

**Minutes of the Meeting of the  
Board of University and School Lands  
January 04, 2012**

The January 4, 2012 meeting of the Board of University and School Lands was called to order in the Governor's Conference Room at 9:00 AM by Chairman Jack Dalrymple.

**Members Present:**

Jack Dalrymple	Governor
Alvin A. Jaeger	Secretary of State
Kelly Schmidt	State Treasurer
Wayne G. Sanstead	Superintendent of Public Instruction
Wayne Stenehjem	Attorney General

**Members Absent:**

None

**Land Department Personnel:**

Lance D. Gaebe	Land Commissioner
Jeff Engleson	Director, Investment Division
Drew Combs	Director, Minerals Management Division
Gerald Fisher	Assistant Director, Energy Infrastructure & Impact Office
Linda Fisher	Unclaimed Property Administrator
Diane Nelson	Minerals Title Specialist
Pam Rennich	Director, Revenue Compliance Division
Judith F. Schell	Administrative Assistant

**Others in Attendance:**

Teri Finneman	Fargo Forum
Tom Nehring	North Dakota Department of Health
Jannelle Combs	Leonard, Street & Deinard
John Morrison	Crowley Fleck Law
Major General Murray G. Sagsveen	State Disaster Recovery Coordinator
Ron Ness	North Dakota Petroleum Council

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

A motion to approve the minutes of the December 8, 2011 meeting was made by Kelly Schmidt and seconded by Wayne Sanstead. Motion carried.

Action Record	Aye	Nay	Absent
Secretary Jaeger	X		
Superintendent Sanstead	X		
Treasurer Schmidt	X		
Attorney General Stenehjem	X		
Governor Dalrymple	X		

## E N E R G Y   I N F R A S T R U C T U R E   A N D   I M P A C T   D I V I S I O N

**Flood-Impacted Political Subdivision Infrastructure Development Grant Program.** The November 2011 Special Legislative Session passed SB 2371 which, in part authorized a \$30

million appropriation to the Commissioner and flood infrastructure grant responsibilities to the Land Board and the Energy Impact Office director.

The "Flood-Impacted Political Subdivision Infrastructure Development Grant Program" legislation directs the Energy Infrastructure and Impact Office director to:

- A. Develop a plan for providing infrastructure development grants to eligible political subdivisions and establish procedures and forms to be used for applying for funds.
- B. Receive and review grant applications.
- C. Make recommendations to the board of university and school lands on grants to eligible political subdivisions pursuant to this section.

The legislation authorizes the Board to award and distribute 50% cost-share grants to eligible political subdivisions based on identified needs. Eligible entities are political subdivision located within the nine FEMA Individual Assistance Disaster declared counties as result of the 2011 flood event. The following is a list of the counties:

Burleigh  
Morton  
Ward  
McHenry  
Renville  
Ramsey  
Benson  
Richland  
Barnes

The types of projects that may be funded include:

- A. Develop new community infrastructure, related to the displacement of residents due to flooding.
- B. Evaluate the damage to community-owned infrastructure.
- C. Restore or repair community-owned infrastructure damage.
- D. Expand landfill capacity or reimburse flood-related waste disposal costs.
- E. Raise roads or develop flood control structures.
- F. Acquire property needed for floodway development or levy construction.
- G. Acquire homes damaged by levy construction.
- H. Provide reimbursement for other flood-related expenses.

SB 2371 states the legislative intent of the Flood Infrastructure Grants are to be used by grantees to address needs not funded by other state or federal response or insurance coverage. This could include Community Development Block Grants, Hazard Mitigation funds, State Water Commission resources or the Rebuilders Loan Program and FEMA Individual or Public Assistance.

The Department has consulted with Major General Murray Sagsveen, the State Disaster Recovery Coordinator and is gathering information from the Office of the Adjutant General, the State Water Commission, the Department of Transportation and the Department of Commerce on the status of state and federal recovery programs.

Duane DeKrey has been hired on a temporary basis to assist in developing procedures and guidelines for the program. Mr. DeKrey is meeting with local community leaders and emergency management officials regarding unmet infrastructure needs not repaired or fulfilled by other federal or state response programs.

The Department is gathering information on the other available infrastructure funding to determine the needs to be filled with this program funding.

Meetings are scheduled in each of the eligible counties to describe the funding and authorization to local officials and to gather feedback on possible projects. The meeting schedule is as follows:

- January 3, Richland County, Basement of the Court House, Wahpeton 1:00pm
- January 4, Morton County, Basement of the Court House, Mandan 11:00am
- January 5, Ramsey County, Basement of the Court House, Devils Lake 10:00am
- January 5, McHenry County, Court House, Towner 2:00pm
- January 6, Benson County, Highway Shop, Minnewaukan 10:30am
- January 9, Barnes County, Highway Shop, Valley City, 9:30am
- January 10, Renville County, Court House upstairs, Mohall, 1:00pm
- January 10, Ward County, Court House, Basement, Minot 4:00pm
- January,12, Burleigh County, City County Building , Bismarck 1:30pm

It is anticipated that applications may exceed the \$30 million available. The Commissioner/ Energy Impact Director suggest that a way of determining grant dollars awarded to each of the nine eligible counties could be determined by the relative damage on a percentage basis that each county sustained. The Energy Impact Office could inform each county of its allocation and assist in coordinating with the political subdivisions within a county to develop a local consensus of the prioritized needs for the prorated funds.

A draft of potential grant guidelines was distributed. Program focus would give priority to needs not eligible for other federal or state programs nor other needs supported by other provisions of SB 2371.

The Board instructed the Energy Office Director to prepare grant program guidelines for applicants. The director was also directed to return to the Board with recommendations for funding targets for each of the eligible counties based upon relative flood damage and needs.

**Energy Impact Grant Program, Winter Quarter-Emergency Services and Response.** The focus for the January/February/March energy impact grant round is emergency services and response services impacted by oil and gas development.

To assist in developing grant guideline recommendations, meetings were held with staff from the North Dakota Department of Health - Division of Emergency Medical Services and Trauma (DEMST); the North Dakota EMS Association, the North Dakota Firefighter's Association; members of Billings County Emergency Management Services and several legislators.

Information was also obtained from a study commissioned by the ND Department of Health titled "The Impact of Oil and Energy Development on Out-Of-Hospital Emergency Medical Services." This study focused specifically on Dunn, Williams, Mountrail, and McKenzie Counties. The report highlighted a common message of declining and weary volunteer force, facing a swelling demand for emergency services.

Grant guidelines for the January/February/March 2012 grant round have been reviewed by the Energy Impact Advisory Committee. The following is a summary of the proposed guidelines:

- The project should target to improve the readiness, quality and responsiveness of emergency services and response teams being impacted from oil and gas development.
- Priority for one-time awards for assets or training with long term benefits.
- Projects submitted with mutual benefit to multiple service providers in a region or multiple county area will be given priority consideration.
- Funds may be provided for projects
  - seeking to improve equipment, facilities, and safety
  - planning efforts to develop and establish joint county/regional joint powers or formalized response agreements
  - training for oil rig response
  - leadership development training
  - and improving emergency response infrastructure

- Projects necessitating recurring funding will receive lower priority consideration.
- Many emergency response providers are private or organized under or outside a political subdivision. Since the statutory authority for the grant program limits awards to political subdivisions, applicants may need to have a city or county apply on their behalf.

