

BOARD OF UNIVERSITY AND SCHOOL LANDS

**Governor's Conference Room
Ground Floor, State Capitol
February 24, 2022 at 9:00 AM**

Microsoft Teams meeting

Join on your computer or mobile app

[Click here to join the meeting](#)

Or call in (audio only)

[+1 701-328-0950,,216318272#](#)

Phone Conference ID: 216 318 272#

AGENDA

➤ = Board Action Requested

1. Approval of Meeting Minutes – Jodi Smith

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

- A. January 27, 2022 – pg. 2
- B. February 17, 2022 – pg. 18

2. Reports – Jodi Smith

- A. January Report of Encumbrances – pg. 36
- B. January Oil & Gas Shut In Report – pg. 41
- C. February Oil & Gas Lease Sale – pg. 42
- D. January Acreage Adjustment Report – pg. 43
- E. January Unclaimed Property Report – pg. 52
- F. November Financial Position – pg. 53
- G. Investments Update – pg. 61

3. Investments – Michael Shackelford

- A. Investment Policy Statement – 2nd Reading – pg. 62

4. Surface – Michael Humann

- A. Surface Land Lease Amendment – pg. 93

5. Minerals – Jodi Smith

- A. Royalty Offers – pg. 97

6. Litigation – Jodi Smith

- A. Newfield Exploration Company et al Civ. No. 27-2018-CV-00143 – pg. 98
- B. William S. Wilkinson et al. Case No. 53-2012-CV-00038 – pg. 101
- C. Nelson et al. Civ. No. 27-2021-CV-00285 – pg. 106
- D. MHA Civ. No 1:20-cv-01918-ABJ – pg. 108

➤ **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:**

- Royalty Offers
- Newfield Exploration Company et al Civ. No. 27-2018-CV-00143
- William S. Wilkinson et al. Case No. 53-2012-CV-00038
- Nelson et al. Civ. No. 27-2021-CV-00285
- MHA Civ. No 1:20-cv-01918-ABJ

7. Other Business – Jodi Smith

- A. Resolution for Attorney General Wayne Stenehjem – pg. 114

Next Meeting Date – March 31, 2022

**Minutes of the Meeting of the
Board of University and School Lands
January 27, 2022**

The January 27, 2022 meeting of the Board of University and School Lands was called to order at 9:02 AM via Microsoft Teams by Chairman Doug Burgum.

Members Present:

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

Members Absent:

Wayne Stenehjem Attorney General

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Kate Schirado	Administrative Assistant
Christopher Dingwall	Minerals Title Specialist
Dennis Chua	Investments
Rick Owings	Administrative Staff Officer
Kristie McCusker	Paralegal
Adam Otteson	Revenue Compliance Director
Michael Shackleford	Investments Director
Lynn Spencer	Minerals Title Specialist
James Wald	Legal Council
Catelin Newell	Administrative Staff Officer
Chris Suelzle	Minerals Division Director
Matthew Reile	ITD Data Management Intern
Kayla Spangelo	Surface Range Soils Management Specialist
Mike Humann	Surface Division Director
Peggy Gudvangen	Finance Division Director
Jessica Fretty	Unclaimed Property
Susan Dollinger	Unclaimed Property
Emily Bosch	Unclaimed Property

Guests in Attendance:

Dave Garner	Office of the Attorney General
Reice Haase	Office of the Governor
Leslie Bakken Oliver	Office of the Governor
Amy Sisk	Bismarck Tribune
Josh Kevan	RVK
Brady Pelton	NDPC
Ron Ness	NDPC
Craig Smith	
Gary Hagen	
Shawn Stearns	
Will Houser	
Adam Willis	
Karlene Fine	

(01/27/22)

APPROVAL OF MINUTES

A motion to approve the minutes of the December 21, 2021 regular meeting was made by Treasurer Beadle and seconded by Secretary Jaeger and the motion carried unanimously on a voice vote.

REPORTS

Right of Way R-10008			
Granted To	East Valley Industrial Park LLC, Denver, Colorado		
For the Purpose Of	Easement Amendment - Railroad Right of Way		
Initial Payment		Permanent Rods	0.00
Date Issued	12/14/2021	Permanent Acres	0.00
Tracts/Trusts			
Legal Description		Trust	
Williams-154-100-16-NE4, NW4		A	
Right of Way Terms			
Financial Type		Payment Amt	
Application Fee		Set Amount	\$250.00

Right of Way R-8565			
Granted To	Bridger Pipeline LLC, Casper, Wyoming		
For the Purpose Of	Original Easement - Oil Transmission Pipeline		
Initial Payment	\$306,969.00	Permanent Rods	472.26
Date Issued	12/14/2021	Permanent Acres	5.90
Tracts/Trusts			
Legal Description		Trust	
McKenzie-149-98-16-NW4		A	
McKenzie-150-97-36-SE4, SW4		A	

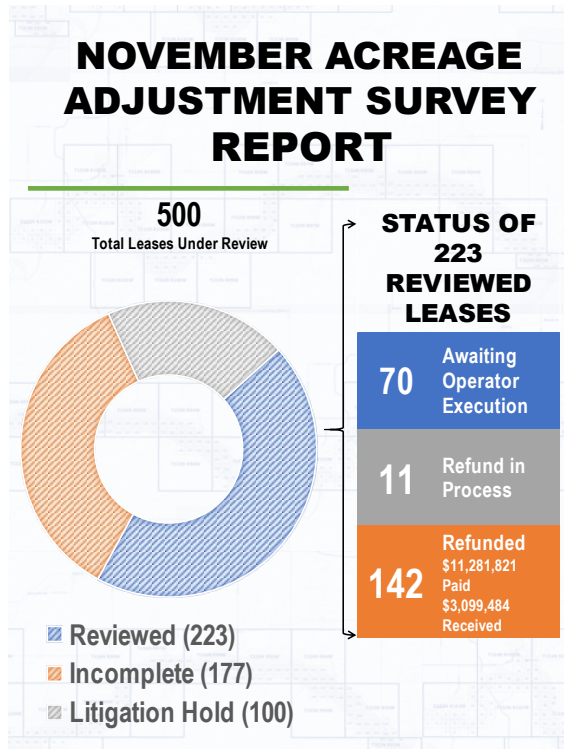
Right of Way Terms			
Financial Type		Payment Amt	
Application Fee		Set Amount	\$200.00
Initial		Set Amount	\$306,969.00
Right of Way R-8613			
Granted To	Bridger Pipeline LLC, Casper, Wyoming		
For the Purpose Of	Original Easement - Oil Transmission Pipeline		
Initial Payment	\$253,493.50	Permanent Rods	389.99
Date Issued	12/14/2021	Permanent Acres	4.87
Tracts/Trusts			
Legal Description		Trust	
Golden Valley-144-105-16-NE4, NW4, SW4		A	
Right of Way Terms			
Financial Type		Payment Amt	
Application Fee		Set Amount	\$150.00
Initial		Set Amount	\$253,493.50
Right of Way R-8628			
Granted To	Grayson Mill Williston LLC, Houston, Texas		
For the Purpose Of	Original On-Lease Surface Damage Agreement - Horizontal Oil Well Site		
Initial Payment	\$44,310.00	Permanent Rods	95.54
Date Issued	12/2/2021	Permanent Acres	14.57
Tracts/Trusts			
Legal Description		Trust	
McKenzie-151-100-16-SW4		A	

Right of Way Terms			
Financial Type		Payment Amt	
Application Fee	Set Amount	\$250.00	
Initial	Set Amount	\$44,310.00	
Annually	Set Amount	\$2,000.00	
Right of Way R-8870			
Granted To	Whiting Oil And Gas Corporation, Denver, Colorado		
For the Purpose Of	Easement Extension/Renewal - Tower Site		
Initial Payment		Permanent Rods	0.00
Date Issued	12/15/2021	Permanent Acres	0.00
Tracts/Trusts			
Legal Description		Trust	
Billings-140-100-16-NW4		A	
Right of Way Terms			
Financial Type		Payment Amt	
Application Fee	Set Amount	\$250.00	
Annually	Set Amount	\$2,000.00	
Right of Way R-8918			
Granted To	Oneok Rockies Midstream LLC, Sidney, Montana		
For the Purpose Of	Original Easement - Gas Gathering Pipeline		
Initial Payment	\$100,495.00	Permanent Rods	215.09
Date Issued	12/29/2021	Permanent Acres	2.69
Tracts/Trusts			
Legal Description		Trust	
Dunn-146-93-16-NE4		A	

Right of Way Terms			
Financial Type		Payment Amt	
Application Fee		Set Amount	\$250.00
Initial		Set Amount	\$100,495.00
Right of Way R-8961			
Granted To	Oneok Rockies Midstream LLC, Sidney, Montana		
For the Purpose Of	Original Easement - Gas Gathering Pipeline		
Initial Payment	\$21,672.50	Permanent Rods	44.12
Date Issued	12/29/2021	Permanent Acres	0.55
Tracts/Trusts			
Legal Description		Trust	
Dunn-146-93-16-NE4		A	
Right of Way R-8975			
Granted To	Glacier Peak Midstream LLC, Houston, Texas		
For the Purpose Of	Original Easement - Multiple Pipelines		
Initial Payment	\$33,524.00	Permanent Rods	83.81
Date Issued	12/2/2021	Permanent Acres	1.05
Tracts/Trusts			
Legal Description		Trust	
McKenzie-151-100-16-SW4		A	
Right of Way Terms			
Financial Type		Payment Amt	
Application Fee		Set Amount	\$250.00
Initial		Set Amount	\$33,524.00

Total Initial Payment Amount \$760,464.00

Acreage Adjustment Report



NDDTL River Tracts map and outstanding requests for acreage adjustment stipulation and lease correction were presented to the Board and are available upon request.

December Unclaimed Property Report

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

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

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

For the month of December 2021, the Division received 84 holder reports with a property value of \$494,289 and paid 292 claims with a total value of \$827,934.

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

Investment Updates

Portfolio Rebalancing Updates

Since the last Board meeting, all agreements that were being reviewed have now been executed. We are currently waiting for the documents from the new evergreen funds of Apollo and Angelo Gordon that were approved during the last Board meeting.

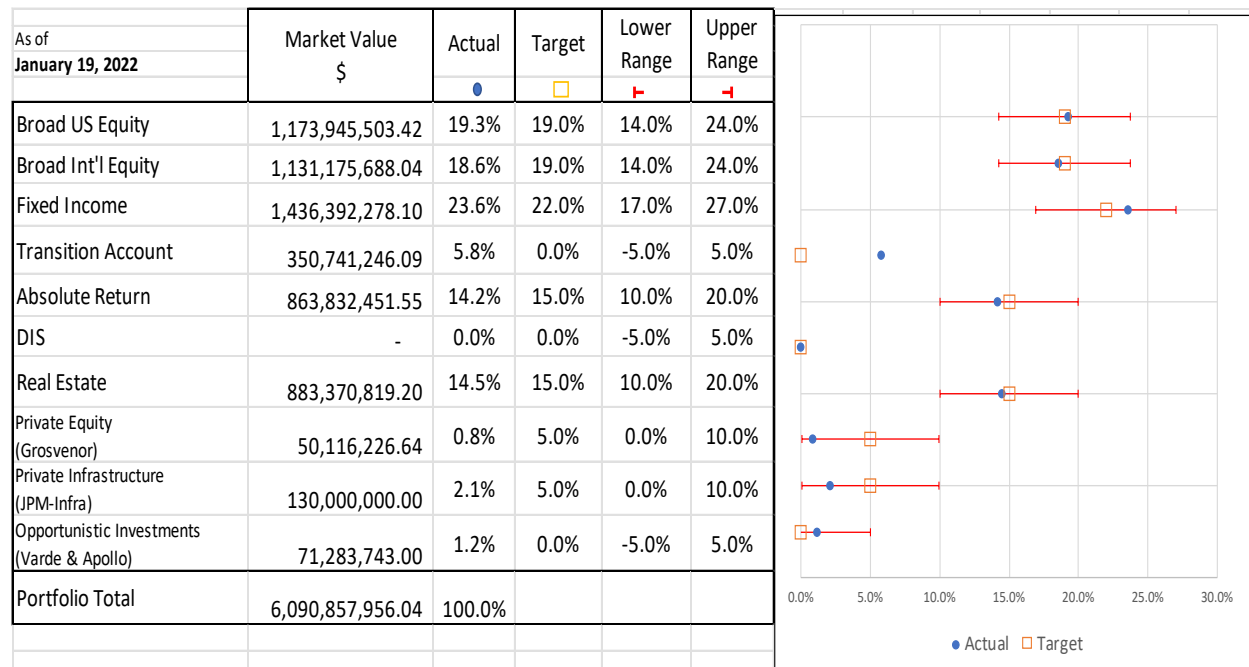
All capital calls reported during the last Board meeting has now been funded. This has brought the Transition Account down to \$350.7M or 5.8%.

Unfunded commitments are at \$735.65M. These are:

1. Apollo Accord Fund, \$96.75M
2. Varde Dislocation Fund, \$42.5M
3. GCM Private Equity, \$110M
4. ARES Pathfinder Fund, \$64.5M
5. Angelo Gordon DL IV, \$25M
6. Owl Rock Diversified Lending, \$56.5M
7. GCM Secondary Opportunities Fund, \$121M
8. Harrison Street Core Property Fund LP, \$69.4M
9. FSI GDIF (Infrastructure), \$150M

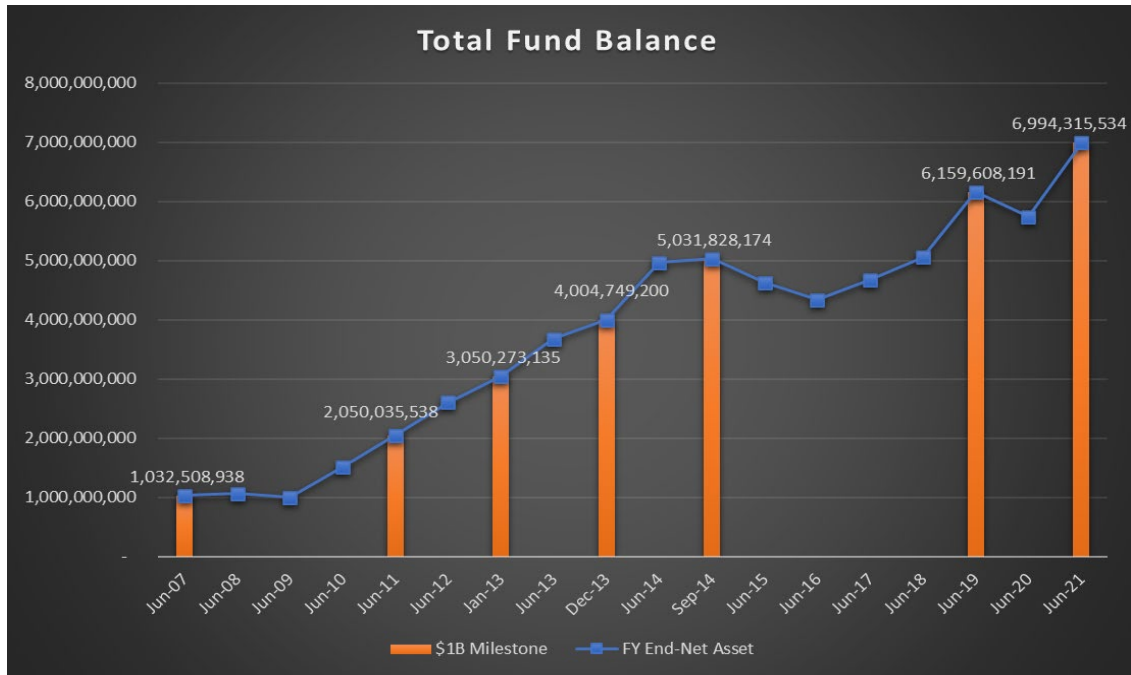
Asset Allocation

The table below shows the status of the permanent trusts' asset allocation as of January 19, 2022. The figures provided are unaudited.

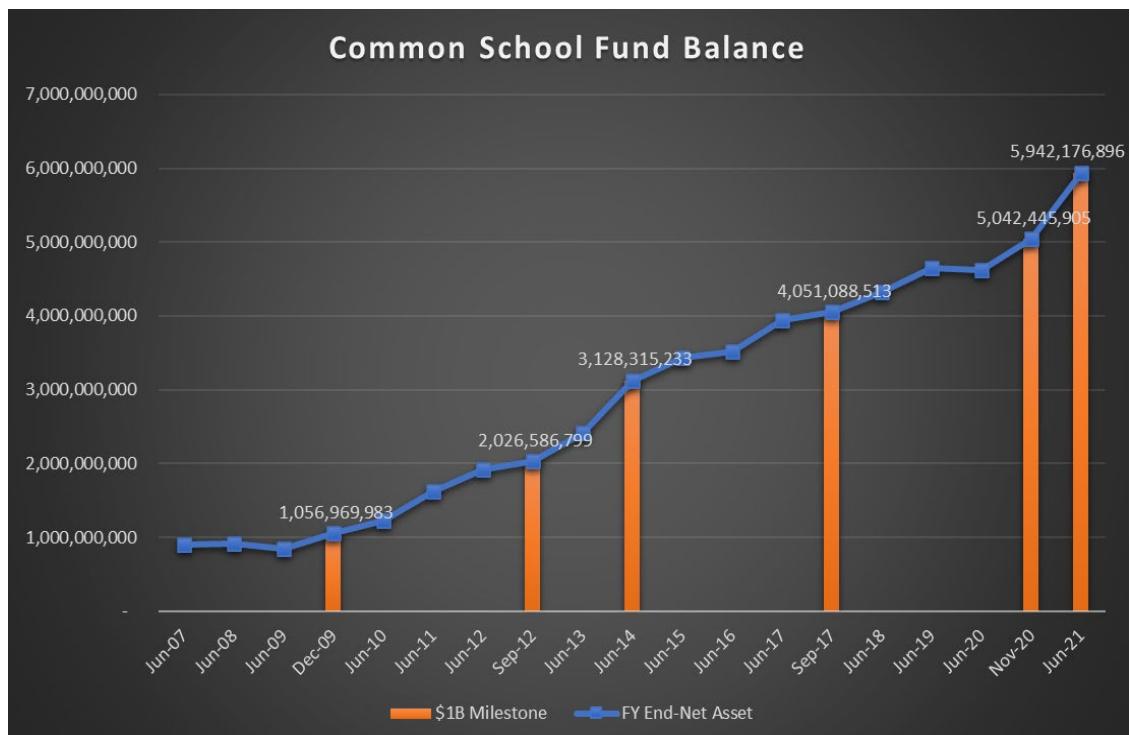


Graphs of when the Funds First Hit \$1B and each \$1B increase thereafter:

A. Total Fund Balance represents all the Permanent Trusts and the SIIF Funds:



B. Common Schools Trust Fund Only:



Carbon Capture Pilot Project - Research agreement to assess soil organic carbon (SOC) storage on Trust Lands for potential certification under new carbon credit standard

North Dakota Department of Trust Lands' (Department) staff have been actively involved in working groups established by Rice University's Baker Institute of Public Policy in Houston, Texas, regarding the development of BCarbon, an innovative, scalable soil carbon certification standard designed to enhance economic resilience for agricultural and industrial stakeholders. The standard allows grassland owners to monetize the removal of carbon dioxide from the atmosphere by storing it in soil as organic carbon. This standard differs from existing certification standards by targeting grassland soils instead of cropland soils. Increasing soil carbon on grasslands has been shown to improve ecosystem drought resilience and reduce flood severity by increasing soil water holding capacity in vulnerable watersheds.

BCarbon, the eponymous nonprofit entity administering the standard, and an energy sector partner will be announcing a three-year agreement to study nature-based carbon sequestration potential in association with the Department, the New Mexico State Land Office (in Santa Fe, New Mexico), the National Indian Carbon Coalition (in St Paul, Minnesota), the Dixon Water Foundation (in Decatur, Texas), and several high-profile private ranches in Texas (e.g., King Ranch).

Department staff are drafting a proposed research agreement between Department and BCarbon. The energy sector partner is paying all administrative, research, and reporting costs associated with the project. Department staff will review project activities and findings and will coordinate with BCarbon contractors to ensure adequate communication with surface lessees. Soil samples will be taken and analyzed by BCarbon contractors each year of the three-year project term.

This project will assist Department in determining the potential rate of soil organic carbon (SOC) accrual on four distinct Department surface acre parcels and assess the feasibility of certifying soil carbon credits for sale under the BCarbon standard. These sites were selected as representative of different soil conditions and grassland management methods present on trust lands. The four research sites are:

- Williams County - T156 R95 SEC16
- McLean County - T146 R83 SEC36
- Burleigh County - T140 R79 SEC36
- Emmons County - T136 R77 SEC17

The certification and sale of soil carbon credits from trust lands is a potential revenue stream. This market-based mechanism may also assist the State in meeting carbon neutrality by 2030. However, this requires more information on soil organic carbon amounts in North Dakota soils and the cost to accurately verify those amounts. This research partnership will allow Department to pursue these efforts with little to no financial or administrative cost.

North Dakota Trust Lands Completion Act

On November 26, 2019, the Board of University and School Lands (Board) approved the Commissioner to identify potential tracts for coal acreage exchange with the Federal Government.

The Department of Trust Lands (Department) worked to draft a federal bill that would allow the Board to relinquish land and minerals and select, in lieu thereof, equal value Federal land and minerals within North Dakota.

in 2021, the 67th Legislative Assembly unanimously passed Senate Concurrent Resolution 4013, a concurrent resolution urging Congress to pass the North Dakota Trust Lands Completion Act.

On November 4, 2021, the North Dakota Trust Lands Completion Act (S.3200) “[t]o authorize the relinquishment and in lieu selection of land and minerals in the State of North Dakota, to restore land and minerals to Indian Tribes within the State of North Dakota, to conserve the Little Missouri National Grasslands, and for other purposes” was introduced in the U.S. Senate and U.S. House of Representatives and referred to the U.S. Senate Energy and Natural Resources Committee and the House Natural Resources Committee.

In 1889, Congress passed the Enabling Act “to provide for the division of Dakota [Territory] into two states, and to enable the people of North Dakota, South Dakota, Montana, and Washington to form constitutions and state governments, and to be admitted into the union on an equal footing with the original states, and to make donations of public lands to such states.” Act of February 22, 1889, Ch. 180, 25 Statutes at Large 676.

Section 10 of the Enabling Act granted sections 16 and 36 in every township to the new states “for the support of common schools.” In cases where portions of sections 16 and 36 had been sold prior to statehood, indemnity or “in lieu” selections were allowed. In North Dakota, this grant of land totaled more than 2.5 million acres.

Under sections 12, 14, 16 and 17 of the Enabling Act (and other acts referred to therein), Congress provided further land grants to the State of North Dakota for the support of colleges, universities, the state capitol, and other public institutions. These additional grants totaled approximately 668,000 acres; thus, the total of Enabling Act land grants was nearly 3.2 million acres.

Prior to the enactment of the North Dakota Enabling Act, the United States, through treaties and Executive orders, including the Treaty between the United States of America and the Sisseton and Wahpeton Bands of Dakota or Sioux Indians, made and concluded at Fort Laramie April 29, 1868, and the Executive order of April 12, 1870, established several reservations of land for multiple Indian Tribes located within the State of North Dakota. Title to various mineral interests underlying the reservations were granted to the State of North Dakota at statehood; it is estimated that the state currently owns 31,583 surface acres and 192,610 gross (129,566 net) mineral acres within the boundaries of the reservations.

Established in 1960, the Little Missouri National Grasslands occupy more than 1,033,271 acres of land in western North Dakota and encompass approximately 108,840 surface acres and 149,073 mineral acres of State Land grant parcels fragmented within its boundaries.

S.3200 will authorize the State of North Dakota to relinquish land grant parcels located within the reservations and the Little Missouri National Grasslands and to select, in lieu thereof, other Federal land or minerals of substantially equivalent value. Further, S.3200 will accomplish the following:

- Provide to the Indian Tribes greater control of land and minerals within the reservations;
- Land or minerals relinquished within a reservation would be held in trust by the Secretary of the Interior on behalf of the Tribe within each reservation; and
- Provide for greater conservation and preservation of the Little Missouri National Grasslands.

Congress, through the enactment of this bill, would authorize the State of North Dakota to:

- Relinquish the land and minerals located within the reservations and the Little Missouri National Grasslands; and
- Select, in lieu of the relinquished land, other Federal lands and minerals in the State of North Dakota of substantially equivalent value.

The land conveyed under S.3200 would be subject to all applicable Federal, State, and Tribal law. The legislation requires consultation with North Dakota's Tribes and all transactions are subject to valid existing rights and are intended to only impact state trust lands and minerals and unappropriated federal land and minerals. It is not the intent for these transactions to impact any treaty lands or any possible unceded territory lands.

S.3200 will essentially allow for the Board to address land management issues as they relate to difficult-to-manage tracts, reduce the number of tracts that are difficult for the public to access, maximize the opportunity for trust land minerals to be mined, and potentially consolidate tracts to allow for more efficient management of the surface. The land within the boundaries of the reservations and the Little Missouri National Grasslands may have been granted to North Dakota through the Enabling Act, acquired from the Board's farm loan pool pursuant to N.D.C.C. § 15-03-04.1 through foreclosure or deed in lieu of foreclosure, or is property defined as "nongrant" and "other than original grant lands" in N.D.C.C. § 15-07-01.

