

**Minutes of the Meeting of the
Board of University and School Lands
November 29, 2021**

The November 29, 2021 meeting of the Board of University and School Lands was called to order at 9:01 AM in the Governor's Conference Room of the State Capitol and via Microsoft Teams by Chairman Doug Burgum.

Members Present:

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

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
Michael Humann	Surface Division Director
Kristie McCusker	Paralegal
Adam Otteson	Revenue Compliance Director
Michael Shackelford	Investments Director
Lynn Spencer	Minerals Title Specialist
Susan Dollinger	Unclaimed Property
James Wald	Legal Council
Scott Giere	Revenue Compliance
Peggy Gudvangen	Finance Division Director
Kayla Spangelo	Surface Range Soils Management Specialist
Derek Lowstuter	Surface Land Management Specialist
Catelin Newell	Administrative Staff Officer
Vicki Siegel	Finance Administrative Officer
Jessica Fretty	Unclaimed Property Administrative Assistant
Emily Bosch	Unclaimed Property Claims
Chris Suelzle	Minerals Division Director
Matthew Reile	ITD Data Management Intern
Joseph Stegmiller	Natural Resources Professional
Jacob Lardy	Surface Land Management Specialist

Guests in Attendance:

Dave Garner	Office of the Attorney General
Troy Seibel	Office of the Attorney General
Reice Haase	Office of the Governor
Leslie Bakken Oliver	Office of the Governor
Jared Mack	Eide Bailly
Quentin Obrigewitsch	KLJ
Renae Bloms	Office of Management and Business
David Mackie	Continental Resources
Geoff Simon	Western Dakota Energy Association
Joel Brown	MineralTracker
Cathrine Grimsrud	MineralTracker
Joe Ebisa	Journalist
Ron Ness	NDPC
Brady Pelton	NDPC

Amy Sisk
 Adam Willis
 Curtis Krapp
 Cheryl Brown
 Gary Hagen
 Sarah Mixon
 Launa Moldenhauer
 Kelly Moldenhauer

Bismarck Tribune
 Fargo Forum
 Shelly Shelby
 Matt Simmons
 Will Houser
 Kyle Brown
 Eric Sundberg

APPROVAL OF MINUTES

A motion to approve the minutes of the October 28, 2021 regular meeting was made by Attorney General Stenehjem and seconded by Treasurer Beadle and the motion carried unanimously on a voice vote.

REPORTS

October 2021 Report of Encumbrances Issued by Land Commissioner

Granted to:
 For the Purpose of:

Right-of-Way Number:
 Trust:
 Legal Description:

DENBURY ONSHORE LLC, PLANO-TX
 On-lease Activity: Pipeline-Water and CO2
 Injection Pipeline
 RW0008894
 A - Common Schools
 BOW-131-105-16-SW4

Granted to:
 For the Purpose of:

Right-of-Way Number:
 Trust: A - Common Schools
 Legal Description:

DENBURY ONSHORE LLC, PLANO-TX
 On-lease Activity: Pipeline-Water and CO2
 Injection Pipeline
 RW0008895
 BOW-132-106-36-S2SW4, LOTS 6,7

Granted to:
 For the Purpose of:

Right-of-Way Number:
 Trust:
 Legal Description:

DENBURY ONSHORE LLC, PLANO-TX
 On-lease Activity: Pipeline-Water and CO2
 Injection Pipeline
 RW0008897
 A - Common Schools
 BOW-131-106-36-SW4

Granted to:
 For the Purpose of:
 Right-of-Way Number:
 Trust:
 Legal Description:

MARATHON OIL COMPANY INC, DICKINSON-ND
 Easement: Pipeline-Salt Water Pipeline
 RW0008939
 A - Common Schools
 DUN-146-93-16-NE4

Granted to:
BISMARCK-ND
 For the Purpose of:
 Right-of-Way Number:
 Trust:
 Legal Description:

NORTH DAKOTA GAME AND FISH DEPARTMENT,
 Permit: Access to School Land
 RW0008956
 A - Common Schools
 MOR-135-83-36-NE4, SE4, SW

Granted to:
 For the Purpose of:
 Right-of-Way Number:
 Trust:
 Legal Description:

SELECT ENERGY SERVICES LLC, WILLISTON-ND
 Permit: Temporary Water Layflat Line
 RW0008972
 A - Common Schools
 MCK-153-94-36-SW4

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October 2021 Report of Shut-Ins Approved by Land Commissioner

Granted to: Crescent Point Energy U.S. Corp
For the Purpose of: Operations
Date Issued: 10/15/2021
Application Fee: \$100.00
Trust: SIIF – Strategic Investment and Improvements Fund
Lease: OG-09-01773, OG-09-01774

Summary of Oil and Gas Lease Auction

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 November 2, 2021.

There were 59 tracts offered, and 52 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 \$4,824.00 (\$96,480.00 for 20.00 net acres) in Williams County. 21 tracts benefit the Common Schools Trust Fund, two tracts benefit the North Dakota State University Trust Fund, and 36 tracts benefit the Strategic Investment and Improvements Fund (SIIF).

