

**Minutes of the Meeting of the
Board of University and School Lands
September 26, 2022**

The September 26, 2022, meeting of the Board of University and School Lands was called to order at 11:03 AM 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

Department of Trust Lands Personnel Present:

Joseph Heringer	Commissioner
Kate Schirado	Administrative Assistant
Catelin Newell	Administrative Staff Officer
Dennis Chua	Investments
James Wald	Legal Council
Elvedina Papalichev	Paralegal
Chris Suelzle	Minerals Division Director
Adam Otteson	Revenue Compliance Division Director
Susan Dollinger	Unclaimed Property
Joseph Stegmiller	Surface Division Director
Scott Giere	Revenue Compliance
Matthew Reile	Technical Support Specialist
Christopher Dingwall	Minerals Title Specialist
Lynn Spencer	Minerals Title Specialist
Kayla Spangelo	Surface Range Soils Management Specialist
Garret Hecker	Surface Range Soils Management Specialist
Ryan Kobilansky	Surface Leasing Coordinator
Peggy Gudvangen	Finance Division Director

Guests in Attendance:

Ryan Norrell	Office of the Governor
John Reiten	Office of the Governor
Dave Garner	Office of the Attorney General
Josh Kevan	RVK
C. Rajala	Nonprofit News
Gary Hagen	
Jennifer Sandberg	RVK

A P P R O V A L O F M I N U T E S

A motion to approve the minutes of the August 25, 2022, meeting was made by Secretary Jaeger and the motion was seconded by Treasurer Beadle and the motion carried unanimously on a voice vote.

O P E R A T I O N S

Commissioner's Report

- Leadership team meetings regarding Governor's Red Tape Reduction Initiative and legislative proposals
- Budget meeting with OMB & governor's staff
- Bi-weekly meetings with investment consultant RVK
- Various meeting with investment managers
- Annual financial audit underway (Eide Bailly)
- Responding to media inquiries regarding Newfield decision
- Meeting with legislator regarding upcoming legislative session
- Attended Leland/Whiting Trial – September 13th, Watford City
- Presented at North Dakota Petroleum Council Annual Meeting – September 22nd, Watford City
- Minerals system design testing continues with good progress being made
- Attend September 23rd State Investment Board Meeting as a voting member

HR Update

- Chief Investment Officer – position posted August 30th; positive indications with good number of applicants
- Land Management Specialist #2 – filled; Surface Division now fully staffed
- Accountant – posting closed; reviewing applicants

Land Management System Development

The Department of Trust Lands' original RFP to upgrade the Land Management System was released in 2019. Upon go-live of the surface division portion in November 2021, the minerals division began their discovery and design phase and is currently in the design testing phase, with go-live of the new minerals system expected towards year-end.

The Department's systems upgrade team has identified certain change orders required to achieve critical system features and the desired level of enhancements. This includes additional data migration, integration with external data points, and refinements to reconciling oil and gas lease operator royalty reports.

The Board's **Continuing Appropriation Authority Policy** (attached) provides for expenditures under statutorily granted continuing appropriating authority for:

“expenses determined by the Board as necessary to manage, preserve, and enhance the value of trust land and mineral assets.”

Specifically including:

“6. Software acquisition, development, maintenance costs, service fees, and license fees necessary to effectively manage, protect, and secure the assets managed by the Board.”

Motion: The Board authorizes the Commissioner to utilize continuing authority not to exceed \$300,000 for additional configuration of the Land Management System.

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

Board Policy Attachment was presented to the Board for review and is available at the Department upon request.

Board of University and School Lands Meeting Dates For 2023

North Dakota Century Code 15-01-03 states that the Board shall meet on the last Thursday of each month, unless it appears a quorum will not be present, at which time it may be rescheduled. Special meetings of the Board may be held at any time at the written call of the chairman, the commissioner, or any two members of the Board.