After receiving feedback from interested parties, the Department has agreed to consider the proposal of amended language to S.3200 that would:

- Expressly exclude from selection by the state any federal lands acquired under the authority of the Bankhead–Jones Farm Tenant Act of 1937 (P.L. 75-210) July 22, 1937;
- Require consultation with applicable stakeholders; and
- Ensure preservation of state statutory section line rights through protection or any and all valid existing rights.

Recently, the Department partnered with Mineral Tracker and North American Coal to perform an analysis to identify mineral interests owned or managed by the Board that may be impacted by proximity to Federal minerals.

In order for Mineral Tracker to perform the analysis, three categories of Board-owned or managed minerals were identified. In total, it is the result of the Mineral Tracker study that **115,725 net mineral acres (NMA)** owned by the Board may be impacted by proximity to Federal acreage. The estimated value of the minerals identified, according to the last iteration of our Mineral Estate Valuation Report, is **\$263,390,732**.

Please find a brief description of the analysis below:

1. Producing minerals pooled together with Federal minerals

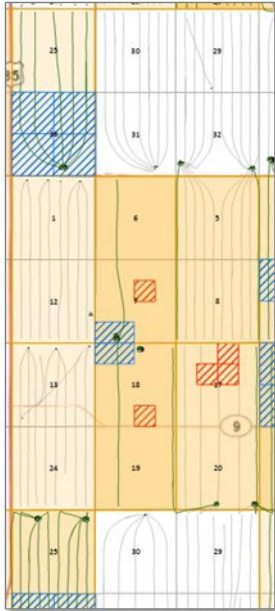
Description: any State-owned minerals pooled into a drill spacing unit that also includes Federal minerals. The minerals are under production, but Federal permitting requirements may impact the operators' ability to drill future wells.

State NMA: 85,079

Value of future development: \$252,621,818

Example: In the map below, State acreage is shown in blue and Federal acreage in red. In both section 18 & 19 and 6 & 7, we would expect several more wells to be drilled based

on the known geology of the area. However, the location of the Federal minerals may hinder the operator from further drilling.



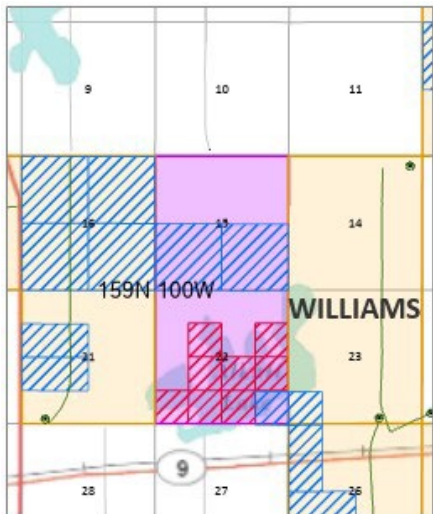
2. Undeveloped minerals in known areas of Bakken/Three Forks development

Description: any State-owned minerals that are undeveloped, but are likely to have Bakken/Three Forks potential based on known geology, but where development may be hindered by Federal minerals.

State NMA: 9,658

Value of future development: \$8,323,165

Example: In the map below, State acreage is shown in blue and Federal acreage in red. Sections 15 & 22 are surrounded on all sides by producing Bakken drill spacing units. Sections 15 & 22 are in a productive region of the Bakken, but the Federal acreage in section 22 may hinder development of the States acreage in both 15 and 22.



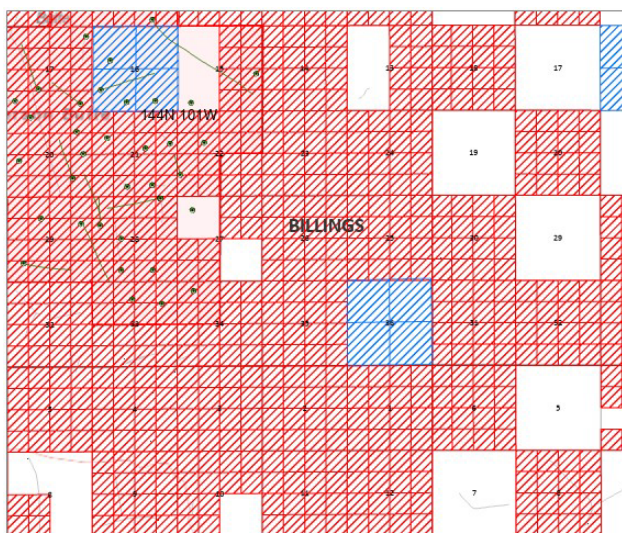
3. Undeveloped minerals in oil and gas producing regions

Description: any State owned minerals that are undeveloped but are located in areas of legacy oil and gas production outside of the Bakken/Three Forks. The likelihood of productivity is more speculative in this category than in the second category.

State NMA: 20,988

Value of future development: \$2,445,749

Example: In the map below, State acreage is shown in blue and Federal acreage in red. Section 36 is near a legacy oilfield that has current production, but is surrounded on all sides by Federal minerals.



Per information provided by North American Coal, based on previous receipts in the Coal Trust, it is estimated the range of royalty income to be between \$2M-\$7M per section, depending on the tonnage and percent ownership.

S.3200 was also distributed to the Board and is available at the Department upon request.

INVESTMENTS

Real Estate Investment Trust Index

In November 2013, the Board of University and School Lands' (Board) approved the implementation of a new strategic asset allocation (SAA) for the Permanent Trust Funds (PTFs), including the addition of Real Estate strategies.

The SAA allows for the investment in "Real Estate Partnerships, including investments in private vehicles through limited partnerships or limited liability companies that have an ownership interest in direct real estate properties, whether income-producing or non-income producing."

The investment in private real estate should offer better long-term returns and lower volatility, but it comes with the drawback of cash drag when trying to invest new capital in the sector or during

normal quarterly rebalancing. To solve for this issue Staff and RVK looked to Real Estate Investment Trusts (REITs). Specifically, REIT Index funds, which hold publicly traded REITs and are therefore highly liquid. As with the Emerging Market Index and International Small Cap Index, the Board recently approved, the REIT index would be a small add-on to the real estate asset class, used for rebalancing purposes.

Staff and RVK reviewed bids from three large index managers. State Street Global Advisers (SSGA) bid lowest at 6 basis points management fee. SSGA has a strong track record managing index funds with low tracking error to the actual indices. SSGA is a multinational asset manager with \$3.90 Trillion in assets under management and over 40 years of history.

Staff and RVK recommend the selection of SSGA, specifically utilizing their US REIT Index strategy. This index fund will give the PTFs a rebalancing tool for when the PTFs are waiting for one or more private real estate funds to open or when we need to reduce holdings due to faster growth in the asset class versus other assets.

Motion: The Board approve a \$25 Million investment with State Street in a US REIT Index mandate subject to final review and approval of all legal documents by the Office of the Attorney General.

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

RVK Recommendation Memo was also presented to the Board and is available at the Department upon request.

Investment Policy Statement – First Reading

The Board of University and School Land's (Board) Investment Policy Statement (IPS) is to be formally reviewed at least every four years or when a written investment policy must be established for new funds.

In June 2020, the Board entered into an asset management agreement with the Theodore Roosevelt Presidential Library Foundation to manage the investment assets of the Theodore Roosevelt Presidential Library and Museum Endowment (Endowment), in accordance with NDCD ch. 54-07-12.

Department Staff recommends the Board adopt amended IPS (Attachment 1) to include a policy for the Endowment.

In addition, Staff recommends changing the definition of real estate assets under "Permitted Investments," relating to item 3.A. on this month's Board agenda, if approved.

The two substantive changes to the IPS are as follows:

1. Reflect the addition of the investment policy for the Endowment as reflected on page 29 (Attachment 1). Also, adding the Endowment where appropriate throughout the IPS.
2. Update the real estate asset class definition under "Permitted Investments" on page 20 as follows: "As well as, Real Estate Investment Trusts (REIT's) and other real estate securities and related index strategies for rebalancing tools."

Redlined Investment Policy Statement was also presented to the Board and is available at the Department upon request.

EXECUTIVE SESSION

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

- **Newfield Exploration Company et al Civ. No. 27-2018-CV-00143**

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

The Board entered into executive session at 9:50 AM.

EXECUTIVE SESSION

Members Present:

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

Members Absent:

Wayne Stenehjem	Attorney General
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Department of Trust Lands Personnel present:

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

Guests in Attendance:

Dave Garner	Office of the Attorney General
Reice Haase	Office of the Governor
Leslie Bakken Oliver	Office of the Governor

The executive session adjourned at 10:15 AM and the Board returned to the open session and Teams meeting to rejoin the public. During the executive session meeting, the Board was provided information and no formal action was taken.

A D J O U R N

There being no further business, the meeting was adjourned at 10:18 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 17, 2022**

The February 17, 2022 special meeting of the Board of University and School Lands was called to order at 1:03 PM via Microsoft Teams by Chairman Doug Burgum.

Members Present:

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

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Kate Schirado	Administrative Assistant
Dennis Chua	Investments
Rick Owings	Administrative Staff Officer
Kristie McCusker	Paralegal
Adam Otteson	Revenue Compliance Director
Michael Shackelford	Investments Director
Lynn Spencer	Minerals Title Specialist
James Wald	Legal Council
Catelin Newell	Administrative Staff Officer
Chris Suelzle	Minerals Division Director
Kayla Spangelo	Surface Range Soils Management Specialist
Peggy Gudvangen	Finance Division Director
Vicki Siegel	Finance
Jessica Fretty	Unclaimed Property
Susan Dollinger	Unclaimed Property
Joseph Stegmiller	Surface Range Soils Management Specialist
Scott Giere	Revenue Compliance
Rob Dixon	IT
Jacob Lardy	Land Management Specialist

Guests in Attendance:

Reice Haase	Office of the Governor
Leslie Bakken Oliver	Office of the Governor
Tammy Miller	Office of the Governor
Amy Sisk	Bismarck Tribune
Mike McCleary	Bismarck Tribune
Hank Jones	
Ryan Skor	Treasurer's Office
Andrew Jirik	
Heide Delorme	
Geoff Simon	Western Dakota Energy Association
Karlene Fine	North Dakota Industrial Commission

Land Commissioner Applicant Position Search

Presentation of screening committee report and recommendations by Tammy Miller, Screening Committee Chair.

Board discussion of committee report and recommendations.

Commissioner applicant Interview of recommended candidate/applicant, Joseph Heringer.

Board discussion of the interview and next steps were identified.

Committee presentation materials were presented to the Board and are available upon request.

Motion: The Board approves the recommendation of the screening committee to make an offer to Joseph Heringer for the position of Land Commissioner with a salary of \$150,000.00, with a start date of March 14, 2022.

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

A D J O U R N

There being no further business, the meeting was adjourned at 2:28 PM.

Doug Burgum, Chairman
Board of University and School Lands

Jodi Smith, Secretary
Board of University and School Lands



The Board of University and School Lands Screening Committee Briefing

February 17, 2022

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Commissioner North Dakota Department of Trust Lands

Screening Committee Members 2021 / 2022

Name	Title	Email	Phone Number	Appointed By
Tammy Miller, Chair	COO Governor's Office	tjmiller@nd.gov	701-715-5824	Governor Doug Burgum
Rick Larson		rdlarsonjmb@hotmail.com	701-220-1716	Secretary Al Jaeger
Tom Trenbeath		ttrenbeath@midco.net	701-425-2759	Attorney General Wayne Stenehjem
Ryan Skor	Director of Finance Office of the State Treasurer	rskor@nd.gov	701-328-4637	Treasurer Thomas Beadle
Dr. Donna Fishbeck	Chief of Staff	dfishbeck@nd.gov	701-328-1240	Superintendent Kristen Baesler

Commissioner North Dakota Department of Trust Lands

Screening Committee 2021/2022 – Process & Timeline

Start Date	Action	Date Completed	Comments
October 15	Establish Screening Committee	October 19	
October 15	Post Position	October 15	
November 15	Posting Closes	November 15	
November 11 – 15	HRMS Determines Qualified Candidates	November 16	
November 17	Screening Committee Meeting to Review Qualified Candidates	November 17	
November 22 – 24	Virtual Interviews with Qualified Candidates & Screening Committee	November 24	
November 29	Screening Committee Meeting to Discuss Qualified Candidates & Next Steps	November 29	
December 6	Repost Position	December 6	
December 29	Screening Committee Meeting to Discuss Response to Reposting and Next Steps	December 29	
January 14	Posting Closes	January 14	
January 20	Screening Committee Meeting to Review Qualified Candidates	January 20	1:00 PM
January 24- 26	Virtual Interviews with Qualified Candidates & Screening Committee	January 26	
January 26	Screening Committee Meeting to Discuss Qualified Candidates & Next Steps	January 26	11:00 AM
February 4	Screening Committee Meeting to Discuss Finalist Candidates & Next Steps	February 4	1:00 PM
February 4 - 11	Second Interviews with Qualified Candidates & Screening Committee	February 11	
February 11	Screening Committee Meeting to Discuss Second Interviews & Next Steps	February 11	1:00 PM
February 17	Screening Committee Recommendation to the Board		
February 17	Board Interview(s) & Selection		

At the State of North Dakota, our mission is to empower people, improve lives and inspire success. The State of North Dakota has over 70 state agencies which, along with the North Dakota University System, employ approximately 15,000 team members. We are committed to providing exceptional service to the citizens of North Dakota. We make a difference by working to keep citizens safe, supporting the vulnerable, educating our future leaders, serving as responsible stewards of our resources, assisting with public policy, improving the quality and length of life, and much more!

COMMISSIONER, NORTH DAKOTA DEPARTMENT OF TRUST LANDS

The North Dakota Department of Trust Lands ("Department") is responsible for management and oversight of educational trust funds, mineral acres and other assets for the benefit of public schools and institutions in North Dakota. The Department of Trust Lands is governed by the Board of University and School Lands ("Board"), established under Article IX of the North Dakota Constitution.

The Department of Trust Lands consists of 30 full-time team members. The Department's biennial operating budget is \$8 million. The Department administers approximately \$7 billion of financial asset investments, over 706,600 surface acres, and over 2.5 million mineral acres. The Department also administers the ND Unclaimed Property statutes and operates the Energy Infrastructure and Impact Office.

As appointed and directed by the Board, the Commissioner leads the Department in the management and stewardship of educational trusts, along with providing overall direction and oversight of all divisions (Energy Infrastructure and Impact, Finance, Revenue Compliance, and Surface and Minerals Management), within the Department for the benefit of public schools and other institutions in North Dakota.

Summary of Work

Responsibilities include:

- Set the overall strategic vision and direction for the Department in accordance with Board approval; including leading efforts to operationalize the strategic plan in alignment with budget, prioritization of initiatives, and resource allocation.
- Lead a high-performing team that delivers an innovative, citizen/customer focused experience in alignment with the Department's mission and values. Empower team members by sustaining an engaging work environment and harnessing growth opportunities to create a high-impact and accountable organization.
- Direct the development of the biennial budget in alignment with organizational strategy as authorized and appropriated. Oversee supervision of the investments, loans, lands and minerals under control of the Board.
- Ensure financial records of the Department are in accordance with generally accepted principals of fund accounting, showing the condition of the permanent funds and all other Department activities.
- Ensure that funds are invested pursuant to NDCC § 15-03-04 (prudent investor rule).
- Execute all instruments, agreements, and conveyances as authorized and directed by the Board under its authority found in the Enabling Act, state constitution, and NDCC Title 15.
- Ensure compliance under Department instruments, agreements and conveyances authorized and directed by the Board, with assistance from the Board's legal counsel.
- Coordinate the legislative process in collaboration with the Board. Monitor key legislation; prepare and present legislative testimony, as necessary.
- Represent the Board before the legislature, special interest groups, other governmental agencies and the public; serving on committees and advisory boards as required and needed to ensure consistency and alignment within the Department's mission.
- Ensure enforcement of the unclaimed property laws (NDCC 47-30.2).

- Serve on the State Investment Board; per NDCC § 21-10-01, the Commissioner of University and School Lands is named as one of eleven members of the State Investment Board, which is responsible for investment of funds of various state agencies, institutions, or political subdivisions.
- Maintain compliance with applicable federal and/or state laws, regulations, and/or Department rules, standards, and guidelines.
- Serve as a resource for other state agencies.

Minimum Qualifications

- Bachelor's degree in business administration, finance, natural resources, public administration, or related field.
- Minimum of five years of related administrative and senior-management work experience.
- Strong executive management skills with executive-level composure and presence.
- Exceptional written and interpersonal communication skills.
- Strong business acumen and advanced ability to think strategically including planning, organizing, leading, and guiding the agency on all aspects of budget, administration, and operations to deliver real solutions and capitalize on the agency mission.
- Analytical prowess and the ability to make decisions having both immediate and long-term impact on the agency, citizens, and the state.
- Fundamental knowledge of the legislative process and government operations.

Preferred Qualifications

Preference will be given to candidates with:

- Master's degree or Juris Doctorate from an accredited institution.
- Experience in accounting, management of fiscal and financial assets, audit practices and budget development.
- Experience in energy-related financial issues.
- Extensive experience and knowledge in land acquisition, titles and mineral leasing.
- Experience in land management and related issues.
- Experience in agriculture and related issues.
- Experience working with a Board, the state legislative process, state agencies, and outside entities.

Application Procedures

Applicants must complete the online application at www.nd.go/careers, including a resume and cover letter providing details how your education, work experience, and skills qualify you for this position. For more information or if you need accommodation or assistance in the application or selection process, contact Hope Wedul, HR Officer at 701-328-3357, email at hwedul@nd.gov, or TDD: 800-643-3916.

This is an unclassified position and is not subject to ND Veterans Preference.

Commissioner North Dakota Department of Trust Lands

Applicant Summary

There were 11 total applicants. See list below:

Applicant Number	Date Applied	Type	Disposition	Reason
1.	1/14/2022	External	Applied	
2.	12/27/2021	External	Applied	
3.	12/14/2021	External	Applied	
4.	12/9/2021	External	Applied	
5	12/7/2021	External	Applied	
6.	11/8/2021	External	Applied	
7.	10/26/2021	External	Applied	
8.	10/20/2021	External	Applied	
9.	10/19/2021	External	Applied	
	12/27/2021	External	Applied	Does not meet MQs - no bachelor's degree
	11/11/2021	External	Wdraw App	Candidate Withdrawn
	12/8/2021	External	Reject – Duplicate Application	Duplicate application

- One withdrew application.
- One did not meet minimum qualifications for the position.

Leanne Schmidt, Senior HR Officer, HRMS, conducted phone screen interviews with all nine applicants.

The search committee conducted virtual Teams interviews with seven applicants.

The search committee conducted second interviews with three applicants identified as finalists – Joe Heringer, Ken Junkert, & Tom Monaco.

Commissioner Dept. Trust Lands
Interview Guide #1

Candidate	Interview
	Date
Interviewer	

TM to kickoff meeting, welcome candidate, and screening committee, explain interview format, and commence self-introductions with candidate going last.

1. TM – What interests you the most about this opportunity and why? What relevant knowledge and experience would you bring to this position? What areas might need to be strengthened for you to be successful in this position?
2. DF - What are your philosophies on team member and leadership development? What size organizations have you led in the past? What unique opportunities do you anticipate leading the 30 team members in the Trust Lands Department?
3. RS - Please describe your understanding of the fiduciary responsibilities of this role and what experiences you have in fiduciary roles? Please describe your knowledge and experience with investments.
4. RL - What specific experiences would you bring as it relates to range management and land leasing and minerals management?
5. TT – What have your experiences been in working a with board? What has worked well? What good needs improvement?
6. TM – Tell us about your experience leading strategic planning processes. Tell us how you have engaged teams and other stakeholders to successfully execute a strategic plan.
7. DF – In your current or a recent position, please describe your biggest leadership challenge and how managed through the change.

8. RS - Can you describe a system or process that you've redesigned or scaled for growth and how you went about it?
9. RL - Please describe your experience working with legislators and other key stakeholders.
10. TT - Please provide examples when you provided public testimony regarding policy, answer questions, think on your feet quickly, etc.
11. TM - What questions do you have for us?

TM to wrap up, explain next steps and thank the committee and candidate.

Dept. of Trust Lands
Commissioner
Interview Guide – Second Full Interview

Candidate	Interview Date
Interviewer Tammy Miller, Donna Fishbeck, Ryan Skor, Rick Larson & Tom Trenbeath	

TM Intro: Welcome back. Thank you for taking additional time with us today. We have a few more questions we want to ask to clarify our first conversation and dig into some areas we didn't get a chance to discuss

1. TM – Please provide examples of policies that you have developed and implemented for teams you managed?
2. DF - What methods do you use to foster open communication with team members, management, and other stakeholders?
3. RS – An effective strategic planning process is important, how would you communicate the plan, keep it alive, make the plan actionable and ensure results were achieved? How do you translate goals and action items to the individual contributor level?
4. RL – Tell us about a specific budget process you have led. What size? Can you also share how you managed to that budget?
5. TT – Please describe metrics you use in your current role to measure performance or results? How do you use these metrics to manage performance or results? What metrics might you implement in the commissioner role and why?
6. TM - Your experience has been very focused on investments and law practice; how would you ensure you have the broad understanding and expertise to effectively lead this agency and work on a wide variety of topics with the Land Board and other stakeholders?
7. DF - Thinking about key stakeholders – legislators, team members, other agency leaders, employers, industry leaders, tribal leaders, etc. - tell us about how you build professional work relationships that create trust, open dialogue, and full transparency?

8. RS - Give us an example of when you have had to adjust your approach or communication style based on your audience? Tell us about a situation where your approach wasn't effective i.e., too confident, too aggressive, not assertive enough, too talkative, etc. Please explain.
9. RL - Please give us an example of how you handled a challenging situation where there were significant political pressures in play, and what you learned from that experience.
10. TT - Describe a marketing or public relations challenge you've faced you've encountered in a leadership role and how you handled it.
11. TM – Please tell us about a situation in which your opinion regarding a project or issue differed from what your manager or board asked you to do. How did you handle it and what was the outcome?
12. DF – How would you navigate the diverse responsibilities of the agency while ensuring the Land board is kept informed and ensure the goals and interests of the Land Board are carried out?
13. RS – How would you handle this scenario: Company XYZ is a major lease holder within the state and is not in compliance with their gas royalties on their lease land and this is a recurring issue for the last year. What steps would you as the Commissioner recommend to the Land Board to ensure the Company becomes compliant and able to maintain their lease operations and want to do business with the State?
14. RL – How would you handle this scenario: The Land Department's relationship with industry stakeholders is important. ABC Oil Company has been involved with legal action with the agency in the past which has strained the working relationship. What would be your plan to improve the relationship? Please provide specifics.
15. TT - What should be the key priorities of the next Commissioner of Dept. Trust Lands? How would you develop your "first 90-day plan" and what would be included in your plan?
16. TM - What questions do you have for us?

TM - Wrap up, explain next steps, and thank the candidate.

Commissioner, Department of Trust Lands Finalist Summary

Joe Heringer 2430 Larson Road Bismarck ND 58504	<p>Candidate has broad private sector investment and banking experience with management of people and resources. Currently employed as a Senior Wealth Manager at Bravera Wealth in Bismarck, ND since November 2007 supervising a team of professionals and support staff. Has private law practice work experience from September 2003 to November 2007 including law practice owner.</p> <p>Holds:</p> <ul style="list-style-type: none"> • Juris Doctorate, with Distinction, from UND School of Law • Bachelor Arts in Political Science with Spanish Minor from Concordia College • Certified Trust & Financial Advisor Certification 2011 • Leadership Mindset Training 2021 <p>Community involvement includes current and past Board Member experience with GracePoint Church, Ronald McDonald House, West Dakota Estate Planning Council, Shiloh Christian School and ND Bar Association.</p> <p>Indicated strong interest in public service role for ND. Had professional, executive demeanor in interview process in a confident manner. Demonstrated adaptability and depth in investment, finance related, legal operations and administrative management.</p>
Ken Junkert 2326 Seneca Circle Bismarck ND 58503	<p>Candidate has in-depth public-sector work experience with the Agriculture Department in administrative and fiscal roles including management of people and resources. Retired from Division Director position with agency on January 31, 2022.</p> <p>Holds:</p> <ul style="list-style-type: none"> • Masters' Degree in Public Administration from University of ND • Bachelor Science in Mass Communication from University of ND • Civil and Employment Mediation Training from University of ND Conflict Resolution Center 2012 • HR Training/Society for HR Management 2010 <p>Indicated a strong interest in an agency director role as capstone to 32-year career with State of ND. Had professional demeanor in interview process and articulated adaptability and depth in state budget, legislative, and administrative operations.</p>
Tom Monaco PO Box 1004 Bolton Landing NY 12814	<p>Candidate has in-depth private sector investment work experience. Currently employed as CEO/CIO/CFO at Pearl Street Advisors in New York overseeing all aspects of management since February 2013. Also, currently employed as adjunct lecturer in Department of Finance at CUNY, Brooklyn College-Koppelman School of Business, New York.</p> <p>Holds:</p> <ul style="list-style-type: none"> • Masters Business Administration from Fordham University • Bachelor Science from Fordham University • Licenses – US: Series 7, 63,86, 87; NYDFS 17-52; & Hong Kong: RO Type 1, 9 <p>Indicated a strong interest in the investment aspects of the Commissioner role. Had casual dress and demeanor in interview process. Spoke knowledgeably regarding investment and finance related operations and administrative management.</p>

Evaluation Criteria and Recommendation

Evaluation Criteria:

- Educational Background
- Prior Work Experience
- Decision Making Ability
- Verbal Communication
- Interest in the Position/Work
- Agency Leadership
- Teambuilding Skills
- Legislative Process
- Budget & Strategic Planning
- Overall Impression & Recommendation

Recommendation:

Motion by Tom Trenbeath, second by Rick Larson to recommend the Board interview and extend an offer to Joe Heringer for Commissioner North Dakota Department of Trust Lands.

