

**Minutes of the Meeting of the
Board of University and School Lands
October 28, 2019**

The October 28, 2019 meeting of the Board of University and School Lands was called to order at 10:01 AM in the Governor's Conference Room of the State Capitol by Chairman Doug Burgum.

Members Present:

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Wayne Stenehjem	Attorney General
Kirsten Baesler	Superintendent of Public Instruction (Via phone)

Members Absent:

Kelly Schmidt	State Treasurer
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Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Kristie McCusker	Paralegal
Kate Schirado	Administrative Assistant
Susan Dollinger	Unclaimed Property Administrator
Peggy Gudvangen	Accounting
Adam Otteson	Revenue Compliance
Tiffany Grossman	Attorney

Guests in Attendance:

Dave Garner	Attorney General's Office
Leslie Bakken Oliver	Governor's Legal Counsel
Brent Sanford	Lt. Governor
Reice Haase	Governor's Office
Mike Nowatzki	Governor's Office
Rachel Kmetz	Office of Management and Business
Joe Morrissette	Office of Management and Business
Renae Bloms	Office of Management and Business
Ron Tolstad	State Auditor's Office
Mindy Piatz	Brady Martz and Associates
Mark Hanson	Nilles Law Office (Via teleconference for Sorum case only)

APPROVAL OF MINUTES

A motion to approve the minutes of the September 26, 2019 meeting was made by Secretary Alvin Jaeger and seconded by Attorney General Wayne Stenehjem and the motion carried unanimously on a voice vote.

R E P O R T S

Report of Encumbrances Issued by Land Commissioner 9/18/2019 to 10/22/2019

Granted to: CONTINENTAL RESOURCES INC, OKLAHOMA CITY-OK
 For the Purpose of: Permit: Road-Access Road
 Right-of-Way Number: RW0007018
 Trust: A-Common Schools
 Legal Description: WIL-153-99-21-SE4
 WIL-153-99-22-S2

Granted to: AURORA WIND PROJECT, LLC, LENEXA-KS
 For the Purpose of: Easement: Electric-Wind Transmission line
 Right-of-Way Number: RW0008236
 Trust: A-Common Schools
 Legal Description: WIL-157-95-16-N2

Granted to: BATTELLE MEMORIAL INSTITUTE, COLUMBUS-OH
 For the Purpose of: Easement-Amend: Site-Tower Site
 Right-of-Way Number: RW0008362
 Trust: A-Common Schools
 Legal Description: STU-143-67-36-ALL

Granted to: XTO HOLDINGS, LLC, SPRING-TX
 For the Purpose of: Easement: Well-Subsurface Well Bore
 Right-of-Way Number: RW0008489
 Trust: A-Common Schools
 Legal Description: MCK-150-98-36-SE4

Granted to: GOODNIGHT MIDSTREAM BAKKEN LLC, DALLAS-TX
 For the Purpose of: Easement: Pipeline-Salt Water Pipeline
 Right-of-Way Number: RW0008506
 Trust: A-Common Schools
 Legal Description: MOU-154-93-36-SE4

Granted to: ONEOK ROCKIES MIDSTREAM LLC, SIDNEY-MT
 For the Purpose of: Easement: Pipeline-Gas Gathering Pipeline
 Right-of-Way Number: RW0008510
 Trust: A-Common Schools
 Legal Description: WIL-155-102-16-NE4

Granted to: GOODNIGHT MIDSTREAM BAKKEN LLC, DALLAS-TX
 For the Purpose of: Easement: Pipeline-Salt Water Pipeline
 Right-of-Way Number: RW0008512
 Trust: A-Common Schools
 Legal Description: MCK-150-95-16-NE4

Granted to: LEGACY RESERVES OPERATING LP, CODY-WY
 For the Purpose of: Easement: Well-Salt Water Disposal Well Extension
 Right-of-Way Number: RW0008526
 Trust: A-Common Schools
 Legal Description: GOL-143-103-36-N2, SE4

Granted to: For the Purpose of: Right-of-Way Number: Trust: Legal Description:	CONTINENTAL RESOURCES INC, OKLAHOMA CITY-OK Permit: Road-Access Road RW0008536 A-Common Schools WIL-153-99-22-W2SE4 Less acres condemned
Granted to: For the Purpose of: Right-of-Way Number: Trust: Legal Description:	CENEX PIPELINE LLC, LAUREL-MT Permit: Temporary Construction RW0008547 A-Common Schools MOU-155-91-36-NW4 MOU-155-92-36-N2 MOU-155-94-36-N2
Granted to: For the Purpose of: Right-of-Way Number: Trust: Legal Description:	HESS BAKKEN INVESTMENTS II LLC, HOUSTON-TX Easement: Pipeline-Multiple Pipelines & Communication Cable RW0008554 A-Common Schools WIL-158-95-36-E2
Granted to: For the Purpose of: Right-of-Way Number: Trust: Legal Description:	HESS WATER SERVICES LLC, HOUSTON-TX Easement: Pipeline-Pipeline & Communication Cable RW0008564 A-Common Schools WIL-158-95-36-S2
Granted to: For the Purpose of: Right-of-Way Number: Trust: Legal Description:	PRIMA EXPLORATION INC, DENVER-CO Assignment: Well-Directional Wellsite RW0008566 A-Common Schools DIV-161-100-36-S2
Granted to: For the Purpose of: Right-of-Way Number: Trust: Legal Description:	NORTH RANGE RESOURCES LLC, DICKINSON-ND On-lease Act. Amend: Well-Vertical Oil Well RW0008582 A-Common Schools MCK-146-100-36-S2
Granted to: For the Purpose of: Right-of-Way Number: Trust: Legal Description:	NORTH RANGE RESOURCES LLC, DICKINSON-ND On-lease Act. Amend: Well-Horizontal Oil Well RW0008583 A-Common Schools MCK-146-100-36-SW4
Granted to: For the Purpose of: Right-of-Way Number: Trust: Legal Description:	XTO HOLDINGS, LLC, SPRING-TX Easement: Well-Subsurface Well Bore RW0008585 A-Common Schools MOU-154-94-16-SW4