A weighted score system, including guidelines for Objective, Public Safety, Financial Need, Result of Energy Activity, Project Readiness, Contributor to Long Term Economic Activity and Complete Application was presented to the Board.

\$4 million remains available during the current fiscal year fund for quarterly awards; \$2 million is suggested for this grant round.

### **Future Funding**

On February 29, 2012, confirmation of the contingent appropriation of \$30 million from the November 2011 special legislative session for the oil and gas impact fund.

The DEMST within the Department of Health is actively preparing grant requirements for a grant program that they administer focused on Emergency Medical Service (EMS) operations in North Dakota. They are utilizing a working subcommittee from their EMS Advisory Committee to define “access critical” ambulance service needs. A collaborative approach with the DEMST, leveraging this subcommittee and the Health Department’s understanding of EMS needs in the oil and gas producing counties, is suggested. Through this collaboration, awards can be considered from the portion of the additional \$30 million in contingent funds the Land Board may decide to direct to Emergency Medical Services.

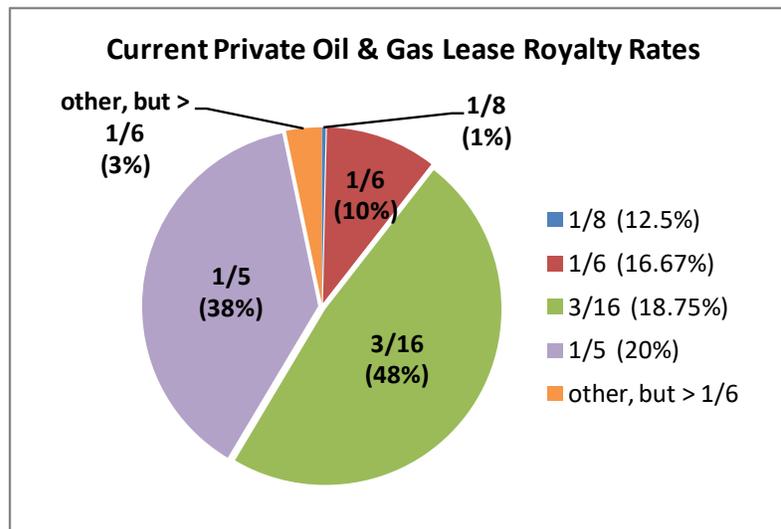
## **MINERALS MANAGEMENT DIVISION**

**Adjustment of Royalty Rate for Oil and Gas Leases.** The current royalty rate for all Department oil and gas leases is 1/6, or 16.667%. This rate was established on August 28, 2008, when the Land Board decided that the 1/8 royalty rate that had been used as a production incentive since 1983 was below market value. Prior to adopting an across-the-board 1/6 royalty, a program was in place that staggered the royalty rate between a 1/8 and 1/6 depending on “proven” areas of production. In August 2008, the Board also asked the Commissioner to research the royalty issue and to return with a royalty rate recommendation, if the evidence warranted it.

Royalties are not a tax, but rather compensation received by a mineral owner for the extraction of hydrocarbons from a property. The state and the state educational trusts own the actual mineral acre asset, thus as it pertains to royalties, the trusts have the same rights as any other fee owners.

Recent examination of public records by the Department indicates that the current 1/6 royalty rate for trust oil and gas leases is below the rate received by most fee owners in western North Dakota.

The graph below was compiled using royalty rates found on the North Dakota Recorders Information Network. It shows the royalty rate lessees received for all leases recorded in each of the oil and gas producing counties on three random days over the past six months. Though it is not a statistical sample, it is representative of the royalty rates currently being offered in North Dakota. It may understate current rates, because royalty rates above 3/16, will often be recorded or leased in a way that does not include the royalty rate paid in the recorded document. A total of 256 leases were examined in compiling this information.



Almost 90% of all leases recorded during the sample period were for higher than 1/6. At least 38% of all oil and gas leases recorded during this time period had a royalty rate of 20% or higher. Although a 1/6 royalty rate was commonplace a few years ago, at the present time, 8 out of 9 leases are at a royalty rate higher than the current state lease.

There are many reasons why the Land Board may consider raising the royalty rate for oil and gas lease from the current 1/6, to 3/16, or possibly higher:

#### In the market

- The current royalty rate for state trust minerals is below what most other fee owners receive when leasing their minerals. Similar to easements and rights-of-way collections, the trusts should follow the market for royalty rates.
- Changing the royalty rate to 3/16 will bring the trusts' royalty rate more in line with the average of "the market" rates without establishing market rates.

#### Tracts being offered in productive areas

- As a result of leases that have recently expired, the state mineral lease auction on February 7, 2012 will be large. With 73,147 acres within 833 tracts, many located in successful oil and gas producing counties.
- Upon re-leasing, these mineral tracts will likely be held by production for many years.

#### Production success

- Success rates in Bakken/Three Forks formation are very high. Companies are willing and able to pay royalty rates substantially higher than what was paid in the past.

#### Lease term

- Over 93% of sampled fee leases are for 3 years or less, while the state lease term is five years with an opportunity to seek an extension of up to one additional year.

Adjusting the royalty rate ensures that the Common Schools and other trust funds managed by the Board receive fair market value from the lands they own. The Commissioner suggested that it is in the best interests of the trusts to raise the royalty rate prior to the February 7, 2012 oil and gas lease sale.

The Commissioner recommended that the Board increase the royalty rate on oil and gas leases issued by the Department of Trust Lands to 3/16, effective January 31, 2011, by adopting the proposed changes to Oil and Gas Rules 85-06-06.

No action was taken, but rather the Commissioner was instructed to get more data and input from the public and return to a subsequent meeting with a recommendation.

**Acreage Determination of the Missouri River Downriver from the Four Bears Bridge.** The Board manages the Strategic Investment and Improvements Fund (or SIIF - formerly the Land and Minerals Trust Fund) which owns sovereign minerals under the beds of navigable lakes and streams. Significant drilling activity has occurred in nearly all segments of navigable rivers and under Lake Sakakawea, and there is increasing interest south and east of the Four Bears Bridge.

The Department is delaying the leasing of tracts under the bed of the Missouri River for that portion south and east of the Four Bears Bridge, as the area has not been delineated for its Ordinary High Water Mark (OHWM). Nominations have been received to lease minerals within this area, but the acreage is undetermined.

In June and October of 2008 the Board approved requesting contractor proposals to survey the OHWM of the Yellowstone and Missouri Rivers from the Montana line to near New Town. The cost of the two delineations was \$369,347, with the State Engineer sharing 25 percent of the cost of the segment from the Montana line to just east of Williston. The Board approved the expenditures under continuing appropriation authority. The work was done by an independent firm with expertise in the use of a stereoscope, along with a botanist experienced in Missouri River riparian vegetation.

In order to determine acreages within the OHWM, it is necessary to apply the same evaluation techniques to the remaining historical river channel down to the Garrison Dam. Since an on-the-ground survey of the original river under Lake Sakakawea cannot be done, an interpretation of stereo aerial photography of the Missouri River before the reservoir will need to be done to determine the OHWM of the historical channel.

No cost estimates have been obtained, however the number of miles delineated for the stretch of river from the Furlong Loop to the New Town area is similar to the distance from New Town to the Garrison Dam. The bid for the Furlong Loop to New Town stretch was \$69,000.