Roll call vote:

Name	Vote
Tome Trenbeath	Yes
Rick Larson	Yes
Donna Fishbeck	Yes
Ryan Skor	Yes
Tammy Miller	Yes

Joseph Heringer Application and Resume

December 27, 2021

North Dakota Department of Trust Lands
1707 N. 9th St.
Bismarck, ND 58501

Dear University and School Lands Board Members:

I am writing to submit my application for Department of Trust Lands Commissioner. With my education and experience I am an ideal candidate for the position.

I am a licensed attorney with 14 years' experience in the trust and investment industry. I am currently employed as a Senior Wealth Manager for Bravera Wealth in Bismarck where I lead a team of trust officers and financial advisors and manage my own \$190 million book of large trust and investment accounts. This has provided me years of experience managing land, mineral rights, and investments, and working with oil and gas companies.

I also serve as a member of the Bravera Wealth Investment Committee which oversees all trust company investments, establishes investment policies and procedures, and manages company investment portfolios. This includes reviewing reports prepared by our portfolio management team and being involved in investment manager due diligence and oversight.

I have successfully built trusted relationships with clients through effective and honest communication. A big part of this is presenting to client boards and investment committees. This involves distilling voluminous and complex reports into a concise presentation and answering questions in a straightforward and succinct manner.

My team has achieved great results year after year in profitability and new business development growing from \$100 million in assets under management to now over \$400 million. I pride myself in a positive team environment, focused on collaboration and empowerment.

Previously, I practiced law for four years where I represented clients in estate, business, and real estate matters. This gave me experience planning and advocating for clients and negotiating complex transactions.

Finally, as a lifelong North Dakotan, born and raised in Bismarck, I understand the state's unique culture, political climate, and financial position. I want to see North Dakota continue to grow and flourish and believe my skills as Land Commissioner would contribute to the state's success.

Thank you for your time and consideration. I look forward to the opportunity to discuss this further with you.

Sincerely,

Joseph Heringer

Joseph A. Heringer
2430 Larson Rd, Bismarck, ND 58504
(701) 426-3513; joeheringer@gmail.com

EDUCATION

University of North Dakota School of Law - Grand Forks, North Dakota
Juris Doctor, *with distinction*, 2003; Class Rank 1/68; GPA 3.78/4.0; Dean's List
Concordia College - Moorhead, Minnesota
B.A. Political Science/Spanish Minor, *Magna Cum Laude*, May 1999
GPA 3.7; Dean's List
Cannon Financial Institute – Athens, Georgia
Certified Trust & Financial Advisor Certification (2011) – Honor Graduate
The Pacific Institute – Seattle, Washington
Leadership Mindset Training (2021)

PROFESSIONAL EXPERIENCE

Bravera Wealth – Bismarck, ND
Senior Wealth Manager – November 2007 – Senior manager at \$1.7 billion wealth management / trust company; supervise team of trust officers & financial advisors managing \$400 million in assets; personally manage \$190 million book of business consisting of foundation/endowment accounts, trust accounts, and high net worth individual investment accounts; tax and financial planning; member of Trust Investment Committee which develops and oversees company-wide investment policies/procedures and investment strategies; serve as internal company legal & fiduciary expert; present to client boards and investment committees; experience managing land and mineral rights as trustee/fiduciary
Heringer Law, Ltd. – Bismarck, ND
Owner/President, October 2004 – November 2007; business, real estate and estate planning practice; specialized in wills, trusts, probate/estate administration, and fiduciary duties
Faegre & Benson LLP - Minneapolis, MN
Associate Attorney, September 2003 – September 2004; Represented clients in complex bankruptcy, commercial lending and corporate matters

COMMUNITY AWARDS AND HONORS

North Dakota's Top 40 Professionals Under Age 40 – 2014 Award Recipient
(Bismarck Tribune)

COMMUNITY INVOLVEMENT

GracePoint Church – Current Board President
Ronald McDonald House – Current Board Member
West Dakota Estate Planning Council – Current Board Member
Shiloh Christian School – Past Board President
North Dakota Bar Association – Past Editorial Board Member

REFERENCES

Available upon request

Potential Interview Questions for the Board

1. What interests you the most about this opportunity and why? What relevant knowledge and experience would you bring to this position? How would you ensure you have the broad understanding and expertise to effectively lead this agency and work on a wide variety of topics with the Land Board and other stakeholders?
2. What have your experiences been working a with board? How would you navigate the diverse responsibilities of the agency while ensuring the Land board is kept informed and ensure the goals and interests of the Land Board are carried out? What value will you bring to the Land Board?
3. Thinking about key stakeholders – legislators, team members, other agency leaders, employers, industry leaders, tribal leaders, etc. - tell us about how you build professional work relationships that create trust, open dialogue, and full transparency?
4. Describe the culture you created with your current team? What do you most enjoy about the culture and what one thing were you working on to improve the culture?
5. Tell us how you have inspired/motivated/engaged teams and other stakeholders to successfully follow your vision and execute a strategic plan.
6. Tell us about an innovative solution you have developed to solve a problem, improve a process, or deliver more value.
7. What was a difficult decision you had to make as a leader and what was your process to reach that decision?
8. Please tell us about a situation in which your opinion regarding a project or issue differed from what your manager or board asked you to do. How did you handle it and what was the outcome?
9. What should be the key priorities of the next Commissioner of Dept. Trust Lands? How would you develop your "first 90-day plan" and what would be included in your plan?
10. Thanks for responding to our questions, is there anything else you would like to share about your qualifications for the position that we haven't already covered?
11. What questions do you have for us?

Monthly Report of Encumbrances Issued by Land Commissioner

Rights of Way Issued between January 1, 2022 - January 31, 2022

Right of Way R-10002				
Granted To	True Oil LLC, Casper, Wyoming		Date Issued	1/18/2022
For the Purpose Of	On-Lease Surface Damage Agreement Amendment -		Total Rods	1.65
	Saltwater Pipeline		Total Acres	0.01
Tracts/Trusts				
Legal Description		Subdivision		Trust
McKenzie-148-101-36		NE4		A
Right of Way Terms		Minimum Amount	Measurement Rate	Measurement Type
Initial		Set Amount		\$250.00

Right of Way R-8917				
Granted To	Oneok Rockies Midstream LLC, Sidney, Montana		Date Issued	1/20/2022
For the Purpose Of	Original Easement - Gas Gathering Pipeline		Total Rods	449.10
			Total Acres	7.64
Tracts/Trusts				
Legal Description	Subdivision		Trust	
Williams-156-100-16	NW4		A	
	SW4		A	
Right of Way Terms	Minimum Amount	Measurement Rate	Measurement Type	Amount
Application Fee	Set Amount			\$250.00
Initial	Set Amount			\$210,125.00

ITEM 2A

Right of Way R-10021				
Granted To	Paragon Geophysical Services Inc, Wichita, Kansas		Date Issued	1/10/2022
For the Purpose Of	Easement Amendment - Geophysical Operation		Total Rods	0.00
			Total Acres	479.96
Tracts/Trusts				
Legal Description		Subdivision		Trust
Mercer-142-88-6		E2SW4, LOTS 6,7		A
		SE4NW4, LOTS 3,4,5		A
		SW4NE4, LOT 2		A
		W2SE4		A
Right of Way Terms		Minimum Amount	Measurement Rate	Measurement Type
Application Fee		Set Amount		\$250.00
Initial		Set Amount		\$4,799.50

Right of Way R-8967				
Granted To	Continental Resources Inc, Oklahoma City, Oklahoma		Date Issued	1/20/2022
For the Purpose Of	Easement Amendment -		Total Rods	605.21
	Pipeline & Communication Cable		Total Acres	7.73
Tracts/Trusts				
Legal Description	Subdivision		Trust	
Dunn-146-96-36	NW4		A	
	SE4		A	
	SW4		A	
Right of Way Terms	Minimum Amount	Measurement Rate	Measurement Type	Amount
Application Fee	Set Amount			\$250.00
Initial	Set Amount			\$956.75

Right of Way R-10005				
Granted To	West Dakota Water LLC, Williston, North Dakota		Date Issued	1/8/2022
For the Purpose Of	Original Permit - Temporary Layflat Line		Total Rods	1,162.42
			Total Acres	8.53
Tracts/Trusts				
Legal Description	Subdivision		Trust	
Mountrail-155-94-28	SE4		C	
	SW4		C	
Mountrail-155-94-36	NE4		A	
	NW4		A	
Right of Way Terms	Minimum Amount	Measurement Rate	Measurement Type	Amount
Application Fee	Set Amount			\$250.00
Initial	Set Amount			\$27,800.00

Right of Way R-10010				
Granted To	Avery Technical Resources DBA Avery Land Services, Sterling, Colorado		Date Issued	1/20/2022
For the Purpose Of	Original Permit -		Total Rods	0.00
	Planning & Preconstruction Survey Access		Total Acres	0.00
Tracts/Trusts				
Legal Description	Subdivision			Trust
ALL	ALL			A
Right of Way Terms	Minimum Amount	Measurement Rate	Measurement Type	Amount
Application Fee	Set Amount			\$250.00
One Time	Set Amount			\$500.00

Right of Way R-10012				
Granted To	Bartlett & West Inc, Bismarck, North Dakota		Date Issued	1/20/2022
For the Purpose Of	Original Permit -		Total Rods	0.00
	Planning & Preconstruction Survey Access		Total Acres	0.00
Tracts/Trusts				
Legal Description		Subdivision		Trust
ALL		ALL		A
Right of Way Terms		Minimum Amount	Measurement Rate	Measurement Type
				Amount
Application Fee	Set Amount			\$250.00
One Time	Set Amount			\$500.00

Right of Way R-10013				
Granted To	Highlands Engineering & Surveying PLLC, Dickinson, North Dakota		Date Issued	1/22/2022
For the Purpose Of	Original Permit -		Total Rods	0.00
	Planning & Preconstruction Survey Access		Total Acres	0.00
Tracts/Trusts				
Legal Description	Subdivision		Trust	
ALL	ALL		A	
Right of Way Terms		Minimum Amount	Measurement Rate	Measurement Type
				Amount
Application Fee	Set Amount			\$250.00
One Time	Set Amount			\$500.00

Right of Way R-10016				
Granted To	ND Energy Services Inc, Dickinson, North Dakota		Date Issued	1/18/2022
For the Purpose Of	Original Permit - Temporary Layflat Line		Total Rods	784.84
			Total Acres	9.81
Tracts/Trusts				
Legal Description	Subdivision		Trust	
Dunn-146-94-36	NW4		A	
	SE4		A	
	SW4		A	
Right of Way Terms	Minimum Amount	Measurement Rate	Measurement Type	Amount
Application Fee	Set Amount			\$250.00
Initial	Set Amount			\$12,950.00

Total Initial Payment Amount \$258,381.25

MEMORANDUM TO THE BOARD OF UNIVERSITY AND SCHOOL LANDS

February 24, 2022

RE: January 2022 Report of Shut-Ins Approved by Land Commissioner
(No Action Requested)

Granted to:	Marathon Oil Company
For the Purpose of:	Operations
Date Issued:	01/21/2022
Application Fee:	\$100.00
Trust:	Common Schools
Leases:	OG-06-02154, OG-06-02155

MEMORANDUM TO THE BOARD OF UNIVERSITY AND SCHOOL LANDS

February 24, 2022

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

On behalf of the Board of University and School Lands (Board), the Department of Trust Lands conducted an oil and gas lease auction on www.energynet.com which concluded on February 1, 2022.

There were 57 tracts offered, and all tracts 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 \$5,000.00 (\$10,100.00 for 2.02 net acres) in McKenzie County. 32 tracts benefit the Common Schools Trust Fund; two tracts benefit the State Hospital Fund; two tracts benefit the North Dakota School of Science Fund; and 21 tracts benefit the Strategic Investment and Improvements Fund (SIIF) (with two of these tracts also benefitting the Maintenance Fund).

County	Tracts/County	Net Mineral Acres	Total Bonus	Average Bonus/Acre
Billings	22	1288.63	\$315,654.32	\$244.95
Bottineau	5	348.41	\$8,556.61	\$24.56
Divide	16	1820.00	\$349,960.00	\$192.29
Dunn	4	480.00	\$57,120.00	\$119.00
McKenzie	5	299.20	\$173,971.33	\$581.45
Stark	5	360.00	\$10,880.00	\$30.22
GRAND TOTAL	57	4596.24	\$ 916,142.26	\$199.32

There was a total of 24 bidders who submitted 1416 bids on 57 tracts. The bidders were from 10 states and one Canadian province (AZ, CA, CO, MN, MT, ND, NJ, TX, WA, WY, and Alberta, Canada).

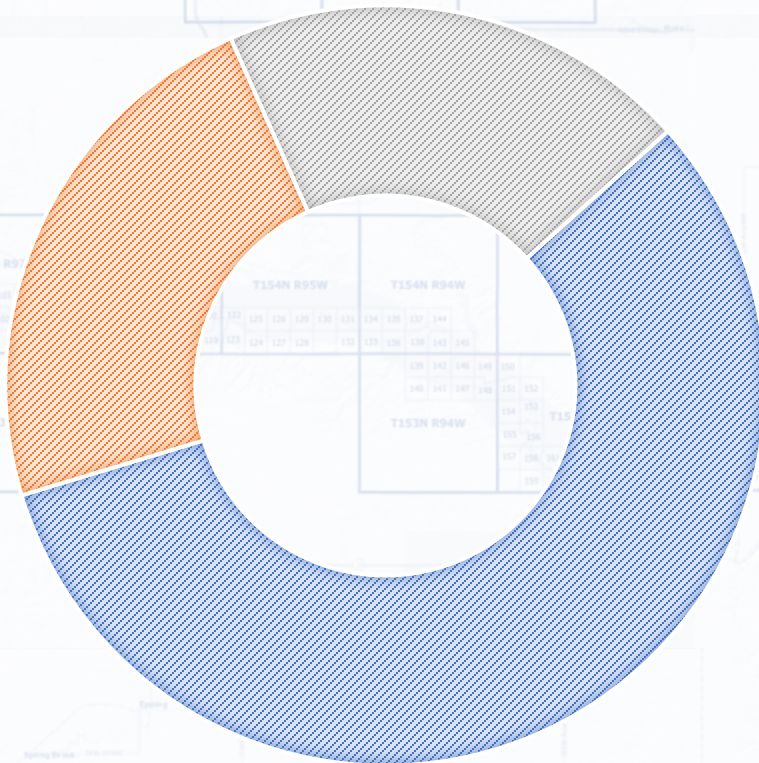
A total of \$916,142.26 of bonus was collected from the auction.

JANUARY ACREAGE ADJUSTMENT SURVEY REPORT

500

Total Leases Under Review



STATUS OF 285 REVIEWED LEASES



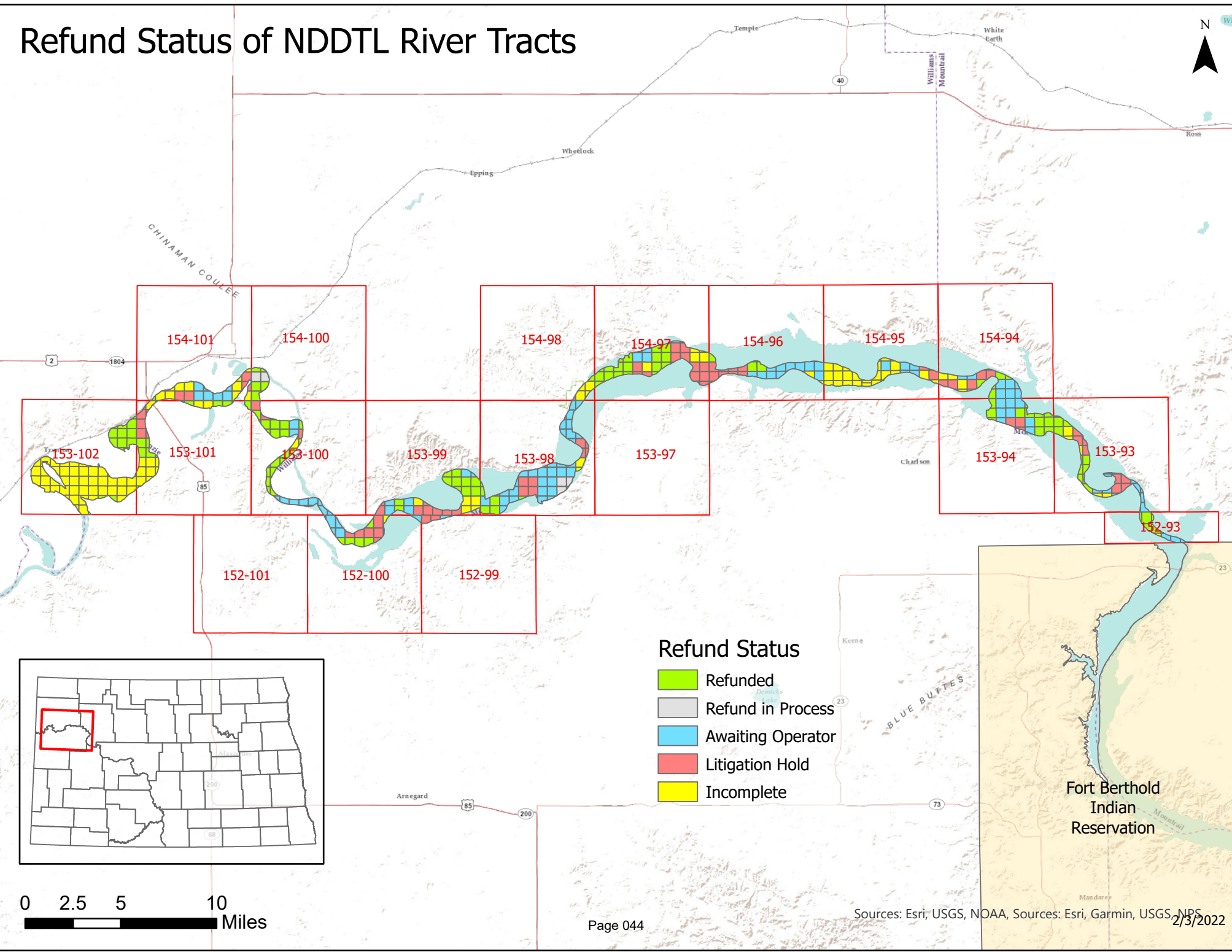
110 Awaiting
Operator
Execution

12 Refund in
Process

163 Refunded
\$20,277,474
Paid
\$3,178,216
Received

-  Reviewed (285)
-  Incomplete (115)
-  Litigation Hold (100)

Refund Status of NDDTL River Tracts



LEASE #	LESSEE	DATE LEASE CORRECTION AND ADJUSTMENT STIPULATION SENT	CERTIFIED LETTER SENT TO LESSEE	Update
OG1003025	H KERMIT ANDERSON	11/20/2020	Yes	Assigning the Lease
OG1003093	RIVERBEND OIL & GAS	12/8/2020	Yes	Discussion 2/15/2022; Received ALL packages will not sign as of yet
OG1003094	RIVERBEND OIL & GAS	12/8/2020	Yes	Discussion 2/15/2022; Received ALL packages will not sign as of yet
OG1200547	RIVERBEND OIL & GAS	12/9/2020	Yes	Discussion 2/15/2022; Received ALL packages will not sign as of yet
OG1003099	RIVERBEND OIL & GAS	12/9/2020	Yes	Discussion 2/15/2022; Received ALL packages will not sign as of yet
OG1003005	RIVERBEND OIL AND GAS	4/6/2021	Yes	Discussion 2/15/2022; Received ALL packages will not sign as of yet
OG1003051	HESS BAKKEN	4/9/2021	Yes	Company reviewing internally 2/17/2022
OG1003052	HESS BAKKEN	4/9/2021	Yes	Company reviewing internally 2/17/2022
OG1003053	HESS BAKKEN	4/9/2021	Yes	Company reviewing internally 2/17/2022
OG1500774	NORTHERN OIL AND GAS	4/16/2021	Yes	No response
OG1500775	NORTHERN OIL AND GAS	4/16/2021	Yes	No response
OG1003012	HESS BAKKEN	4/16/2021	Yes	Company reviewing internally 2/17/2022
OG1003013	HESS BAKKEN	4/16/2021	Yes	Company reviewing internally 2/17/2022
OG1003014	HESS BAKKEN	4/16/2021	Yes	Company reviewing internally 2/17/2022
OG0900935	XTO ENERGY INC.	5/11/2021	Yes	XTO sent letter 1/27/2022; in-house counsel will reply
OG0900936	XTO ENERGY INC.	5/11/2021	Yes	XTO sent letter 1/27/2022; in-house counsel will reply
OG0900937	XTO ENERGY INC.	5/11/2021	Yes	XTO sent letter 1/27/2022; in-house counsel will reply
OG0900219	XTO ENERGY INC.	5/17/2021	Yes	XTO sent letter 1/27/2022; in-house counsel will reply

OG0900221	XTO ENERGY INC.	5/17/2021	Yes	XTO sent letter 1/27/2022; in-house counsel will reply
OG0900232	XTO ENERGY INC.	8/16/2021	Yes	XTO sent letter 1/27/2022; in-house counsel will reply
OG0900234	XTO ENERGY INC.	8/16/2021	Yes	XTO sent letter 1/27/2022; in-house counsel will reply
OG0900235	XTO ENERGY INC.	8/16/2021	Yes	XTO sent letter 1/27/2022; in-house counsel will reply
OG0900230	XTO ENERGY INC.	8/18/2021	Yes	XTO sent letter 1/27/2022; in-house counsel will reply
OG0900229	XTO ENERGY INC.	8/18/2021	Yes	XTO sent letter 1/27/2022; in-house counsel will reply
OG1200556	HESS BAKKEN	6/17/2021	Yes	Company reviewing internally 2/17/2022
OG1200557	HESS BAKKEN	6/17/2021	Yes	Company reviewing internally 2/17/2022
OG1200546	RIVERBEND OIL & GAS VI LLC	9/14/2021	Yes	Discussion 2/15/2022; Received ALL packages will not sign as of yet
OG1000840	RIVERBEND OIL & GAS VI LLC	9/24/2021	Yes	Discussion 2/15/2022; Received ALL packages will not sign as of yet
OG1003063	HESS BAKKEN INVESTMENTS II LLC	10/21/2021	Yes	Company reviewing internally 2/17/2022
OG1003064	HESS BAKKEN INVESTMENTS II LLC	10/21/2021	Yes	Company reviewing internally 2/17/2022
OG1101129	THE TED WYOMING TRUST	11/19/2021		
OG1003086	HESS BAKKEN INVESTMENTS II LLC	12/9/2021	Yes	Company reviewing internally 2/17/2022
OG1003084	HESS BAKKEN INVESTMENTS II LLC	12/9/2021	Yes	Company reviewing internally 2/17/2022
OG1003067	HESS BAKKEN INVESTMENTS II LLC	12/10/2021	Yes	Company reviewing internally 2/17/2022
OG1003068	HESS BAKKEN INVESTMENTS II LLC	12/10/2021	Yes	Company reviewing internally 2/17/2022
OG1003058	HESS BAKKEN INVESTMENTS II LLC	12/17/2021	Yes	Company reviewing internally 2/17/2022
OG1003059	HESS BAKKEN INVESTMENTS II LLC	12/17/2021	Yes	Company reviewing internally 2/17/2022
OG1003060	HESS BAKKEN INVESTMENTS II LLC	12/17/2021	Yes	Company reviewing internally 2/17/2022
OG1800048	BISON PLAINS ELM TREE LEASE LLC	12/17/2021		
OG1600516	RAISA II LLC	12/17/2021		
OG1600517	RAISA II LLC	12/17/2021		