Granted to: HERMAN ENERGY SERVICES, LLC, HALLIDAY-ND
For the Purpose of: Permit: Temporary Water Layflat Line
Right-of-Way Number: RW0008590
Trust: A-Common Schools
Legal Description: MCK-148-99-16-NE4

Granted to: PURITY OILFIELD SERVICES LLC, WILLISTON-ND
For the Purpose of: Permit: Temporary Water Layflat Line
Right-of-Way Number: RW0008591
Trust: A-Common Schools
Legal Description: MOU-155-92-16-S2

Granted to: ROUGHRIDER ELECTRIC COOPERATIVE, INC.,
DICKINSON-ND
For the Purpose of: Easement: Maintenance Yards
Right-of-Way Number: RW0008593
Trust: A-Common Schools
Legal Description: BIL-142-101-36-SW4

Granted to: FALKIRK MINING COMPANY, BISMARCK-ND
For the Purpose of: Permit: Coal Exploration
Right-of-Way Number: RW0008597
Trust: A-Common Schools
Legal Description: N/A

Granted to: CENEX PIPELINE LLC, LAUREL-MT
For the Purpose of: Easement-Amend: Pipeline-Oil Transmission Pipeline
Right-of-Way Number: RW0008601
Trust: A-Common Schools
Legal Description: MOU-155-94-36-NE4

Granted to: SELECT ENERGY SERVICES LLC, WILLISTON-ND
For the Purpose of: Permit: Temporary Water Layflat Line
Right-of-Way Number: RW0008602
Trust: A-Common Schools
Legal Description: MCK-149-96-16-E2, SW4

Granted to: SELECT ENERGY SERVICES LLC, WILLISTON-ND
For the Purpose of: Permit: Temporary Water Layflat Line
Right-of-Way Number: RW0008607
Trust: A-Common Schools
Legal Description: WIL-156-101-16-N2
WIL-156-102-16-N2

Granted to: ROLETTE COUNTY, SAINT JOHNS-ND
For the Purpose of: Letter of Permission: Access to School Land
Right-of-Way Number: RW0008608
Trust: A-Common Schools
Legal Description: ROL-161-70-16-NW4

Granted to: **SELECT ENERGY SERVICES LLC, WILLISTON-ND**
 For the Purpose of: Permit: Temporary Water Layflat Line
 Right-of-Way Number: RW0008609
 Trust: A-Common Schools
 Legal Description: MCK-153-94-16-W2

Energy Infrastructure and Impact Office Program Report

The Energy Infrastructure and Impact Office (EIIO) is a division within the Department of Trust Lands (Department). EIIO provides financial assistance to local units of government that are impacted by oil and gas activity. In turn, EIIO receives a portion of the Oil and Gas Gross Production Tax. The office has been a part of the Department since 1977 and was formally known as the Energy Development Impact Office created under N.D.C.C. ch. 57-62. Over the course of the past 40 years, EIIO has dispersed over \$624 million in funding.

The Oil and Gas Impact Grant Fund currently has 41 grants with a balance of \$17,695,025.25 as of October 11, 2019. The following shows grant activity for the last four months:

Oil and Gas Impact Grant Fund	Grants with balances	Current Balance Obligated to Grants
6/30/2019	63	\$23,780,767.68
7/31/2019	55	\$21,669,388.00
8/31/2019	51	\$19,963,193.67
10/11/2019	41	\$17,695,025.25

The Energy Impact Fund, established within Senate Bill 2013 as enacted by the Sixty-fifth Legislative Assembly, was created to supplement the Oil and Gas Impact Grant Fund for the 2017-2019 biennium. This fund currently has four grants with a balance of \$4,940,103.06 as of October 11, 2019. House Bill 1013 of the Sixty-sixth Legislative Assembly requires the Commissioner of University and School Lands to transfer any unexpended funds remaining in the Energy Impact Fund when the fund is repealed on June 30, 2021, to the Oil and Gas Impact Grant Fund. The following shows grant activity for the last four months:

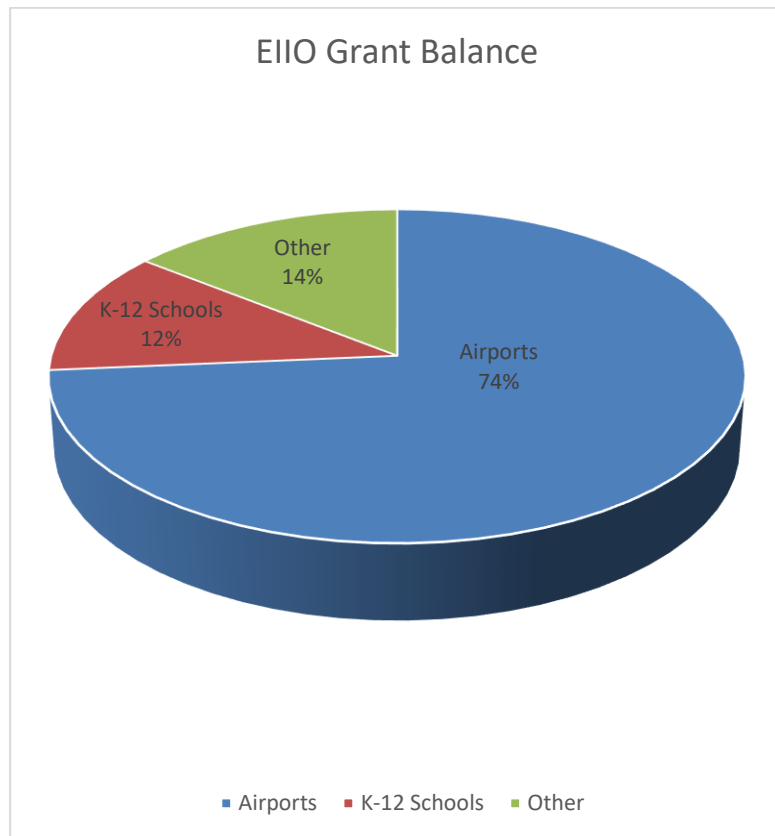
Energy Impact Fund	Grants with balances	Current Balance Obligated to Grants
6/30/2019	5	\$4,997,365.24
7/31/2019	4	\$4,971,638.80
8/31/2019	4	\$4,971,638.80
10/11/2019	4	\$4,940,103.06

The Energy Infrastructure and Impact Office is currently managing 45 grants for a total of \$22,635,128.31. The following shows grant activity for the last four months:

(10/28/19)

Oil and Gas Impact Grant Fund	Grants with balances	Current Balance Obligated to Grants	Energy Impact Fund	Grants with balances	Current Balance Obligated to Grants	Total between both Funds
6/30/2019	63	\$23,780,767.68	6/30/2019	5	\$4,997,365.24	\$28,778,132.92
7/31/2019	55	\$21,669,388.00	7/31/2019	4	\$4,971,638.80	\$26,641,026.80
8/31/2019	51	\$19,963,193.67	8/31/2019	4	\$4,971,638.80	\$24,934,832.47
10/11/2019	41	\$17,695,025.25	10/11/2019	4	\$4,940,103.06	\$22,635,128.31

The chart below represents the remaining grant balances of the Oil and Gas Impact Grant Fund:



Unclaimed Property Program Report

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

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

Since 1975, the Unclaimed Property Division (Division) of the Department 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.

On October 2-3, 2019, Kelmar, the unclaimed property software vendor, visited the Division to ensure the software was being used to its utmost capability. Kelmar identified various opportunities for improvement that the Division immediately implemented. Of significance is Kelmar's observation of the Department's office support staff. Kelmar noted this team set the "gold standard" with its procedures and is recommending unclaimed property agencies across the nation adopt the procedures North Dakota has implemented to meet the standard.

For the month of September 2019, the Division received 69 holder reports with a property value of \$537,854 and paid 423 claims with a total value of \$380,628 (this is an increase from 227 claims with a total value of \$183,884 in in September 2018.)

Investment Update

Asset Allocation

The table below shows the status of the permanent trusts' asset allocation as of September 30, 2019. The figures provided are unaudited.

Account/Asset Class	Long-Term Asset Allocation	9/30/19 Actual Allocation \$	9/30/19 Actual Allocation %	9/30/19 % Diff.
Large Cap US Equity	14.5%	\$ 711,760,196	14.6%	0.1%
Mid/Small Cap US Equity	4.0%	\$ 192,492,891	3.9%	-0.1%
International Equity	14.5%	\$ 714,366,214	14.7%	0.2%
Emerging Market Equity	4.0%	\$ 197,940,985	4.1%	0.1%
Total Equities	37.0%	\$ 1,816,560,286	37.3%	0.3%
Core Fixed Income	13.8%	\$ 758,597,599	15.6%	1.8%
Non-Core Fixed Income	9.2%	\$ 376,200,604	7.7%	-1.5%
Total Fixed Income	23.0%	\$ 1,134,798,203	23.3%	0.3%
Total Absolute Return	15.0%	\$ 723,514,285	14.8%	-0.2%
Commodities	3.0%	\$ 149,434,113	3.1%	0.1%
MLPs	3.0%	\$ 144,565,467	3.0%	0.0%
TIPS	2.0%	\$ 97,523,827	2.0%	0.0%
Natural Resource Equities	2.0%	\$ 92,162,624	1.9%	-0.1%
Total Inflation Strategies	10.0%	\$ 483,686,031	9.9%	-0.1%
Core Real Estate	8.0%	\$ 386,152,565	7.9%	-0.1%
Core Plus Real Estate	7.0%	\$ 330,698,621	6.8%	-0.2%
Total Real Estate	15.0%	\$ 716,851,186	14.7%	-0.3%
Total Asset	100.0%	\$ 4,875,409,991	100.0%	

Angelo Gordon (\$86.61 million, 1.5% of PTF assets as of 9/30/19)

Direct Lending Fund

The Angelo Gordon Direct Lending Fund III portfolio was initially funded in late-August 2018. A \$15 million capital call was funded on September 12, 2019, which brought the amount funded to \$84.75 million out of a total commitment of \$150 million. This represents 56.5% of the total commitment to the fund. According to Angelo Gordon, the Board's commitment should be fully drawn by late-2020.

Theodore Roosevelt Presidential Library and Museum Endowment Fund

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

Upcoming Investment Manager Meetings

The following meetings with investment managers were planned to discuss updates on strategy, compliance, and performance. Meetings will be held at DTL’s conference room. Please inform the Commissioner ahead of time if you plan to attend, so that we can make sure enough presentation materials are available.

