
Transfer to Energy Infrastructure& Impact Office	2,000,000	-
Transfer to Aeronautics Commission	20,000,000	-
Transfer from ND Parks & Recreation	1,877,500	-
Transfer to Information Technology Department	25,150,000	-
Transfer to Industrial Commission	270,000	-
Transfer to Bank of North Dakota	25,137,707	-
Transfer to ND Department of Corrections	1,218,000	-
Transfer from NDSU - Vet Diag Lab (HB 1008)	-	(214,266)
Transfer from Public Service Commission	(52,818)	-
Transfer from Department of Health Department	(67,310)	-
Transfer from Attorney General Office	(6,387)	-
Transfer from State Highway Patrol	(49,403)	-
Transfer from Commerce Department	(111,895)	-
Total Expense and Transfers	464,011,367	125,989,746
Net Income/(Loss)	(\$413,613,623)	\$360,767,221

As of December 31, 2019 the SIIF had a fund balance of \$720,712,395. The fund balance is made up of two parts. The committed fund balance is that portion of the fund that has either been set aside until potential title disputes related to certain riverbed leases have been resolved or appropriated by the legislature. The uncommitted fund balance is the portion of the fund that is unencumbered, and is thus available to be spent or dedicate to other programs as the legislature deems appropriate. The uncommitted fund balance was \$39,703,687 as of December 31, 2019.

Board of University and School Lands

Comparative Fiduciary Statements (Unaudited)

Indian Cultural Trust

	December 31, 2019	December 31, 2018
<u>Fiduciary Net Position</u>		
Assets:		
Cash	\$ 43,852	\$ 3,183
Interest receivable	1,499	1,285
Investments	1,293,964	1,198,696
Total Assets	1,339,315	1,203,164
Liabilities:		
Accounts payable	-	-
Total Liabilities	-	-
Net Position:		
Net position restricted	1,339,315	1,203,164
Total Net Position	\$ 1,339,315	\$ 1,203,164
<u>Changes in Fiduciary Net Position</u>		
Additions:		
Contributions:		
Donations	-	-
Total Contributions	\$ -	\$ -
Investment Income:		
Net change in fair value of investments	40,164	(84,869)
Interest	16,409	19,493
Less investment expense	(904)	(957)
Net Investment Income	55,669	(66,333)
Miscellaneous Income	49	32
Total Additions	55,718	(66,301)
Deductions:		
Payments in accordance with Trust agreement	-	-
Administrative expenses	-	240
Total Deductions	-	240
Change in net position held in Trust for:		
Private-Purpose	55,718	(66,541)
Total Change in Net Position	55,718	(66,541)
Net Position - Beginning of Year	1,285,265	1,269,707
Net Position - December 31, 2019	\$ 1,340,983	\$ 1,203,166

Board of University and School Lands**Comparative Fiduciary Statements (Unaudited)****Theodore Roosevelt Presidential Library**

December 31, 2019

Fiduciary Net Position**Assets:**

Cash	\$	133,133
Interest receivable		(1,026)
Investments		15,727,290
Total Assets		<u>15,859,397</u>

Liabilities:

Accounts payable		315
Total Liabilities		315

Net Position:

Net position restricted		15,859,082
Total Net Position	\$	<u>15,859,397</u>

Changes in Fiduciary Net Position**Additions:**

Contributions:		
Donations		-
Total Contributions	\$	<u>-</u>

Investment Income:

Net change in fair value of investments		120,350
Interest		15,050,748
Less investment expense		(578,868)
Net Investment Income		<u>15,749,966</u>

Miscellaneous Income		116,711
Total Additions		<u>15,866,676</u>

Deductions:

Payments in accordance with Trust agreement		-
Administrative expenses		-
Total Deductions		<u>-</u>

Change in net position held in Trust for:

Private-Purpose		15,866,676
Total Change in Net Position		<u>15,866,676</u>

Net Position - Beginning of Year		15,050,748
Net Position - December 31, 2019	\$	<u><u>30,917,424</u></u>

MEMORANDUM TO THE BOARD OF UNIVERSITY AND SCHOOL LANDS

February 27, 2020

RE: Investment Updates

(No Action Requested)

Asset Allocation

The table below shows the status of the permanent trusts' asset allocation as of January 31, 2020. The figures provided are unaudited.