OG0900938	WHITING OIL AND GAS CORPORATION	12/17/2021		
OG1101132	WHITING OIL AND GAS CORPORATION	12/17/2021		
OG1101133	WHITING OIL AND GAS CORPORATION	12/17/2021		
OG1101134	WHITING OIL AND GAS CORPORATION	12/17/2021		
OG1003001	OASIS PETROLEUM NORTH AMERICA LLC	1/19/2022		
OG1003002	OASIS PETROLEUM NORTH AMERICA LLC	1/19/2022		
OG1003003	OASIS PETROLEUM NORTH AMERICA LLC	1/19/2022		
OG1003004	OASIS PETROLEUM NORTH AMERICA LLC	1/19/2022		
OG1003055	HESS BAKKEN INVESTMENTS II LLC	1/19/2022		
OG1003024	HESS BAKKEN INVESTMENTS II LLC	1/19/2022		
OG1003043	HESS BAKKEN INVESTMENTS II LLC	1/19/2022		
OG1003044	HESS BAKKEN INVESTMENTS II LLC	1/19/2022		
OG1003045	HESS BAKKEN INVESTMENTS II LLC	1/19/2022		
OG1003046	HESS BAKKEN INVESTMENTS II LLC	1/19/2022		
OG1003015	HESS BAKKEN INVESTMENTS II LLC	1/19/2022		
OG1003016	HESS BAKKEN INVESTMENTS II LLC	1/19/2022		
OG1003017	HESS BAKKEN INVESTMENTS II LLC	1/19/2022		
OG1003018	HESS BAKKEN INVESTMENTS II LLC	1/19/2022		
OG1002988	HESS BAKKEN INVESTMENTS II LLC	1/19/2022		
OG1002989	HESS BAKKEN INVESTMENTS II LLC	1/19/2022		
OG1200530	CONTINENTAL RESOURCES	1/19/2022		

OG1200531	CONTINENTAL RESOURCES	1/19/2022		
OG0602488	CONTINENTAL RESOURCES	1/21/2022		
OG0602489	CONTINENTAL RESOURCES	1/21/2022		
OG0602498	OASIS PETROLEUM NORTH AMERICA LLC	1/24/2022		
OG0602499	OASIS PETROLEUM NORTH AMERICA LLC	1/24/2022		
OG0602500	OASIS PETROLEUM NORTH AMERICA LLC	1/24/2022		
OG0602501	OASIS PETROLEUM NORTH AMERICA LLC	1/24/2022		
OG1100765	HESS BAKKEN INVESTMENTS II LLC	1/24/2022		
OG1100766	HESS BAKKEN INVESTMENTS II LLC	1/24/2022		
OG1201265	CONTINENTAL RESOURCES	1/24/2022		
OG1000841	OASIS PETROLEUM NORTH AMERICA LLC	1/25/2022		
OG1000843	OASIS PETROLEUM NORTH AMERICA LLC	1/25/2022		
OG1000844	OASIS PETROLEUM NORTH AMERICA LLC	1/25/2022		
OG0602454	OASIS PETROLEUM NORTH AMERICA LLC	1/31/2022		
OG0602455	OASIS PETROLEUM NORTH AMERICA LLC	1/31/2022		
OG0602456	OASIS PETROLEUM NORTH AMERICA LLC	1/31/2022		
OG0602457	OASIS PETROLEUM NORTH AMERICA LLC	1/31/2022		

OG0602463	OASIS PETROLEUM NORTH AMERICA LLC	1/31/2022		
OG0602459	OASIS PETROLEUM NORTH AMERICA LLC	1/31/2022		
OG0602460	OASIS PETROLEUM NORTH AMERICA LLC	1/31/2022		
OG0602461	OASIS PETROLEUM NORTH AMERICA LLC	1/31/2022		
OG0602462	OASIS PETROLEUM NORTH AMERICA LLC	1/31/2022		
OG1003080	HESS BAKKEN INVESTMENTS II LLC	1/31/2022		
OG1003082	HESS BAKKEN INVESTMENTS II LLC	1/31/2022		
OG1003026	HESS BAKKEN INVESTMENTS II LLC	1/31/2022		
OG1003027	HESS BAKKEN INVESTMENTS II LLC	1/31/2022		
OG1003028	HESS BAKKEN INVESTMENTS II LLC	1/31/2022		
OG1003029	HESS BAKKEN INVESTMENTS II LLC	1/31/2022		
OG1003030	HESS BAKKEN INVESTMENTS II LLC	1/31/2022		
OG1003031	HESS BAKKEN INVESTMENTS II LLC	1/31/2022		
OG1003032	HESS BAKKEN INVESTMENTS II LLC	1/31/2022		
OG1003033	HESS BAKKEN INVESTMENTS II LLC	1/31/2022		
OG1003034	HESS BAKKEN INVESTMENTS II LLC	1/31/2022		
OG1003035	HESS BAKKEN INVESTMENTS II LLC	1/31/2022		
OG0901505	CONTINENTAL RESOURCES	2/10/2022		
OG0901506	CONTINENTAL RESOURCES	2/10/2022		
OG0901507	CONTINENTAL RESOURCES	2/10/2022		
OG1003140	MAINSTREAM INVESTORS LLC	2/10/2022		

OG0400313	XTO ENERGY INC.	2/11/2022		
OG0400314	XTO ENERGY INC.	2/11/2022		
OG0400315	XTO ENERGY INC.	2/11/2022		
OG0400316	XTO ENERGY INC.	2/11/2022		
OG0400317	XTO ENERGY INC.	2/11/2022		
OG0400318	XTO ENERGY INC.	2/11/2022		
OG1002992	PETROGULF CORPORATION	2/15/2022	Yes	Resolved
OG1002993	PETROGULF CORPORATION	2/15/2022	Yes	Resolved
OG0400310	XTO ENERGY INC.	2/15/2022		
OG0400311	XTO ENERGY INC.	2/15/2022		
OG0400312	XTO ENERGY INC.	2/15/2022		
OG0400305	XTO ENERGY INC.	2/15/2022		
OG0400306	XTO ENERGY INC.	2/15/2022		
OG0400307	XTO ENERGY INC.	2/15/2022		
OG0400308	XTO ENERGY INC.	2/15/2022		
OG1600253	NORTHERN OIL AND GAS	9/29/2021	Yes	No Response
OG1600254	NORTHERN OIL AND GAS	9/29/2021	Yes	No Response
OG1600255	NORTHERN OIL AND GAS	9/29/2021	Yes	No Response
OG1600256	NORTHERN OIL AND GAS	9/29/2021	Yes	No Response
OG0900942	HESS BAKKEN INVESTMENTS II LLC	9/30/2021	Yes	Company reviewing internally 2/17/2022
OG1100797	MISSOURI RIVER ROYALTY CORPORATION	10/25/2021		
OG1100797	NORTHERN OIL AND GAS	10/25/2021	Yes	No Response
OG1003464	BLACK BEAR RESOURCES III LLC	10/25/2021		
OG1003464	OIL, GAS & OTHER MINERALS LLC	10/25/2021		
OG1003464	RAPTOR RESOURCES LLC	10/25/2021		
OG1003464	TRINITY WESTERN	10/25/2021		
OG0900227	CRAIG & BARBARA EGELAND	11/15/2021		
OG0900228	CRAIG & BARBARA EGELAND	11/15/2021		
OG1100786	BIP DRILLCO LLC	1/12/2022		

OG1100786	MISSOURI RIVER ROYALTY CORPORATION	1/12/2022		
OG1100786	NORTHERN ENERGY CORPORATION	1/12/2022	Yes	No Response
OG1100786	NORTHERN OIL AND GAS	1/12/2022	Yes	No Response
OG1100786	SINCLAIR OIL & GAS COMPANY	1/12/2022		
OG1100787	BIP DRILLCO LLC	1/12/2022		
OG1100787	MISSOURI RIVER ROYALTY CORPORATION	1/12/2022		
OG1100787	NORTHERN ENERGY CORPORATION	1/12/2022	Yes	No Response
OG1100787	NORTHERN OIL AND GAS	1/12/2022	Yes	No Response
OG1100787	SINCLAIR OIL & GAS COMPANY	1/12/2022		
OG1100785	MISSOURI RIVER ROYALTY CORPORATION	1/21/2022		
OG1100785	NORTHERN ENERGY CORPORATION	1/21/2022		
OG1100785	NORTHERN OIL AND GAS	1/21/2022		
OG1100785	SINCLAIR OIL & GAS COMPANY	1/21/2022		

MEMORANDUM TO THE BOARD OF UNIVERSITY AND SCHOOL LANDS

February 24, 2022

RE: January Unclaimed Property 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 (Department) has been responsible for reuniting individuals with property presumed abandoned. The Division acts as custodian of the unclaimed property received from holders. The property is held in trust in perpetuity by the State and funds are deposited in the Common Schools Trust Fund. The 1981 Uniform Unclaimed Property Act created by the national Uniform Law Commission was adopted by the State in 1985. In January 2020, the Division enacted North Dakota Administrative Code ch. 85-03. During the 67th Legislative Assembly, the Revised Uniform Unclaimed Property Act (RUUPA) was passed under Senate Bill 2048, codified as N.D.C.C. ch. 47-30.2.

For the month of January 2022, the Division received 46 holder reports with a property value of \$254,692 and paid 439 claims with a total value of \$420,425.

The Division is implementing a Voluntary Disclosure Agreement (VDA), a program through which a holder can report on a voluntary basis is overdue unclaimed property. Many states offer VDA programs as an olive branch, providing businesses the opportunity to come into compliance with unclaimed property laws without the burden of interest and penalties. Through the VDA program, the Division will proactively identifying noncompliant holders, reach out to them in a constructive manner, educate them on their reporting obligations, and assist them in correctly reporting unclaimed property.

While an audit presence is an essential element to compel compliance with Unclaimed Property Laws, a VDA program is an important tool which allows a company to easily become compliant and provides several benefits:

1. Allows the company to perform a self-review vs. an audit
2. Avoid some or all interest and penalties that might apply to late reported property
3. Assists a company to solidify its internal policies/procedures to it can remain in compliance

ITEM 2E

NORTH DAKOTA
BOARD OF UNIVERSITY AND SCHOOL LANDS

Financial Position Report
(Unaudited)

For period ended November 30, 2021



ITEM 2F

Board of University and School Lands		
Comparative Financial Position (Unaudited)		
Schedule of Net Assets		
Assets by Trust:	November 30, 2021	November 30, 2020
Common Schools	\$5,825,591,332	\$4,735,848,156
North Dakota State University	88,748,804	72,770,515
School for the Blind	15,688,461	12,996,377
School for the Deaf	24,896,776	21,209,952
State Hospital	16,610,788	14,304,776
Ellendale *	28,574,912	23,364,412
Valley City State University	15,488,982	12,900,996
Mayville State University	10,722,941	8,396,422
Youth Correctional Center	31,333,018	24,906,514
State College of Science	22,479,450	18,800,963
School of Mines **	27,298,038	22,450,070
Veterans Home	6,142,990	5,274,294
University of North Dakota	42,312,621	35,226,025
Capitol Building	4,283,185	4,675,347
Strategic Investment and Improvements	632,171,556	444,527,052
Coal Development	71,305,878	71,042,728
Indian Cultural Education Trust	1,459,036	1,254,363
Theodore Roosevelt Presidential Library	56,486,945	15,320,107
Total	<u>\$6,921,595,714</u>	<u>\$5,545,269,069</u>
Assets by Type:		
Cash	\$384,211,315	\$121,666,307
Receivables	4,896,963	9,056,870
Investments ***	6,470,210,462	5,302,327,508
Office Building (Net of Depreciation)	292,886	351,435
Farm Loans	4,910,808	6,232,053
Energy Construction Loans	-	923,408
Energy Development Impact Loans	9,458,287	10,288,127
School Construction Loans (Coal)	29,495,505	38,908,935
Due to/from Other Trusts and Agencies	18,119,488	55,514,426
Total	<u>\$6,921,595,714</u>	<u>\$5,545,269,069</u>

*** 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**

Includes available cash available for loans, investments, abandoned stock and claimant liability.

ITEM 2F

Board of University and School Lands

Comparative Financial Position (Unaudited)

Combined Permanent Trusts

	November 30, 2021	November 30, 2020
Balance Sheet		
Assets:		
Cash	\$127,033,793	\$69,975,624
Interest Receivable	4,147,399	8,464,117
Investments	6,017,940,698	4,964,690,991
Farm Loans	4,910,808	6,912,781
Energy Construction Loans	-	923,408
Due from Other Agencies	18,048,191	9,169,502
Office Building (Net of Depreciation)	292,886	351,435
Total Assets	<u>\$6,172,373,775</u>	<u>\$5,060,487,858</u>
Liabilities:		
Unclaimed Property Claimant Liability	\$16,461,434	\$16,645,538
Due to Other Funds	23,227	30,154
Accounts Payable	-	-
Total Liabilities	<u>16,484,661</u>	<u>16,675,692</u>
Equity:		
Fund Balance	6,057,564,355	4,892,120,248
Net Income/(Loss)	98,324,759	151,691,918
Total Liabilities and Equity	<u>\$6,172,373,775</u>	<u>\$5,060,487,858</u>
Income Statement		
Income:		
Investment Income	\$43,252,559	\$23,290,601
Realized Gain/(Loss)	158,069,648	18,566,915
Unrealized Gain/(Loss)	(135,253,498)	128,010,005
Royalties - Oil and Gas	69,129,254	9,315,506
Royalties - Coal	99,032	72,330
Royalties - Aggregate	115,622	20,837
Bonuses - Oil and Gas	1,134,928	915,553
Bonuses - Coal	-	-
Rents - Surface	5,751,302	562,897
Rents - Mineral	52,351	141,955
Rents - Coal	20,057	4,100
Rents - Office Building	-	-
Sale of Capital Asset	-	-
Oil Extraction Tax Income	41,342,408	13,111,825
Unclaimed Property Income	11,708,496	(103,271)
Total Income	<u>195,422,159</u>	<u>193,909,253</u>
Expenses and Transfers:		
Investment Expense	2,207,365	678,663
In-Lieu and 5% County Payments	-	-
Administrative Expense	1,302,526	752,409
Operating Expense - Building	27,509	36,264
Transfers to Beneficiaries	93,560,000	40,750,000
Total Expense and Transfers	<u>97,097,400</u>	<u>42,217,336</u>
Net Income/(Loss)	<u>\$98,324,759</u>	<u>\$151,691,917</u>

ITEM 2F

Board of University and School Lands

Comparative Financial Position (Unaudited)

Capitol Building Trust

	November 30, 2021	November 30, 2020
<u>Balance Sheet</u>		
Assets:		
Cash	\$1,285,389	\$347,030
Interest Receivable	18,641	25,064
Investments	2,979,155	4,177,770
Total Assets	<u>\$4,283,185</u>	<u>\$4,549,864</u>
Liabilities:		
Due to Other Trusts and Agencies	\$0	\$0
Equity:		
Fund Balance	3,462,488	5,535,786
Net Income	820,697	(985,922)
Total Liabilities and Equity	<u>\$4,283,185</u>	<u>\$4,549,864</u>
<u>Income Statement</u>		
Income:		
Investment Income	\$14,454	\$22,715
Realized Gain(Loss)	2,467	901
Unrealized Gain/(Loss)	(23,371)	(5,404)
Rents - Surface	41,319	5,973
Rents - Mineral	802	1,202
Royalties - Oil and Gas	786,241	95,499
Bonuses - Oil and Gas	-	2,160
Bonus - Coal	-	-
Royalties - Aggregate	-	-
Total Income	<u>821,912</u>	<u>123,046</u>
Expenses and Transfers:		
Investment Expense	(3,189)	836
In-Lieu and 5% County Payments	-	-
Administrative Expense	4,404	8,132
Transfers to Facility Management	-	1,100,000
Transfers to Legislative Council	-	-
Transfer to Supreme Court	-	-
Total Expense and Transfers	<u>1,215</u>	<u>1,108,968</u>
Net Income/(Loss)	<u>\$820,697</u>	<u>(\$985,922)</u>

ITEM 2F

Board of University and School Lands		
Comparative Financial Position (Unaudited)		
Coal Development Trust		
	November 30, 2021	November 30, 2020
<u>Balance Sheet</u>		
Assets:		
Cash	\$1,013,694	\$106,517
Interest Receivable	192,586	349,814
Investments	31,074,509	17,629,934
Coal Impact Loans	9,458,287	11,087,642
School Construction Loans	29,495,505	41,422,549
Due from other Trusts and Agencies	237,656	246,655
Total Assets	<u>\$71,472,237</u>	<u>\$70,843,111</u>
Liabilities:		
Due to Other Trusts and Agencies	\$166,359	\$172,658
Equity:		
Fund Balance	71,117,671	70,296,353
Net Income	188,207	374,100
Total Liabilities and Equity	<u>\$71,472,237</u>	<u>\$70,843,111</u>
<u>Income Statement</u>		
Income:		
Investment Income	\$148,184	\$113,840
Interest on School Construction Loans	181,595	219,786
Realized Gain/(Loss)	25,558	38,566
Unrealized Gain/(Loss)	(242,138)	(30,654)
Coal Severance Tax Income	192,608	117,234
Total Income	<u>305,807</u>	<u>458,772</u>
Expenses and Transfers:		
Investment	9,694	1,991
Administrative	392	203
Transfers to General Fund	107,514	82,478
Total Expense and Transfers	<u>117,600</u>	<u>84,672</u>
Net Income/(Loss)	<u>\$188,207</u>	<u>\$374,100</u>
	ITEM 2F	

Board of University and School Lands		
Comparative Financial Position (Unaudited)		
Strategic Investment and Improvements Fund		
	November 30, 2021	November 30, 2020
Balance Sheet		
Assets:		
Cash	\$254,740,995	\$40,525,711
Interest Receivable	624,443	1,247,674
Investments	376,806,118	349,949,930
Due from other Trusts or Agencies	-	14,332,397
Total Assets	<u>\$632,171,556</u>	<u>\$406,055,712</u>
Liabilities:		
Accounts Payable	\$0	\$0
Equity:		
Fund Balance	860,465,447	767,541,457
Net Income	(228,293,891)	(361,485,745)
Total Liabilities and Equity	<u>\$632,171,556</u>	<u>\$406,055,712</u>
Income Statement		
Income:		
Investment Income	\$1,597,430	\$1,518,736
Realized Gain/(Loss)	275,813	59,603
Unrealized Gain/(Loss)	(2,613,042)	(364,106)
Interest on Fuel Prod Facility	10,542	2,819
Interest - Miscellaneous	78,561	-
Interest and Penalty	57,704	-
Royalties - Oil and Gas	46,925,487	5,042,875
Bonuses - Oil and Gas	(3,378,131)	313,056
Royalties - Coal	78,089	23,928
Rents - Mineral	20,980	48,372
Tax Income - Oil Extraction & Production Distribution	-	14,332,397
Total Income	<u>43,053,433</u>	<u>20,977,680</u>
Expenses and Transfers:		
Administrative	528,619	97,498
Investment Expense	60,168	(6,875)
Transfers to General Fund	-	382,200,000
Transfer to Agriculture Department (HB 1009)	5,000,000	-
Transfer to Department of Commerce (SB 2018)	15,000,000	-
Transfer to ND Insurance Commissioner (SB 2287)	200,000	-
Transfer to Office of Management & Budget (HB 1015)	205,000,000	-
Transfer to Office of Management & Budget (SB 2014)	9,500,000	172,802
Transfer to Innovation Loan Fund (HB 1141)	15,000,000	-
Transfer to ND University System (SB 2003)	19,000,000	-
Transfer to Upper Great Plains Transportation (SB 2020)	2,073,000	-
Transfer from General Fund	(14,463)	-
Total Expense and Transfers	<u>271,347,324</u>	<u>382,463,425</u>
Net Income/(Loss)	<u>(\$228,293,891)</u>	<u>(\$361,485,745)</u>

ITEM 2F

As of November 30, 2021 the SIIF had a fund balance of \$632,171,563. 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 \$148,929,586 as of November 30, 2021.

Board of University and School Lands

Comparative Fiduciary Statements (Unaudited)

Indian Cultural Trust

	November 30, 2021	November 30, 2020
<u>Fiduciary Net Position</u>		
Assets:		
Cash	\$4,561	\$3,334
Interest receivable	337	1,295
Investments	1,454,138	1,259,603
Total Assets	<u>1,459,036</u>	<u>1,264,232</u>
Liabilities:		
Accounts payable	-	-
Total Liabilities	-	-
Net Position:		
Net position restricted	1,459,036	1,264,232
Total Net Position	<u>\$1,459,036</u>	<u>\$1,264,232</u>
<u>Changes in Fiduciary Net Position</u>		
Additions:		
Contributions:		
Donations	\$0	\$0
Total Contributions	<u>0</u>	<u>0</u>
Investment Income:		
Net change in fair value of investments	5,638	37,223
Interest	10,408	5,865
Less investment expense	(525)	(166)
Net Investment Income	<u>15,521</u>	<u>42,922</u>
Miscellaneous Income	-	-
Total Additions	<u>\$15,521</u>	<u>\$42,922</u>
Deductions:		
Payments in accordance with Trust agreement	-	-
Administrative expenses	-	-
Total Deductions	<u>-</u>	<u>-</u>
Change in net position held in Trust for:		
Private-Purpose	15,521	42,922
Total Change in Net Position	<u>15,521</u>	<u>42,922</u>
Net Position - Beginning FY Balance	1,441,059	1,221,309
Net Position - End of Month	<u><u>\$1,456,580</u></u>	<u><u>\$1,264,231</u></u>

Board of University and School Lands

Comparative Fiduciary Statements (Unaudited)

Theodore Roosevelt Presidential Library

	November 30, 2021	November 30, 2020
Fiduciary Net Position		
Assets:		
Cash	\$132,883	\$133,562
Interest receivable	(86,442)	(3,509)
Investments	56,440,504	15,310,171
Total Assets	56,486,945	15,440,224
Liabilities:		
Accounts payable	-	315
Total Liabilities	-	315
Net Position:		
Net position restricted	56,486,945	15,439,909
Total Net Position	\$56,486,945	\$15,440,224
Changes in Fiduciary Net Position		
Additions:		
Contributions:		
Donations	\$17,500,000	\$0
Total Contributions	17,500,000	0
Investment Income:		
Net change in fair value of investments	(219,077)	451,981
Interest	404,446	71,199
Less investment expense	20,384	2,014
Net Investment Income	164,985	521,166
Miscellaneous Income	40	36
Total Additions	\$17,520,424	\$521,202
Deductions:		
Payments in accordance with Trust agreement	\$0	\$0
Administrative expenses	62,928	315
Total Deductions	62,928	315
Change in net position held in Trust for:		
Private-Purpose	17,583,352	521,517
Total Change in Net Position	17,583,352	521,517
Net Position - Beginning FY Balance	38,446,695	14,918,706
Net Position - End of Month	\$56,030,047	\$15,440,223

ITEM 2F

MEMORANDUM TO THE BOARD OF UNIVERSITY AND SCHOOL LANDS

February 24, 2022

RE: Investment Updates
(No Action Requested)

Portfolio Rebalancing Updates

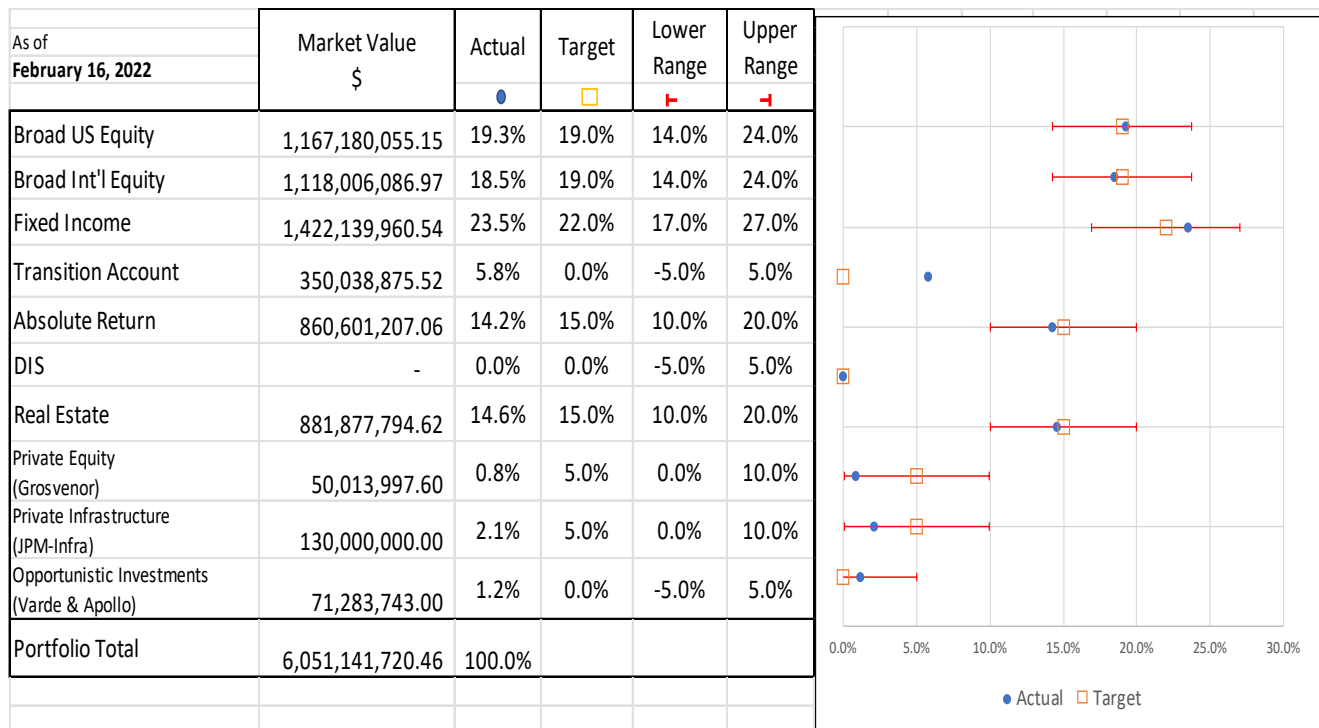
Since the last Board meeting, only Owl Rock has made a capital call amounting to around \$21.5M reducing its unfunded commitment to \$35M.