County	Tracts/County	Net Mineral Acres	Total Bonus	Average Bonus/Acre
Bottineau	1	80.00	\$8,320.00	\$104.00
Burke	8	637.66	\$5,108.30	\$8.01
Divide	14	1043.63	\$175,337.86	\$168.01
McKenzie	8	853.04	\$233,007.47	\$273.15
Sioux	7	719.24	\$719.24	\$1.00
Williams	21	1399.83	\$599,323.13	\$428.14
GRAND TOTAL	59	4733.40	\$ 1,021,816.00	\$215.87

There was a total of 18 bidders who submitted 728 bids on 52 tracts. The bidders were from 10 states and one Canadian province (AZ, CO, MN, MT, NC, ND, TX, WA, WY and AB Canada).

A total of \$1,021,816.00 of bonus was collected from the auction.

October 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 October 2021, the Division received 2,169 holder reports with a property value of \$10,339,023 and paid 215 claims with a total value of \$199,461.

At the October 28, 2021, Board meeting the Treasurer requested the estimated amount of property held by the Unclaimed Property Division. As of June 30, 2021, the Department estimates \$104,284,403 is held.

N.D.C.C. § 47-30.2-44 provides:

1. Except as otherwise provided in this section, the department shall deposit to the credit of the common schools trust fund all funds received under this chapter, including proceeds from the sale of property under sections 47-30.2-40, 47-30.2-41, 47-30.2-42, and 47-30.2-43.
2. The department shall maintain an account with an amount of funds the commissioner reasonably estimates is sufficient to pay claims allowed under this chapter.

The Department's fiscal Cash Management policy states:

Unclaimed Property: The target range for Unclaimed Property operating cash is between \$1.5 and \$2.5 million. Any amounts over \$2.5 million will be invested in the Permanent Trust Fund investment pool. If the balance falls below \$1.5 million, it may be replenished through holder remittances or through the liquidation of a portion of the Unclaimed Property fund's investments.

Per the North Dakota Constitution Article IX Section 1:

All proceeds of the public lands that have been, or may be granted by the United States for the support of the common schools in this state; all such per centum as may be granted by the United States on the sale of public lands; the proceeds of property that fall to the state by escheat; all gifts, donations, or the proceeds thereof that come to the state for support of the common schools, or not otherwise appropriated by the terms of the gift, and all other property otherwise acquired for common schools, must be and remain a perpetual trust fund for the maintenance of the common schools of the state. All property, real or personal, received by the state from whatever source, for any specific educational or charitable institution, unless otherwise designated by the donor, must be and remain a perpetual trust fund for the creation and maintenance of such institution, and may be commingled only with similar funds for the same institution. If a gift is made to an institution for a specific purpose, without designating a trustee, the gift may be placed in the institution's fund; provided that such a donation may be expended as the terms of the gift provide. Revenues earned by a perpetual trust fund must be deposited in the fund. The costs of administering a perpetual trust fund may be paid out of the fund. The perpetual trust funds must be managed to preserve their purchasing power and to maintain stable distributions to fund beneficiaries.

Once funding is placed in the Common Schools Trust Fund, it cannot be moved back into a cash account for the purposes of fulfilling a claim the Department has received. Thus, funds are kept available at the Bank of North Dakota and at Northern Trust to ensure adequate funding is available to meet claims obligations.