Account/Asset Class	Long-Term Asset Allocation	1/31/20 Actual Allocation \$	1/31/20 Actual Allocation %	1/31/20 % Diff.
Large Cap US Equity	14.5%	\$ 776,890,321	15.3%	0.8%
Mid/Small Cap US Equity	4.0%	\$ 203,875,104	4.0%	0.0%
International Equity	14.5%	\$ 758,683,083	15.0%	0.5%
Emerging Market Equity	4.0%	\$ 209,220,005	4.1%	0.1%
Total Equities	37.0%	\$ 1,948,668,513	38.5%	1.5%
Core Fixed Income	13.8%	\$ 748,589,704	14.8%	1.0%
Non-Core Fixed Income	9.2%	\$ 424,436,755	8.4%	-0.8%
Total Fixed Income	23.0%	\$ 1,173,026,459	23.2%	0.2%
Total Absolute Return	15.0%	\$ 738,004,376	14.6%	-0.4%
Commodities	3.0%	\$ 146,113,218	2.9%	-0.1%
MLPs	3.0%	\$ 137,115,513	2.7%	-0.3%
TIPS	2.0%	\$ 100,457,409	2.0%	0.0%
Natural Resource Equities	2.0%	\$ 91,421,252	1.8%	-0.2%
Total Inflation Strategies	10.0%	\$ 475,107,392	9.4%	-0.6%
Core Real Estate	8.0%	\$ 392,016,685	7.7%	-0.3%
Core Plus Real Estate	7.0%	\$ 335,468,622	6.6%	-0.4%
Total Real Estate	15.0%	\$ 727,485,307	14.4%	-0.6%
Total Asset	100.0%	\$ 5,062,292,047	100.0%	

Angelo Gordon (\$121.9 million, 2.4% of PTF assets as of 1/31/20)

Direct Lending Fund

The Angelo Gordon Direct Lending Fund III portfolio was initially funded in late-August 2018. At present, total funded to Angelo Gordon stands at 81.50% of total capital commitment or \$122.25 million out of \$150 million. According to Angelo Gordon, the Board's commitment should be fully drawn by late-2020.

At the end of January, we have received a \$2,329,264 distribution from the Fund. Including this distribution, the Fund will have distributed approximately 4.9% of total paid-in capital total.

Theodore Roosevelt Presidential Library and Museum Endowment Fund

On September 30, 2019, \$15M of the Theodore Roosevelt Presidential Library Endowment Fund was invested into the permanent trust pool.

Upcoming Investment Manager Meetings

There is no upcoming meeting scheduled.

MEMORANDUM TO THE BOARD OF UNIVERSITY AND SCHOOL LANDS

February 27, 2020

**RE: Unclaimed Property
Program Report**
(No Action Requested)

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 2020, the Division received 38 holder reports with a property value of \$64,250 and paid 693 claims with a total value of \$787,210.

MEMORANDUM TO THE BOARD OF UNIVERSITY AND SCHOOL LANDS

February 27, 2020

**RE: Energy Infrastructure and Impact Office
Program Report
(No Action Requested)**

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 \$624 million in funding.

The Oil and Gas Impact Grant Fund currently has 21 grants with a balance of \$7,207,988.75 as of February 13, 2020. The following shows grant activity for the last four months:

Oil and Gas Impact Grant Fund	Grants with balances	Current Balance Obligated to Grants
11/15/2019	40	\$17,164,734.70
12/9/2019	36	\$15,477,345.77
12/31/2019	30	\$14,388,087.28
2/13/2020	21	\$7,207,988.75

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 \$3,447,448.60 as of February 13, 2020. 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. The following shows grant activity for the last four months:

Energy Impact Fund	Grants with balances	Current Balance Obligated to Grants
11/15/2019	4	4,793,191.14
12/9/2019	4	\$4,793,191.14
12/31/2019	4	\$4,108,325.39
2/13/2020	3	\$3,447,448.60