The statutory meeting dates serve as the starting point in efforts to schedule meetings of the Board. The meetings are set at 9:00 AM in the Governor's Conference Room, unless otherwise noted. Board members should anticipate the meetings will last three hours each month in anticipation of executive session needs.

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

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

- January 26, 2023 9:00 AM – 12:00 AM
- February 23, 2023 9:00 AM – 12:00 PM
- March 30, 2023 9:00 AM – 12:00 PM
- April 27, 2023 9:00 AM – 12:00 PM
- May 25, 2023 9:00 AM – 12:00 PM
- June 29, 2023 9:00 AM – 12:00 PM
- July 27, 2023 9:00 AM – 12:00 PM
- August 31, 2023 9:00 AM – 12:00 PM
- September 28, 2023 9:00 AM – 12:00 PM
- October 26, 2023 9:00 AM – 12:00 PM
- November 30, 2023 9:00 AM – 12:00 PM Thursday after Thanksgiving
- December 20, 2023 9:00 AM – 12:00 PM Wednesday before Christmas

DIVISION REPORTS

SURFACE

SURFACE DIVISION



For the month of August 2022, the Division granted 24 encumbrances for a total of \$994,639 in income for the trusts.

In September, land management specialist Jacob Lardy joined the ND Game & Fish North Dakota Outdoors Podcast to discuss hunting on Trust Lands, more commonly known to many North Dakota hunters as "state school lands" or the "blue squares on the map".

They also spoke about the Department's history and mission, regulations and restrictions and the upcoming grouse opener.

Listen to: [Hunting the Blue Squares](#)



Photo Credit: Kayla Spangelo
Williams County 159-100-36

SURFACE DIVISION



For the month of July 2022, the Division granted 8 encumbrances for a total of \$176,364 in income for the trusts.

Photo Note: Surface and Mineral acres working together for the Trusts - 18 well bores, 16 active, on 28 Trust Land surface acres.



Photo Credit Kayla Spangelo
McKenzie 153-94-16

MINERALS

MINERALS DIVISION



For the month of August 2022, the Division granted one well shut-in request.

Based on well data currently available to Mineral Tracker, the Department manages an interest in 8,404 (49.25%) of the 17,063 producing wells in North Dakota.

As of August 2022, for fiscal year 2023 the Department has received \$106,759,439 in royalties as compared to \$69,172,392 last fiscal year at this time.