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Investment Updates

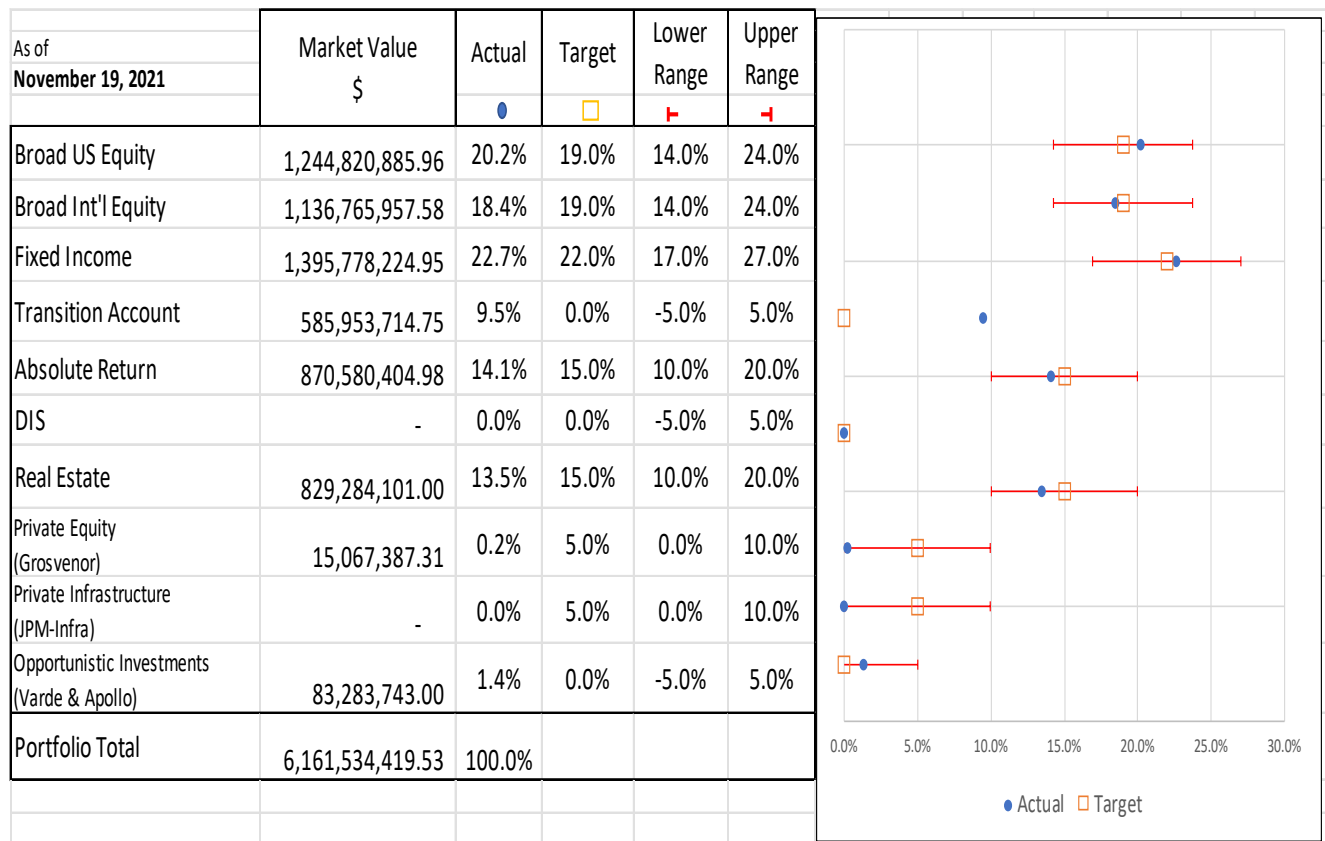
Portfolio Rebalancing Updates

There were no capital calls made since the last Board meeting hence unfunded commitments as of November 19, 2021, still stands at around \$825.9M. These are as follows:

1. Apollo Accord Fund, \$84.8M
2. Varde Dislocation Fund, \$42.5M
3. GCM Private Equity, \$115.1M
4. ARES Pathfinder Fund, \$74.5M
5. Angelo Gordon DL IV, \$42.5M.
6. Owl Rock Diversified Lending, \$56.5M
7. GCM Secondary Opportunities Fund, \$150M
8. JPM Infrastructure Fund, \$130M
9. Harrison Street Core Property Fund LP, \$130M

Asset Allocation

The table below shows the status of the permanent trusts' asset allocation as of Nov. 19, 2021. The figures provided are unaudited.



S U R F A C E

No Net Loss Preliminary Land Sale Approval T136N R86W Section 28 NW1/4, Section 32 N1/2N1/2, Section 36 SE1/4
Trust Land (Attachment 1 - aerial map)
 Grant County
Township 136 North, Range 86 West

Section 28: NW $\frac{1}{4}$
 Section 32: N $\frac{1}{2}$ N $\frac{1}{2}$
 Section 36 SE $\frac{1}{4}$

Provided accessible and leasable land (Attachment 2 - aerial map)

Hettinger County

Township 136 North, Range 94 West

Section 20: S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$

The Board of University and School Lands (Board) received an application from Kelly and Launa Moldenhauer for the purchase of approximately 480 acres of trust land in Grant County (see trust land legal description above) as part of a no net loss land sale in accordance with Chapter 85-04-07 and Chapter 85-04-08 of the North Dakota Administrative Code. To meet the requirements of a no net loss land sale, the applicants/purchasers are required to provide land (see provided accessible and leasable land legal description above) as payment.

The properties were evaluated and appraised as part of a no net loss property sale. The attached Land Evaluations (Attachments 3 and 4) contain land and environmental assessment, rental, and appraisal information for these properties. The Requirements of Sale – Sale Criteria Evaluation is also attached (Attachment 5).

The following is a summary of sale criteria (Attachment 5) considered by the Department of Trust Lands in consideration of a no net loss sale in accordance with subsections a through f of N.D. Admin. Code 85-04-07-02(2) and 85-04-08-02(2).

a. Equal of greater value

Trust Land Value:	Grant County Appraisal	\$262,625
	Allied Appraisals Inc.	\$293,000
Land to be provided:	Allied Appraisals Inc.	\$382,500

b. Equal or greater income

Annual Rental Income

Trust Land Fair Market Value (FMV) minimum rent Grant County	\$6,726
Land to be provided FMV minimum rent Hettinger County	\$6,721
Land to be provided current private rent Hettinger County	\$9,360

Annual Income Return (rent less tax obligations)

Trust Land FMV minimum rent less taxes Grant County	\$6,624
Land to be provided FMV minimum rent less taxes Hettinger County	\$5,677
Land to be provided current rent less taxes Hettinger County	\$8,586

Comments: The highest and best use for the trust land and the land to be provided is agricultural. The trust land in Grant County for which the sale application was received would have an annual income return of \$6,624. The land to be provided in Hettinger County would have a projected annual income, when applying the Board's FMV rent policy, of \$5,677, resulting in an estimated decrease in annual income of \$957 to the various trusts. Using the current cash rent value (obtained from applicant) there would be an annual income of \$8,586, resulting in an estimated increase in annual income of \$1,962 to the various trusts. It should be noted that the FMV minimum rent is lower because the major soil, Vebar-Cohagen, has a low cropland productivity index which results in the average cropland rental rate for Hettinger County being adjusted downward. The current rental rate of \$40 per acre (\$9,360) is indicative

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of good demand to rent cropland and a willingness for prospective lessees to pay average to above average rental rates for lower producing cropland.