The Energy Infrastructure and Impact Office is currently managing 24 grants for a total of \$10,655,437.35. The following shows grant activity for the last four 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
11/15/2019	40	\$17,164,734.70	11/15/2019	4	\$4,793,191.14	\$21,957,925.84
12/9/2019	36	\$15,477,345.77	12/9/2019	4	\$4,793,191.14	\$20,270,536.91
12/31/2019	30	\$14,388,087.28	12/31/2019	4	\$4,108,325.39	\$18,496,412.67
2/13/2020	21	\$7,207,988.75	2/13/2020	3	\$3,447,448.60	\$10,655,437.35

MEMORANDUM TO THE BOARD OF UNIVERSITY AND SCHOOL LANDS

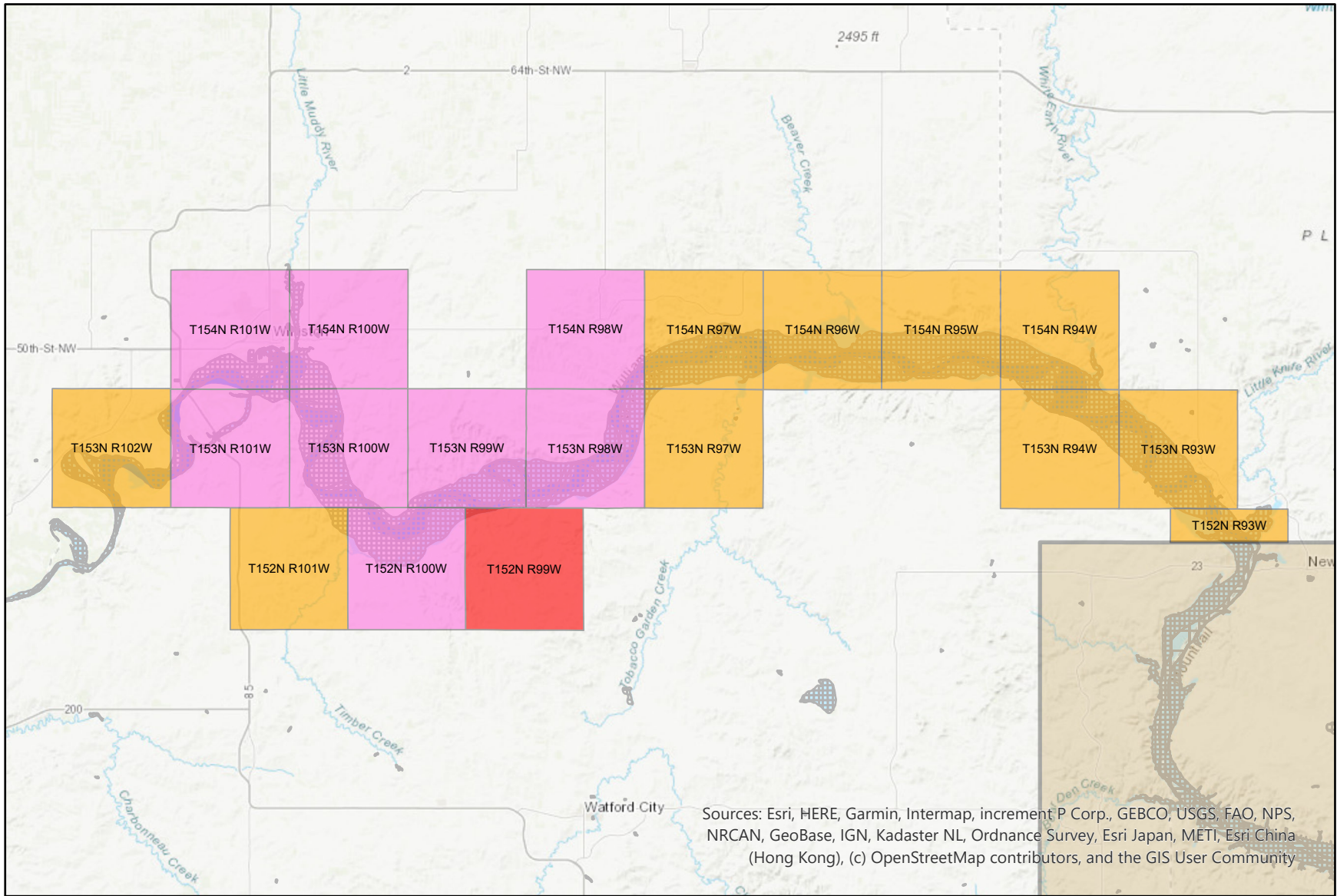
February 27, 2020

RE: Acreage Adjustment Survey

(No Action Requested)