Within the segment of the river now under the lake, the State Engineer has little regulatory motivation to identify the OHWM and will not be asked to participate in the cost of this proposed survey. The money for the cost of the survey should be paid for by the SIIF using the continuing appropriation authority found in NDCC 15-05-19, as was done for the earlier task orders.

**Motion: That the Board direct the Commissioner to issue a request for proposals for the technical delineation of the historical OHWM of Missouri River from the Four Bears Bridge downstream to the Garrison Dam and that the Commissioner return to the Board with a recommendation of a contractor, for the Board's consideration.**

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

## OPERATIONS

**Board Of University and School Lands Meeting Dates For 2012.** North Dakota Century Code 15-01-03 states that the Land Board shall meet on the last Thursday of each month, unless it appears a quorum will not be present at which time it may be rescheduled. Special meetings of the Board may be held at any time at the written call of the chairman, the commissioner, or any two

members of the board. The statutory meeting dates (listed below) serve as the starting point in efforts to schedule meetings of the Board. The meetings are tentatively set at 9:00 AM in the Governor's Conference Room. With the number of possible agenda items, Board members should anticipate the possibility of three hour meetings each month.

January 26, 2012

February 23, 2012

March 29, 2012

April 26, 2012

May 31, 2012

June 28, 2012

July 26, 2012

August 30, 2012

September 27, 2012

October 25, 2012

November 29, 2012

December 27, 2012

## **A D J O U R N**

There being no further business, the meeting was adjourned at 10:18 AM..

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Jack Dalrymple, Chairman  
Board of University and School Lands

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Lance D. Gaebe, Secretary  
Board of University and School Lands

**Minutes of the Meeting of the  
Board of University and School Lands  
January 26, 2012**

The January 26, 2012 meeting of the Board of University and School Lands was called to order in the Governor's Conference Room: at 9:00 AM by Chairman Jack Dalrymple.

**Members Present:**

Jack Dalrymple	Governor
Alvin A. Jaeger	Secretary of State
Kelly Schmidt	State Treasurer
Wayne G. Sanstead	Superintendent of Public Instruction
Wayne Stenehjem (by telephone)	Attorney General

**Members Absent:**

None

**Land Department Personnel:**

Lance D. Gaebe	Land Commissioner
Michael D. Brand	Director, Surface Management Division
Drew Combs	Director, Minerals Management Division
Levi Erdmann	Programmer Analyst
Gerald Fisher	Assistant Director, Energy Infrastructure & Impact Office
Linda Fisher	Unclaimed Property Administrator
Peggy Gudvangen	Account Budget Specialist
Pam Rennich	Director, Revenue Compliance Division
Judith F. Schell	Administrative Assistant
Duane DeKrey	Contract Employee EIO Flood Grants

**Others in Attendance:**

Greg Burns	North Dakota Education Association
Craig Smith	Crowley Fleck Law
Greg Link	North Dakota Game and Fish Department
Mike McEnroe	North Dakota Chapter of the Wildlife Society
Nick Smith	Bismarck Tribune
Jannelle Combs	Leonard, Street & Deinard
Ron Ness	North Dakota Petroleum Council
Hope Hogan	Attorney's General Office
Teri Finneman	Fargo Forum
John Morrison	Crowley Fleck Law

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

A motion to approve the minutes of the January 4, 2012 meeting was made by Kelly Schmidt and seconded by Al Jaeger. Motion carried.

Action Record	Aye	Nay	Absent
Secretary Jaeger	X		
Superintendent Sanstead	X		
Treasurer Schmidt	X		
Attorney General Stenehjem	X		
Governor Dalrymple	X		

## SURFACE MANAGEMENT DIVISION

**Proposed Sale of Acquired Farm Loan Pool Property In Richland County.** Farm real estate as described below was acquired by foreclosure of the David and Shari Thompson and Jerome and Arlene Thompson farm mortgage on September 1, 2011. The mortgage was given on August 27, 2008, and lack of repayment resulted in foreclosure.

The property is located within a 10 mile radius of Walcott, North Dakota, and consists of 6 tracts.

The property was appraised by Fadness Realty and Appraisal, Lisbon, North Dakota on January 5, 2012.

DESCRIPTION	Principal & Interest Balance	Current Appraised Value	Crop Acres	Hay Acres	Grass/Other Acres	Total Acres
<b>RICHLAND COUNTY</b>						
<b>Tract 1</b> <u>T 1 3 5 N , R 5 2 W</u> Sec 1: SE4, NE4SW4 T135 N, R51 W Sec 6: E2SW4, Lots 6 & 7 (SW4)		\$265,000.00	0	0	352.92	352.92
<b>Tract 2</b> <u>T135N, R50W</u> Sec 1: SW4		\$135,000.00	15.00	69.1	69.66	153.76
<b>Tract 3</b> <u>T135N, R50W</u> Sec 12: SW4 w of RR ROW		\$140,000.00	4.00		152.00	156.00
<b>Tract 4</b> <u>T135N, R49W</u> Sec 7: E2NW4, Lots 1, 2 (NW4)		\$500,000.00	150.22		19.58	169.80
<b>Tract 5</b> <u>T135N, R49W</u> Sec 18: E2NE4 less 8.51 acres		\$253,400.00	66.9		4.59	71.49
<b>Tract 6</b> <u>T135N, R49W</u> Sec 7: W 32.03 acres Lots 3 & 4		Not Appraised			32.03	32.03
<b>Totals</b>	<b>\$778,156.01</b>	<b>\$1,167,400.00</b>	<b>239.12</b>	<b>69.1</b>	<b>630.78</b>	<b>936.00</b>

The property is a mixture of pasture, cropland, and hayland. The property's cultural condition is average to below average with scattered infestations of leafy spurge, Canada thistle, and bull thistle on the pastureland. There is a farm site on tract 4 with many dilapidated buildings; the site may be cleared in order to be farmed. The property is currently unleased.

The Commissioners recommendation is to sell this property into private ownership so that the new owner can invest in improving the property in the 2012 crop year. Current high land prices make this a good time to sell this property.

One tract of grass/other described as the west 32.03 acres of Lots 3 & 4 section. 7 T135N, R49W acquired with the above property is not part of this sales approval. It will be withheld at this time due to complications with a house on the property (Tract 6).

**Motion: That the Board authorize the Commissioner to sell the described Richland County properties at public auction, with the appraised value set as the minimum sales price.**

Under N.D.C.C. §15-07-10, the former owners may repurchase the property by matching the highest bid within one hour after public sale.

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

**Request for Appraisal and Preliminary "Small Tract" Sale Approval in Burke County.** Garland and Debra Braaten of Minot, ND are interested in purchasing Lot 6, Section 36, T159N, R93W, Burke County. Lot 6 has a continuous leasing history with an annual rent of \$21. The current lessee is Dennis Dosch. The grassland vegetation is not native and is composed of smooth brome grass, which has been hayed recently. In 2007 the Department discovered that a camper set up on this tract and also a trash pile. The camper and the trash have been removed. The tract qualifies for sale under the Board's land sale policy as a small, isolated, difficult to manage tract. This is the only trust owned tract remaining in this section.