- November 4, 2019, 2:00PM** **Van Eck Natural Resources Equities**
Diversified Inflation Strategies (\$92.1M, 1.9% of PTF assets)

- November 5, 2019, 8:00AM** **Schroders Securitized Credit**
Non-Core Fixed Income (\$116.5M, 2.4% of PTF assets)

- November 5, 2019, 10:30AM** **PIMCO All Asset All Authority Fund (PAUIX)**
Absolute Return Strategies (\$358.5M, 7.4% of PTF assets)

O P E R A T I O N S

Acreage Adjustment Survey

Senate Bill 2211 of the Sixty-Sixth Legislative Assembly amended N.D.C.C. ch. 61-33.1 relating to the ownership of mineral rights of land subject to inundation by Pick-Sloan Missouri basin project dams. Under N.D.C.C. § 61-33.1-03(8), the Department executed a contract with Kadrmass, Lee & Jackson, Inc. “to analyze the final review findings and determine the acreage on a quarter-quarter basis or government lot basis above and below the ordinary high water mark as delineated by the final review findings of the industrial commission.” The contract’s scope of work concludes twelve months from the date of execution, at a total cost of \$1,088,635.

Survey graph and map were provided to the Board and are available upon request.

General Administration, Surface Land Management, Investments and Minerals Management Administrative Rules

In House Bill 1300, the Sixty Fifth Legislative Assembly directed the Board of University and School Lands (Board) no longer be exempt from the Administrative Agencies Practice Act (Act). In Senate Bill 2264, the Sixty Sixth Legislative Assembly directed the Board be exempt from the adjudicative proceeding requirements and procedures under North Dakota Century Code §§ 28-32-21 through 28-31-51 of the Act.

The Department considered existing rules, together with policies and procedures, to incorporate necessary wording from those into rules which comply with the North Dakota Administrative Code. North Dakota Century Code § 28-32-07 states: “Any rule change, including a creation, amendment, or repeal, made to implement a statutory change must be adopted and filed with the legislative council within nine months of the effective date of the statutory change.”

Revisions to rules concerning General Administration and rules for Surface Land Management, Investments, and Minerals Management were posted on the Department's website, publication of a notice of intent has been completed, and copies of these rules were sent to sponsoring legislators. A public hearing on these rules was held August 28, 2019, where the Department received oral and written comments. The Department continued to receive comments until September 9, 2019. A summary of the written comments, together with the Department's discussion and proposed revisions to the rules, has been completed and is attached.

The Board approved the amended rules on September 29, 2019, which was then be submitted for review by the Attorney General's Office. Pending review by the Attorney General's Office, the General Administration, Surface Land Management, Investments, and Minerals Management Administrative Rules will be presented to the Administrative Rules Committee in December 2019, to become effective January 1, 2021.

Financial Management and Accounting System Information Technology Project Status Update

The Departments' 2017-2019 biennial budget appropriation includes \$3.6 million to replace legacy information technology (IT) systems as authorized by Senate Bill 2013.

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.

The Department's financial management and accounting (FMA) system is designed to meet the comprehensive needs for financial accounting and financial management. The intention is to implement a new system that will completely replace the current FMA application and tools, largely developed in-house. Currently, the Department has multiple customized systems and manual processes to support its financial responsibilities.

On October 11, 2019, the Department's Executive Steering Committee approved the Department moving forward with Microsoft Dynamics as the solution for the FMA System. The Department will purchase licenses from the North Dakota IT Department. Additionally, the Department will work with an implementation vendor who is already under contract with the State of North Dakota. The FMA system will require integration with the future land management system as this will be the source of all trust land assets' revenue and customer payment calculations.

Once the Department has identified a vendor to implement Microsoft Dynamics, a project implementation plan will be created and a go-live date determined.

Government Accounting Standards Board Statement

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

The Department has been tasked with evaluating the estimated value of the mineral assets, 2.6 million acres, held in trust by the Board.

(10/28/19)

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

The Request for Proposal for the Assessment was released September 20, 2019. The Department will sign an executed contract after January 1, 2020. Once the data is compiled and completed, the findings will be presented to the Board.

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

Under the direction of the Board, the Department will coordinate efforts with the Office of Management and Budget (OMB), the State Auditor's Office, and external audit groups to review modifying the Department's accounting principles relating to the treatment of subsurface assets as an investment. This change requires implementation of the Governmental Accounting Standards Board (GASB) Statement 72 – Fair Value Measurement and Application, as it relates to all subsurface assets to be recognized, and determination of the impact on the State's Comprehensive Annual Financial Report (CAFR). It is reasonable to assume there will be a significant cost increase in the annual auditing fees paid by the Department for the annual financial statement audit required by OMB in preparation for the CAFR.

Disaster Response Action Items

Governor Doug Burgum signed an executive order declaring a statewide flood emergency on Monday, October 21, 2019, paving the way for requests for federal assistance to help North Dakotans deal with significant flooding impacts caused by heavy fall rains and a historic October blizzard.

There are several opportunities for the Board to partner with the Governor to aid those impacted by the flooding.

Energy Infrastructure and Impact Office

The Energy Infrastructure and Impact Office (EIIO), formerly known as the Energy Development and Impact Office was legislatively organized in 1975 as the Coal Development Impact Office. The Oil and Gas Impact Grant Program, established to address oil and gas developments, began in 1981. In 1989 the EIIO was combined with the Department and the EIIO is currently under the Board's direction.

The purpose of the Energy Impact Grant Program is to provide financial assistance to local units of government experiencing adverse impacts as a direct result of oil and gas activity.