Senate Bill 2211 of 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 Department executed a contract with Kadrmas, Lee & Jackson, Inc. "to analyze the final review findings and determine the acreage 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 industrial commission." The contract's scope of work concludes twelve months from the date of execution, at a total cost of \$1,088,635.





Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community

**North Dakota Department of Trust Lands
Township Survey Status
February 18, 2020**



Project Area Townships	
	Acreage Calculations Started
	Acreage Adjustments Complete
	Hard Copy Maps Complete
	Township Survey Complete
	Township Deliverable Complete



MEMORANDUM TO THE BOARD OF UNIVERSITY AND SCHOOL LANDS

February 27, 2020

**RE: Summary of Oil and Gas Lease Auction
(No Action Requested)**

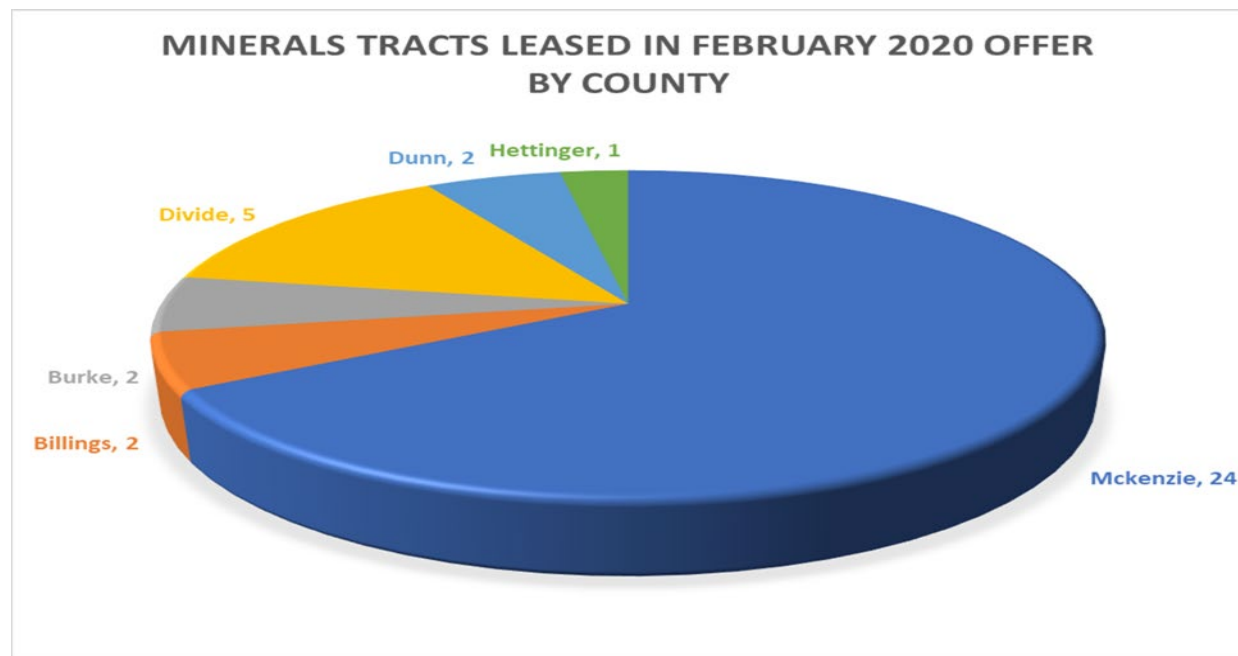
On behalf of the Board, the Department conducted an oil and gas mineral lease auction on www.energynet.com which concluded on February 4, 2020.