The parcel borders Powers Lake. The City of Powers Lake lies on the north side of the lake. The U.S. Fish and Wildlife Service waterfowl production area lies to the west of this tract and there is a farmstead to the south. This tract is too small to be used for public recreation, and public access to Powers Lake is excellent through the City Park (beach, swimming and boat ramp) and the waterfowl production area. The ND Game and Fish department stated that this tract has poor value for wildlife and other recreational uses.

Access to this tract is good along a maintained gravel road along the west section line. Burke County zoning restrictions would allow a cabin or camper on this tract. In this energy-impacted area, this tract may have high value for a cabin site or a camper site. For this reason, a professional appraisal would be used to set the opening bid at public auction.

Description	Grass	Water	Total	Trust
<b>Burke County</b> T159N, R93W Sect: 36 Lot 6	3.20	0.00	3.20	Common

**Motion: That the Board authorize the Commissioner to obtain an appraisal on T159N, R93W Section 36 Lot 6. Upon completion of the appraisal, sale options will be presented to the Board for final consideration.**

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

**Request to Pursue Sale of Original Grant Land in Ward County.** Oil and gas development has had a major impact on land values in Minot and the surrounding area. The Board manages 240 acres of common schools trust fund grassland in Section 16, T155N, R83W, Ward County located ½ mile west of the Highway 83 by-pass, between Minot and Burlington. Property values in this area have increased to the point that sale of this property should be considered.

The Department has conducted a limited market analysis of this tract, which indicates that the highest and best use for this property is residential and commercial development. The adjacent NE4 section 16, T155N, R83W, Ward County sold in January, 2011 for \$20,000 per acre. Likewise, the SE4 Section 9, T155N, R83W, Ward County is listed with for \$20,000 per acre and the seller claims to have an offer above that price. Sales of similar property in 2011 have varied between \$5,065 per acre to a high of \$55,000 per acre.

There are no easements on the property, and the corners have been surveyed. The property surrounding this tract on the west, south and part of the east side is developed with 2 acre rural subdivision lots. This tract is within the City of Minot's 2 mile extraterritorial zoning limit. City services terminate at the Highway 83 bypass.

This tract is currently leased by Bryan Schaefer for an annual rent of \$2,900.

**Motion: That the Board direct the Commissioner to actively review the options to sell the property in 2012 or 2013. Initial tract reviews and recommendations should be brought to the Board before appraisals are requested.**

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

## MINERALS MANAGEMENT DIVISION

**Adjustment of Royalty Rate for Oil and Gas Leasing.** On January 4, 2012, the Board discussed raising the royalty rate on oil and gas leases issued by the Department. The Commissioner was directed to gather information and seek comment from the industry and public.

After discussions with industry, three options were released with a request for comments:

1. A variable royalty rate, by county, where the rate would vary from 1/6 (16.67%) to 1/5 (20%), depending on certain thresholds in exploration. Suggested triggers included production of less than 100,000 barrels per month, or less than 4 active rigs, or less than 35% of Department minerals under lease permitting a 1/6 rate to be in effect. A threshold that could be used to establish a 20% royalty rate might be those counties with more than 50,000 BOPD of production.
2. A variable royalty rate that would vary from 1/6 to 1/5 depending on distance a tract is from current oil and gas production. This type of rate structure was in place from the 1980s until 2008. For example, a 1/6 royalty would apply on leases more than 20 miles from current production, a 3/16 royalty between 5 and 20 miles from current production, or a 1/5 rate if it is within 5 miles of current production.
3. A variable royalty rate based on the formation from which a well produces. Wells drilled to the Bakken/Three Forks formation would pay 3/16 royalty rate, while wells drilled to the Madison, Red River or other formations would retain a royalty rate of 1/6. Either by:
  - a. leasing only the Bakken/Three Forks formation at a 3/16 rate, and separately leasing remaining formations at 1/6, or
  - b. incorporating into the lease, a 3/16 royalty rate if a well is drilled in the Bakken/Three Forks formation, but if it was drilled to other formations it would have a 1/6 royalty rate.

### Comments Received

The comments received ranged from endorsement to strong opposition to any increase. Most comments acknowledge that a royalty increase is reasonable in areas of successful development. No single option received a majority of endorsements, with many suggesting variations or merging of the choices.

The theme of most of the feedback was to raise the royalty in areas of good production and keep those areas with marginal or no production at a 1/6 in order to not stifle exploration. Several writers urged the Board to keep it simple.

The North Dakota Petroleum Council (NDPC) suggested focusing the 3/16 royalty rate on townships that have exceeded 25,000 barrels of Bakken production within the most recent month. Many of the 32 written comments received supported the NDPC suggestion, with slight adaptations, fitting unique circumstances.

There is general acknowledgment of the higher “market rate” for royalties to fee owners within the most projective areas of production. Most comments requested a simple, predictable royalty determination method; and coupling higher royalties with a measurable proximity to successful production.

The Board was provided with:

1. An analysis that highlighted the area within a six mile radius extended from wells that have produced at least 6,000 barrels per month.
2. A map that highlighted townships that have at some point in time reached production of 25,000 barrels per month.
3. A summary of royalty rates and terms of other states’ land management departments.
4. Twelve month history of state trust bonuses received.
5. Graphical depiction of a sample of fee (private) mineral owners royalty received
6. Copies of all comments

### Recommendation

A variable royalty rate based on proximity to production is warranted. However, that conclusion is complicated by differing options of what production data and timeframes to utilize. More evaluation and discussion of an equitable and appropriate mechanism of implementing a variable royalty rate is needed.

Additional discussion and analysis are necessary, but in the near-term the Commissioner recommended adjusting the royalty to 3/16 in: Williams, Mountrail, McKenzie, Dunn, and Billings Counties until more review can be undertaken.

**Motion: That the Board adopt the proposed changes to Oil and Gas Rules 85-06-06 to increase the royalty rate to 3/16 on oil and gas leases issued by the Department of Trust Lands within Billings, Divide, Dunn, Golden Valley, McKenzie, Mountrail and Williams Counties.**

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

**Sovereign Acreage Stipulation – Aune 29-32H (MCK-153-102-29/32).** At the Board’s February 24, 2011 meeting, a motion was approved which authorized “ ... *the Commissioner to negotiate with other mineral interests to stipulate the State’s royalty interest in a given producing property/well and to present the results of the negotiations to the board for approval.*”

To resolve acreage questions involving the State’s interest in production from the Aune 32-29H well, the Commissioner has a tentative agreement with the operator and the lessees involved in the well as to a stipulation of interest. The well is a 1,280 acre spacing unit covering sections 29 and 32. The leasing and production history are as follows:

- August 2, 2005: Three leases were issued in section 29 for a total of 154.10 acres covering the NE4, NW4 and SE4.
- August 10, 2010: The leases were ratified reflecting an increase in the lease rate from 1/6<sup>th</sup> to 3/16<sup>th</sup> in-lieu of an extension payment. The Department did not change the acreage of the leases at that time because section 29 was still under review in Task Order III to determine the Ordinary High Water Mark.
- November 12, 2010: The well began production.
- April 29, 2011: Task Order III was presented to the Board.
- May 3, 2011: The Land Department received the first royalty payments for November 2010 production based on an interest reflecting 252.20 acres in section 29 due to river and accretion acreage; not the acres delineated in the survey. The royalty payments have continued on that basis.