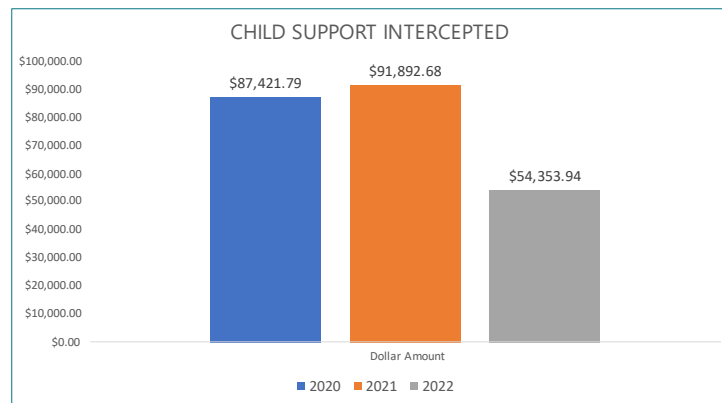
UNCLAIMED PROPERTY

UNCLAIMED PROPERTY DIVISION

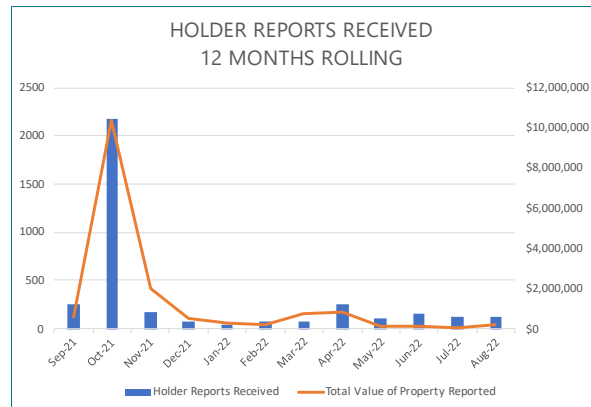
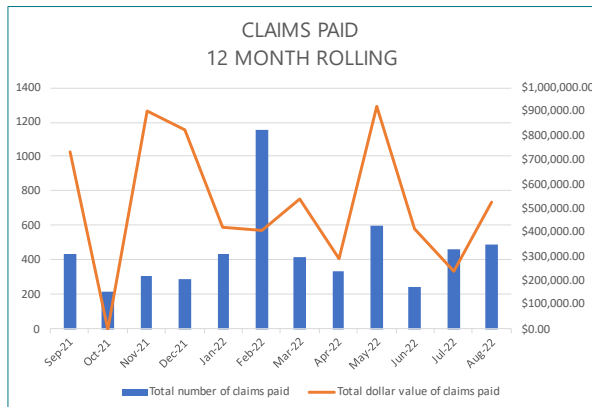


For the month of August 2022, the Division paid 491 claims with \$527,679.76 returned to rightful owners/heirs. It received 133 holder reports with a dollar value of \$175,970.52.

For many years the Child Support High Intensity Enforcement Unit has “intercepted” unclaimed funds to help ensure children receive court ordered financial support.



UNCLAIMED PROPERTY DIVISION



INVESTMENTS

Investment Updates

Portfolio Rebalancing Updates

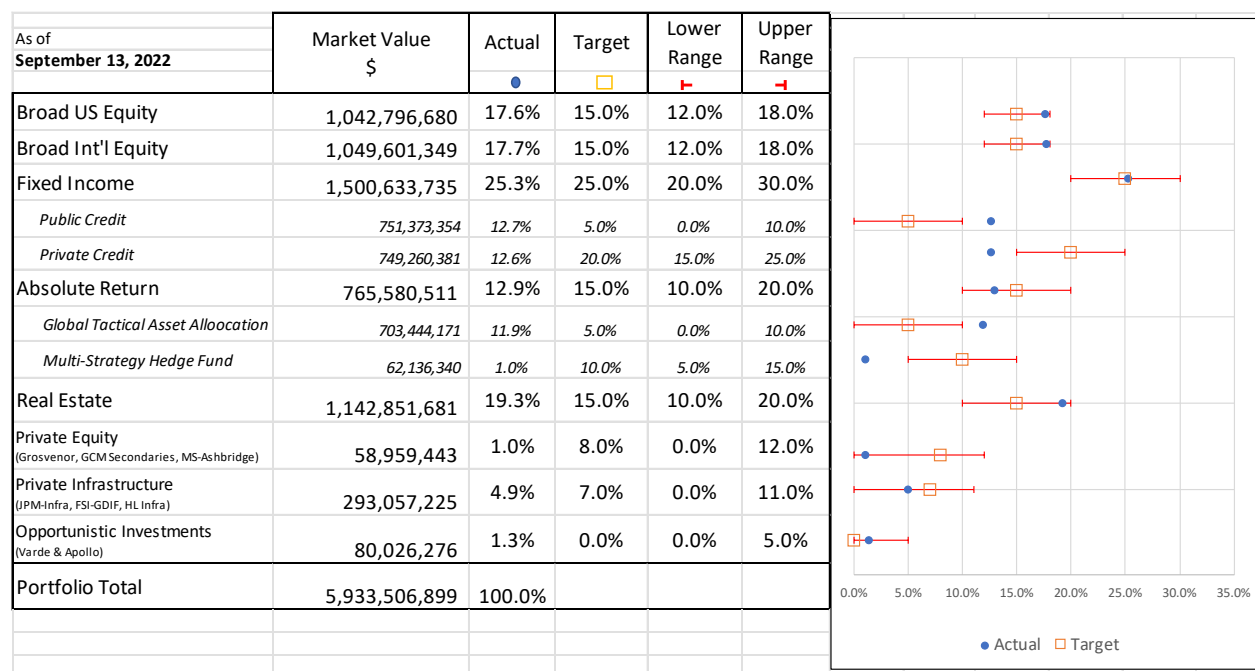
Since the last Board meeting, only Morgan Stanley Ashbridge TS Fund II made a capital call amounting to \$2M that was funded on 9/12. During their presentation today, RVK will be providing an update on our asset allocation pacing study and new manager searches.