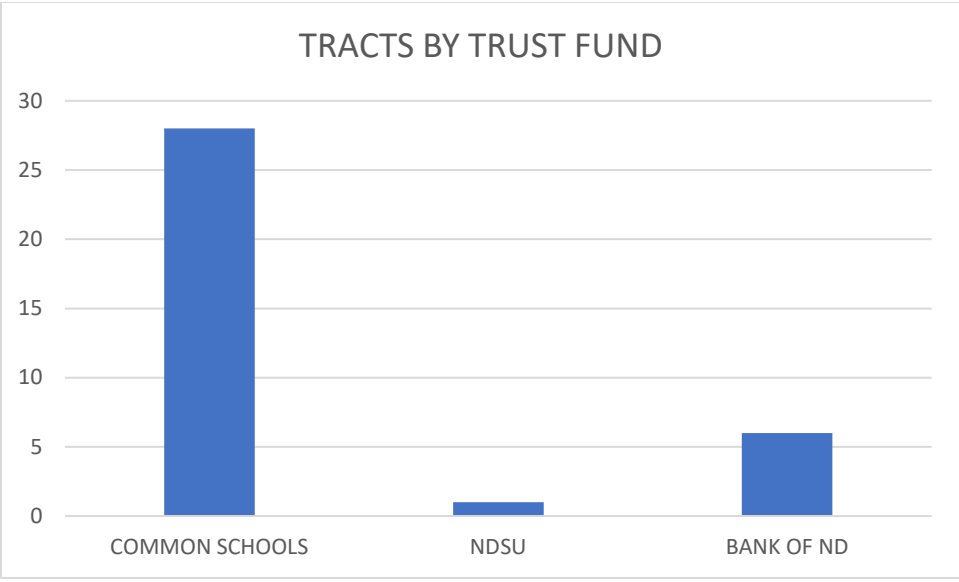
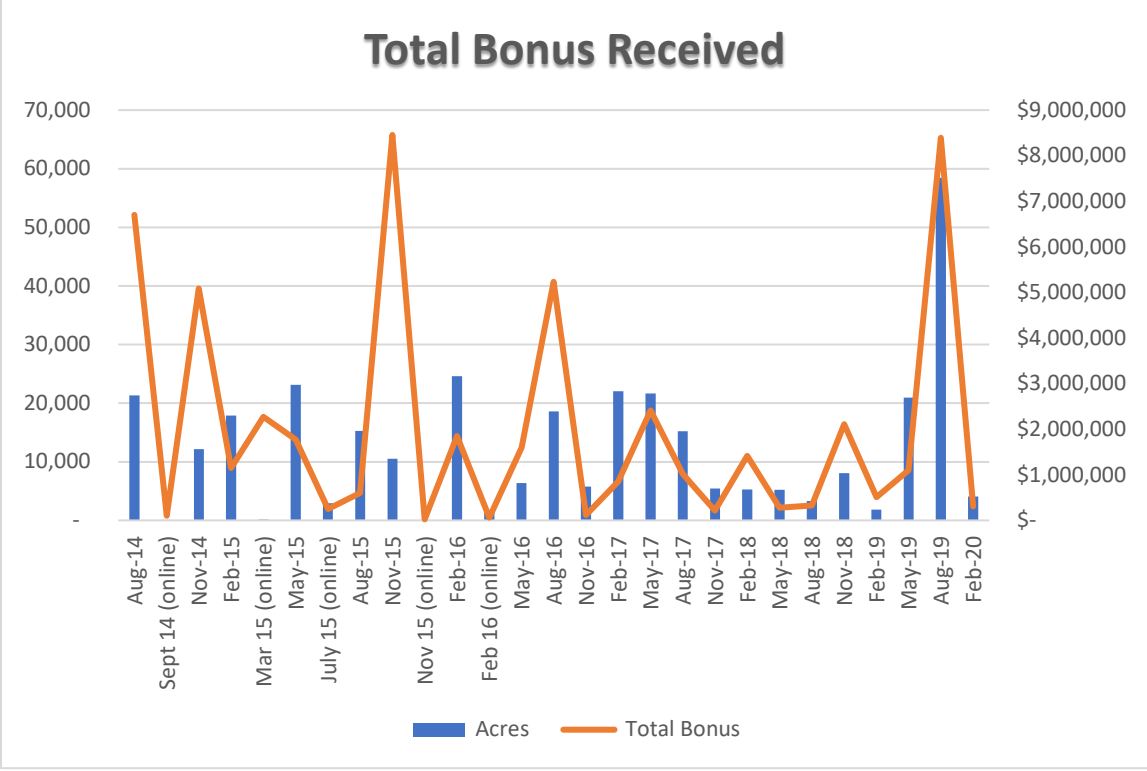
There were 36 tracts offered and all received competitive bids (If the Board does not receive a competitive bid the lease is awarded to the nominator). The highest bid per acre was \$20,080 for 80 acres in Divide County.