Unfunded commitments are at \$714.15M. These are:

1. Apollo Accord Fund, \$96.75M
2. Varde Dislocation Fund, \$42.5M
3. GCM Private Equity, \$110M
4. ARES Pathfinder Fund, \$64.5M
5. Angelo Gordon DL IV, \$25M
6. Owl Rock Diversified Lending, \$35M
7. GCM Secondary Opportunities Fund, \$121M
8. Harrison Street Core Property Fund LP, \$69.4M
9. FSI GDIF (Infrastructure), \$150M

Asset Allocation

The table below shows the status of the permanent trusts' asset allocation as of February 16, 2022. The figures provided are unaudited.



MEMORANDUM TO THE BOARD OF UNIVERSITY AND SCHOOL LANDS

February 24, 2022

RE: Investment Policy Statement – Second Reading

The Board of University and School Land's (Board) Investment Policy Statement (IPS) is to be formally reviewed at least every four years or when a written investment policy must be established for new funds.

In June 2020, the Board entered into an asset management agreement with the Theodore Roosevelt Presidential Library Foundation to manage the investment assets of the Theodore Roosevelt Presidential Library and Museum Endowment (Endowment), in accordance with NDCD ch. 54-07-12.

Department Staff recommends the Board adopt amended IPS (Attachment 1) to include a policy for the Endowment.

In addition, Staff recommends changing the definition of real estate assets under "Permitted Investments," relating to item 3.A. on this month's Board agenda, if approved.

The two substantive changes to the IPS are as follows:

1. Reflect the addition of the investment policy for the Endowment as reflected on page 29 (Attachment 1). Also, adding the Endowment where appropriate throughout the IPS.
2. Update the real estate asset class definition under "Permitted Investments" on page 20 as follows: "As well as, Real Estate Investment Trusts (REIT's) and other real estate securities and related index strategies for rebalancing tools."

Recommendation: **The Board approve the updates to the Investment Policy Statement as shown on the attached redline version.**

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

Attachment 1 – Redlined Investment Policy Statement

ND Board of University and School Lands Investment Policy Statement

An Investment Management Framework for North Dakota’s Permanent Trust Funds, the Capitol Building Fund, the Strategic Investment and Improvements Fund, the Coal Development Trust Fund, ~~and the Indian Cultural Education Trust~~, and the Theodore Roosevelt Presidential Library and Museum Endowment Fund

Revised ~~0402/3024/2020~~2022

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Mission Statement

The mission of the Board of University and School Lands is to manage the assets of the permanent trusts in a manner that preserves the purchasing power of the funds and maintains stable distributions to fund beneficiaries and to manage all other assets and programs entrusted to the Board in a prudent, professional manner, in accordance with the Constitution of North Dakota and applicable state law.

General Authority

On February 22, 1889 Congress passed the Enabling Act, dividing Dakota Territory into two states and authorizing the people to form the constitution and government of the state of North Dakota. This act granted a significant amount of land to support common schools, colleges, universities, the state capitol, and other public institutions. North Dakota Constitution article IX, which became effective at statehood on November 2, 1889, entrusted the management of these lands to the "board of university and school lands" (the Board). The Board is made up of the governor as chairman, the secretary of state as vice-chair, the attorney general, superintendent of public instruction, and the state treasurer.

Investment Authority

The North Dakota Constitution states that the Board "has control of the appraisement, sale, rental, and disposal of all school and university lands, and the proceeds from the sale of such lands shall be invested as provided by law."¹ State law further requires that the Board "shall apply the prudent investor rule in investing the permanent funds under its control."²

Purpose of This Policy

This Investment Policy Statement (Policy) governs the investment of assets for the thirteen Permanent Trust Funds, the Strategic Investment and Improvements Fund (SIIF), the Capitol Building Fund, the Coal Development Trust Fund, ~~and~~ the Indian Cultural Education Trust, and the Theodore Roosevelt Presidential Library and Museum Endowment Fund (collectively, Funds). It is established to provide a framework for the management of those assets and sets forth the Board's investment objectives, philosophy, guidelines, and practices. The Policy is not intended to be a static, one-time document but is designed to capture investment opportunities while providing parameters that ensure prudence and care in the execution of the investment program. No investment or action pursuant to an investment may be taken unless permitted by this Policy or by action of the Board; any exceptions must be approved by the Board.

The Policy provides guidance for fiduciaries which include the Board, the Commissioner of University and School Lands (Commissioner), investment managers, investment consultants, and custodians. It is the intent of the Policy to provide the foundation for management of the Funds' assets in a prudent manner including

¹ N.D. Const. art. IX, § 3

² N.D.C.C. § 15-03-04

the standards by which the Board can evaluate the Commissioner, investment managers, investment consultants, custodians and other service providers.

This Policy is supplemented by the Commissioner's operating procedures and policies, as well as detailed information within contractual agreements with investment managers.

Investment Philosophy

In order to meet the above investment objectives, the Board has adopted the following principles:

- Strategic asset allocation is a fiduciary duty and allocation across asset classes is the most important determinant of return variability and long-term total return.
- Risk is an unavoidable component of investing and is a major factor that must be taken into account in assessing investment policy and strategy.
- Diversification by asset class and within asset classes is a primary risk control element.
- Each trust or fund invested by the Board shall have a strategic asset allocation and investment strategy that is appropriate given its specific requirements for return, risk, time horizon, and liquidity.

Capital Markets Theory

Return

In order to meet the objective of the Funds, the Board strives to achieve the highest level of investment performance that is compatible with its risk tolerance and prudent investment practices. The Board's mechanism for setting return goals will be accomplished by selecting specific benchmarks that match the objective and time horizon of each fund. The Funds will have a goal for long-term returns to meet or exceed its formal benchmark over a full market cycle, while minimizing the costs associated with implementation of the asset allocation through efficient use of internal and/or external resources.

Risk

The investment risk philosophy for the Funds is based on the principles of capital market theory that are generally accepted and followed by institutional investors, who by definition are long-term oriented investors. This philosophy holds that:

- Increasing risk is rewarded with compensating returns over time; therefore prudent risk taking is a necessary element of long-term investing.
- Risk can be mitigated through diversification of asset classes and investment approaches, as well as diversification of individual securities.
- The primary determinant of long-term investment performance is the strategic or long-term allocation of assets among various asset classes.
- Relative performance of various asset classes is unpredictable in the short-term and attempts to shift tactically between asset classes or implementation strategies shall not be undertaken by the Board.

Given these principles, the Board has established a long-term asset allocation policy for each fund that balances the returns needed to meet the fund’s objectives and the risk level that is appropriate for that fund under existing and anticipated circumstances. In determining its risk posture, the Board has considered each fund’s purpose and characteristics, current and projected financial condition, liquidity needs, sources of contribution, income, and general economic conditions.

Diversification

The Board will choose an investment strategy for each Fund utilizing an appropriate long-term, diversified asset allocation approach. Diversification distributes a portfolio across many investments to avoid excessive exposure to any one source of risk. Other considerations in asset allocation modeling should take into account the purpose of the fund, the size and financial condition of the fund, and general economic conditions. These factors are not intended to be limiting; rather, they are outlined as a general indication of the importance of diversification to proper asset allocation. Under such an allocation, each Fund’s assets may be invested by active and/or passive managers, and by diverse investment strategies and styles within each asset class. The Board will determine the proper allocation among asset classes and investment managers, based on advice and analysis provided by the Commissioner and/or Consultants.

Formal Review Schedule

The Board recognizes that though the investments are subject to short-term volatility, the Board shall maintain a long-term investment focus. This prevents ad-hoc revisions to the philosophy and policies in reaction to either speculation or short-term market fluctuations. In order to preserve this long-term view, the Board has adopted the following formal review schedule:

Formal Review Agenda Item	Formal Review Schedule
Asset Allocation Policy	At least every four years
Manager Structure Policy	At least every four years
Investment Policy	At least every four years
Total Fund Performance	At least quarterly
Asset Class Composite Performance	At least quarterly
Investment Manager Performance	At least quarterly

Roles and Responsibilities

The Board

The Board of University and School Lands is the primary body charged with overseeing investment activities relating to the Funds. Members of the Board are fiduciaries subject to the statutory and common law duties of a fiduciary.

The Board’s mandate, in turn, is to manage each fund entrusted to it ethically and optimally, working to achieve the highest level of investment performance within acceptable levels of risk. The Board is responsible for prudent investment of the Funds. The Board will operate the investment program in compliance with all applicable federal and State laws and regulations. The Board is responsible for

establishing and maintaining all policies and guidelines by which the Funds are managed, and by which the Commissioner operates.

The Board relies on the Commissioner and any external contractors to properly administer the Funds and implement the Funds' investment strategies. The roles of each party as fiduciaries must be clearly identified; such identification increases operational efficiency, ensures clear lines of responsibility, and reduces or eliminates duplication of effort.

The Commissioner

The Board of University and School Lands is required to appoint a commissioner to act on its behalf.³ The office of the Commissioner of University and School Lands (the Commissioner)⁴ has a primary responsibility to manage the permanent educational trust funds and assets under the Board's control as outlined in law. When used in this Policy, the term Commissioner is inclusive of the Department of Trust Lands' Chief Investment Officer and investment staff. State law also gives the office of the Commissioner the responsibility for managing the state Unclaimed Property Division, and the Energy Infrastructure and Impact Office.

The Commissioner is responsible for implementing Board policy, the day to day management of the investment program, and implementing a process for selection and termination of investment managers that is sufficiently transparent for the Board to understand the process and provide meaningful oversight.

Investment Consultant

The Investment Consultant (Consultant) is hired by and reports directly to the Board. The Consultant's duty is to assist the Board in oversight, and the Commissioner in managing the investment process. This includes regular meetings with the Board to provide an independent perspective on the Funds' goals, structure, performance, and managers. The Consultant will render investment advice to the Board regarding such matters as investment policy, strategy, overall portfolio monitoring and composition, and diversification of investments. The Consultant will conduct ongoing due diligence of external investment managers. The Consultant does not have any discretionary authority with respect to investments; the Board makes all final decisions regarding any investments.

Investment Managers

Investment managers (Managers) are hired by and serve at the pleasure of the Board. The Commissioner will provide the Managers with explicit written investment guidelines⁵ which detail permissible securities, investment strategies, and performance evaluation criteria. Each Manager will select, buy, and sell specific securities or investments within the parameters specified in their investment guidelines and in adherence to this Policy or to other policies set forth by the Board. Managers will construct and manage investment

³ N.D.C.C. § 15-02-01; Specific responsibilities of the Board and the Commissioner are set out in N.D.C.C. ch. 15-01 through 15-08.1.

⁴ Commissioner of University and School Lands is the statutory name; in 2011 the Board adopted *The Department of Trust Lands* as the common reference to the agency.

⁵ In cases where the Board has selected investments in commingled or mutual funds, the offering document becomes the specific investment guidelines.

portfolios that are consistent with the investment philosophy and disciplines for which they were hired. Managers will provide performance reporting at intervals specified by the Commissioner.

Custodian

A custodian bank is a specialized financial institution hired by the Board to safeguard the Funds' financial assets; they are a third party that operates separately from Managers. The custodian(s) will collect income and safely keep all cash and securities, process all transactions, and provide monthly accounting/investment reports to the Commissioner and Consultant. The custodian may also provide securities lending, commission recapture, transition management, securities litigation monitoring, or other services for the Funds.

The Prudent Investor Rule

North Dakota statute dictates that the Board apply the prudent investor rule in investing the Permanent Trust Funds under its control. The law states:

The "prudent investor rule" means that in making investments the board shall exercise the same judgment and care, under the circumstances then prevailing and limitations of North Dakota and federal law, that an institutional investor of ordinary prudence, discretion, and intelligence exercises in the management of large investments entrusted to it, not in regard to speculation but in regard to the permanent disposition of funds, considering probable safety of capital as well as probable investment returns.⁶

It is the Board's intent to invest all of the Funds in accordance with the Prudent Investor Rule.

Social and Economically Targeted Investing

Social investing is defined as the practice of aligning one's investment policies with social responsibility. Some of the issues and topics addressed by social investing promoters include environmental causes, avoidance of tobacco producers, avoidance of politically sensitive parts of the world, and workers' rights. With different sets of values, what one investor may deem irresponsible, another may consider good policy.

The Board shall not use the Funds to participate in activist efforts to implement a social agenda regarding ownership of specific securities or efforts of shareholders to bring about social change.

Economically targeted investing is defined as an investment designed to create economic benefits for a targeted geographic area, group of people, or sector of the economy. Economically targeted investing is barred when investing the Permanent Trust Funds, the Capitol Building Fund, ~~and~~ the Indian Cultural Education Trust, and the Theodore Roosevelt Presidential Library and Museum Endowment Fund, unless the investment meets the Exclusive Benefit Rule.

⁶ N.D.C.C. § 15-03-04

Exclusive Benefit Rule

The Exclusive Benefit Rule is met if the following four conditions are satisfied:

- The cost does not exceed the fair market value at the time of investment.
- The investment provides an equivalent or superior rate of return for a similar investment with a similar time horizon and similar risk.
- Sufficient liquidity is maintained to permit timely distributions.
- The safeguards and diversity to which a prudent investor would adhere are present.

Economically targeted investing is allowed within the Coal Development Trust Fund and the Strategic Investment and Improvement Fund, if the investment meets the purpose of the fund and is directed by law.

Conflicts of Interest

Members of the Board, the Commissioner, employees of the Commissioner, Managers, Consultants, and custodians involved in the investment process will refrain from personal business activity that could conflict with the proper execution and management of the Board's investment program, or that could impair their ability to make impartial recommendations and decisions. These parties are required to reveal all relationships that could create or appear to create a conflict of interest in their unbiased involvement in the investment process.

Manager Selection and Evaluation

When analyzing and evaluating any Manager, the Board believes it is important to review the Manager within the context of the structure of the entire asset class and portfolio, and not in isolation. A key to portfolio construction is diversification, not just by asset class but within each asset class. The goal of diversification is to be exposed to different investment strategies, which will have different performance and risk patterns. Diversification is optimal when strategies are complementary.

Search and Selection

The Board has established the following guidelines for hiring Managers. In establishing these guidelines, it is the Board's intention to assure all interested parties that decisions made in carrying out these actions occur in a full disclosure environment characterized by competitive selection, objective evaluation, and proper documentation. Any action to hire a manager should be based on one or more of the following observations:

- Identification of a new asset class or approach which has been approved in advance by the Board
- A need for diversification of managers and styles within an existing asset class
- A need to replace an investment manager
- A need to retain additional managers in order to reach an asset class structure target

The selection of new Managers will adhere to a consistent process to ensure a competitive and transparent search involving proper evaluation and due diligence of candidates, and selection of Managers that best demonstrate the characteristics sought in a specific search. The Commissioner will ensure that the

objectives for the mandate are clearly articulated and that pricing is reflective of the market. The evaluation process may be conducted by the Commissioner or the Consultant and will include but not be limited to the following steps:

1. Establish investment manager selection criteria
2. Identify qualified candidates through minimum qualification screening
3. Quantitative screening
4. Qualitative screening
5. Manager interviews
6. Analysis of quantitative and qualitative factors including portfolio fit and structure

The Commissioner will prepare documentation of the search process; this documentation will include disclosure of all relevant issues and related due diligence. When reviewing the documentation, the Board shall ensure that decisions were well reasoned, thoroughly considered, and prudent.

Monitoring, Evaluation, and Termination of Managers

The decision to retain a Manager can have the same potential impact on the returns of an asset class composite as manager selection decisions and should be given the same degree of attention. The Board recognizes investment and management decisions directed at individual managers must be evaluated not in isolation but in the context of the overall structure of the asset class and the Fund's portfolio as a whole. To maintain the discipline necessary for a long-term focus, the Board will monitor and evaluate the performance of Managers and identify the specific problems and concerns that may affect returns, with the following objectives:

- Foster a long-term approach to manager evaluation
- Provide a review of the manager's "fit" in the overall asset class composite
- Provide a logical and statistically valid framework for manager skill evaluation
- Promote timely and appropriate responses to actual and potential performance issues
- Provide flexibility to allow application across all asset classes, management styles and market environments

Monitoring and evaluation relies on a process that includes:

1. Monthly reports from the custodian and Managers to the Commissioner
2. Quarterly performance reports from the Commissioner and Consultant for the Board. These reports will detail performance of the Funds, asset class composites, and the performance of individual managers against established benchmarks, as well as peer ranks for each category
3. Qualitative analysis generated in the course of regular, on-going contact between a Manager, the Commissioner, and the Consultant

Manager Termination Guidelines

From time to time it will be necessary for the Board to terminate a contractual relationship with a Manager; these actions must be viewed in the context of the entire portfolio and as a business decision. The Board has established guidelines to assist in making these termination decisions. The overriding consideration

with respect to all decisions is that they shall be made solely in the best interest of the beneficiaries of the Funds.

Any action to terminate a manager should be based on one or more of the following criteria:

1. Significant changes in firm ownership and/or structure
2. Loss of one or more key personnel
3. Significant loss of clients and/or assets under management
4. Shifts in the firm's philosophy or process
5. Significant and persistent lack of responsiveness to client requests
6. Changes in the Board's investment strategy eliminating the need for a particular style or strategy
7. Violations of the Investment Policy or guidelines
8. Unsatisfactory investment performance
9. Identification of a new asset class or approach which has been approved in advance by the Board
10. Need for diversification of styles within an existing asset class
11. Need to reduce exposure to a single manager
12. Any other issue or situation of which the Commissioner, Consultant, and/or Board become aware that is deemed material

Prior to the termination decision, all relevant considerations and issues should be identified and documented in Board meeting minutes and supporting documents. It is the Board's intent to have a plan in place before termination of a Manager. The Commissioner will redeploy the assets of a terminated manager's portfolio in an expedient and prudent manner, which may involve hiring a third party to facilitate the transition or liquidation of assets.

General Investment Restrictions and/or Guidelines

1. All investments made shall be subject to the quality and diversification restrictions established by the Prudent Investor Rule.
2. According to North Dakota law, the Board may not purchase as sole owner commercial or residential real property in the State.⁷
3. Assets may be held in commingled funds and/or privately managed separate accounts. Exposure through commingled funds and mutual funds shall be evaluated on a case-specific basis through analysis of that fund's offering document. Upon review by the Commissioner and approval by the Board, this offering document becomes the specific investment guidelines for that allocation.
4. No more than 5% of the stock of any corporation may be purchased.
5. The securities representing debt and equity of any one company shall not exceed 6% of the market value of any Manager's portfolio without prior approval from the Commissioner; such approval shall be reported to the Board.

⁷ N.D.C.C. § 15-03-04

6. Cash equivalents held by Managers can be disruptive to the allocation process. Unless otherwise authorized, Managers are expected to be fully invested in the types of securities for which they have responsibility.
7. Any use of leverage will be consistent with the strategy for which the Board hired the Manager. Use of leverage will be controlled as appropriate in the Manager's specific guidelines.
8. The Board recognizes that the Funds are exposed to currency risk through international equity, fixed income, and absolute return mandates; the Board prefers to utilize unhedged benchmarks and does not require its Managers to hedge the currency exposure in their portfolios.

Securities Litigation and Shareholder Legal Activism

In carrying out its fiduciary duties to prudently invest and manage the assets entrusted to it, the Board invests in the securities of various public companies, or issuers. From time to time, class action lawsuits are brought against the issuers, directors, and/or officers for alleged violations of federal and state securities laws relating to various disclosure obligations and other breaches of fiduciary or other duties. As shareholders, the trust funds under the Board's control are putative members of the alleged classes.

At the present time, the Board relies on a designated agent to monitor settled class action securities litigation where the Funds have an interest. In resolved litigation, unless directed otherwise, the designated agent files proofs of claim on behalf of the Funds and posts disbursements or settlements to the appropriate portfolios as litigation settlement proceeds are received. The designated agent will provide the Department with its most current class action procedures and will follow such procedures on behalf of the Department. The designated agents class action procedures shall include reviewing various information sources for notification of class action suits, identifying transactions within the class period for the security involved and determining account eligibility and filing proof of claim and supporting documentation.

Department Investment staff will monitor the designated agent's compliance with the Securities Litigation Policy. Investment staff will review all notices and information concerning potential or pending class action litigation that are received by the Department. The Commissioner will report periodically to the Board on recoveries realized as a result of class action participation.

Although there may be value in influencing an eventual settlement or in pursuing a separate legal action in a lawsuit, the administration and opportunity costs can be substantial. The Board uses a monitoring approach to securities litigation to avoid the diversion of staff, financial, and legal resources in building and applying collective plaintiffs' arguments through depositions, discovery, and documentation. Serving as the lead plaintiff does not obtain any additional financial benefit, but rather a lead in a class action suit shares any final judgment or settlement with the class members on an equal, per share basis.⁸ Opting out of a "class" or objecting to the terms of a proposed settlement and pursuing independent legal remedies may also be pursued although the administration and opportunity costs can be substantial and involve significant attorney's fees, costs, and expenses which may or may not be recovered.

⁸ The lead plaintiff may recover attorney's fees, costs, and expenses if the lawsuit is successful or a settlement is obtained.

The Commissioner will initiate active participation in securities cases only upon prior approval by the Board. Prior to bringing any recommendation to the Board, the Commissioner will assess the merits and prospects for active participation by reference to the criteria and factors outlined below. The Board, in consultation with the Attorney General, may consider more active forms of legal engagement in cases where:

1. Where the action is in the US, and the estimated loss is a minimum of \$5,000,000 of assets under management of the Board, or from the combined assets under management of the Board and the North Dakota State Investment Board; and
2. the trust funds are among the largest shareholders of the defendant issuer; and
3. service as a lead plaintiff or opting out of a proposed settlement to the “class” of claimants would be in the best interest of the Funds
4. the prima facie merits of the claim for loss, and the factual basis for the action, recognizing that the full discovery process will not commence until the class has been certified by the court in which such case is to be filed.
5. The potential that any defendants or insurers will be able to pay an adequate recovery to the class, without impairing the value of any current security holdings of the Board may yet hold in issuer in the portfolio.
6. Potential costs that may be incurred. Special consideration must be given to any case that must be filed in a non-U.S. venue under the “Morrison” criteria established by the U.S. Supreme Court in a 2010 decision, since costs of litigation and potential liabilities of unsuccessful claims may be significant.

The Board may engage one or more legal firms that specialize in prosecuting security class action cases; any such engagement is subject to special appointment requirements of N.D.C.C. § 54-12-08. For these purposes only, such firm(s) may be granted ongoing access to security holdings information through the custodian bank or designated agent.

The Board may contract with firms that provide securities litigation monitoring/tracking services if it determines it is prudent. In August of 2018 the Board approved the hiring of a securities litigation monitoring and claims filing firm; that firm is currently being brought onboard. In addition to providing litigation monitoring and claims filing services, the firm will work the Commissioner to develop a revised securities litigation policy for the Board.

- **NON-U.S./CANADA PASSIVE CLASS AND GROUP RECOVERY EFFORTS:** The Board has engaged a securities litigation monitoring and claims filing firm to identify and submit claims in non-U.S./Canada matters that involve passive claim filing regardless of loss size. To the greatest extent possible, the participation process will be automated. Our funds may serve as lead or representative plaintiffs in passive participation matters if the factors specified below for active participation have been met; or if there are other overriding considerations. The current “Passive” International Jurisdictions include Australia, Dutch Foundations and United Kingdom Regulatory Action Compensation Schemes.
- **NON US/CANADA GROUP OPT-IN LITIGATION:** The risks associated with direct litigation outside of the U.S. vary by country and our participation will need to be evaluated on a matter-by-matter basis. However, countries can be grouped into three risk profile categories - low, medium, and high - with

minimum damages thresholds set for each risk group to limit consideration to those matters where our funds' losses exceed these amounts.

The Board has engaged a securities litigation monitoring and claims firm to (a) identify "opt in" or group litigation, arbitration, settlement and/or other recovery efforts outside of the U.S. and Canada for which they may be eligible and provide damages estimates based on the methodologies accepted under local law, if they exist and recognizing that this will often be uncertain. The Board will compare those damages estimates against pre-defined loss thresholds below and, if damages exceed threshold amounts, evaluate whether participation in the matter will be in the Fund's best interest.

The following initial damages thresholds are based on perceived risks associated with recovery efforts in each country. The Board will periodically review these thresholds and make any necessary adjustments based on experience, updated information about specific risks, and other factors.