Unfunded commitments after the distributions and calls will be at \$700.65M. These are:

1. Private Credit, \$179.4M
 - i. ARES Pathfinder Fund, \$54.4M
 - ii. Owl Rock Diversified Lending, \$60M
 - iii. Angelo Gordon Direct Lending (AGDL) IV, \$15M
 - iv. AGDL-BUSL Fund, \$50M
2. Private Equity, \$246.25M
 - i. Grosvenor Capital Management (GCM) Private Equity, \$105.5M
 - ii. GCM Secondary Opportunities Fund, \$128M
 - iii. Morgan Stanley Ashbridge TS Fund II, \$12.75M
3. Private Infrastructure, \$14.5M
 - i. Hamilton Lane Infrastructure Opportunities Fund, \$14.5M
4. Opportunistic Investments, 20.5M
 - i. Varde Dislocation Fund, \$20.5M
5. Absolute Return, \$240M
 - i. Millennium USA LP (Hedge Fund), \$240M

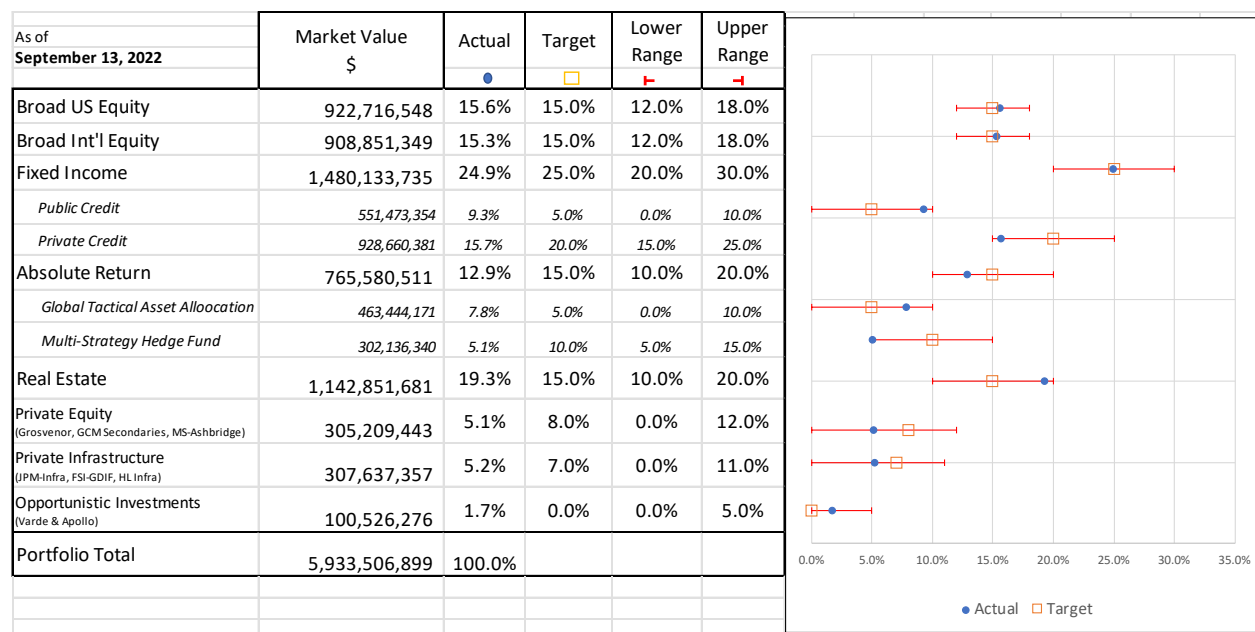
Asset Allocation

The table below shows the status of the permanent trusts' asset allocation as of September 13, 2022. The figures provided are unaudited.