N.D.C.C. § 15-01-02(6) provides the Board:

Authority to award and distribute energy infrastructure and impact grants from moneys deposited in the oil and gas impact grant fund, except that grants awarded annually may not exceed sixty percent of the biennial appropriation for energy infrastructure and impact grants. The board may create an advisory committee to assist the board in making its grant award determinations.

In House Bill 1013, the Sixty-sixth Legislative Assembly appropriated \$2 million for grants to political subdivisions impacted by oil and gas development activities for the 2019-2021 biennium; thus total grants in either fiscal year cannot exceed \$1.2 million. The EIIO plans to open a

contingency grant round in December 2019, using funds from appropriated under House Bill 1013. It is anticipated that applications will be accepted through January 31, 2020, with scoring completed and the advisory committee meeting in February. A list of potential awards will likely be presented to the Board at the March 2020 Board meeting.

In 2011, the Sixty-second Legislative Assembly appropriated \$30 million during the November 2011 Special Session to address needs resulting from the 2011 flood events. The EIIO was designated to implement a grant program to address impacts not funded by other state or federal response programs or insurance coverage. Should the current Legislative Assembly allocate additional funding to the EIIO, the Department is prepared to distribute that funding.

Farm Loan Pool

The Farm Loan Pool (FLP) was created in 1977 with the passage of Senate Bill 2106 (SB 2106). SB 2106 was one of two bills passed during the legislative session that restructured responsibilities of the Bank of North Dakota (BND) and the Board to better fit each agency's core competencies. Senate Bill 2110 gave control of the state's sovereign minerals to the Board, while SB 2106 turned farm lending functions previously performed by the Board over to BND, to administer on behalf of the Board. Currently, BND is administering 46 loans at a current value of \$9,906,553 on the Board's behalf.

The Board's Loan Pool Account Policy provides:

Renegotiation. [BND] is authorized to renegotiate the terms of mortgages in the loan pool account as follows:

1. Only prospective restructuring is allowed;
2. No principal or accrued interest may be forgiven; and
3. [BND] must follow sound banking practices in all debt restructuring and renegotiations.

[BND] is also authorized to renegotiate loans which are current when the borrower has asked for an interest rate concession due to competition in the marketplace. Any such renegotiation must be consistent with sound banking practices and the renegotiated rate must be within the guidelines for new borrowers.

The Department is currently working to identify specific borrowers who may need assistance due to flooding from BND.

Surface Leases

The Department's Surface Division leases and manages surface acres held in trust for various schools and institutions.

The major source of income on these lands comes from agricultural leases, with grazing being the predominant land use. The Surface Division manages close to 5,000 agricultural leases with most of these leases for grassland with over 98% of the 706,609 acres leased. Acres that consistently flood are monitored by the Department's Field Inspectors and rents are adjusted accordingly. If excessive flooding occurs Lessees need to contact the Department for a formal review and rents can be adjusted accordingly.

Additionally, during extreme weather conditions Lessees can contact the Department and receive and emergency waiver to feed livestock on land leased by the Board.

LITIGATION

Vitesse

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

Date Filed: June 11, 2019

Court: McKenzie County District Court

Judge: Robin Schmidt

Attorney: David Garner

Opposing Counsel: Lawrence Bender, Spencer Ptacek

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

History: The Summons and Complaint were served on the State of North Dakota and the Board of University and School Lands, by service on the Attorney General’s Office on June 7, 2019. The action was filed on June 11, 2019. The State’s Answer was filed with the District Court June 28, 2019.

Current Status:

- A scheduling conference was held on October 2, 2019. The parties will work on a scheduling order.
- Lessee’s Motion for Leave to Amend complaint filed October 14, 2019.

Continental

Case: Continental Resources, Inc. v. North Dakota Board of University & School Lands and North Dakota Department of Trust Lands, Civ. No. 27-2017-CV-00661

Date Filed: December 20, 2017

Court: District Court/McKenzie County

Attorneys: David Garner

Opposing Counsel: Mark S. Barron/Baker & Hostetler LLP

Judge: Robin Schmidt

Issues: Continental is seeking a Declaratory Judgment that it is currently paying royalties properly under the Board's lease. Specifically, Continental is asking the Court to order that Continental is allowed to deduct certain costs from royalty payments and that it does not owe the Defendants any additional royalty payments based on previous deductions.

History: A Complaint and Answer with Counterclaims have been filed. Continental filed an Answer to Counterclaims. Continental served discovery and responses were due July 30, 2018. Defendant served discovery and Continental replied on September 17, 2018. On November 27, 2018, the parties filed a Joint Motion to Vacate Trial Date and Joint Status Report, agreeing that no later than February 1, 2019, the parties would submit to the Court a proposed case management statement incorporating a schedule for dispositive motions. Trial scheduled for February 1, 2019 was cancelled to allow for additional discovery. Continental served discovery and Defendants' answers to the discovery were served on February 8, 2019. The parties filed a Joint Status Report on March 15, 2019. Defendants' Supplemental Answers to Plaintiffs' Interrogatories were served on Plaintiff on April 12, 2019. Motions for Summary Judgment were scheduled to be due on August 16, 2019. On July 29, 2019, Defendants filed an Expedited Motion for Extension of Time to File Motion for Summary Judgment, Brief and proposed Order. On July 31, 2019, the Court entered its Order Granting Extension of Time to File Motion for Summary Judgment until August 30, 2019. Plaintiff and Defendants filed a Joint Motion for Stay on August 21, 2019, requesting the Court stay all proceedings pending the North Dakota Supreme Court's resolution of the petition for rehearing in the Newfield lawsuit.