- c. Acreage. A no net loss sale should result in the board receiving equal or greater acreage. The board may, however, consider receiving less acreage in return for one or more of the following:
- (1) Improved dedicated access;
 - (2) Substantially higher value; or
 - (3) Substantially higher income.

Comments: Although this transaction would not result in the Board receiving equal or greater acreage, the land to be provided has excellent dedicated access when compared to the N $\frac{1}{2}$ N $\frac{1}{2}$ of Section 32 and the SE $\frac{1}{4}$ of Section 36. The land to be provided is of higher value than trust land (\$382,500 versus \$293,000 – Allied Appraisal Values) and would provide similar income (\$5,677 versus \$6,624) using the Board’s FMV rent policy and greater income (\$8,586 versus \$6,624) using the current private rental rate.

- d. Consolidation of trust lands. The proposed no net loss sale must not fragment trust land holdings by creating isolated parcels of trust land. In all no net loss sales, the Board shall reserve all minerals underlying the trust lands pursuant to section 5 of article IX of the Constitution of North Dakota subject to applicable law.

Comments: The proposed no net loss sale will not fragment trust land holdings by creating an isolated parcel of trust land. All minerals underlying the trust lands would be reserved pursuant to section 5 of article IX of the Constitution of North Dakota subject to applicable law.

- e. Potential for long-term appreciation. The proposed no net loss sale must have similar revenue potential as the trust lands.

Comments: The potential long-term appreciation for the land tracts involved in this sale would be similar for this proposed no net loss sale.

- f. Access. A no net loss sale must not diminish access to trust lands. The no net loss land should provide equal or improved access.

Comments: The land to be provided has excellent dedicated access. This land is 1 $\frac{1}{2}$ miles west of the Enchanted Highway and has a good County gravel road (St. Michaels Road) with access approaches along the south side of the tract and good section line access trails along the east and north sides of the tract. Two of the three proposed sale tracts do not have improved dedicated access. The N $\frac{1}{2}$ N $\frac{1}{2}$ of Section 32 is an isolated tract which requires access permission across surrounding private land. Access to the SE $\frac{1}{4}$ of Section 36 from the west would be across private land, while access from the east would be by section line trail to the southeast corner. The NW $\frac{1}{4}$ of Section 28 has excellent dedicated access as a County Road traverses the tract (58th St SW).

Land adjacent to the proposed land is Wildlife Habitat to the north and east, as the United States Bureau of Reclamation owns the entire section 21 (640 acres), three quarters of section 22 (480 acres) to the east. Land to the north of Section 20 the S $\frac{1}{2}$ of Section 17 is owned by the Mott 30 Mile Creek Hunt Club. Land to the south and west is privately owned land used for cropland production.

Per N.D. Admin. Code § 85-04-07-03(3) and N.D. Admin. Code § 85-04-08-03(4) concerning the sale procedure:

Upon a determination that the application covers a tract the board is willing to sell, the department shall post on the department's website a notice of the application for sale, any supporting documentation, and instructions for submitting public

comments. The department also shall publish notice of a letter of application for sale in the official newspaper of the county where the nominated tract is located and in the Bismarck Tribune. Notice must be published once each week for three consecutive weeks prior to the deadline for comments. The notice must contain the legal description of the proposed tract and the deadline for comments. If publication of any notice is omitted inadvertently by any newspaper or the notice contains typographical errors, the department may proceed with the scheduled comment period if it appears the omission or error is not prejudicial to the department's interest. All comments must be in writing and contain the following:

- a. Name and address of the interested person;
- b. Applicant's name and address;
- c. The legal description of the proposed tract for sale as shown on the published notice; and
- d. A detailed statement as to whether the interested person supports or opposes the sale.

After public comment and in accordance with N.D. Admin. Code §§ 85-04-07-03 and 85-04-08-03, the Board shall review all appraisals, any public comments, other relevant information including title examinations, and determine whether to proceed with the sale. If the Board decides to proceed with the sale, the Board shall establish a minimum acceptable sale price.

The Department posted notification in the Bismarck Tribune, the Grant County News, the Hettinger County Herald, and on the Department's website with comments received until 5:00 p.m. on September 10, 2021. The comments raised a concern that since many constituents subscribe to a newspaper in their area, which is not always the official county newspaper, not enough notification was provided to the public. It was requested that the comment period be extended and the notice of application for sale be advertised in a much larger area to allow more citizens an opportunity to comment.

On September 30, 2021, the Board authorized the Commissioner to extend the posting for public comment on the Department's website and that notice be published in necessary newspapers in areas surrounding the land for sale. The website included a notice of the application for sale, any supporting documentation, and instructions for submitting public comments regarding the sale. The notice provided a second public comment period set for October 25, 2021 through November 5, 2021. The Department posted in the following papers:

Adams County Record
 Grant County News
 Carson Press
 Hettinger County Herold
 Mandan News
 Dickinson Press
 Bismarck Tribune

The Department received a total of thirteen comments regarding the no net loss sale. A summary of the comments can be reviewed in Attachment 6.