Jurisdictional Description	Damages Threshold
<u>Low risk</u> jurisdictions including Japan	To be inserted Ranges to be considered from \$100k to \$500k
<u>Medium risk</u> jurisdictions including Germany, Austria, Belgium, Switzerland, Denmark, Spain, Finland, France, Hong Kong, Indonesia, Ireland, Italy, Korea, Luxembourg, Malaysia, Norway, New Zealand, Portugal, Sweden, and Thailand	To be inserted \$1 mil to \$5 mil
<u>High risk</u> jurisdictions including Taiwan ⁹ and the United Kingdom	To be inserted Greater than \$7.5

When losses exceed threshold amounts, our funds should consider the following:

- The merits of the case in light of the remedies available under local law.
- Their expected losses and percentage recoveries or results from past matters in that country, if available.
- The process and administrative burden to joining a particular litigation or settlement effort.
- The costs associated with involvement including attorney fees, litigation expenses, and any other potential expense covered by the litigation funder without recourse to the funds.
- How the organizers intend to protect our funds from the risk of adverse party cost shifting.

⁹ While Taiwan is among the most active non-US/Canada jurisdictions, our funds are not likely to have eligibility and given the risks involved, they should limit their participation to situations where money has already been recovered.

- If the litigation or settlement is funded, the identity of the funder, the percentage and cost reimbursement the funder will take from the recovery if the efforts succeed.
- The lawyers handling the case including their reputation, past results, and terms of representation like fee structures, expenses, and contingencies.
- The registration requirements, the potential evidentiary and/or discovery burdens to the funds, and any other administrative burden that may be required from them including any obligation to travel.
- The extent to which the funds' involvement will be disclosed to opposing parties and/or the public.
- Any other reasonable considerations.

Securities Lending

The objective of the securities lending program is to generate incremental income from overnight and certain term loans of securities. The Funds may participate in a securities lending program.

The program will utilize a high-quality and conservative collateral re-investment approach that safeguards the return of principal and maintains adequate daily liquidity to support trade settlement activity and portfolio restructuring activities. Each securities lending agent will ensure that specific guidelines are in place as to the quality, duration, liquidity and diversification of securities lending collateral.

The Board requires collateral for loans. The use of assets in any securities lending engagements should:

1. Earn a competitive market return through conservative securities lending practices, consistently with the preservation of capital.
2. Minimize risk with respect to both the borrower and the collateral,
3. Operate the securities lending program so that it will not interfere with the management of overall investment portfolio and strategies.

Unless explicitly exempted by the Board, the lending agent shall provide indemnification against losses arising from borrower default, insolvency, and failure to comply with the terms and conditions of the lending agreements.

The Commissioner shall provide a report to the Board annually, outlining the performance and status of the securities lending program.

Proxy Voting

The Board believes that proxies should be voted in a manner consistent with the long-term interests and objectives of the investment program set forth herein, unless it is in the best interest of the Board not to vote. The Board delegates authority to vote shares to each Manager and expects Managers to vote shares. The principle behind this policy is that Managers have specific reasons for holding shares and will vote shares in a way the Manager believes will best add value to those shares. Managers shall submit written reports to the Commissioner by January 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.

Notwithstanding the forgoing, intangible factors such as social and environmental issues are increasingly being incorporated into proxy voting. The Board expects voting of social and environmental proposals will be based solely on enhancing or protecting long-term value to the assets under its control and not on establishing or endorsing social policy. As part of its fiduciary duty, the Board expects Managers to consider 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.

It is the policy of this Board that the Commissioner 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. An exception to the above policy regarding voting of proxies is for shares held by the Board on behalf of holders of unclaimed property. As a passive holder of these particular shares the Board chooses not to exercise voting rights on the owners' behalf.

Funds Administered by the Board

The pages that follow describe the various funds administered by the Board.

Permanent Trust Funds

On February 22, 1889, Congress passed "An act to provide for the division of Dakota [Territory] into two states, and to enable the people of North Dakota, South Dakota, Montana and Washington to form constitutions and state governments" This Act is commonly known as the Enabling Act. This act granted land to the new states "for the support of common schools," which in North Dakota's case totaled more than 2.5 million acres. Further land grants in this legislation provided for the support of colleges, universities, the state capitol, and other public institutions. These additional grants totaled approximately 668,000 acres, bringing the grand total of Enabling Act land grants to nearly 3.2 million acres.

Purpose

The land grant from the federal government at statehood¹⁰ and the state constitution¹¹ both provide that the Board of University and School Lands manage the trust land and minerals and associated proceeds, for the exclusive benefit of education and institutional support. In accordance with Article IX of the North Dakota Constitution as well as federal law¹², the perpetual trust funds must be managed to:

1. Preserve purchasing power
2. Maintain stable distributions to trust beneficiaries

Chapter 15-03 of the North Dakota Century Code governs the management of the Permanent Trust Funds, including the requirement that any investments conform to the prudent investor rule.

Listing of Permanent Trust Funds

The following are the beneficiaries of the Permanent Trust Funds described in Article IX of the North Dakota Constitution:

1. Common Schools (K-12)
2. North Dakota State University
3. University of North Dakota
4. Mayville State University
5. ND Youth Correctional Center
6. Ellendale State College¹³
7. Valley City State University
8. State College of Science
9. School for the Blind
10. School for the Deaf
11. State Hospital
12. School of Mines (UND)
13. Veterans Home

¹⁰ The Enabling Act of February 22, 1889 (25 Stat. 676, ch. 180)

¹¹ N.D. Const. art. IX, §§ 2, 3

¹² 7 U.S.C. § 309 and 25 Stat. 676, ch. 180

¹³ Beneficiaries of the Ellendale permanent trust are now Dickinson State University, Minot State University, Dakota College at Bottineau, Veterans Home, School for the Blind, State Hospital, and the State College of Science as directed in 1973 N.D. Sess. Laws ch. 176.

Funding Sources

Funding Sources Common to All Permanent Trust Funds

Each permanent trust individually owns surface land tracts and mineral rights that provide revenue from agricultural leases, oil and gas royalties and lease bonuses, as well as other productive uses of the surface and mineral lands owned by each trust.

Common Schools

The Common Schools Trust Fund is the largest of the Permanent Trust Funds administered by the Board. In addition to the revenues from the surface lands, minerals, and investments that the Permanent Trust Funds own, the Common Schools Trust Fund also receives funding from the following sources:

1. 10 percent of the oil extraction taxes collected by the state¹⁴
2. Net unclaimed property proceeds collected by the Department¹⁵ until such time that property may be reunited with its owner.

Distribution Policy

Article IX, Section 2 of the North Dakota Constitution states:

Distributions from an educational or charitable institution's trust fund must be faithfully used and applied each year for the benefit of the institution and no part of the fund may ever be diverted, even temporarily, from this purpose or used for any purpose other than the maintenance of the institution, as provided by law.

The distribution formula¹⁶ is also described in Article IX, Section 2:

[B]iennial distributions from the perpetual trust funds must be ten percent of the five-year average value of trust assets, excluding the value of lands and minerals. The average value of trust assets is determined by using the assets' ending value for the fiscal year that ends one year before the beginning of the biennium and the assets' ending value for the four preceding fiscal years. Equal amounts must be distributed during each year of the biennium.

The year-end values used to calculate permanent trust distributions, as described in Article IX above, is the fund balance of each trust found in the Board's audited financial statements. When determining biennial distributions for the permanent trusts, annual distributions for each trust are rounded to the nearest one thousand dollars.

By statute, distributions from the Common Schools Trust Fund are paid to school districts monthly, from August to April of each fiscal year, through the state tuition fund.¹⁷ . At the request of the Office of

¹⁴ N.D. Const. art. X, § 24

¹⁵ N.D.C.C. § 47-30.1-23 and N.D. Const. art. IX, § 1

¹⁶ This distribution formula is the result of a constitutional amendment that was approved by North Dakota voters on November 7, 2006. This constitutional change was validated at the federal level by the passing of the Omnibus Public Land Management Act of 2009 (Pub. L. No. 111-11, 123 Stat. 1446) which amended the First Morrill Act (The Act of July 2, 1862 [7 U.S.C. 301 et seq.]) and the Enabling Act of February 22, 1889 (25 Stat. 676, ch. 180). Prior to these changes, distributions for the Permanent Trust Funds were based on projections of interest and income for the funds; distributions could only be paid out of interest earned.

¹⁷ N.D.C.C. § 15.1-28-01

Management and Budget, effective fiscal year 2018, distributions from the Common Schools Trust Fund will be made in relatively equal amounts from August to April of each fiscal year.

Distributions from the other 12 Permanent Trust Funds are made in equal amounts during January and June of each fiscal year and are distributed directly to the benefitting institutions.

Investment Objective

The assets of the Permanent Trust Funds are invested with a perpetual time horizon, in a manner that seeks to balance the longer-term goal of preserving the purchasing power of the trusts with the shorter-term goal of maintaining a stable stream of distributions to beneficiaries. The long-term nature of the funds, combined with a disciplined investment approach, provide the ability to the Permanent Trust Funds to withstand short-term volatility, to profit from periods of elevated risk aversion, and to be rewarded for providing liquidity.

The Permanent Trust Funds are invested by the Board in a single comingled pool, along with the Indian Cultural Education Trust [and the Theodore Roosevelt Presidential Library and Museum Endowment Fund](#) (described further on pages [28](#) and [29](#)).

Strategic Asset Allocation

The Board recognizes that the most important determinant of long-term return and risk is the asset allocation decision. The asset allocation decision is intended to reflect the return objective and risk tolerance expressed in this Investment Policy Statement. It is designed to provide the highest probability of meeting the Funds' objectives at a level of risk and liquidity that is acceptable to the Board. In establishing its risk tolerance, the Board considers the Funds' ability to withstand short- and intermediate-term volatility in investment performance and fluctuations in financial condition of the Funds.

To determine the strategic asset allocation target, the Board, with assistance from the Commissioner and Consultant, examines the historical and projected risk and return of the approved asset classes, the correlation among these asset classes as well as the effect the expected investment performance will have on the obligations of the Funds. Based on its long-term return expectations and its determination of the appropriate risk tolerance for the Funds, the Board has chosen the following strategic asset allocation policy for the Permanent Trust Funds:

Asset Class	Strategic Asset Allocation Target	Minimum	Maximum
Broad US Equity	19%	14%	24%
Broad International Equity	19%	14%	24%
Fixed Income	22%	17%	27%
Absolute Return	15%	10%	20%
Real Estate	15%	10%	20%
Private Equity	5%	0%	10%
Private Infrastructure	5%	0%	10%
Opportunistic Investments	0%	0%	5%

The Board and the Commissioner will review the strategic asset allocation policy at least annually for reasonableness relative to significant economic and market changes or to changes in the Funds' long-term goals and objectives. A formal asset allocation study will be conducted at least every four years to verify or amend the targets.

Recognizing that a long-term target allocation utilizing alternative asset classes can take a matter of years to implement prudently, the Board delegates implementation of strategic asset allocation policy to the Commissioner including funding of alternative asset classes and setting interim asset allocation targets.

In addition, during the implementation of a change to or modification of the asset allocation, some strategies may fall outside the allowable allocation ranges until the revised asset allocation is fully implemented.

Opportunistic investments do not have a specified target allocation, as the availability of opportunities is episodic in nature, and the best opportunities tend to appear during periods of market stress. Opportunistic investments are allowable up to a maximum of 5% measured at the time of commitment.

Rebalancing

Rebalancing is the term that describes the periodic movement of funds from one asset or asset class to another in order to realign assets to the strategic asset allocation target. A rebalancing strategy is an important element of asset allocation policy. Systematic rebalancing can reduce portfolio volatility and increase portfolio return over the long-term. However, frequent rebalancing resulting from excessively tight ranges can lead to unnecessary transaction costs.

The Commissioner is responsible for developing and implementing a rebalancing plan that is appropriate for existing market conditions, with a primary objective of minimizing transaction costs, market impact, opportunity costs and portfolio disruptions. To the extent possible, cash flows and revenues will be used to maintain the strategic target allocation. The Commissioner may make minor changes among asset classes and within individual asset classes to more effectively maintain proper exposure to the strategic asset allocation and asset class portfolio structures.

Recognizing that at times it may be impractical or costly to reallocate assets when an upper or lower limit is breached, the asset class will be rebalanced to within its strategic asset allocation range as soon as is practically possible, subject to reasonable transaction costs.

Benchmarks

One return objective to be considered when evaluating the Funds' performance is measured by applying the investment performance of the asset class benchmarks to the Funds' strategic asset allocation target. The Policy Index permits the Board to compare the Funds' actual performance to its total fund benchmark, and to measure the contribution of active investment management and policy adherence.

The Board has selected the following Policy Index for the Permanent Trust Funds:

Asset Class	Policy Index	Strategic Asset Allocation Target
Broad US Equity	Russell 3000 Index	19%
Broad International Equity	MSCI ACWI Ex USA IMI	19%
Fixed Income	Barclays US Universal Index	22%
Absolute Return	Absolute Return Custom Index ¹	15%
Real Estate	NCREIF ODCE Index	15%
Private Equity	Cambridge US Private Equity Index	5%
Private Infrastructure	MSCI World Infrastructure Index	5%

¹ Absolute Return Custom Index: 60% Equity (MSCI All Country World IMI), 40% Fixed Income (Barclays US Aggregate Bond Index)

Recognizing that a long-term target allocation to alternative asset classes can often take a matter of years to implement prudently, the Board will also review an Interim Policy benchmark which will be adjusted as the Commissioner makes progress towards its long-term strategic asset allocation target.

Permitted Investments¹⁸

The Board may invest in the following securities and investment activities as long as such investments comply with the Prudent Investor Rule¹⁹. Fund of Fund strategies are allowable in any of the asset classes. All investments are subject to approval of the Board and satisfactory legal review of applicable contractual terms and conditions.

Equity

1. Preferred stock, common stock, initial public offerings, Real Estate Investment Trusts (REIT's), securities of foreign issuers listed on U.S. Exchanges, and any security convertible to common stock or American Depositary Receipts (ADR's) that are registered by the U.S. Securities and Exchange Commission (SEC) of any corporation whose securities are listed on at least one U.S. stock exchange that has been approved by or is controlled by the SEC or on the National Association of Securities Dealers (NASD). Global mandates may be considered.
2. Preferred stock, common stock, and convertible issues of any non-U.S. Corporation; which may be denominated in non U.S dollars, provided that the securities are traded on one or more national stock exchanges or included in a nationally recognized list of stocks; and the Board shall not be invested in more than ten percent of the voting stock of any company.

Fixed Income

1. Bonds, notes, or other obligations of the United States government, its agencies, government-sponsored enterprises, corporations, or instrumentalities for which the credit of the United States government is pledged for the payment of the principal and interest. Global mandates may be considered.
2. Bonds, notes or other obligations issued by a state, its municipalities, or other political subdivisions, that have received an investment grade bond rating.
3. Bonds, notes, commercial paper or other obligations of any corporation organized and operating within the United States.

¹⁸ Investments listed here are for general information purposes only. Each manager retained by the Board will be given specific guidelines with regard to permissible investments relevant to their mandate.

¹⁹ N.D.C.C. § 15-03-04. See page 5 for more about the Prudent Investor Rule.

4. Debt obligations of non-U.S. governmental or quasi-governmental entities, these may be denominated in foreign currencies; obligations, including but not limited to bonds, notes or commercial paper with an investment grade rating (unless otherwise approved by the Board) of any corporation organized outside of the United States. Currency transactions, including spot or cash basis currency transactions, forward contracts and buying or selling options or futures on foreign currencies, shall be permitted.
5. Collateralized obligations, including but not limited to mortgages, held in trust that: (1) are publicly traded and are registered by the SEC or other Self-Regulatory Organization (SRO) and (2) have underlying collateral that is either an obligation of the United States government or else has a credit rating above or equal to BBB according to the Standard and Poor's rating system or Baa according to the Moody's investors rating system or their equivalent by a national statistical ratings organization (NSRO) registered with the SEC(unless otherwise approved by the Board).
6. Derivatives including forwards, futures, options, mortgage derivatives, structured notes, and swaps.
7. High yield fixed income securities rated below 'BBB' according to the Standard and Poor's rating system and below 'Baa' according to the Moody's investors rating system.
8. Loans, warrants and other forms of debt approved by the Board, and managed in conjunction with the Bank of North Dakota, such as farm loans and energy construction loan, as long as the investment meets the Exclusive Benefit Rule described on page [76](#) of this Policy.

Absolute Return

Liquid multi-asset/global tactical asset allocation (GTAA) funds that have the ability to shift capital tactically based on relative valuations, providing broad diversification across a range of global investments.

Real Estate

Real Estate Partnerships, including investments in private vehicles through limited partnerships or limited liability companies that have an ownership interest in direct real estate properties, whether income-producing or non-income producing. The investment strategies may include “core” and “value added” strategies, which derive their return from both income and appreciation. As well as, Real Estate Investment Trusts (REIT's) and other real estate securities and related index strategies for rebalancing tools.

Private Equity

Private Equity Partnerships, including investments in private vehicles through limited partnerships or limited liability corporations, which have an ownership interest in any type of security across a company's capital structure. The investment strategies may include “buyout”, “growth”, “venture capital” and “special situations” that are in the business of providing capital for start-up, expansion, buyout/acquisition, recapitalization, debt financing (including distressed debt) and similar business purposes.

Private Infrastructure

Private Infrastructure Partnerships, including investments through limited partnerships or limited liability companies that have ownership interests in assets or properties where the majority of value

of the investment is derived from revenue sources that have contractual linkages to inflation, implicit linkages to inflation and/or focus on the provision of services with low demand elasticity.

Opportunistic Investments

From time to time, Permanent Trust Funds investments may be made in opportunistic investments. The objective of such investments shall be to enhance returns through opportunities that present themselves due to stressed conditions in the markets or other unique opportunities. The guidelines for such investments shall be determined by the investment management agreement or appropriate offering documents in the case of commingled or partnership investments. An opportunistic investment would occur in a situation where it is deemed the potential return would exceed the Total Fund performance excluding opportunistic returns, or another benchmark as deemed appropriate by the Commissioner and approved by the Board.

Cash Investment Guidelines

The Commissioner will focus on quality when investing cash positions. Cash is an asset class that should emphasize minimal risk. Cash positions will be kept to the minimum necessary for liquidity, distributions and ongoing investment activities. Eligible securities include:

1. Repos secured by U. S. obligations or other securities backed by the U.S., A1 or P1 commercial paper, corporate obligations rated AA or better and maturing in five years or less, or asset-backed securities rated AAA. All repo collateral must have a market value of at least 102% of the market value of the contract;
2. Commercial paper issued by corporations organized and operating within the U.S. and rated "prime" quality by a national rating service;
3. Prime bankers' acceptances issued by money center banks;
4. Funding agreements rated at least AA by a nationally recognized rating agency. As used in this paragraph, "funding agreement" means a floating or variable rate insurance company contract that is a general obligation of an insurance company organized and operating within the United States and that is senior to all other debt issued by the company;
5. Time deposits, with banks incorporated in the United States or time deposits that are fully guaranteed by banks incorporated in the United States.

Strategic Investment and Improvements Fund (SIIF)

Fund Purpose

The Strategic Investment and Improvements Fund (SIIF), was created July 1, 2011 with merger of the Lands and Minerals Trust Fund and the Permanent Oil Tax Trust Fund.²⁰ The SIIF holds the assets and collects the revenues earned from State owned mineral acres. The SIIF also receives a substantial portion of the oil and gas production and extraction taxes collected by the State. The Board is responsible for managing the physical and financial assets of the SIIF.

The purpose of the SIIF is to provide for one-time expenditures relating to improving state infrastructure or for initiatives to improve efficiency and effectiveness of state government.

Funding Sources

The SIIF collects the revenues earned from the mineral acres owned by the State, including those formerly owned by the Bank of North Dakota and State Treasurer, as well as the sovereign minerals located under navigable rivers and lakes. The SIIF also receives a portion of the oil and gas production and extraction taxes collected by the State.²¹ Legislative changes to the oil tax revenue allocations are common and can have a major impact on the timing and amount oil taxes collected by the SIIF each biennium.

Distribution Policy

There is no explicit distribution policy or objective; rather the Board is responsible for making sure funds are available to distribute or transfer when needed and as appropriated. The SIIF can be appropriated or obligated by the Legislature every two years, though State law dictates that the SIIF should be appropriated only to the extent that the moneys are estimated to be available at the beginning of the biennium in which the appropriations are authorized.²²

Investment Objective

State law provides no guidance as to how the assets of the SIIF should be invested; however, due to the short-term nature of spending decisions and the uncertainty of the fund's mineral based revenues, the Board invests the SIIF with a focus on principal preservation and liquidity. The Board has adopted an investment objective for the SIIF that provides for a diversified portfolio of fixed income securities that will exceed on a multi-quarter basis, net of fees, the return of the benchmark described below.

Strategic Asset Allocation

Due to the expendable nature of the SIIF, the strategic asset allocation for the fund is 100% low duration investment grade fixed income investments.

²⁰ N.D.C.C. § 15-08.1-08 and § 61-33-07

²¹ N.D.C.C. § 57-51.1-07.5

²² N.D.C.C. § 15-08.1-08

Investment Guidelines

The SIIF will be invested in a high quality portfolio that includes a combination of Treasuries, corporate bonds, asset and mortgaged backed securities, and commercial paper and will adhere to the following guidelines:

- Minimum average quality of AA
- Minimum quality for any security of BBB (limited to 10%)
- Neutral weighted average maturity of 1 year, range of 6 months to 1.5 years
- Maximum maturity: 3 years for fixed rate, 5 years for floating rate
- No more than 50% in investment grade corporate and agency backed securities
- Not more than 2% of the fund will be invested with any single issuer

Benchmark

The benchmark is composed of 50% of the three-month U.S. Treasury Bill and 50% Barclays 1 – 3 Year Gov't Corp Index.

Capitol Building Fund

Fund Purpose

The Capitol Building Fund was created at statehood with a grant of land from the federal government. The purpose of the fund, as described in the Enabling Act of 1889, is to provide for “public buildings at the capital”.²³ The Capitol Building Fund was created under Article IX of the North Dakota Constitution; however, unlike the other trusts, this fund is not permanent in that the entire fund is subject to legislative appropriation each biennium.

The Capitol Grounds Planning Commission is responsible for managing all of the assets of the Capitol Building Fund.²⁴ The Board’s role is to invest and manage the various assets of the fund, as directed by the Capitol Grounds Planning Commission. These roles are statutory, not constitutional in nature; the law specifically states:

The capitol grounds planning commission shall have general powers to superintend the administration of the capitol building fund, its interest and income fund, and its investments and properties. It may cause any lands now held in such funds to be sold at market value, direct the conversion of any securities now held by such funds to cash, approve expenditures from such funds subject to law and legislative appropriations, and to do all other things necessary to carry out the intent and purposes of this section. The board of university and school lands or its designee, on the commission's behalf, shall see to the investment and management of the capitol building fund and its interest and income fund and shall account to the commission concerning these funds at the commission's request.²⁵

Funding Sources

The Capitol Building Fund generates revenues from the almost 10,000 surface acres and more than 27,000 mineral acres, which provide revenue from agricultural leases, mineral royalties and lease bonuses.

Distribution Policy

Since the Capitol Building Fund is a fully expendable fund, there is no distribution policy or objective; rather the Board is responsible for making sure funds are available to distribute or transfer when needed and as appropriated.

State law provides a continuing appropriation of up to \$175,000 per biennium that is available to the Capital Ground Planning Commission without requiring a legislative appropriation for a given biennium.²⁶ Historically, the legislature has also included a \$25,000 biennial appropriation for the operations of the Capitol Grounds Planning Commission.

²³ The Enabling Act of February 22, 1889 (25 Stat. 676, chapter 180)

²⁴ N.D.C.C. § 48-10-02

²⁵ N.D.C.C. § 48-10-02

²⁶ N.D.C.C. § 48-10-02

Investment Objective

Due to the fact that the entire balance of this fund can be appropriated by the legislature each biennium and the uncertainty of the fund's mineral based revenues, the Board has adopted an investment objective with a focus on principal preservation and liquidity.

Strategic Asset Allocation

Due to the expendable nature of the Capitol Building Fund, the Capital Grounds Planning Commission has adopted a strategic asset allocation for the fund that is 100% fixed income investments.

Investment Guidelines²⁷

The Capital Grounds Planning Commission has adopted guidelines to invest the fund in a high quality portfolio that includes a combination of Treasuries, corporate bonds, asset and mortgaged backed securities, and commercial paper and will adhere to the following guidelines:

- Minimum average quality of AA
- Minimum quality for any security of BBB (limited to 10%)
- Neutral weighted average maturity of 1 year, range of 6 months to 1.5 years
- Maximum maturity: 3 years for fixed rate, 5 years for floating rate
- No more than 50% in investment grade corporate and agency backed securities
- Not more than 2% of the fund will be invested with any single issuer

Benchmark

The benchmark is composed of 50% of the three-month U.S. Treasury Bill and 50% Barclays 1 – 3 Year Gov't Corp Index.

²⁷ Due to the common investment objectives, strategic asset allocation, and investment guidelines, the assets of the Capitol Building Fund may be pooled with the SIIF for investment purposes.