The stipulation of interest for the Aune well will claim the 154.10 acres originally leased in the spacing unit. The stipulation contains sufficient detail to limit the claim only to the production from the Aune well.

In addition to the stipulation of interest, the Commissioner will provide the lessees and the operator of the well a notice of acreage claims to future production. The acreage in the 2005 leases will increase and the un-leased acreage in the SW4 of section 29 resulting from the Task Order III survey will be made available for lease for future development within the section.

**Motion: That the Board authorize the Commissioner to execute a stipulation of interest for 154.10 acres covering production from the Aune 29-32H well spaced as a 1,280 acre spacing unit covering Township 153 North, Range 102 West, Sections 29 & 32.**

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

**BNI Coal Lease Application (Oliver County).** BNI Coal of Center, ND has filed an application for coal leases for the tracts:

**Oliver County**

Township 141 North, Range 83 West Section 16: NW4, SW4, SE4

Township 141 North, Range 83 West Section 17: SW4

Township 141 North, Range 83 West Section 18: NW4

The State Trusts have a 100% interest in these tracts containing 760 net mineral acres. There is surface ownership in the SE4-16.

**Royalty:** \$.25/ton or 6% of sales, whichever is greater.

The duration of the lease is for ten (10) years with an option to extend for an additional ten (10) years with the payment of an additional fee per acre.

**Motion: That the Board approve BNI Coal's offer to lease. Terms to be determined at the public leasing hearing.**

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger	X		X		
Superintendent Sanstead		X	X		

Treasurer Schmidt			X		
Attorney General Stenehjelm			X		
Governor Dalrymple			X		

**Dakota Westmoreland Corporation Coal Lease Application (Mercer County).** Dakota Westmoreland Corporation of Beulah has filed an application for coal lease for the tract:

**Mercer County**

Township 143 North, Range 88 West Section 20: S2S2

The State Trusts have a 50% interest in this tract containing 80 net mineral acres. The state has no surface ownership in this tract.

**Royalty:** \$.25/ton or 6% of sales, whichever is greater.

The duration of the lease is for ten (10) years with an option to extend for an additional ten (10) years with the payment of an additional fee per acre. Dakota Westmoreland Corporation projects the Trusts' share of coal to be 680,000 tons.

**Motion: That the Board approve Dakota Westmoreland Corporation's offer to lease. Terms to be determined at the public leasing hearing.**

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger		X	X		
Superintendent Sanstead			X		
Treasurer Schmidt	X		X		
Attorney General Stenehjelm			X		
Governor Dalrymple			X		

**February 2012 Oil and Gas Lease Sale Preview.** The list of tracts to be offered for lease at the Board's oil and gas lease auction to be held at 9:00 AM CT on February 7, 2012 at the House Chambers of the State Capitol.

The North Dakota Game and Fish Department and others presented the Board with concerns regarding mineral tracts that the Department has offered for oil and gas leasing.

Twelve tracts of 1,760 acres were referenced by wildlife management officials as having particularly unique habitat value and are in proximity to Bullion Butte and Kinley (Kendley) Plateau areas of Billings and Golden Valley Counties.

137-103 Sec. 24: All (4 tracts - 100%, 640 acres)

138-102 Sec. 36: E/2 (2 tracts - 100%, 320 acres)

137-101 Sec. 16: All (4 tracts - 100%, 640 acres)

138-101 Sec. 28: E/2 (2 tracts - 50%, 160 acres)

**Motion: Secretary Jaeger moved and Superintendent Sanstead seconded the motion to postpone mineral lease offering the identified twelve tracts in Billings and Golden Valley County from the February 7, until more information can be gathered.**

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger	X		X		
Superintendent Sanstead		X	X		
Treasurer Schmidt				X	

(01/26/12)

Attorney General Stenehjem			X		
Governor Dalrymple			X		

**ENERGY INFRASTRUCTURE AND IMPACT OFFICE**

**Flood Impacted Infrastructure Grant Program.** The Energy Infrastructure and Impact Office was tasked by the Legislature with implementation of the Flood Impacted Political Subdivision Infrastructure Development Grant Program. The Energy Impact Office contractor Duane DeKrey, hosted meetings in each of the nine counties in which communities and entities qualify for Flood Infrastructure program grant funding. The meetings were arranged to describe the funding and authorization to local officials, and to gather feedback on possible projects. The meetings were held in early January with 61 people collectively attending.

Communities were informed that the Energy Impact Office was in the process of drafting grant guidelines and an application procedure for the Land Board to approve. Eligible applicants were assured that funds would be approved prior to the construction season.

The attendees generally agreed that the political subdivisions within a county would be well positioned to prioritize their flood-related needs by project. Most of the meeting participants were in favor of one package of project applications per county. However one city objected to the concept, with concerns that this approach could pit the city against the county for limited dollars.

**Flood Infrastructure Grant Guideline Recommendations**

Proposed grant guidelines were presented that describe the types of projects eligible for the 50% cost-share grants to political subdivisions within the nine FEMA Individual Assistance declared counties. The eligible projects would be submitted by communities and political subdivisions, but aggregated and prioritized within each county for submission to the Flood Infrastructure Impact Office.

The Board was also provided with several assessments of relative flood impact among the nine counties, including: FEMA public assistance funds allocated; applications for FEMA Individual Assistance and IA disbursements; SBA assistance by county and FEMA Public Assistance damage reports. It was noted that personal property damage assistance (IA) is capped by FEMA at \$30,200, while an entity receiving public assistance with infrastructure damage receives 90% from FEMA and up to 7% cost share from the State.

The data demonstrates much variability in types of damage and who was affected. Among the counties, the ratios diverge between levels of public infrastructure damage and impacts to private property. A combination of the factors gives some guidance as to a way to target grant dollars to each of the nine eligible counties.

The Commissioner recommends using a combination of the factors in an effort to evaluate “Relative Damage” among the nine eligible counties. Up to \$25.5 million will be made available in the initial grant round and \$4.5 million will be reserved for unanticipated or unknown needs. The reserved funds would not be targeted to specific counties, but awarded based upon merit and need and lack of funding from other sources. Eligible applicants will be given until late March to apply.

The Energy Impact Office will inform each county of its fund target and assist the counties in coordinating with the political subdivisions within a county to develop a local consensus of the prioritized needs within that county if a county elects to apply jointly.

**Motion: That the Board adopt the Flood Impacted Political Subdivision Infrastructure Development Grant Program guidelines and that the Energy Impact Office Director makes the eligible political subdivisions aware of the availability of funds and begin accepting applications for funds.**

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger			X		
Superintendent Sanstead		X	X		
Treasurer Schmidt	X		X		

Attorney General Stenehjem			X		
Governor Dalrymple			X		

## Flood Impacted Political Subdivision Infrastructure Development Grant Application Guidelines

The Board of University and School Lands (Land Board) is accepting applications for Flood-Impacted Political Subdivision Infrastructure Development Grants. Projects qualifying for grant funds fall into the following categories as outlined in legislation passed during the special session of the Legislature in November of 2011.

- Develop new community infrastructure, the need for which is directly related to the displacement of residents due to flooding. Infrastructure includes but is not limited to community-owned waterlines, sewer, curb and gutter.
- Evaluate the extent of damage to community-owned infrastructure.
- Restore or repair flood-related damage to community-owned infrastructure.
- Expand landfill capacity or reimburse flood-related waste disposal costs.
- Raise roads or develop flood control structures.
- Acquire property needed for floodway development or levee construction.
- Acquire homes damaged by levee construction.
- Provide reimbursement for other flood related expenses.