Proposed Sale of Property in Grant County

Tract 1 Township 136 North, Range 86 West, Section 28 NW¼: This tract of land is located approximately 12 miles north and 2 miles east of Carson, North Dakota. There is a gravel road that provides access through the tract. This tract was acquired by foreclosure of the James N. Lester farm mortgage on January 27, 1927 and assigned to the North Dakota State University

Trust Fund. The property was appraised by Allied Appraisals Inc., Bismarck, North Dakota, on February 25, 2021, having a current appraised value of \$99,000.

Tract 2 Township 136 North, Range 86 West, Section 32 N½N½: This tract of land is located approximately 9 miles north and 1 mile east of Carson North Dakota. There is no vehicular section line access to this tract. This tract was acquired by foreclosure of the Mina H. Aasved farm mortgage on August 3, 1935 and assigned to the Common Schools Trust Fund. The property was appraised by Allied Appraisals Inc., Bismarck, North Dakota, on February 25, 2021, having a current appraised value of \$93,000.

Tract 3 Township 136 North, Range 86 West, Section 36 SE¼: This tract of land is located approximately 8 miles north and 5½ miles east of Carson, North Dakota. There is a section line trail that allows access from the east to the southeast corner of this tract. This tract is also adjacent to trust land to the north (NE¼). This land was granted to North Dakota at statehood and assigned to the Common Schools Trust Fund. The property was appraised by Allied Appraisals Inc., Bismarck, North Dakota, on February 25, 2021, having a current appraised value of \$101,000.

Motion: The Board authorizes the Commissioner to proceed with the no-net loss sale with a minimum opening bid(s) for:

DESCRIPTION	Minimum Opening Bid
T136N R86W Section 28 NW1/4	\$99,000
T136N R86W Section 32 N1/2N1/2	\$93,000
T136N R86W Section 36 SE1/4	\$101,000

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		

Tract map documents were also presented to the Board and are available upon request.

Summary of Fall Surface Lease Auctions

The 2021 fall lease auctions were completed in October. The following table is a summary of the fall lease results as compared to the 2019 in-person fall auctions and the 2020 online auctions.

	2019	2020	2021
Number of counties	34	36	34
Total tracts offered	1146	1039	1503
Number of tracts bid unleased	78	43	34
Number of tracts bid-up	146	208	174
Total amount of minimum advertised bids	\$2,546,925	\$2,001,193	\$2,729,707
Total amount received	\$2,418,748	\$2,330,000	\$3,062,820
Total amount collected over minimum bid	\$128,177	\$328,807	\$333,113

All payments from the fall auctions have cleared and no issues remain.

The 34 unleased tracts will be offered again in March of 2022 at the spring auctions.

With the Board's approval of leases today the Department will process the lease documents for the lessees.

Motion: The Board approves the 1,469 surface leases resulting from the fall 2021 surface lease auctions.

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		

O P E R A T I O N S

Information Technology Project Status Update

The Department of Trust Land's (Department) 2017-2019 biennial budget appropriation includes \$3.6 million to replace legacy information technology (IT) systems as authorized by Senate Bill 2013 of the Sixty-fifth Legislative Assembly.

Severe limitations in the current IT system, including redundant manual processes, have hampered efficiencies. Many of the Department's core data management systems were developed in the 1980s and 1990s, using designs and tools no longer supported by vendors. Some supplemental system improvements and purchases have been implemented; however, the outdated database structure restricts many potential improvements.

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

On July 1, 2020, the new Financial Management and Accounting system was successfully launched.

On September 14, 2020, the Revenue Compliance Division successfully launched the migrated and updated software system.

On November 8, 2021, the Surface Land Management System successfully launched. The Department is currently working through the implementation of specific processes that were considered non-critical for go-live. Additionally, the web-portal launched on December 8, 2021. Funding was requested through the American Rescue Plan Act to support expansion of the web portal to enhance and to allow for online transactions; however, the funding request was not appropriated.

Additional capital funding was approved through Senate Bill 2013 to support the implementation of software for the Minerals Division. The Department will work with our vendor to determine an appropriate schedule for the building and implementation of a Minerals Management system.

Motion: The Board authorizes the Commissioner to utilize continuing authority in the amount not to exceed \$600,000 for web portal enhancements and online transactions.

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

Definitions, Unclaimed Property, Surface Land Management, and Minerals Management Administrative Rules

(11/29/21)

Due to statutory changes made during the Sixty-seventh Legislative Assembly, the Department of Trust Lands (Department) proposes changes to Title 85, Board of University and School Lands, of the North Dakota Administrative Code as follows:

North Dakota Administrative Code § 85-01-01-01:

Repeal of N.D.A.C. ch. 85-06-01, Administrative Rules relating to public access, necessitated revisions to the N.D.A.C. § 85-01-01-01, including removal of the definition of the word vehicle, which resulted in renumbering the remaining definitions. The definition of encumbrance was revised to be more encompassing of all types of encumbrances. Due to the repeal and reenactment of the Unclaimed Property Act it was necessary to make a clerical correction as to the chapter number. All revisions are spelled out in the attached proposed rules.