Hypothetical Funding of All Unfunded Commitments:

Asset Allocation After Funding (as of 9/13/2022):



Assumptions:

- i. No new cash came in that was used to fund the calls.
- ii. No redemption proceeds or distributions were received.
- iii. All capital calls came in at the same time.

(09/26/22)

Investment Performance Update – 2nd Quarter 2022

RVK will review the performance of the Board of University and School Land’s (Board) investment program for the period ending June 30, 2022, and discuss current market conditions.

The first report to be reviewed is prepared by RVK to enable the Board to monitor and evaluate the collective performance of the permanent trusts’ investments and the performance of individual managers within the program.

Second, RVK will touch on the performance of the Ultra-Short portfolio in which the Strategic Investment and Improvements Fund, the Coal Development Trust Fund, and the Capitol Building Fund are invested.

Third, RVK will provide a review of the portfolio real estate investments.

Lastly, RVK will provide an update on portfolio asset allocation.

RVK Permanent Trust Fund Performance Report; RVK Ultra-Short Performance Report; RVK Real Estate Investments Report; RVK Asset Allocation Update were presented to the Board for and are available at the Department upon request.

SPECIAL PROJECTS

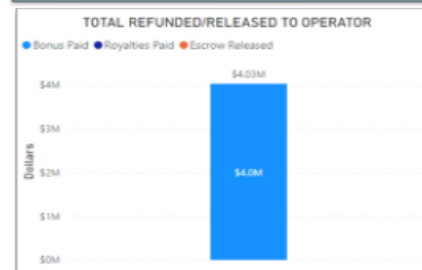
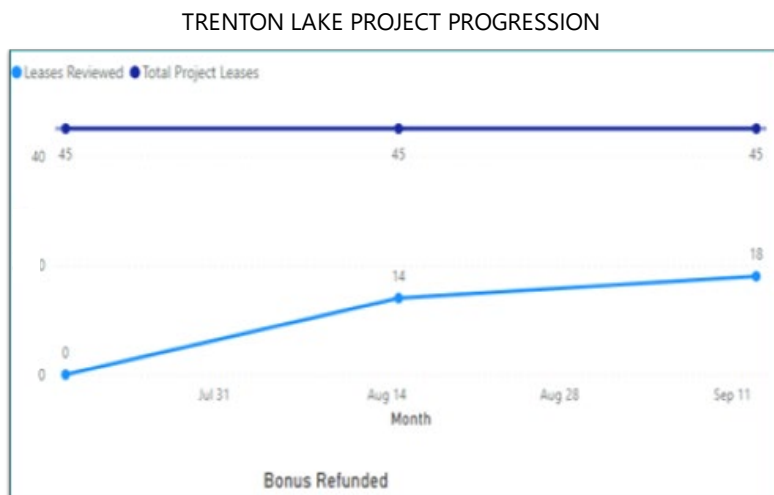
Acreage Adjustment Report

ACREAGE ADJUSTMENT PART II

November 1st, 2023, DEADLINE



NORTH
Dakota | Trust Lands
Be Legendary.™

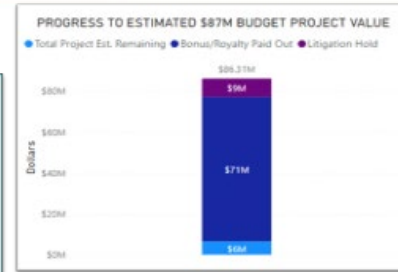


ACREAGE ADJUSTMENT SURVEY REPORT

PROJECT TOTAL

NORTH
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Be Legendary.™

TOTAL PROJECT PROGRESSION



Coal Leasing Summary

How many active coal leases do we have on Trust Lands?