Coal Development Trust Fund

Fund Purpose

The Coal Development Trust Fund is a permanent trust established under Article X, Section 21 of the North Dakota Constitution. The primary purpose of the fund is to provide loans to coal-impacted counties, cities, and school districts and to provide construction loans to school districts; any money that is not in use for loans may be invested by the Board. The trust fund must be perpetual and held in trust as a replacement for depleted natural resources.²⁸ Both the Constitution and state law mandate that the income earned by the fund be used first to replace any uncollectable loans and the balance must be deposited into the General Fund.²⁹

Funding Sources

State law provides that 15% of coal severance tax revenues be deposited into the fund.³⁰ The Constitution provides that up to 70% of the taxes deposited into the fund each year may be appropriated by the legislature for lignite research, development, and clean coal demonstration projects approved by the industrial commission.³¹ Thus, the Coal Development Trust Fund retains only 30% of the money deposited into the fund, which averages about \$500,000 per year.

Distribution Policy

The income earned by this fund each year must be used first to replace uncollectible loans made from the fund and the balance must be deposited in the State's general fund. The estimated fiscal year income for this fund is distributed in June of each year; any difference between estimated and actual income is distributed in November or December of each year, once final audited financial statements have been received.

Investment Objective

Preservation of capital and added value over the benchmark over a full market cycle through active management of the portfolio subject to the investment guidelines set forth below.

Strategic Asset Allocation

Due to the expendable nature of the income earned by the Coal Development Trust Fund, and the provision in state law about replacing any lost principal with income, the strategic asset allocation for the fund is 100% fixed income investments.

Investment Guidelines

The Coal Development Trust will be invested in a high quality portfolio that includes a combination of Treasuries, corporate bonds, asset and mortgaged backed securities, and commercial paper and will adhere to the following guidelines:

- Minimum average quality of AA

²⁸ N.D.C.C. § 57-62-02

²⁹ N.D. Const. art. X, § 21 and N.D.C.C. § 57-62-02

³⁰ N.D.C.C. § 57-62-02

³¹ N.D. Const. art. X, § 21

- Minimum quality for any security of BBB (limited to 10%)
- Neutral weighted average maturity of 1 year range of 6 months to 1.5 years
- Maximum maturity: 3 years for fixed rate, 5 years for floating rate
- No more than 50% in investment grade corporate and agency backed securities
- Not more than 2% of the fund will be invested with any single issuer

Benchmark

The benchmark is composed of 50% of the three-month U.S. Treasury Bill and 50% Barclays 1 – 3 Year Gov't Corp Index.

Indian Cultural Education Trust

Fund Purpose

The Indian Cultural Education Trust was created in 2003 for the purpose of generating income to benefit Indian culture.³² State law authorizes the Board to accept donations of money or land for this trust to be managed in the same manner that it manages its other trust land and financial assets, subject to state law and a required donor agreement with one or more federally recognized Indian tribes located in North Dakota, South Dakota, Montana, Minnesota, or Wyoming.

Three Affiliated Tribes Cultural Education Account

The Three Affiliated Tribes Cultural Education Account is the sole account in the trust, which serves to benefit the Mandan, Hidatsa & Arikara Nation Cultural Education Foundation. Under an agreement signed by the tribe, North American Coal, and the Commissioner, the Board must manage and invest this account exactly as the Permanent Trust Funds are managed and invested.

Funding Sources

Initial funding of the account was a result of donations of both money and land by North American Coal to the cultural education account. Revenue earned from the donated lands is deposited into the account. Further donations of land or money from Individuals or organizations may provide additional funding to the account.

Distribution Policy

The distribution calculation for the Indian Cultural Education Trust is identical to that of the Permanent Trust Funds as detailed on page 16, however, the specific donor agreement for an account may dedicate a portion of the amount available to distribute to principal.³³

The Three Affiliated Tribes Cultural Education Account donor agreement has mandated that no less than 25% of the annual amount available to distribute go to principal. Each year, the Commissioner notifies the Mandan, Hidatsa & Arikara Nation Cultural Education Foundation as to the amount eligible for disbursement. If written request for the disbursement is received by the Commissioner by March 31st, all or a portion of that amount shall be distributed as specified in the donor agreement.

Investment Objective, Strategic Asset Allocation, and Investment Guidelines

Like the Permanent Trust Funds, the investment objective is to preserve purchasing power and maintain stable distributions with a long-term investment horizon. The assets of the Indian Cultural Education Trust are pooled with the Permanent Trust Funds. The strategic asset allocation, benchmarks, and investment guidelines are identical to those of the Permanent Trust Funds, which can be found in the corresponding sections beginning on page 17 of this Policy.

³² N.D.C.C. ch. 15-68

³³ N.D.C.C. § 15-68-04

Theodore Roosevelt Presidential Library and Museum Endowment Fund

Fund Purpose

The Theodore Roosevelt Presidential Library and Museum Endowment Fund was created in 2019 during the 66th North Dakota Legislative Session as a permanent endowment for grants to support the operation and maintenance of the Theodore Roosevelt Presidential Library and Museum.³⁴ State law authorizes the Board to accept donations of money for this trust to be managed in the same manner that it manages its other trust land and financial assets, subject to state law.

Funding Sources

Initial funding of the account was a result of appropriation of money by 66th North Dakota Legislative Assembly and money borrowed from the Bank of North Dakota. Further appropriations from the North Dakota Legislature or donations of money from Individuals or organizations may provide additional funding to the account.

Distribution Policy

The distribution calculation for the Theodore Roosevelt Presidential Library and Museum Endowment Fund is calculated and paid as follows³⁵:

Annual distributions to the Theodore Roosevelt Presidential Library and Museum from the Theodore Roosevelt Presidential Library and Museum Endowment Fund in an amount equal to 4.0% of the Fund's trailing net average value calculated over the previous three (3) fiscal years shall be paid on or before December 31st of each year at the request of Theodore Roosevelt Presidential Library Foundation.

Investment Objective, Strategic Asset Allocation, and Investment Guidelines

Like the Permanent Trust Funds, the investment objective is to preserve purchasing power and maintain stable distributions with a long-term investment horizon. The assets of the Theodore Roosevelt Presidential Library and Museum Endowment Fund are pooled with the Permanent Trust Funds. The strategic asset allocation, benchmarks, and investment guidelines are identical to those of the Permanent Trust Funds, which can be found in the corresponding sections beginning on page 17 of this Policy.

³⁴ N.D.C.C. § 54-07-12

³⁵ Pursuant to the Agreement between the State of North Dakota and the Theodore Roosevelt Presidential Library Foundation executed June 30, 2020.

History

Adopted:	08/27/2015
Revised:	09/29/2016
Revised:	10/26/2017
Revised:	09/26/2019
Revised:	12/18/2019
Revised:	01/21/2020
Revised:	04/30/2020
<u>Revised</u>	<u>02/24/2022</u>

MEMORANDUM TO THE BOARD OF UNIVERSITY AND SCHOOL LANDS

February 24, 2022

RE: Surface Land Lease Revision

The Department of Trust Lands (Department) is recommending revisions to paragraph 17 of the Board of University and School Lands' (Board) Surface Land Lease (Attachment 1) based on the following statutes:

N.D.C.C. § 4.1-47-26 – Publicly owned land -- Noxious weed control

Each state agency shall provide for the control of noxious weeds on land within its jurisdiction. If a state agency fails to control noxious weeds on land under its jurisdiction, the county weed board, upon approval of the commissioner, may enter upon the land to control the noxious weeds. The state agency shall reimburse the county weed board for expenses incurred in controlling the noxious weeds, within thirty days after the agency receives the bill.

N.D.C.C. § 63-05-03 – Failure to cut weeds and grasses – Expenses levied as taxes against land

If the landowner or operator fails to cut the weeds and grasses along the designated highways or roads as provided in this chapter, the board of township supervisors or the board of county commissioners, as the case may be, may cause the weeds and grasses to be cut and the actual expense of cutting shall be certified to the county auditor, and all of the expenses shall be charged against the land of the landowner and shall become a part of the taxes to be levied against the land for the ensuing year and shall be collected in the same manner as other real estate taxes are collected, and placed to the credit of the respective subdivisions entitled thereto.

North Dakota Century Code allows the counties to enter land owned by the Board to control noxious weeds (see N.D.C.C § 4.1-47-26) and to cut road ditches (see N.D.C.C. § 63-05-03). Those statutes allow the county to charge the Board for such expenses.

The Department recommends the proposed revision to the lease term to clarify that the expense is the responsibility of the lessee:

17. **COMPLIANCE WITH LAWS AND REGULATIONS.** LESSEE shall comply with all rules and regulations of the Board of University and School Lands and all state and federal laws, including payment of any taxes and special assessments levied against the Land and costs associated with management of the Land or LESSEE'S interest thereon.

The Attorney General's Office provided guidance related to the proposed revision to the Board's Surface Land Lease.

Recommendation: **The Commissioner recommends the Board approve the changes to the Surface Land Lease as referenced above and as shown in the attached redlined Surface Land Lease.**

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

The State of North Dakota, acting by and through the Board of University and School Lands ("LESSOR") and its agent, the Commissioner of University and School Lands ("COMMISSIONER"), hereby leases to LESSEE the land in «cy_name» County, ND & described herein ("the Lease"):

**Township «lm_twp» North, Range «lm_rng» West
Section «lm_sec»: «lm_subdv»
(the "Land")**

THIS LEASE, executed this **1st day of January, 2022**, between LESSOR and the following LESSEE, is conditioned upon payment of «Paid», before January 1 of each year and LESSEE'S compliance with all of the terms of this Lease. (The first year's rent has been paid.)

«ss_lessee1»

«lessee2»

«na_addr1»

«na_city» «na_state» «na_zip»

(the "LESSEE")

AUTHORIZED USES

(Cropland: «crop» Acres)

(Hayland: «hay» Acres)

(Grazing/Waste: «grazing» Acres)

TERMS AND CONDITIONS

- LEASE TERM.** The Lease term ("Lease Term") begins on this **1st day of January, 2022**, and ends on «ag_expiration».
- ASSIGNMENTS AND THIRD PARTY USE.** This Lease or any part thereof shall not be assigned, nor shall LESSEE allow the land or any part thereof to be used in any manner by anyone other than LESSEE without the prior written consent of COMMISSIONER. A grazing permit issued by a grazing association to a member-permittee does not violate this clause.
- PROHIBITED USES.** The land shall only be used for the purposes set forth above. LESSEE may **not** cultivate additional acreage or change the location of fields. Other prohibited uses include, but are not limited to, equipment storage; hay storage; trash dumping; rock dumping; feedlots; feeding; draining water on or off the land; mining scoria, gravel, clay, or any other minerals; cutting wood; or allowing others to do the same unless authorized in writing by LESSOR.
- NONPERMANENT IMPROVEMENTS.** LESSEE may place nonpermanent improvements, (e.g., fences, corrals, water tanks, and mobile calf creep feeders) on the Land and must remove any such improvements within one-hundred twenty (120) days after this Lease is terminated or expires, whichever is earlier. Any nonpermanent improvements not removed within one-hundred twenty (120) days shall become the property of the next lessee. COMMISSIONER, upon written request from LESSEE received before the end of the 120-day period, may, for cause, extend the period of time for removing nonpermanent improvements.
- PERMANENT IMPROVEMENTS.** Permanent improvements (e.g., buildings, wells, dams, water holes, water lines, trees) may not be placed on or removed from the Land without prior written consent of COMMISSIONER. All permanent improvements shall be deemed the property of LESSOR. However, at the discretion of COMMISSIONER, the cost of permanent improvements may be paid to the LESSEE to protect the LESSEE'S investment in the Land or in the event the Land is leased to another person, sold, or exchanged. To be eligible for such cost share, the application must be received and approved by COMMISSIONER prior to the commencement of construction of any such permanent improvement.
- USE AND MAINTENANCE OF PERMANENT IMPROVEMENTS.** LESSEE may use existing wells, dams, dugouts and water lines on the Land and any other improvements belonging to LESSOR. Said use is subject to payment of any undepreciated costs of improvement projects remaining as of the effective date of this Lease. LESSEE shall maintain all improvements belonging to LESSOR, at no expense to LESSOR, in as good condition as received, normal wear excepted. Major repairs to improvements must be approved in writing by COMMISSIONER prior to beginning work. All repairs shall be deemed the property of LESSOR subject only to the right of LESSEE to request cost share for major repairs, as defined in paragraph 5.
- LESSEE ACCEPTS LIABILITY FOR INJURIES AND DAMAGES TO HIMSELF AND OTHERS - CONDITION OF PREMISES.** LESSOR makes no representation concerning the condition, safety, or usability of the Land or any improvements thereon. LESSEE leases the Land and any improvements on an "as is" basis. LESSOR does not covenant that the Land and its improvements are fit or safe for the purposes for which LESSEE intends to use them. LESSEE accepts liability and indemnifies and holds harmless LESSOR for any loss that may be suffered by the person or property of LESSEE, LESSEE'S employees and agents, and anyone else, when such loss is in any way related to LESSEE'S use and management of the Land and its improvements.
- RANGELAND USE.** LESSEE shall not allow overgrazing which would result in forage production below the potential forage production for good range condition.

- CROPLAND USE.** If cropland is specifically authorized by this Lease, LESSEE shall maintain the Land consistent with good cropping practices for similar soils in the area. LESSEE shall prevent soil loss through erosion in excess of the established soil loss tolerance by the use of crop

residue management, reduced tillage practices, grassed waterways, stripcropping, or any other accepted conservation practices. Cropland must be farmed under the Federal crop program such that crop bases are maintained unless exempted in writing by COMMISSIONER.

10. **WEED CONTROL.** LESSEE shall control all noxious weeds on the Land and maintain the Land in a reasonably weed free condition.

11. **CONSERVATION PLAN.** LESSOR reserves the right to require LESSEE to implement a soil conservation or range management plan at any time during the Lease to prevent damage or to improve the condition of the Land.

12. **ROAD DITCHES.** LESSEE shall mow and maintain road ditches as required by law.

13. **PUBLIC ACCESS.** LESSEE may not post or otherwise prohibit non-vehicular public access to the land, but exceptions may be granted at the sole discretion of COMMISSIONER. If LESSEE desires to be notified prior to anyone entering the land, LESSEE shall post only signs provided by COMMISSIONER setting forth LESSEE'S name, address, and telephone number. LESSEE may not lease, sell or otherwise charge for access on the land.

14. **ENCUMBRANCES.** This Lease is subject to all existing and future coal, oil, natural gas, uranium, gravel, scoria, clay, and other mineral leases and exploration permits covering the Land. LESSEE agrees that the holders of such leases or permits may enter upon the Land and conduct exploration and mining operations. This Lease is further subject to all existing and future easements, rights-of-way, and other servitudes covering the Land and LESSEE agrees to honor the same. LESSEE shall not be entitled to any compensation by reason of such leases, permits, easements, rights-of-way, or servitudes unless otherwise provided for by LESSOR.

15. **RIGHT OF ENTRY.** LESSOR or its agent may enter the Land at any time without notification for the purpose of inspecting the Land and improvements thereon. LESSEE further agrees to allow LESSOR or its agent access to the Land across LESSEE'S property, or property leased by the LESSEE.

16. **SALE OR EXCHANGE.** This Lease is specifically made subject to termination in the event LESSOR notifies LESSEE, during the months of October through January of any year during the Lease Term, that all or a portion of the Land will be sold or exchanged by LESSOR. If the Land is sold or exchanged, LESSEE shall surrender possession of the Land within thirty days of LESSOR mailing to LESSEE a notice of the sale or exchange.

17. **COMPLIANCE WITH LAWS AND REGULATIONS.** LESSEE shall comply with all rules and regulations of the Board of University and School Lands and all state and federal laws, including payment of any taxes and special assessments levied against the Land and costs associated with management of the Land or LESSEE'S interest thereon.

18. **FAILURE TO PAY RENT.** If LESSEE fails to pay rent when due, this Lease shall automatically expire on the last day of the lease period for which rent was last paid. In order to enforce such forfeiture of Lease, no demand for rent either written or verbal need be given LESSEE nor is a notice of termination required.

19. **CANCELLATION.** If LESSEE fails to comply with any of the terms and conditions of this Lease, it may be cancelled by LESSOR. Cancellation is effective upon actual delivery of a notice of cancellation by LESSOR, except that no notice is required for cancellation as provided in paragraph 18.

20. **NO WARRANTY OF TITLE.** LESSOR neither warrants nor agrees to defend title to the Land.

21. **ADDITIONAL LEASE PROVISIONS.** This Lease is made subject to any additional lease provisions made known prior to leasing which are hereby attached and made a part hereof.

22. **AMENDMENTS.** Lease amendments must be in writing and executed by both the LESSOR and LESSEE.

IN WITNESS WHEREOF, the State of North Dakota, acting by and through the Board of University and School Lands, has caused this Lease to be executed in its name by its agent, the Commissioner of University and School Lands.

**THE STATE OF NORTH DAKOTA, acting by and through the
Board of University and School Lands**

Commissioner of University and School Lands

NORTH DAKOTA DEPARTMENT OF TRUST LANDS

1707 N 9th Street
P.O. Box 5523
Bismarck, ND 58506-5523
701-328-2800
<https://land.nd.gov>

SFN14791 (01/2022)

MEMORANDUM TO THE BOARD OF UNIVERSITY AND SCHOOL LANDS

February 24, 2022

RE: Repayment of Unpaid Gas Royalties Update

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

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

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

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

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

MEMORANDUM TO THE BOARD OF UNIVERSITY AND SCHOOL LANDS
February 24, 2022

RE: Newfield Litigation
 (No Action Requested)

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

Date Filed: March 7, 2018

Court: District Court/McKenzie County

Attorneys: David Garner

Opposing

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

Judge: Robin Schmidt

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

History: A Complaint and Answer with Counterclaims have been filed. Newfield filed an Answer to Counterclaims. A Scheduling conference was held July 27, 2018. Plaintiffs' filed a Motion for Summary Judgment on August 13, 2018 and Defendants filed a Cross-Motion for Summary Judgment. Plaintiffs' Response was filed October 19, 2018 and Defendants' Reply was filed November 9, 2018. A hearing on the Motions for Summary Judgment was held on January 4, 2019 at 1:30 p.m., McKenzie County. An Order on Cross Motions for Summary Judgment was issued on February 14, 2019, granting Plaintiff's motion for summary judgment and denying Defendants' motion for summary judgment. The Judgment was entered March 1, 2019, and the Notice of Entry of Judgment was filed March 4, 2019. Defendants have filed a Notice of Appeal to the North Dakota Supreme Court (Supreme Court). The trial scheduled in McKenzie County District Court for September 10 and 11, 2019 has been cancelled. Defendants/Appellants' Brief to the Supreme Court was filed April 29, 2019. Plaintiffs/Appellees filed their Brief of Appellees and Appendix of Appellees on June 7, 2019. Defendants/Appellants filed a reply brief on June 18, 2019. Oral Argument before the Supreme Court was held on June 20, 2019. On July 11, 2019, the Supreme Court entered its Judgment reversing the Judgment of the McKenzie County District Court. On July 25, 2019 Newfield filed Appellee's Petition for Rehearing. Also on July 25, 2019, a Motion for Leave to File Amicus Curiae Brief by Western Energy Alliance in Support of Newfield was filed with the Supreme Court. On July 26, 2019, a Motion for Leave to File Amicus Curiae Brief by North Dakota Petroleum Council in Support of Newfield was filed with the Supreme Court. On August 20, 2019, the North Dakota Supreme Court requested Defendants file a Response to the Petition for Rehearing and the two Amicus Curiae Briefs no later than September 4, 2019. Defendants/Appellants filed their Response to Petition for Rehearing on

September 4, 2019. A Corrected Opinion was filed by the North Dakota Supreme Court on September 9, 2019, changing the page number of a citation. On September 12, 2019, the North Dakota Supreme Court entered an order denying Newfield's Petition for Rehearing. On September 20, 2019, the opinion and mandate of the Supreme Court was filed with McKenzie County District Court. A Telephonic Status Conference was held October 8, 2019. On October 9, 2019, the District Court issued an Order Setting Briefing Schedule which ordered "the parties to file a brief regarding how they suggest the case proceed after the Supreme Court's decision." The parties filed briefs with the District Court on November 6, 2019. Notice of Appearance for Michelle P. Scheffler of Hayes and Boone, LLP on behalf of Plaintiffs was filed November 7, 2019. Telephonic Status Conference scheduled for March 17, 2020 before the District Court. On May 14, 2020, the Court scheduled a five-day Court Trial to start on October 4, 2021, McKenzie County Courthouse. On July 28, 2020, a Stipulated Scheduling Order was entered, setting dates for various deadlines. On April 1, 2021, the State served Defendants State of North Dakota, ex re. the North Dakota Board of University and School Lands, and the Office of the Commissioner of University and School Lands, a/k/a the North Dakota Department of Trust Lands' Interrogatories, Requests for Production of Documents, and Requests for Admissions to Plaintiff. On April 1, 2021, the Plaintiffs served the following on the State: Plaintiffs' Notice of Intention to Take Oral and Videotaped Deposition of a Representative of the North Dakota Department of Trust Lands; Plaintiffs' Notice of Intention to Take Oral and Videotaped Deposition of Lance Gaebe; Plaintiffs' Notice of Intention to Take Oral and Videotaped Deposition of Taylor K. Lee; Plaintiffs' Notice of Intention to Take Oral and Videotaped Deposition of Jodi Smith; and Plaintiffs' First Set of Interrogatories, Requests for Production, and Requests for Admission to all Defendants. On July 1, 2021, Defendants filed their Motion for Summary Judgment and Plaintiffs filed their Motion for Partial Summary Judgment. On August 2, 2021, Plaintiffs filed a Motion to Admit Garrett S. Martin Pro Hac Vice and their Response Brief in Opposition to Motion for Summary Judgment. Also on August 2, 2021, Defendants filed their Brief in Response to Plaintiffs' Motion for Partial Summary Judgment. On August 4, 2021, the parties filed an Expedited Joint Motion for Extension of Time to Reply to Briefs in Opposition/Response to Motions for Summary Judgment and the Joint Motion to Exceed Volume Limitations. On August 5, 2021, the Court issued its Order Granting Expedited Joint Motion for Extension of Time to Reply to Briefs in Opposition/Response to motions for Summary Judgment and the Order Granting Joint Motion to Exceed Volume Limitations. The parties now have until August 30, 2021 to file their opposition/response briefs and the page limit was extended from 12 pages to 30 pages for both parties. On August 9, 2021, Plaintiffs requested a hearing on Plaintiff's Motion for Partial Summary Judgment and Defendants Motion for Summary Judgment and scheduled that hearing for September 16, 2021, at 10 a.m. Also on August 9, 2021, a Pretrial Conference was scheduled for 10 a.m. on October 1, 2021. Mediation was held September 2, 2021. The Deposition of Adam Otteson was held August 31, 2021; Jodi Smith's deposition was held September 14, 2021; the deposition of Kelly Vandamme was held September 22, 2021; and the deposition of John Kemmerer was held for September 23, 2021. On September 3, 2021, Plaintiffs filed a Motion to Compel which was later withdrawn on September 16, 2021. On September 8, 2021, Plaintiffs submitted a Motion to Admit Ryan Pitts Pro Hac Vice. The Order of Admission was signed September 9, 2021. On September 10, 2021, Plaintiffs filed a Motion to Exclude Evidence Attached to Defendants Summary Judgment Brief. They also filed an Emergency Motion for Expedited Briefing Schedule and a request for the hearing on both of these

motions be held with the motions for summary judgment. Judge Schmidt sent an email to the parties on September 10, 2021 regarding the status. On September 14, 2021, the Order Extending Deadline to Submit Motions in Limine and Pretrial Statements to be due September 20, 2021 was signed. On September 15, 2021, Defendants filed a Motion to Exclude Evidence and Response to Plaintiffs' Motion to Exclude. The parties attending the oral argument on September 16, 2021 and an Order on Cross Motions for Summary Judgment was issued that date. On September 17, 2021, the parties filed a Stipulation regarding Trial Witnesses and the Order Adopting the Stipulation was signed on September 20, 2021. On September 20, 2021, the Defendants filed an Expedited Motion to Supplement Exhibits and Plaintiffs filed a Motion in Limine or to Exclude and Limit Anticipated Testimony. The parties also filed their Pretrial Statements and a Combined Exhibit list. On September 23, 2021, Plaintiffs filed their Response in Opposition to Defendants' Expedited Motion to Supplement Exhibits and the Court entered the Order Granting Expedited Motion to Supplement Exhibits filed by Defendants. On September 24, 2021, Plaintiffs filed their Response in Opposition to Defendants' Motion to Exclude Evidence, an Expedited Motion to Take Joy Barnett's Testimony by Reliable Electronic Means, and a Special Motion to Exclude and Motion in Limine. Defendants filed a Supplemented Exhibit List. On September 27, 2021, the Court entered its order Granting Plaintiffs' Expedited Motion to Take Joy Barnett's Testimony by Reliable Electronic Means. Defendants filed a Second Supplemented Exhibit List and their response to Plaintiff's Special Motion to Exclude and Motion in Limine. On September 28, 2021, Defendants filed their response to Plaintiff's Motion in Limine or to Exclude and Limit Anticipated Testimony. A pretrial conference was held on October 1, 2021. The trial was held on October 4, 5 & 6. The Court issued its Memorandum Opinion, Findings of Fact, Conclusions of Law and Order for Judgment on October 13, 2021. On October 22, 2021, Plaintiffs filed their Statement of Costs and Disbursements of Lawrence Bender, Statement of Costs and Disbursements of Michelle P. Scheffler, and proposed Judgment. On October 27, 2021, the State sent a letter to the Honorable Robin A. Schmidt advising that the State intended to submit a response to the proposed Judgment filed by Plaintiffs. On November 5, 2021, the State filed its Objection to Plaintiff's Proposed Judgment. On November 12, 2021, Plaintiffs filed a Notice of Motion, Motion, and Brief in Support of Motion for Leave to File a Response to Defendants Objections to the Proposed Judgment. Order for Judgment was entered on November 16, 2021. The Notice of Entry of Judgment and Judgment were entered on November 17, 2021.