North Dakota Administrative Code ch. 85-03:

Due to the repeal of the Unclaimed Property Act (N.D.C.C. ch. 47-30.1), and the enactment of the Revised Uniform Unclaimed Property Act (N.D.C.C. ch. 47-30.2) under Senate Bill 2048, the Department proposes revisions to Article 85-03, Unclaimed Property, of the North Dakota Administrative Code. Many of the revisions relate to clerical corrections regarding references to the North Dakota Century Code chapter, general authority, and law implemented. Further, certain administrative rules were repealed to reflect information that now appears in statute as part of N.D.C.C. ch. 47-30.2, while other proposed rules were added based on new requirements under the law. The most significant change relates to the addition of a chapter regarding Examinations. All revisions are spelled out in the attached proposed rules.

North Dakota Administrative Code ch. 85-04-05:

House Bill 1081 was brought to address enforcement mechanism concerns for N.D.A.C. ch. 85-04-05, Public Access and Use. With the passage of HB 1081, all of N.D.A.C. ch. 85-04-05 was incorporated into N.D.C.C. ch. 15-08. Therefore, the Department requests repeal of this chapter in its entirety. All revisions are spelled out in the attached proposed rules.

North Dakota Administrative Code § 85-06-01-12:

Due to changes in N.D.C.C. §§ 15-05-10 and 47-16-39.1, as provided in House Bill 1080, the Department proposes revising N.D.A.C. § 85-06-01-12 as it relates to penalty and interest calculations. Waiver of penalty and interest was also removed from this section of the administrative code based on the revised language in N.D.C.C. § 15-05-10. All revisions are spelled out in the attached proposed rules.

On August 26, 2021, the Board authorized the Commissioner to proceed with a public comment period and the collection of comments. Additionally, the Board authorized the Commissioner to submit to Legislative Council the Administrative Rules.

The Department received comments relating to Article 85-03, Unclaimed Property. The Department is recommending revising the originally proposed Administrative Rules, as shown in the attached red-line version (Attachment 1), prior to submitting to the Attorney General's Office for review. Attachment 2 is a summary of the comments received, the discussion and review by the Department, and the action taken concerning the proposed rules and changes made based on the comments and discussions.

The following is a summary of the changes provided in Attachment 1, the proposed Administrative Rules as revised after the public comment period. Changes after comments include:

85-03-02-05:

- Title changed.
- Narrowed the scope to further define due diligence requirements for specific types of securities accounts.

Motion: The Board approves the Commissioner to proceed in submitting the proposed revised Administrative Rules for Unclaimed Property, Surface Land Management, and Minerals Management.

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

Administrative Rules (showing redlines to 85-03-02) and Summary of Comments were also presented to the Board and are available upon request.

Audited Financial Statements for the Year Ended June 30, 2021

Eide Bailly CPAs and Business Advisors has completed its review of the financial statements of the Department of Trust Lands for the year ended June 30, 2021 and provided an opinion on the fair presentation of the financial statements.

The draft report identified two audit findings and recommendations, see pages 89 and 90 of financial statement report

The electronic version of the audited financial statement has not been posted, but when finalized will be available on the State Auditor's website at: www.nd.gov/auditor/trust-lands-nddepartment and on the Department of Trust Lands website at: www.land.nd.gov.

The Department of Trust Lands Audited Financial Statement Fiscal Year 2021 booklet report was also presented to the Board and are available upon request.

2019-2021 Biennial Report

In accordance with N.D.C.C. Section 54-06-04, the biennial report submitted by agencies is "covering operations for the two preceding fiscal years." The Department of Trust Lands (Department) developed a biennial report that is informative, a historical record and an excellent reference source covering the periods from July 1, 2019, to June 30, 2021.

The Department has submitted a printed copy of the report to the Governor and Secretary of State's Office. Additionally, an electronic version has been uploaded to the Department's [website](#).

The Department of Trust Lands 2019-2021 Biennial Report booklet was also presented to the Board.

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.

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 to the Senate Energy and 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 in the State of North Dakota. Title to various mineral interests underlying the reservations were granted to the State of North Dakota at statehood; 31,583 surface acres and 192,610 gross mineral acres reside 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 other Federal land or minerals in lieu of not receiving full access to and use of the original land grant parcels the State of North Dakota attained at statehood. Further, S.3200 will accomplish the following:

- Provide to the Indian Tribes 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 land and minerals in the State of North Dakota of equal 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, minimize 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.

S.3200 was also presented to the Board and is available upon request.

M I N E R A L S

Mineral Valuation

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

The Department of Trust Lands (Department) was tasked with conducting a study to determine the estimated value of the mineral assets, 2.6 million acres, held in trust by the Board of University and School Lands (Board).

The Request for Proposal for the Assessment was released September 20, 2019. A Notice of Intent to Award was issued to MineralTracker on January 2, 2020. On June 30, 2020, MineralTracker was acquired by First International Bank & Trust and continues to provide mineral valuations and mineral management software subscriptions as part of First International's Mineral and Land Services Department.

Joel Brown, a petroleum engineer and appraiser for MineralTracker, will present the opinion of the value using fair market determination in conjunction with directives provided by the Board of University and School Lands Mineral Valuation Policy that was adopted on June 25, 2020.

At the July 29, 2021, Board meeting, the Board instructed the Commissioner to undertake a study on the formula written in the North Dakota Constitution Article IX Section 2 relative to payouts from the funds to ensure a formula that will maintain the long term financial health of the Trusts.