Applicants must be a political subdivision within one of the nine FEMA declared Individual Assistance disaster counties as a result of damages sustained in the 2011 flood: Barnes, Benson, Burleigh, McHenry, Morton, Ward, Ramsey, Renville, or Richland Counties.

Grants can fund up to 50% of the cost of an eligible project. Grant fund awards will target political subdivisions with damage repair costs that are not covered by other types of funding from government sources or insurance. Projects that have already been funded or are underway will receive lower priority, as the grants are not intended to supplant other funding.

The grant application shall describe the political subdivision's eligible project, the source for the required matching funds, and any additional detail supporting the project requested.

**To the extent possible, grant applications from eligible political subdivisions should be combined and prioritized at the county level and submitted jointly from each county.** The deadline for submitting proposals for the initial distribution of grants is March 20, 2012. Completed applications can be sent electronically to: [energyimpact@nd.gov](mailto:energyimpact@nd.gov)

Mailed to the Flood Impact Office:  
c/o the Department of Trust Lands  
PO Box 5523  
Bismarck, ND 58506

Or delivered to the Department's offices at  
1707 N 9th Street  
Bismarck, ND

The proposals will be evaluated by the Energy Infrastructure and Impact Office, which shall make recommendations to the Land Board, which will authorize grant awards.

All project applications should be accompanied by professionally documented cost estimates. The following details should be included in applications for funds from the initial distribution of grants. This is the base documentation necessary within an application; additional information may be requested. All applications should include a primary point of contact, who can be contacted for additional information.

- ❖ Development of new community infrastructure needed to support displaced residents:

- Number of households that will be supported or established by the project, both short term and long term.
- Level of affordable housing and multi-family housing that would be constructed by the project described in the grant application
- ❖ Projects necessary to evaluate and identify the extent of flood damage to community-owned infrastructure:
  - Define the actual costs to evaluate the extent of damage
  - Describe the necessity of evaluating flood-related damage through a third party
- ❖ Efforts to restore or repair flood-related damage to community-owned infrastructure:
  - Describe the damage and efforts to resolve, and describe why restoration is not covered by other programs
  - Priority directed to costs to restore or repair the flood-related damages that are not funded by the Federal Government, the State of ND, or insurance
- ❖ Expansion of landfill capacity or reimburse flood-related waste disposal costs necessitated by flood-related debris
  - Include documentation of the landfill capacity challenges and describe the plan for expanding the capacity
- ❖ Projects to raise a roadway
  - Describe and detail with maps, road raise projects that are not eligible for cost share from Federal or ND State funds
- ❖ Projects to acquire property needed for floodway development or levy construction
  - Applicants should include documentation of permits needed to divert water that will reduce future hazards and detail jurisdiction to flood protection
- ❖ Acquisition of homes damaged by levee construction
  - Detail damage to home(s) including photos
  - Provide copies of documentation of insurance proceeds or other funds received by the homeowner related to the levee-related damage
  - Explain why other funds are not available to purchase or repair the home
- ❖ Projects for other flood-related damage
  - Describe the unique expenses that were not reimbursable through any other Federal, State, or Insurance program

A combination of factors will be used to evaluate “Relative Damage” among the nine eligible counties. Up to \$25.5 million will be made available in the initial grant round and \$4.5 million will be reserved for unanticipated or unknown needs. The reserved funds would not be targeted to specific counties, but awarded based upon merit and need and lack of funding from other sources. Applications are due March 20, 2012.

#### **After the Grant is approved:**

Following a successful grant award, political subdivisions will be asked to concur with the terms of the Flood Impact Grant, which include completing the project described and supplying documentation of the progress or completion of significant phases of the funded project to use as the basis for fund disbursement.

Approval of “Requests for Reimbursement” of funds will be based on the scope of work identified in the approved grant application. Changes from the original scope of work must be submitted to the Flood Impact Office Director for review and approval prior to execution. Unauthorized changes in scope may result in a denial of reimbursement funds. After grant funds

have been approved, if funding from any other source becomes available, grantee must notify the Director, so that the Land Board may reallocate funds to other applicants or projects. Funds not expended or projected to be expended during the life of the authorized project, as of September 30, 2012, may be reallocated to other applicants or projects.

The reporting and accounting requirements will be specified in the grant award notice provided by the Flood Impact Office.

## R E P O R T S

**Report of Easements Issued by Land Commissioner.** The Board reviewed a memo showing easements issued by the Land Commissioner pursuant to Board authorization. The memo is on file at the Department of Trust Lands office and was for the Board's information.

**Financial Statements.** The Board reviewed the Financial Statement Summary and Total Assets by Trust as of October 2011. These reports are on file at the Department of Trust Lands office and were for the Board's information.

**Revenue Compliance Division Update.** Due to the dramatic increase in revenues being generated by the Department, a new Revenue Compliance Division was created during 2011. The Division has initiated a review of past oil and gas royalty payments to determine if payments were being made in accordance with the Board's lease terms, rules and regulations, and North Dakota statutes.

Notices have been sent to 27 companies regarding missing oil and/or gas volumes covering 48 wells for the period from July 1, 2006 to June 30, 2011. It is estimated that more than \$2 million of royalties are owed to the trusts based upon the discrepancies uncovered.

- To date over \$1.2 million of unpaid royalties have been collected.
- An additional \$732,000 of unpaid royalties are expected to be collected before the end of January 2012.
- Approximately \$80,000 of penalties have been assessed on the late payments received.
- Over \$10,000 of penalties have been collected to date.

It is important to note that the "penalty" provision in the Department's lease is calculated at the rate of 1% per 30 days. This rate was assessed on the late payments received in lieu of the Commissioner seeking interest on late royalty payments as provided for in NDCC 47-16-39.1.

Three companies are still in the process of reviewing the notices of possible royalty shortfall. In addition to the money collected to date, royalty compliance efforts have resulted in three companies revising reports previously submitted to the Industrial Commission.

The Royalty Compliance Division has also begun a review of non-producing or low producing wells to determine if the leases are in fact held by production, and if tracts should be released.

**Wilkinson Family Summons to Appear (Williams County: 153-102-12/13).** On January 19, 2012 the Commissioner was served with a summons regarding the Wilkinson mineral claim. These claims are the same as those presented by Jon Patch, who has appeared before the Board several times.

The complaint states that five plaintiffs, each claiming a 1/5<sup>th</sup> interest in approximately 240+ acres (one tract had an unstated amount of acreage) claim the same Williams County acreage as the Land Board. The lands claimed by the Board were leased to Brigham Exploration Co. (now Statoil), while the plaintiffs leased to EOG. It lists both companies as co-defendants, as well as anyone else who might claim the minerals. They ask the courts to find that the Land Board has no

sovereign claim to these minerals. These lands are producing from a single well, the Lippert1-12-1H.

The complaint does not state why the plaintiffs believe they own the minerals, nor why they believe that the state doesn't own them.