Current Status:

- On August 22, 2019, the Court entered its Order Granting Joint Motion for Stay staying the matter pending the North Dakota Supreme Court's resolution of the Newfield case. Within 14 days of resolution, the parties are to submit a joint status report proposing a plan for proceeding in this matter.
- On October 4, 2019, Continental filed an Unopposed Motion for Extension of Time to Provide Joint Status Report until October 18, 2019.
- The parties filed a Joint Motion to Extend Stay and a proposed Order Granting Joint Motion to Extend Stay on October 18, 2019.
- The Court signed the Order Granting Joint Motion to Extend Stay on October 21, 2019.

Continental Interpleader

Case: Continental Resources, Inc. v. North Dakota Board of University and School Lands, et al., Case No. 1:17-cv-00014
Date Filed: December 23, 2016
Court: Federal District Court, 8th Circuit
Judge: Honorable David Hovland
Attorney: Charles Carvell, David Garner, and Jen Verleger
Opposing Counsel: Lawrence Bender, David Ogden, Paul Wolfson, John S. Most

Issues: In December 2016, Continental Resources, Inc. (Continental) brought an interpleader action against the Board of University and School Lands and the United States regarding certain lands underlying Continental operated wells located in McKenzie, Mountrail, and Williams Counties. This case involves a disagreement between the State and United States over the location of the ordinary high watermark—and consequently title to underlying minerals—on federally owned land along the now inundated historic Missouri River. Continental is requesting the Court determine the property interests for the disputed lands so that Continental can correctly distribute the proceeds from the affected wells. Continental has claimed that there is “great doubt as to which Defendant is entitled to be paid royalties related to the Disputed Lands.” Currently, Continental is paying the United States its full royalty based on the acreage it claims. The remaining royalty, over and above what is due the United States, is being escrowed with the Bank of North Dakota pursuant to the Board’s rules.

History: The United States removed this action to federal district court on January 11, 2017. The Board filed its answer to the complaint on February 13, 2017. The United States filed its answer to the complaint on May 12, 2017. An Amended Complaint was filed by Continental Resources on September 14, 2017. The United States filed a Motion to Dismiss for Lack of Subject Matter Jurisdiction on October 18, 2017. In support of its motion, the United States alleges that it has not waived its sovereign immunity under the Quiet Title Act and that the interpleader action is moot under S.B. 2134.

The Board filed a response on December 20, 2017 opposing the motion to dismiss. Continental filed a response and the United States filed its reply. The United States filed a reply on March 16, 2018. The Board filed a Surreply to the Motion to Dismiss on April, 16, 2018. The Order Denying the United States’ Motion to Dismiss for Lack of Subject Matter Jurisdiction was entered on December 31, 2018. The Order provided that North Dakota and the United States confer and submit a proposed scheduling order to the Court no later than sixty days from the date of the order. On January 8, 2019 the United States filed its Motion to Stay Action Due to Lapse of Appropriations. On January 10, 2019, the Court granted the United States’ Motion and cancelled the January 24, 2019 scheduling conference. The Order stated the “action is stayed until appropriations are restored and Department attorneys and the Bureau of Land Management personnel are permitted to resume their usual civil litigation functions.” A January 10, 2019 docket entry provides “Deadlines and Hearings Terminated.” The United States filed a Notice of Restoration of Appropriations on January 28, 2019, which requested the Court set a new scheduling conference date. On January 30, 2019, the Court issued an order granting the motion for scheduling conference, requiring the parties submit a revised scheduling/discovery plan by March 15, 2019, and setting a telephonic scheduling conference for 10:00 a.m., March 18, 2019. The parties filed a Joint Motion for Extension of Time to File Scheduling Proposal and Participate in Scheduling Conference on March 12, 2019, due to appointment of Magistrate Judge Clare Hochalter, replacing Magistrate Judge Charles Miller, and the recusal of Shaun Pettigrew of the Environment and Natural Resources Division of the Department of Justice, with John S. Most as his replacement. The Court entered an Order granting the extension to April 12, 2019 and a scheduling conference was reset for April 15, 2019. The Scheduling Conference was held on April 15, 2019.

Current Status:

- On June 14, 2019, the Board of University and School Lands filed its Amended Answer to Amended Complaint with Statement of Claim.
- By August 13, 2019, the United States shall shall assert its claims, if any, to the disputed stake.
- After the August 13, 2019 filing, the proceedings will be stayed until September 19, 2019 or another date set by the Court.
- During the stay, the United States and the Board are to discuss whether the dispute that gave rise to the litigation can be resolved.
- By no later than September 19, 2019, the United States and Board shall inform the Court of the status of their discussions and the Court will consider a schedule for the case.
- A Status Conference was set for September 20, 2019 before Magistrate Judge Clare R. Hochhalter.
- On August 1, 2019, the Status Conference previously set for September 20 was reset to October 11, 2019 at 10 a.m. before Magistrate Judge Clare R. Hochhalter.
- On August 13, 2019, the United States filed a Motion for Extension of Time to Plead and Assert Affirmative Claims and the Motion was granted on the same day, giving the United States until August 27, 2019 to file.
- The United States filed their Answer to Amended Complaint on August 27, 2019.
- On October 3, 2019, Defendants filed a joint motion and memornadum for postponement of the October 11, 2019 status conference by 90 days.
- On October 4, 2019, the Court entered an Order granting the motion to continue status conference. Status conference was reset to January 13, 2020, at 9 a.m. via telephone before Magistrate Clare R. Hochhalter.
- United States Department of Justice advised it will be working with the United States Department of Interior – Bureau of Land Management regarding a settlement proposal.