The analysis employed to form the opinion of value was conducted in compliance with the Society for Mining, Metallurgy, and Exploration (SME) Standards and Guidelines for the Valuation of Mineral Properties and the Society of Petroleum Engineers (SPE) Petroleum Resource Management System. The valuation techniques that were performed utilized both an Income Approach and a Market Approach to provide a deterministic value of all Subject Minerals, which have been more fully described herein. The data—such as oil and gas production, well information,

mapping information, etc.—that was assembled for the purposes of the Mineral Estate Valuation, was obtained from reputable public sources, including the North Dakota Department of Mineral Resources. Additional information related to the ownership of the Subject Minerals was provided by the State.

In consideration of all relevant information, and the interpretation thereof, as thoroughly described in this report, it is the opinion of this qualified appraiser that the value of all Subject Minerals as of December 31, 2020 is \$2,363,837,827.

Mineral Estate Valuation presentation as of December 31, 2020 was presented to the Board and is available upon request.

Acreage Adjustment Survey - T153N, R102W Sections 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 34, and 36

Under North Dakota law, the Board of University and School Lands (Board) is vested with the authority to manage state-owned minerals including the oil, gas, and related hydrocarbons within the beds of the State's navigable waters. On behalf of the State, the Board oversees the Strategic Investment and Improvements Fund (SIIF) which collects the revenues from these sovereign minerals.

Timeline of State Activity Related to Sovereign Lands

- The 1977 Legislature defined “sovereign lands” as “those beds, islands, accretions, and relictions lying within the ordinary high watermark of navigable lakes and streams.” 1977 N.D. Sess. Laws, ch. 144, § 1, codified as N.D.C.C. § 15-08.2-02 (repealed 1989 N.D. Sess. Laws, ch. 552, § 4).
- From 1977 to 1989, the Board had authority over both the surface and subsurface of sovereign lands, including the power to convey interests.
- In 1989, the Legislature again defined state title as “those beds, islands, accretions, and relictions lying within the ordinary high watermark of navigable lakes and streams.” 1989 N.D. Sess. Laws, ch. 552, § 3, codified as N.D.C.C. § 61-33-01.
- The 1989 Legislature gave the State Engineer’s Office authority to manage the surface and the Board authority over the oil, gas, and related hydrocarbons within the subsurface, with each agency having the power to convey interests.
- In 2007, the Office of the State Engineer issued the North Dakota Sovereign Land Management Plan and Ordinary High Water (OHWM) Delineation Guidelines.
- In 2009, the Board and the State Engineer engaged Bartlett & West, a private engineering company, to undertake a comprehensive study of the OHWM along the Yellowstone River and the Missouri River from the Montana border to river mile marker 1549 near Williston (Phase I Delineation).
- In 2010, the Board again contracted with Bartlett & West to approximate the location of the OHWM for the historic Missouri River under Lake Sakakawea from river mile marker 1574 near the Furlong Loop to river mile marker 1482, the border of the Fort Berthold Reservation (Phase II). This study was completed using historical aerial photography, elevation data, and topographic maps.
- In 2010, the Board authorized Phase III to investigate specific and isolated sections of the Missouri and Yellowstone Rivers between Williston to the Montana border that could not be fully completed under Phase I due to location and complexity (this includes the Trenton Lake area.)
- In 2012, the Board initiated the review of the estimated historic OHWM between the Four Bears Bridge and the Garrison Dam (Phase IV) using the same techniques as Phase II.
- In 2013, the North Dakota Supreme Court issued decisions in *Reep v. State* and *Brigham v. State* holding that the State owns the mineral interests up to the OHWM of navigable rivers and water bodies.

- In 2017, the Sixty-Fifth Legislative Assembly's adoption of Senate Bill 2134 (SB 2134), codified as N.D.C.C. ch. 61-33.1, sought to establish state ownership of minerals below the OHWM of the historical Missouri riverbed channel (Historical OHWM) inundated by Pick-Sloan Missouri basin project dams.
- In 2019, the Sixty-Sixth Legislative Assembly amended N.D.C.C. ch. 61-33.1 relating to the ownership of mineral rights of land subject to inundation by Pick-Sloan Missouri basin project dams. Under N.D.C.C. § 61-33.1-03(8), the Board contracted with Kadrmass, Lee & Jackson, Inc. (KLJ) "to analyze the final review findings and determine the acreage on a quarter-quarter basis or government lot basis above and below the [Historical OHWM] as delineated by the final review findings of the industrial commission."

On June 25, 2020, the Board formally requested the North Dakota Industrial Commission complete further review of T153N, R102W Sections 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 34, and 36. The North Dakota Industrial Commission entered Order No. 31104 providing the Department of Trust Lands (Department) with necessary information to complete the acreage adjustment survey in T153N, R102W Sections 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 34, and 36.

The Department consulted with the State Engineer as to the State's sovereign land ownership in Sections 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 34, and 36 of Township 153 North, Range 102 West, Williams/McKenzie Counties, North Dakota (more commonly referred to as the Trenton Lake area.) On November 24, 2020, the State Engineer presented a technical memorandum to the Board. The Board requested the Department provide an outline of options for the Board to review.

On January 28, 2021, the Board was presented with options relating to T153N, R102W Sections 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 34, and 36. The Board requested the Department work with the State Engineer's Office to provide additional insight.

On July 29, 2021, the Board authorized the Commissioner to request that KLJ complete the Acreage Adjustment Survey for T153N, R102W Sections 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 34, and 36.