February 2020			
County	Mineral Acres	Total Bonus	Bonus/Acres
Billings	160	\$2,560.00	\$16.00
Burke	153.17	\$2,683.89	\$17.52
Divide	480	\$87,840.00	\$183.00
Dunn	16.19	\$1,230.44	\$76.00
Hettinger	80	\$1,280.00	\$16.00
McKenzie	3200	\$213,280.00	\$66.65
GRAND TOTAL	4,089.36	\$308,874.33	\$75.53

There were 28 registered bidders, 13 of which placed a bid in the 8 day auction. There were bidders from 3 states (ND, MT and LA).

A total of \$308,874.33 of bonus was collected from the auction.





MEMORANDUM TO THE BOARD OF UNIVERSITY AND SCHOOL LANDS

February 27, 2020

RE: Information Technology Project Status Update

(No Action Requested)

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.

The Department has a tentative go-live date of June 16, 2020 with a lag time go-live of October 15, 2020 for the new Financial Management & Accounting (FMA) system that will utilize the Microsoft Dynamics 365 Finance and Operations module. The FMA implementation plan has been strategically developed into four iterations: (1) Planning and Analysis Cycle; (2) Design and Build Cycle 1; (3) Design and Build Cycle 2; (4) Production Cycle. At the end of each iteration, the implementation team will review progress to-date with the Commissioner. Appropriate adjustments to the go-live date will be made if necessary. The Planning and Analysis Cycle Iteration is now complete and the FMA project is on schedule.

On December 16, 2019, the Department issued the RFP for the Land Management system. In February 2020, five responses were received. An evaluation team is currently reviewing and scoring these proposals.

MEMORANDUM TO THE BOARD OF UNIVERSITY AND SCHOOL LANDS

February 27, 2020

RE: Repayment of Unpaid Gas Royalties Update

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 sovereign minerals 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.

In 2012, the Department sent letters to operators and lessees who reported deductions for royalties paid. In July 2017, letters were sent to all operators and lessees regarding the proper method to calculate gas royalties. Companies who were audited and found to be non-compliant with the proper calculation of gas royalties, as outlined in the July 2017 letter, received audit findings letters. All companies who have continued to be non-compliant have received additional communication regarding the proper calculation of gas royalties.

The Board's administrative rules, N.D.A.C. Title 85, provide guidelines for assessment of penalties and interest. Current Department and Board policy assesses the maximum interest (18%) under N.D.C.C. § 47-16-39.1, and penalty (12%) allowed on all late royalty payments unless a request is made to the Commissioner to negotiate the interest rate. The Department's revenue compliance procedures are configured to calculate and generate interest and penalty notices in accordance with these policies.

The letter regarding Formal Notification of Gas Royalty Repayment Obligations dated February 11, 2020 with enclosed Gas Deduction Compliance Notification (Letter) was sent to all entities required to pay royalties to the Board pursuant to the Board's lease.

The 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. Penalties and interest continue to accrue in accordance with the Gas Deduction Compliance Notification until payment is received.

As of noon on February 21, 2020, twenty-five gas royalty payors had contacted the Department. Two gas royalty payors made a formal offer of repayment and the Department is actively working with the other gas royalty payors.