The state asserts title to the riverbed and riverbed minerals, and asserts that its title follows the river as it may expand, contract, and otherwise move. It is expected that the plaintiffs will assert that state title to riverbed minerals is not ambulatory; but rather, that state title is confined to where the river was at the date of its deed to the Corps of Engineers. The litigation will determine whether state mineral ownership under the river is ambulatory or static.

This case may also help decide the "shorezone" issue, that is, whether the state or riparian landowners own the minerals in the area between the ordinary high watermark and the ordinary low watermark.

The Attorney General's staff is assisting in preparing the response to the summons.

## **A D J O U R N**

There being no further business, the meeting was adjourned at 11:20 AM..

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Jack Dalrymple, Chairman  
Board of University and School Lands

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Lance D. Gaebe, Secretary  
Board of University and School Lands

**Minutes of the Meeting of the  
Board of University and School Lands  
February 3, 2012**

This special meeting of the Board of University and School Lands was called to order in the Governor's Conference Room at 9:00 AM CT by Chairman Dalrymple.

**Members Present:**

Jack Dalrymple	Governor
Alvin A. Jaeger	Secretary of State
Kelly Schmidt	State Treasurer
Wayne G. Sanstead	Superintendent of Public Instruction
Wayne Stenehjem (by telephone)	Attorney General

**Members Absent:**

None

**Land Department Personnel:**

Lance D. Gaebe	Land Commissioner & Director, Energy Infrastructure & Impact
Jeff Engleson	Director, Investment Division
Michael D. Brand	Director, Surface Management Division
Drew Combs	Director, Minerals Management Division
Gerald Fisher	Assistant Director, Energy Infrastructure & Impact Office
Linda Fisher	Administrative Staff Officer

**Others in Attendance:**

Al Sapa	ND Chapter of the Wildlife Society
Bill Bicknell	Citizen
Michael Graf	Citizen
Mark Mazaheri	Citizen
John Solberg	Citizen
Craig Smith	Crowley Fleck Law Firm
Ron Ness	North Dakota Petroleum Council
Terry Fleck	Friends of Lake Sakakawea
Greg Burns	North Dakota Education Association
Jan Swenson	Badlands Conversation Alliance
Terry Steinwand	North Dakota Game and Fish Dept
Mike McEnroe	ND Chapter of the Wildlife Society
Lillian Crook	Citizen
Janelle Combs	Leonard, Street, and Deinard
Dale Patrick	ND Wildlife Federation
Lynn Helms	ND Industrial Commission, Dept. of Mineral Resources
Michael Cymbaluk	KHL Inc.
Mike McCleary	Bismarck Tribune
Dale Wetzel	Associated Press
Ron Rauschenberger	Governor's Office
Jerod Tufte	Governor's Office

## MINERALS MANAGEMENT DIVISION

Commissioner Gaebe opened the discussion with a brief overview of long-standing Board mineral leasing practices, and an affirmation of the Department's long-term commitment to resource management. He suggested that in light of the North Dakota Game and Fish Department's (NDGFD) recent interest in what is being offered for lease, that a practice be implemented whereby the NDGFD be notified of tracts being considered for auction similar to the mechanism in which the State Historical Society and the ND Geological Survey are presently involved. Commissioner Gaebe recommended that the Board postpone the leasing of tracts identified by the NDGFD in order to allow additional time to work with other state agencies to develop and implement criteria and policies related to how these types of state agency concerns.

In response to Attorney General Stenehjem's question related to possible trades, Commissioner Gaebe indicated that while trades were certainly something that should and would be investigated, those options have not recently been actively pursued.

Governor Dalrymple invited Lynn Helms, Director of the Department of Mineral Resources (DMR), to address the Board. Mr. Helms explained what the DRM has been doing to help mitigate development issues involving sensitive tracts on the Ft. Berthold Reservation. He further described a procedure that requires operators to cooperate with landowners in establishing production parameters prior to the approval of a drilling permit. Mr. Helms explained how the Board's objective of prudent management of the trusts' natural resources would be better met under the stipulated terms of a lease than it would be if the Board were to suspend leasing, which would leave the Board with no authority related to surface management.

In contemplation of Mr. Helm's comments, Treasurer Schmidt questioned the notion of removing any tracts at all from the February sale. Governor Dalrymple's response, which was affirmed by Mr. Helms, was that a short-term delay should not result in any negative impact, but that time was of the essence in getting policies in place in the near future and that the goal would be to have the suspended tracts evaluated and potentially available for the Board's May 2012 auction.

Attorney General Stenehjem made a motion: **That the Board delay the leasing of 3,819.1 mineral acres identified by the North Dakota Game and Fish Department; direct the Commissioner to consult with the NDGFD Director and the North Dakota DRM Director to develop written policies that recognize the need for agency consultation to determine sensitive areas and critical habitat; further instruct the Commissioner to enhance existing procedures to limit impact to the surface resource where possible; and direct the Commissioner to initiate discussions with federal land and mineral management agencies to investigate options and procedures to swap land and minerals.**

The motion was seconded by Secretary Jaeger with all members voting aye, the motion carried.

Following the action, Governor Dalrymple emphasized the importance of policy being specific in terms of the type of resource or habitat that is of concern in order for tracts to receive special consideration; the unique aspects and corresponding issues and concerns needed to be specifically identified and recognized as critical – and a strategy to minimize the impacts needs to be part of the policy.

## ENERGY INFRASTRUCTURE AND IMPACT OFFICE

The Board was presented with a summary of emergency services grant applications for the application period that closed January 31, 2012. Roughly \$40 million in grants was requested with approximately \$2 million reserved for distribution in this quarter. Commissioner Gaebe reminded the Board that additional energy impact funding authorized by the November 2011 special session could potentially become available for distribution in the near future as well.

In discussion relating to allocation of grants, Governor Dalrymple suggested that consideration be given to "grouping" applications that seemed to reflect cooperation among applicants in trying to

meet a regional need, including, but not limited to staffing. Commissioner Gaebe indicated that current scoring methodology would rank cooperating factors higher. The Commissioner also explained that the Energy Impact Office was working with the ND Department of Health in coordinating grants available through their \$4.25 million grant program as well.

**A D J O U R N**

There being no further business, the meeting was adjourned at 9:48.

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Jack Dalrymple, Chairman  
Board of University and School Lands

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Lance D. Gaebe, Secretary  
Board of University and School Lands

**Minutes of the Meeting of the  
Board of University and School Lands  
February 9, 2012**

The February 9, 2012 meeting of the Board of University and School Lands was called to order in the Governor's Conference Room at 9:00 AM by Chairman Dalrymple.

**Members Present:**

Jack Dalrymple	Governor
Alvin A. Jaeger	Secretary of State
Kelly Schmidt	State Treasurer
Wayne G. Sanstead	Superintendent of Public Instruction
Wayne Stenehjem	Attorney General

**Members Absent:**

None

**Land Department Personnel:**

Lance D. Gaebe	Land Commissioner
Jeff Engleson	Director, Investment Division
Michael D. Brand	Director, Surface Management Division
Drew Combs	Director, Minerals Management Division
Levi Erdmann	Programmer Analyst
Gerard Fisher	Assistant Director, Energy Infrastructure & Impact Office
Linda Fisher	Unclaimed Property Administrator
Duane DeKrey	Flood Impact Grant Coordinator

**Others Present:**

Lynn Helms	Director Department of Mineral Resources
Jannelle Combs	Leonard, Street and Deinard
John Morrison	Crowley Fleck Law Firm
Jeff Herman	Petro Hunt
Ron Ness	ND Petroleum Council
Jim Cavanaugh	JP Morgan
Jim Sakeladis	JP Morgan
Alexis Brinkman	ND Petroleum Council
Terri Finneman	Forum Communications
Ausen Ritter	Oil and Gas Division
Hope Hogan	ND Assistant Attorney General
Jerod Tufte	Governor's Counsel
Kayla Pulvermacher	ND Education Association

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

A motion to approve the minutes of the January 26, 2012 and the February 03, 2012 meetings was made by Attorney General Stenehjem and seconded by Treasurer Schmidt. Motion carried, all members voting aye.