- 58
- Total acres leased: 6,120

Which entities own these active leases?

of Leases

- BNI Coal 4
- Falkirk Mining Co. 20
- Coteau Properties Co. 10
- Coyote Creek Mining Co. 15
- Otter Creek Mining Co. 8
- Westmoreland Beulah Mining Co. 1

Total: 58

What is the average revenue per lease?

- Bonus: \$100/acre
- 80 or 160 acres per lease

What is the average lease term?

- 15 years, although some are 10 years
- Most have a company option to extend the lease by the same term as the original, provided that the company pays the same acreage bonus as the original term.

What is the average royalty rate?

- \$0.15/ton (with a 3% escalator per year) to \$0.20/ton while coal is being mined
- Royalty rates have largely stayed static since 2015 when several leases seem to have been adjusted down from a rate of \$0.25/ton

What is an annual rental?

- An annual rental is a payment made each year by the company to keep the lease active.
- The typical annual rental is \$5/acre.
- For a 160-acre lease that equates to \$800/year.

Rentals paid for 2021:

- 64 leases brought in rental payments of \$32,438.29.
- So far in 2022 we have received \$27,532.41 in rentals.

Royalties paid to the Trusts as a result of coal mining:

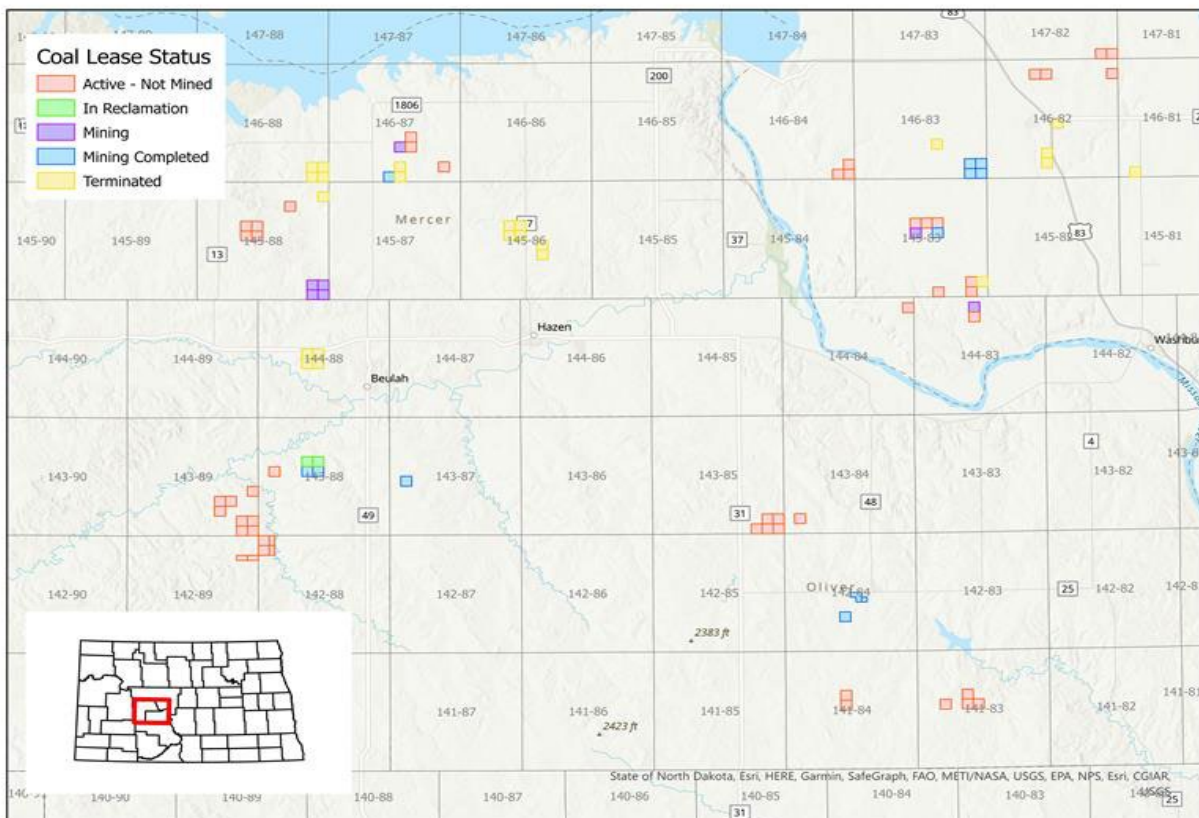
- 2021: \$454,652.63
- 2022 (YTD): \$296,942.49