Wilkinson

Case: William S. Wilkinson, et. al. v. Board of University & School Lands, Brigham Oil & Gas, LLP; EOG Resources, Inc.; Case No. 53-2012-CV-00038

Date Filed: January, 2012

Court: Williams County District Court

Judge: Paul Jacobson

Attorney: Jennifer Verleger/Matthew Sagsveen/David Garner

Opposing

Counsel: Josh Swanson/Rob Stock, Lawrence Bender, Lyle Kirmis

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

On July 1, 2014, the Plaintiffs filed an amended complaint in the case and added claims of unconstitutional takings, conversion, constructive trust and unjust enrichment, civil conspiracy and deprivation of rights under 42 U.S.C. § 1983.

Plaintiffs assert in their amended complaint that the Board should be issuing leases on the west side of the Highway 85 bridge pursuant to the Phase II Investigation – the estimated location of the ordinary high watermark (OHWM) prior to inundation of Lake Sakakawea – rather than the Phase I Delineation – current location of the OHWM. Plaintiffs argue that the subject property is located under Lake Sakakawea, which did not exist at statehood, and thus the state did not acquire title to it as sovereign lands. Therefore, the State’s title to the Missouri River is limited to the channel as it existed prior to inundation of Lake Sakakawea as determined by the Phase II investigation.

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

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

1. Surface ownership could not be determined without the United States as a party to the action;
2. N.D.C.C. ch. 61-33.1 has a retroactive clause and the district court did not have an opportunity to determine if it applies and governs ownership of the minerals at issue;
3. A “takings” analysis must be conducted if the district court determines the State owns the disputed minerals; and
4. The district court erroneously made findings of disputed fact.

History:

Due to the passage of S.B. 2134, the District Court ordered the case stayed and all deadlines be held in abeyance until the final review findings under S.B. 2134 are issued by the North Dakota Industrial Commission (NDIC). Plaintiff, after NDIC issued the review findings, requested a status conference with the Court to set a new trial date and other deadlines. The Board and State Engineer filed a Motion for Continued Stay of Proceedings on October 11, 2018. The telephonic status conference scheduled for November 2, 2018 was cancelled. A Hearing on the Motion for Continued Stay was held November 30, 2018. Defendants submitted a proposed Order and the Judge asked for Plaintiffs to submit a proposed Order, which was filed December 4, 2018. The Court issued its Order on December 12, 2018, denying the Motion for Continued Stay and requiring the parties confer on a scheduling order and submit a Rule 16 scheduling order by January 26, 2019. The State filed a Motion for Proposed Scheduling Order on January 28, 2019, and Plaintiffs filed a notice of hearing on January 31, 2019, and filed their Response to State’s Motion for Proposed

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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.

**Current
Status:**

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Newfield

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 and Spencer Ptacek/Fredrikson & Byron, P.A.

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

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September 20, 2019, the opinion and mandate of the Supreme Court was filed with McKenzie County District Court.

Current Status:

- **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.”**

Sorum

Case: **Paul Sorum, et. al. v. State of North Dakota, et. al. – Civ. No. 09-2018-CV-00089**

Tribunal: **Cass County District Court**

Judge: **John C. Irby**

Attorney: **Mark Hanson, Nilles Law Firm**

Opposing Counsel: **Terrance W. Moore, Fintan L. Dooley**

Issues: The Board was named as a defendant in the above reference case which was served on January 10, 2018. Plaintiffs have filed this action to challenge the Constitutionality of S.B. 2134 passed during the last legislative session and codified as N.D.C.C. ch. 61-33.1. Under the new legislation, “[t]he state sovereign land mineral ownership of the riverbed segments inundated by Pick-Sloan Missouri basin project dams extends only to the historical Missouri riverbed channel up to the ordinary high water mark.” N.D.C.C. § 61-33.1-02. S.B. 2134 established a process by which the Department of Mineral Resources is directed to procure a “qualified engineering and surveying firm” to “review the delineation of the ordinary high water mark of the corps survey segments” for the portion of the Missouri River designated as the “historical Missouri riverbed channel.” N.D.C.C. § 61-33.1-03(2), (3). Following a review process, which includes a public hearing and public comments, the North Dakota Industrial Commission must adopt final review findings which “will determine the delineation of the ordinary high water mark for the segment of the river addressed by the findings.” N.D.C.C. § 61-33.1-03(7). Plaintiffs’ complaint requests from the court a declaratory judgment finding that N.D.C.C. ch. 61-33.1 violates the Public Trust Doctrine and the Anti-Gift, Privileges and Immunities, and Local and Special Law Clauses of the North Dakota Constitution. Plaintiffs are also requesting the Court issue an injunction to prevent all state officials from further implementing and enforcing N.D.C.C. ch. 61-33.1.

History: An Answer was filed. Defendants filed a Motion to Dismiss, which was denied in April 2018. Petition for Supervisory Writ and Exercise of Original Jurisdiction was filed by Defendants and denied in May 2018. A Motion for Preliminary Injunction was brought by Plaintiffs and a hearing was held on May 21, 2018. An Order for Preliminary Injunction was filed June 26, 2018. A Scheduling Conference was held on September 6, 2018 and the following briefing deadlines were set: Summary Judgment Motions were filed October 22, 2018. Response Briefs were filed December 10, 2018. Reply Briefs were due December 21, 2018. A hearing on the Motions for Summary Judgment was held on January 4, 2019. The Order on Cross-Motions for Summary Judgment was issued on February 27, 2019, and Defendants were directed to prepare the proposed Judgment. On March 6, 2019, Defendants filed their proposed