KLJ is available to review the methodology they used to calculate the acreage adjustments and answer any questions the Board may have regarding the acreage adjustment results. KLJ has provided the Department with a Final Report for Acreage Determination along the Ordinary High Water Mark for T153N, R102W Sections 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 34, and 36 as adopted by the North Dakota Industrial Commission Order No. 29129 which will be available on the Department's website.

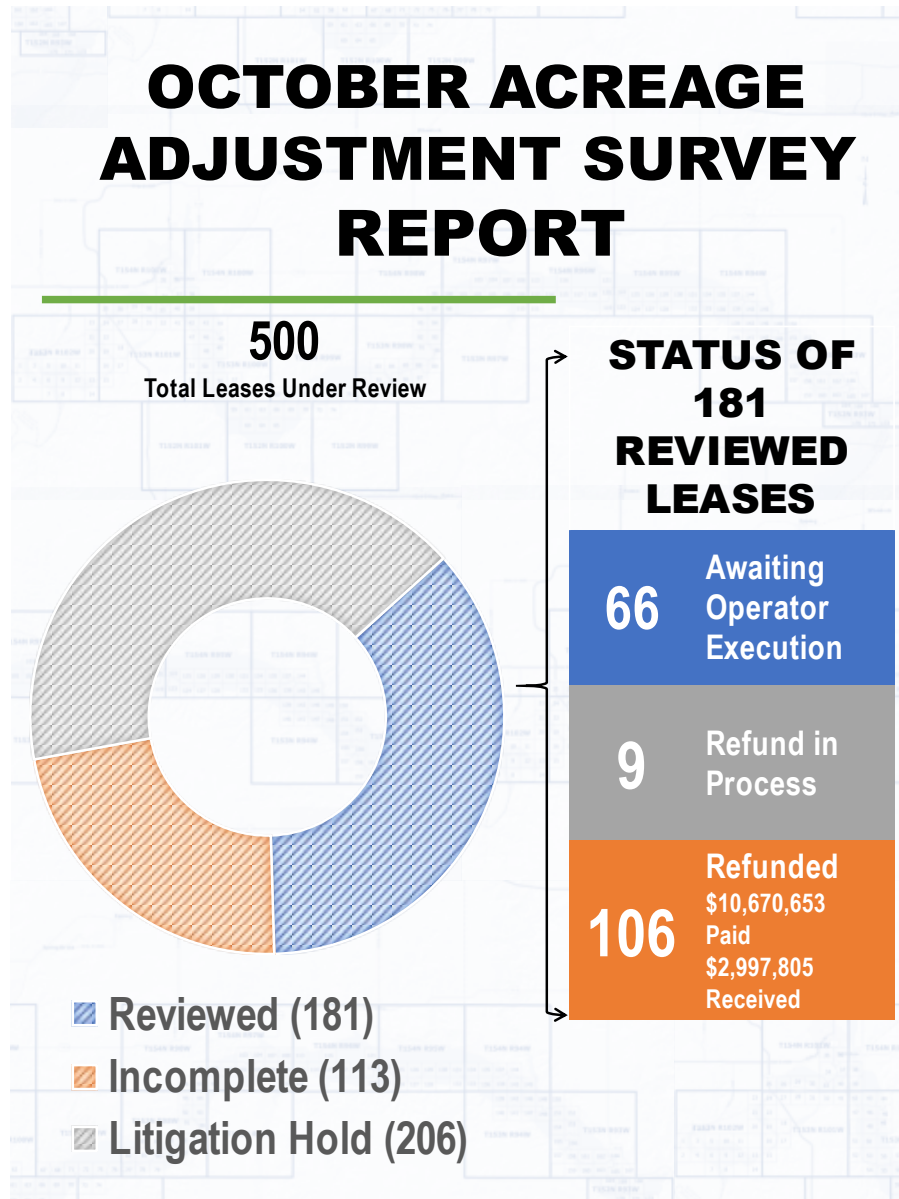
Upon the Board's adoption of the Acreage Adjustment Survey for T153N, R102W Sections 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 34, and 36 as prepared by KLJ, the Department will promptly begin updating records to satisfy the Board's duty under N.D.C.C. § 61-33.1-04(2)(a).

Motion: The Board adopts the acreage adjustment survey on a quarter-quarter basis or government lot basis above and below the ordinary high water mark as delineated by the final review findings of the North Dakota Industrial Commission for T153N, R102W Sections 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 34, and 36.

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

Map T153N, R102W Sections 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 34, and 36 were presented to the Board and are available upon request.

Acreage Adjustment Report



NDDTL River Tracts map was also presented to the Board and is available upon request.

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.

LITIGATION

Newfield Litigation

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.

**Current
Status:**

- **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.

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:

- Acreage Adjustment Survey
- Royalty Offers
- Newfield Exploration Company et al Civ. No. 27-2018-CV-00143

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

The Board entered into executive session at 11:09 AM.

EXECUTIVE SESSION

Members Present:

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Wayne Stenehjem	Attorney General (Via Teams)
Thomas Beadle	State Treasurer

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
Chris Dingwall	Minerals Title Specialist (only for Acreage Adjustment Survey)

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 11:49 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 11:50 AM.

Doug Burgum, Chairman
Board of University and School Lands

Jodi Smith, Secretary
Board of University and School Lands

(11/29/21)