What Trusts Benefit from coal payments?

- Primarily Trusts A & L
- Trust B has been receiving nominal amounts of \$500-\$3,000/month.
- Trust A is the Common School Trust Fund.
- Trust L is the Bank of ND Trust.
- Trust B is the School for the Blind.

What is the recent coal leasing activity?

- In 2020 and 2021 there were no requests for new coal leases.
- In 2022, we have received 2 requests for 5 tracts resulting in new leases being issued.
- A total of 560 net mineral acres have been leased in 2022.
 - North American Coal Co. – 400 acres
 - BNI Coal – 160 acres
- There is a \$650 application fee per tract to cover the costs of these applications.



LITIGATION

Litigation Update

- Newfield (royalty deductions) – ND Supreme Court opinion released September 1st; reversed trial court and remanded for determination of damages

Key Holdings

- Land Board’s post-1979 oil & gas lease does not allow operators to deduct post-production costs or expenses from royalties (“gross proceeds of sale”)
 - Newfield’s calculation of gas royalties was “contrary to the lease”
 - As well operator, Newfield has a statutory obligation to pay royalties according to the lease
- MHA (Missouri riverbed ownership) – Appealed D.C. Federal District Court denial of State’s motion to intervene; our brief submitted; opposing brief due Oct. 14; our reply due Oct. 28th
 - EEE (OHWM title dispute / takings claim) – ND Federal District Court issued order May 31st granting Board’s motion to dismiss on all counts: federal preemption, sovereign immunity, takings; Plaintiffs appealed to 8th Circuit; briefing complete, awaiting scheduling or oral arguments
 - Leland/Whiting (OHWM river island ownership) – Watford City trial September 12-16, 2022.
 - Continental Interpleader (OHWM fed/state dispute) – briefing complete for “Acquired Federal Lands” issue; awaiting ND Federal District Court decision
 - Wilkinson (OHWM title dispute / takings claim) – awaiting ND Supreme Court opinion; oral arguments held May 18, 2022
 - Whitetail Wave (OHWM title dispute / takings claim) – awaiting ND Supreme Court opinion; oral arguments held September 7, 2022

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 to review confidential records and discuss negotiating strategy regarding:

- **Royalty Offers**

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

The Board entered into executive session at 1:00 PM.

EXECUTIVE SESSION

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

Department of Trust Lands Personnel present:

Joseph Heringer	Commissioner
Kate Schirado	Administrative Assistant
Adam Otteson	Revenue Compliance
Chris Suelzle	Minerals Division Director
James Wald	Legal Council

Guests in Attendance:

Dave Garner	Office of the Attorney
Ryan Norrell	Office of the Governor
John Reiten	Office of the Governor

The executive session adjourned at 1:55 PM and the Board returned to the open session and Teams meeting to rejoin the public. During the executive session, the Board discussed royalty offers with its attorneys. No formal action was taken.

A D J O U R N

There being no further business, the meeting was adjourned at 1:55 PM.

Doug Burgum, Chairman
Board of University and School Lands

Joseph Heringer, Secretary
Board of University and School Lands