Judgment. Plaintiff's filed a letter on March 7, 2019, advising the Court that they felt Defendants' proposed Judgment was deficient and that they would also be submitting a proposed Judgment. Plaintiff's proposed Judgment was filed March 8, 2019. Defendants filed a letter on March 8, 2019 advising the Court that they intended to submit a response to Plaintiff's proposed Judgment within 14 days. On March 19, 2019, Defendants filed an Objection to Plaintiff's Proposed Judgment. Thereafter, Plaintiff's filed a letter asking the Court not to rule on Defendants' Objection until Plaintiff's have had the opportunity to be heard and further, that Plaintiff's intend to bring a Motion for Clarification concerning retroactive royalty refunds within 14 days. Plaintiff's filed their Response to Defendants' Objection to Proposed Judgment and Request for Clarification and their Amended Proposed Order and Judgment on March 29, 2019. Defendants filed their Objection to Plaintiff's Proposed Order and Judgment (Plaintiff's Amended Proposed) and Reply to Plaintiff's Response to Defendants' Objection to Proposed Judgment and Request for Clarification on April 8, 2019. On April 25, 2019, Judge Irby entered an Order for Entry of Judgment ordering the Clerk to enter Defendants' Proposed Order as the Judgment of the Court. Judgment was entered on April 26, 2019. Plaintiff's filed a Notice of Motion for Attorney Fees, Costs, and Service Award to Plaintiff's scheduling a hearing for 1:30 p.m. June 10, 2019 in Fargo. The Notice of Entry of Order on Cross-Motions for Summary Judgment, Order for Entry of Judgment, and Judgment was filed by Defendants on May 3, 2019. On May 15, 2019, Plaintiff's filed their Motion for Attorney Fees, Costs and Service Award to Plaintiff's and the Memorandum in Support of Motion, together with supporting documents. On May 20, 2019, Plaintiff's filed their Amended Motion for Attorneys Fees, Costs and Service Award to Plaintiff's. Defendants filed an Expedited Motion for Extension of Time to Respond to Plaintiff's Memorandum in Support of Motion for Attorney Fees, Costs and Service Award to Plaintiff's and requested the June 10, 2019 hearing be postponed. Defendants filed, with the District Court, its Response to Plaintiff's Memorandum in Support of Motion for Attorneys Fees, Costs and Service Award to Plaintiff's on June 12, 2019. Plaintiff's filed their Reply Memorandum in Support of Motion for Attorney Fees, Costs and Service Award to Plaintiff's on June 19, 2019. A hearing on the motion for attorneys fees was held before the District Court on July 18, 2019. The State Defendants/Appellants filed a Notice of Appeal to the North Dakota Supreme Court (Supreme Court) on June 27, 2019. Plaintiff/Appellees/Cross-Appellants filed a Notice of Cross-Appeal dated July 10, 2019. Appellants' Briefs were due to the Supreme Court on August 6, 2019. On July 18, 2019, the parties filed a Stipulation and Joint Motion for Appellate Briefing Schedule with the Supreme Court to allow for a decision to be rendered in the District Court on the issue of attorneys fees prior to the briefs being due to the Supreme Court. On July 19, 2019, the Joint Motion for Appellate Briefing Schedule was denied and an Order of Remand was entered by the Supreme Court temporarily remanding the case to the trial court for the limited purpose of consideration and disposition of Plaintiff's Motion for Attorney Fees, Costs and Service Award to Plaintiff's. The briefing schedule for briefs before the Supreme Court is stayed pending the District Court's disposition of the attorneys fees issue. On July 24, 2019, the District Court issued its Order on Plaintiff's Motion for Attorney Fees, awarding attorney fees to Plaintiff's attorneys and service awards to Plaintiff's. An Amended Judgment was entered in the District Court on July 31, 2019. On August 1, 2019, State Defendants filed an Amended Notice of Appeal and the Order and Request for Transcript. Also on August 1, 2019, the Supreme Court provided its Notice of Filing Notice of Appeal. On August 7, 2019, the Amended Notice of Cross-Appeal was filed by Plaintiff's.

Current Status:

- The transcripts requested by the State Defendants of the January 4, 2019 summary judgment hearing and the July 18, 2019 hearing on attorney fees/costs/service award were filed with the North Dakota Supreme Court on October 4, 2019.
- In light of the filing of those transcripts, the Supreme Court's clerk has advised that the State Defendants' initial appellant brief is to be filed on November 13, 2019.

The Commissioner recommends the Board consider entering executive session for consultation with legal counsel regarding pending and potential litigation. Executive session began at 10:41 AM.

EXECUTIVE SESSION

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

- William S. Wilkinson et al. Case No. 53-2012-CV-00038
- Newfield Exploration Company et al Civ. No. 27-2018-CV-00143
- Paul Sorum et al. Civ. No. 09-2018-CV-00089

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

EXECUTIVE SESSION

Members Present:

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

Members Absent:

Kelly Schmidt	State Treasurer
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Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
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Kristie McCusker
Kate Schirado
Adam Otteson

Paralegal
Administrative Assistant
Revenue Compliance

Guests in Attendance:

Brent Sanford
Leslie Bakken Oliver
Reice Haase
Dave Garner
Mark Hanson

Lieutenant Governor
Governor's Legal Counsel
Governor's Office
Attorney General's Office (Wilkinson and Newfield only)
Nilles Law Office (Via teleconference for Sorum only)

The executive session adjourned at 11:32 AM and the Board returned to open session and the public was invited to return to the meeting. During the executive session, the Board was provided information regarding the Continental Interpleader and Newfield litigation.

A D J O U R N

There being no further business, the meeting was adjourned at 11:32 AM.

Doug Burgum, Chairman
Board of University and School Lands

Jodi Smith, Secretary
Board of University and School Lands