**Current
Status:**

- **On January 18, 2022, a Notice of Appeal was filed by the Board.**
- **On January 28, 2022, an Order for Transcript was filed with the Supreme Court.**
- **On February 1, 2022, a Second Order for Transcript was filed with Supreme Court.**
- **On February 8, 2022, the Board filed an Unopposed Motion for Extension of Time to File Appellant Brief until 30 days after the final transcript has been filed of record.**
- **On February 10, 2022, the Supreme Court granted the motion for extension with Appellant's brief being due 30 days after the final transcript is filed.**
- **The Supreme Court advised that Appellant's brief is due March 16, 2022.**

MEMORANDUM TO THE BOARD OF UNIVERSITY AND SCHOOL LANDS
February 24, 2022

RE: Wilkinson Litigation
(No Action Requested)

Case: William S. Wilkinson, et. al. v. Board of University & School Lands, Brigham Oil & Gas, LLP; EOG Resources, Inc.; Case No. 53-2012-CV-00038
Date Filed: January, 2012
Court: Williams County District Court
Judge: Paul Jacobson
Attorney: Jennifer Verleger/Matthew Sagsveen/David Garner
Opposing Counsel: Josh Swanson/Rob Stock, Lawrence Bender, John Ward

Issues: The Wilkinson lawsuit was filed on January 10, 2012. The Plaintiffs assert that they own minerals in a 200 acre tract west of Williston. This suit was initially filed in state court as a quiet title action. The Attorney General's Office filed an Answer and Counterclaim on February 27, 2012.

On July 1, 2014, the Plaintiffs filed an amended complaint in the case and added claims of unconstitutional takings, conversion, constructive trust and unjust enrichment, civil conspiracy and deprivation of rights under 42 U.S.C. § 1983. Plaintiffs assert in their amended complaint that the Board should be issuing leases on the west side of the Highway 85 bridge pursuant to the Phase II Investigation – the estimated location of the ordinary high watermark (OHWM) prior to inundation of Lake Sakakawea – rather than the Phase I Delineation – current location of the OHWM. Plaintiffs argue that the subject property is located under Lake Sakakawea, which did not exist at statehood, and thus the state did not acquire title to it as sovereign lands. Therefore, the State's title to the Missouri River is limited to the channel as it existed prior to inundation of Lake Sakakawea as determined by the Phase II investigation.

In January of 2016, the State Engineer sought and was granted intervention. A joint motion for summary judgment was filed by the Board and the State Engineer on March 1, 2016. On May 18, 2016, the district court granted the motion for summary judgment finding that: (1) the subject property is located along the Missouri River, which is no doubt navigable; (2) The Phase I Delineation should be used to determine the OHWM for the subject property rather than the Phase II Investigation, and therefore the property is determined to be sovereign land of the state of North Dakota; (3) to the extent Plaintiffs are aggrieved by the Phase I Delineation, they must exhaust their administrative remedies through the State Engineer before making a claim in district court; and (4) there are no grounds to support Counts II through VII. Plaintiffs filed a notice of appeal on June 1, 2016. Both EOG Resources, Inc. and Statoil Oil and Gas LP filed cross-appeals.

On September 28, 2017, the North Dakota Supreme Court reversed the district court's decision and remanded the case back to the district court. The Supreme Court held that:

1. Surface ownership could not be determined without the United States as a party to the action;

2. N.D.C.C. ch. 61-33.1 has a retroactive clause and the district court did not have an opportunity to determine if it applies and governs ownership of the minerals at issue;
3. A “takings” analysis must be conducted if the district court determines the State owns the disputed minerals; and
4. The district court erroneously made findings of disputed fact.

History:

Due to the passage of S.B. 2134, the District Court ordered the case stayed and all deadlines be held in abeyance until the final review findings under S.B. 2134 are issued by the North Dakota Industrial Commission (NDIC). Plaintiff, after NDIC issued the review findings, requested a status conference with the Court to set a new trial date and other deadlines. The Board and State Engineer filed a Motion for Continued Stay of Proceedings on October 11, 2018. The telephonic status conference scheduled for November 2, 2018 was cancelled. A Hearing on the Motion for Continued Stay was held November 30, 2018. Defendants submitted a proposed Order and the Judge asked for Plaintiffs to submit a proposed Order, which was filed December 4, 2018. The Court issued its Order on December 12, 2018, denying the Motion for Continued Stay and requiring the parties confer on a scheduling order and submit a Rule 16 scheduling order by January 26, 2019. The State filed a Motion for Proposed Scheduling Order on January 28, 2019, and Plaintiffs filed a notice of hearing on January 31, 2019, and filed their Response to State’s Motion for Proposed Scheduling Order and Plaintiffs’ Request for Rule 16(F) Sanctions on February 1, 2019. State Defendants filed a Reply Brief in Support of Motion for Proposed Scheduling Order on February 8, 2019. Statoil & Gas LP filed a Response to State’s Motion for Proposed Scheduling Order and Plaintiff’s Proposed Scheduling Order on February 11, 2019. Plaintiffs scheduled a hearing in District Court on the Motion for Scheduling Order which was held March 5, 2019, at 2:00 p.m. The District Court didn’t rule on the scheduling motions but granted Plaintiffs’ request to file a motion for Summary Judgment within 30 days of the hearing. On April 15, 2019, Plaintiffs’ filed with the District Court a Notice of Motion, Motion for Summary Judgment, Brief in Support of Motion for Summary Judgment, Affidavit of Joshua Swanson, Notice of Hearing (requesting a hearing be held at the earliest possible date available on the Court’s calendar), and proposed Order Granting Plaintiffs’ Motion for Summary Judgment. On April 17, 2019, Plaintiffs’ filed a Notice of Hearing scheduling a hearing for 2:00 p.m. on July 30, 2019 before the Honorable Paul W. Jacobson, at the Williams County Courthouse, Williston. The parties entered into a Stipulation Extending Time to Respond to Plaintiffs’ Motion for Summary Judgment and Plaintiffs’ Time to Reply which was entered May 1, 2019. The Order Extending Time to Respond was entered May 2, 2019, extending Defendants’ time to respond to June 14, 2019, and extending Plaintiffs’ deadline to file reply to July 1, 2019. On June 10, 2019 Statoil & Gas LP filed its Opposition to Plaintiffs’ Motion for Summary Judgment. Also, on June 10, 2019, the Stipulated Motion to Dismiss Defendant XTO Energy Inc. was filed in which Plaintiffs, Cross-claimant EOG, and Defendant XTO stipulated and requested the Court dismiss XTO from the action with prejudice and without costs and disbursements to any party, as it holds no ownership interest in, right to, claim or title to any mineral interests as alleged by Plaintiffs. The Board of University and School Lands filed its Brief in Opposition to Plaintiffs’ Motion for Summary Judgment on June 14, 2019. Also filed on June 14, 2019 where the State Engineer’s Response to Brief in Opposition to Plaintiffs’ Motion for Summary and the Response of EOG Resources, Inc., to Plaintiffs’ Motion for Summary Judgment. On June 17, 2019, the Court entered its Order Dismissing Defendant XTO Energy, Inc. from the Action. On July 1, 2019, Plaintiff’s filed their Reply Brief

in Support of Motion for Summary Judgment. The hearing on the Motion for Summary Judgment was held on July 30, 2019. Order Granting Plaintiffs' Motion for Summary Judgment was entered on September 6, 2019. The proposed Judgment was submitted on September 12, 2019. The Judgment and Notice of Entry of Judgment were filed with the District Court on September 16, 2019. Board of University and School Lands' Notice of Appeal to the North Dakota Supreme Court was filed on November 15, 2019. State Engineer's Notice of Appeal to the North Dakota Supreme Court was filed on November 15, 2019. Notice of Appeal to North Dakota Supreme Court filed by Statoil Oil & Gas LP f/k/a Brigham Oil & Gas, LLP on November 27, 2019. Appellant's Initial Briefs were due December 12, 2019; however, a Joint Motion for Extension of Time to File Briefs was filed and an extension was granted on December 13, 2019, with all briefs being due to the Supreme Court as follows:

- Appellants' (including Board of University and School Lands) Initial Briefs - January 13, 2020;
- Appellees' Response Briefs – March 2, 2020; and
- Appellants' (including Board of University and School Lands) Reply Briefs – March 16, 2020.

On January 13, 2020, the Brief of Appellant, Board of University and School Lands was filed with the Supreme Court. Appellant North Dakota State Engineer's Principal Brief was also filed on January 13, 2020. Plaintiffs/Appellees Response Brief filed with the Supreme Court on March 2, 2020. Plaintiffs/Appellees Response Brief filed with the Supreme Court on March 2, 2020. Reply Brief of Defendant and Appellant, Board of University and School Lands filed on March 16, 2020. Appellant North Dakota State Engineer's Reply Brief filed March 16, 2020. The North Dakota Supreme Court issued its Opinion of the Court on August 27, 2020. On September 18, 2020 a Notice of Hearing was filed in the District Court setting a status conference for October 13, 2020, at 3:30 p.m. The Court issued an Order After Status Conference dated October 13, 2020, stating that a two day bench trial will be scheduled. A telephonic scheduling conference was scheduled for October 29, 2020, at 10:00 a.m. On October 23, 2020, the Supreme Court Judgment/Opinion was filed with the District Court. On October 30, 2020, the Court issued its Order After Scheduling Conference. The matter was set for Court Trial on April 16, 2021, for one day and July 23, 2021, also for one day. Defense council expressed concerns with a conflict with other scheduled trials. Therefore, a status conference was set for February 4, 2021 to determine if any conflicts have been obviated. The Court indicated it would consult with the scheduling clerk to determine second priority dates for one day trials in 2021. The Court set backup Court Trial dates of May 27, 2021 and May 28, 2021. Plaintiffs' Combined Discovery Requests to Defendant, the Board of University and School Lands of the State of North Dakota were served on the Board on January 26, 2021. The Board has 30 days to respond. On February 25, 2021, the Board served its Answers to Plaintiffs' Combined Discovery Requests to Defendant, the Board of University and School Lands of the State of North Dakota, and the State Engineer served its answers to interrogatories. State Engineer's Interrogatories, Request for Admissions, and Request for Production of Documents Regarding Damages (Request II) was served March 12, 2021. On March 19, 2021, Defendant Statoil Oil and Gas, LP's Answers to Plaintiffs' Combined Discovery Requests to Defendant, Statoil Oil & Gas, LP was served. On March 22, 2021, Defendant Statoil Oil and Gas, LP's First Supplemental Answers to Plaintiffs' Combined Discovery Requests to Defendant, Statoil Oil & Gas, LP was served. Plaintiff's Responses to State Engineer's Interrogatories, Requests for Admissions, and Requests for Production of Documents regarding Damages (Request II) was

served April 14, 2021. On April 20, 2021, Plaintiffs filed their Motion for Attorneys' Fees and Costs against the State of North Dakota. Plaintiffs scheduled a hearing on this motion for July 22, 2021. Plaintiffs scheduled a status conference for April 27, 2021. At that hearing, it was decided that the trial for May 2021 would be scheduled for July 22 & 23, 2021, in Williston. On May 18, 2021, the Board of University and School Lands and the State Engineer filed their Response Brief Opposing Plaintiffs' Motion for Attorneys Fees and Costs. On June 8, 2021, Plaintiffs filed their Reply to State's Response Brief Opposing Plaintiffs' Motion for Attorneys' Fees and costs. On June 22, 2021, Plaintiffs filed their Pretrial Statement and Defendants, Board and State Engineer, filed their Pre-Trial Brief. Bringham Oil & Statoil brought a Motion to Dismiss on July 7, 2021. On July 8, 2021, the parties exchanged their witness and exhibit lists. Motions in Limine were filed on July 8, 2021 by Bringham Oil and Statoil and the Board and State Engineer. The parties shared various drafts of witness and exhibit lists prior to trial. On July 12, 2021, the State filed its Motion in Limine to Exclude Evidence Regarding Statutory Interest of 6.5% or 18% on Royalties and Motion in Limine to Exclude Evidence Regarding S&P Vanguard 500 Index Fund Investor Shares (VFINX) Damages. On July 14, 2021, Statoil and Bringham filed Bringham Oil & Gas, L.P. s and Statoil Oil & Gas, L.P. s nka Equinor Energy, O.P. s (Collectively Statoil) Unopposed Request for Leave to Allow Witness Amy Becker to Appear by Reliable Electronic Means and the request was granted the same day. On July 15, 2021, Plaintiffs Plaintiffs' Request for Witness to Participate by Telephone or Electronic Means and the requested was granted the same day. On July 19, 2021, Plaintiffs filed Supplemental Affidavit of Joshua A. Swanson in Support of Plaintiffs' Motion for Attorneys' Fees and Costs against the State of North Dakota. On July 21, 2021, Plaintiffs filed Plaintiff s Brief in Response to Defendant Bringham Oil & Gas LP s (Collectively Statoil) Motion to Dismiss, Plaintiffs Response Brief in Opposition to Bringham Oil & Gas, L.P. s nka Equinor Energy, LP s (Collectively Statoil) Motion in Limine, Plaintiffs Response Brief in Opposition to Board of University and School Lands and North Dakota State Engineer s Motion in Limine Regarding S&P 500 Vanguard 500 Index Fund Investor Shares (VFINX) Damages, Plaintiffs Response Brief in Opposition to Board of University and School Lands and North Dakota State Engineer s Motion in Limine Regarding Statutory Interest. The trial was held on July 22 and 23, 2021. On July 22, 2021, the parties filed a joint exhibit list. On July 28, 2021, Bringham Oil & Gas, L.P.'s and Statoil Oil & Gas L.P.'s nka Equinor Energy, L.P.'s (Collectively "Equinor") Reply Brief in Support of Motion to Dismiss was filed, as was the Stipulation/Agreement to Dismiss Plaintiffs' Claims Against Defendant EOG Resources, Inc. On July 30, 2021, the Order Dismissing Plaintiffs' Claims Against Defendant EOG Resources, Inc. was filed. On August 11, 2021 the parties stipulated and the court entered its Order Dismissing Crossclaims Between Defendant EOG Resources, Inc., and Defendant Statoil Oil & Gas LP. On October 4, 2021, an Order Granting Extension of Time for Bringham and Statoil to File Reply Filings was filed. On October 5, 2021 Plaintiffs filed their Post-Trial Reply Brief and the Board and the State Engineer filed their Post Trial Response Brief. On December 10, 2021, the Court entered the Order for Judgment, which ordered:

- Statoil's motion to dismiss (Index #594) is denied.

- Statoil's motion in limine (Index #600) is denied as moot.
- The State's motions in limine (Index #607 and #615) are denied as moot.
- Petrogulf's crossclaims against EOG (Index #84) are dismissed with prejudice for failure to prosecute.
- EOG's counterclaim against Plaintiffs and crossclaims against the Land Board, OXY USA, Inc., and Petrogulf (Index #65) are dismissed with prejudice for failure to prosecute.
- Statoil's counterclaims against the Plaintiffs are dismissed because it is a prevailing party.
- Based on the Supreme Court's ruling in *Wilkinson II* and the application of N.D.C.C. ch. 61-33.1 to the Disputed Property "the State of North Dakota does not own title to the mineral interests in the [Disputed] Property."
- The takings claims in Counts II and III against the State are dismissed with prejudice.
- The conversion claims in Count IV against Statoil and the State are dismissed with prejudice.
- The unjust enrichment and constructive trust claims in Count V against Statoil and the State are dismissed with prejudice.
- The civil conspiracy claims in Count VI against Statoil and the State are dismissed with prejudice.
- The 42 U.S.C. § 1983 claim in Count VII against the State is dismissed with prejudice.
- The Plaintiffs are not entitled to statutory damages under either N.D.C.C. § 47-16-39.1 or N.D.C.C. § 28-20-34, and are prohibited from claiming statutory damages until June 2022 under N.D.C.C. § 61-33.1-04(2)(b).
- The Plaintiffs are not entitled to special damages attributable to lost investment opportunities in the S&P 500 VFINX.
- The Plaintiffs request for \$1,441,086.73 in interest is denied.
- The Plaintiffs are not entitled to damages under N.D.C.C. § 32-03-23(3) for Jon Patch's time. The request for \$180,000 in damages is denied.
- The Plaintiffs are not entitled to damages for unjust enrichment and the Plaintiffs' request for bonus/rental payments and royalty payments through disgorgement under the State's contracts in the amount of \$207,336.61 is denied.
- The Plaintiffs are not entitled to attorneys' fees or costs. The Plaintiffs' requests for attorneys' fees and costs are denied.
- Let Judgment be entered accordingly.

**Current
Status:**

- **On January 10, 2022, the Judgment was entered.**
- **On January 13, 2022, the clerk's office sent a letter to Crowley Fleck regarding return of the surety bond.**
- **On January 25, 2022, Plaintiffs filed a Notice of Appeal with the Supreme Court.**

MEMORANDUM TO THE BOARD OF UNIVERSITY AND SCHOOL LANDS
February 24, 2022

RE: Nelson Litigation
(No Action Requested)

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

Tribunal: McLean County District Court

Judge: Daniel El-Dweek

Attorney: David Garner

Opposing

Counsel: Plaintiffs Appearing Pro Se

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

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

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

Current Status:

- On August 27, 2021, Petitioners filed an Opposition to Respondents Motion to Dismiss.
- On August 31, 2021, an Expedited Motion for Extension of Time to File Reply Brief and Petitioners filed their Opposition to Respondents Motion for an Extension of Time.
- On September 17, 2021, a Notice of Hearing was filed scheduling a hearing on the Motion to Dismiss for October 12, 2021.
- On September 23, 2021, Petitioners filed a Motion for Continuance and that Motion was granted on October 8, 2021 and the hearing was rescheduled to October 18, 2021.
- On October 12, 2021, Defendants filed a Motion to Appear by Telephone and that request was granted on October 15, 2021.
- On November 15, 2021, the Court filed the Certificate of Court Recorder.

- On February 3, 2022, Order on Motion to Dismiss and on Petition for Quiet Title was filed dismissing the action without prejudice due to lack of subject matter jurisdiction.

MEMORANDUM TO THE BOARD OF UNIVERSITY AND SCHOOL LANDS
February 24, 2022

RE: MHA Litigation
(No Action Requested)

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

Date Filed: July 16, 2020

Court: United States District Court for the District of Columbia

Judge: Honorable Amy Berman Jackson

Attorney: Matthew Sagsveen, Beveridge & Diamond

Opposing

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

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

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

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

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

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

That any revenues generated from riverbed mineral development under control of DOI not be disbursed until after the Court's resolution of the cross-motions for partial summary judgment on count one. The State of North Dakota filed an Expedited Motion to Intervene on August 10, 2020. The Court issued an Order on August 11, 2020, allowing Plaintiff to respond to the State's Motion by August 17, 2020, and the State to file a reply by August 21, 2020. The Tribe filed its Opposition to the State Motion to Intervene on August 17, 2020. On August 21, 2020, the State filed its reply to the Tribe's opposition to the motion to intervene. The Notice of Lodging of Administrative Record was filed on August 26, 2020. The Court entered its Opinion and Order granting North Dakota's Motion to Intervene and setting forth requirements for filings. On September 1, 2020, the United States filed the United States Department of Interior's Opposition to Plaintiff's Motion for Preliminary Injunction and Cross-Motion for Partial Summary Judgment. On September 8, 2020, Plaintiff filed a Motion to Complete Administrative Record and a proposed Order. Also on September 8, 2020, the State filed the Intervenor-Defendant State of North Dakota's Cross-Motion for Partial Summary Judgment and Opposition to Plaintiff's Motion for Preliminary Injunction. On April 2, 2021, Plaintiff's Supplemental Submission Regarding Mootness by Mandan, Hidatsa, and Arikara Nation, State of North Dakota's Response to Mootness, and U.S. Department of Interior's Response to Order of the Court were filed. By letter dated April 1, 2021, Associate Solicitor Eric Shepard invited the State of North Dakota to submit materials relevant to the review of M-37056 issued by former Solicitor Daniel Jorjani. On April 12 & 27, Attorney General Stenehjem requested more time to participate due to the inability to access records to complete research. On May 7, 2021, Attorney General Stenehjem advised that we were unable to provide the requested information during the time allotted but are providing a report by Stevens Historical Research Associates that has been prepared to date and reiterated request for more time. On July 30, 2021, the parties filed the Joint Status Report. An Order was filed by the Court on August 2, 2021 dismissing Court I and II of the Complaint, the preliminary injunction motion was denied as moot, and Counts III and IV remain justiciable. The parties are ordered to meet and confer and submit a joint status report by August 13, 2021 that sets forth the parties' views on whether

Counts III and IV should continue to be stayed pending issuance of a new M-Opinion and if not, proposing a scheduling for resolving those claims.

**Current
Status:**

- On August 13, 2021, a Joint Status Report was filed.
- On August 16, 2021, a Minute Order was entered continuing the stay and that the parties shall file a joint status report within 14 days of the issuance of a new M-Opinion or the conclusion of the Solicitor's Office review without a new M-Opinion, or on November 16, 2021 if nothing has been filed by that date."
- On November 17, 2021, the Court entered a minute order advising the case remains stayed and provided the parties must file a joint status report by December 16, 2021 or within 14 days of either the issuance of a new M-Opinion or the conclusion of the governments review without a new M-Opinion.
- A Joint State Report was filed on December 16, 2021, in which the parties proposed the remaining counts in this litigation remain stayed for an additional 30 days to allow Interior to continue to work on the M-Opinion, with a status report submitted within 14 days of issuance of a new M-Opinion or the conclusion of the solicitor's office review without a new M-Opinion, or at the conclusion of this 30 day period. The parties agreed that during the duration of the 30 day stay, the status quo will be maintained concerning lease recordation n the disputed riverbed acreage and any revenues generated from mineral development.
- On January 24, 2022, the Court issued a Minute Order staying the case and providing that the Parties must file a joint status report by February 22, 2022 or within 14 days of either the issuance of a new M-Opinion or the conclusion of the government's review without a new M-Opinion.
- On February 4, 2022, the Opinion Regarding the Status of Mineral Ownership Underlying the Missouri River Within the Boundaries of the Fort Berthold Reservation (North Dakota), M-37073, was issued by the Solicitor, Robert T. Anderson.
- On February 14, 2022, the parties filed a Joint Motion for Extension to File Status Report extending the date the status report would be due to March 4, 2022, and that Motion was granted on February 15, 2022.

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:

- **Royalty Offers**
- **Newfield Exploration Company et al Civ. No. 27-2018-CV-00143**
- **William S. Wilkinson et al. Case No. 53-2012-CV-00038**
- **Nelson et al. Civ. No. 27-2021-CV-00285**
- **MHA Civ. No 1:20-cv-01918-ABJ**

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger					
Superintendent Baesler					
Treasurer Beadle					
Attorney General Wrigley					
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.

**A Memorial Resolution extending the sympathy and condolences
of the North Dakota Board of University and School Lands
to the family of Wayne Stenehjem**

- Whereas,** Wayne Stenehjem served the State of North Dakota for more than 45 years, serving the last 21 years as the State’s longest-serving Attorney General; and
- Whereas,** Wayne was a dedicated trustee of the permanent trust funds, ensuring that both current and future beneficiaries receive maximum economic returns from the school trusts through clarity, undivided loyalty, enforceability, perpetuity and accountability.
- Whereas,** Wayne was passionate about fulfilling his duty to uphold the law and to proudly carried on the pioneering commitment of our State’s early leaders to the constitutionally protected public education financing that originated with millions of acres of land granted by the federal government;
- Whereas,** Wayne had a consistent and vigorous drive for doing the right thing, even when it was the most difficult option;
- Whereas,** Wayne listened and ensured the Department of Trust Lands’ staff felt heard and empowered; and
- Whereas,** the North Dakota Board of University and School Lands and the Department of Trust Lands will miss Wayne’s tremendous insight and intellect, his sage legal advice and institutional knowledge, and his entertaining stories about his travel adventures with his wife, Beth, and son, Andrew, and his infectious laughter.

Now, therefore, the North Dakota Board of University and School Lands honors Wayne Stenehjem for his more than 45 years of outstanding service to the State of North Dakota and offers its sympathy and deepest condolences to Beth, Andrew, and the entire Stenehjem family.

Adopted this 24th day of February, 2022.

The North Dakota Board of University and School Lands

Doug Burgum
Governor and Chairman

Alvin A. Jaeger
Secretary of State

Drew H. Wrigley
Attorney General

Kirsten Baesler
Superintendent of Public Instruction

Thomas Beadle
State Treasurer