**M I N E R A L S   M A N A G E M E N T   D I V I S I O N**

**Presentation by Lynn Helms, Director of NDIC Department of Mineral Resources (DMR).** Mr. Helm's outlined the role of the ND Industrial Commission, Department of Mineral Resources, in the permitting process that precedes oil development and production.

Mr. Helms' presentation highlighted the "watch list" processes currently utilized by the DMR for areas of specific environmental, surface use or historical significance. In this scenario, entities contact the DRM with a list of clearly identified areas of concern and DRM notes those legal descriptions in its database. As requests for permits are received by the DRM, database matching utilities "flag" areas of concern, at which point DMR requires the operator to contact the concerned entity prior to the permit being issued. The DMR facilitates contact between concerned parties and holds the Application for Permit to Drill until receiving acknowledgement that protective measures have been considered.

Mr. Helms also explained that paleontological and archeological review is part of the permitting process much the same as it is in the ND Department of Trust Land's minerals leasing program.

Commissioner Gaebe emphasized that the Board can incorporate surface use stipulations into its lease when specific issues are identified, but if the minerals are accessed without a lease, the ability of the Board to affect the outcomes is limited.

**Trust Minerals – Drilling on Unleased Tracts.** As an oil well is being planned and permitted, the operator of the proposed well invites other mineral owners within the spacing unit to participate in the production of that well. That process is initiated by the operator offering an Authorization For Expenditure (AFE) to mineral and leasehold owners. The AFE details the budgeted costs of permitting, preparing, drilling, fracking and bringing a well into production. Those estimates are coupled with an invitation to mineral owners or lessees to share or "participate" in the proportionate cost of the extracting and marketing the minerals.

When sending an AFE to an unleased mineral owner, the operator generally 1) makes an offer to lease the minerals, 2) gives the mineral owner the option to "participate", or become a working interest (cost bearing) participant in the well or 3) consider the mineral owner as participating non-consent, which means that the mineral owner would be subject to the risk penalties. The AFE requirements, process and time-frames are articulated in state law and North Dakota Industrial Commission rule. Generally, a mineral owner is given at least 30 days to make one of these three choices.

Because of the rapid rate of oil and gas development, Department's quarterly mineral auction process may not be keeping pace with the market. The due diligence and required advertising of state minerals offered every 90 days may allow an AFE offer to expire and the drilling of unleased state minerals potentially being subject to a risk penalty. The AFEs received by the Department typically do not contain a lease offer, as the auction process is anticipated by the operator.

Since 2008, the Department has received a small number of AFEs each quarter and has offered corresponding tracts on the lease auction and announcing that AFEs would be transferable to the successful lessee. However, prior to this February's lease offering, the Department received 14 AFEs which encompassed 32 individual tracts. To date, the Commissioner has successfully requested that operators withdraw or suspend all AFEs, and transfer them to the successful lessee following the auction. However, it is not known whether the Department's minerals are subject to the risk penalty or whether operators have a duty to withdraw or suspend the AFEs they send to the Department.

Mr. Helms gave a brief overview of the potential issues surrounding unleased drilling, including the possibility that the Board's leases could be devalued due to ambiguity surrounding the risk penalty assessments.

The preceding explanation was presented for the Board's information and no action was taken. The issue remains under consideration.

**Sovereign Acreage Stipulation – Iva 1-6H (MCK-152-102-6).** To resolve acreage questions involving the State's interest in production from the Iva 1-6H well, the Commissioner has reached a tentative agreement with the operator and the lessees involved in the well as to a stipulation of interest. The well is a 640-acre spacing unit covering section 6.

Production completed prior to the Board's approval of the Ordinary High Water Mark surveys was subject to acreage originally leased and production completed after the Board's approval of the OHWM delineation is subject to the acreages determined by the survey.

The stipulation of interest for the Iva well will claim the 223.09 acres originally leased in the section 6 spacing unit. The stipulation contains sufficient detail to limit the claim only to the production from the Iva well.

**MOTION:** That the Board authorize the Commissioner to execute a stipulation of interest for 223.09 acres covering production from the Iva 1-6H well spaced as a 640-acre spacing unit covering Township 152 North, Range 102 West, Section 6.

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

**Sovereign Acreage Stipulation – Pompey 17-18H (MCK-152-104-17/18).** To resolve acreage questions involving the State's interest in production from the Pompey 17-18H well, the Commissioner has reached a tentative agreement with the operator and the lessees involved in the well as to a stipulation of interest. The well is a 960 acre spacing unit covering sections 17 and 18 (section 18 is a short section due to the ND/Montana border).

The stipulation of interest for the Pompey well will be for the 274.34 acres originally leased in the spacing unit. The stipulation contains sufficient detail to limit the claim only to the production from the Pompey well.

**MOTION:** That the Board authorize the Commissioner to execute a stipulation of interest for 274.34 acres covering production from the Pompey 17-18H well spaced as a 960 acre spacing unit covering Township 152 North, Range 104 West, Sections 17 & 18.

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger		x	X		
Superintendent Sanstead	x		X		
Treasurer Schmidt			X		
Attorney General Stenehjem			X		
Governor Dalrymple			X		

**Mineral Leasing Offering Update.** The Board was presented with results of the February 7, 2012 oil and gas lease auction.

	Mineral Acres	Total Bonus	Bonus/acre
<i>Billings</i>	5,902.26	\$ 1,142,311.30	\$193.54
<i>Bottineau</i>	398.09	\$ 9,319.89	\$23.41
<i>Divide</i>	7,725.00	\$ 13,601,213.50	\$1,760.67
<i>Dunn</i>	3,957.37	\$ 2,840,445.00	\$717.76
<i>Golden Valley</i>	4,593.55	\$ 1,036,387.50	\$225.62
<i>Grant</i>	15,844.01	\$ 17,762.77	\$1.12
<i>Hettinger</i>	9,111.60	\$ 282,972.43	\$31.06
<i>McKenzie</i>	4,069.56	\$ 31,989,709.50	\$7,860.73
<i>Mountrail</i>	5,093.83	\$ 8,706,879.60	\$1,709.30
<i>Renville</i>	887.37	\$ 10,910.55	\$12.30
<i>Slope</i>	1,835.72	\$ 106,643.60	\$58.09
<i>Stark</i>	1,922.76	\$ 3,452,904.70	\$1,795.81
<i>Ward</i>	1,876.50	\$ 13,379.20	\$7.13
<i>Williams</i>	6,724.87	\$ 22,075,487.00	\$3,282.66
<b>GRAND TOTALS</b>	<b>69,942.49</b>	<b>\$85,286,326.54</b>	<b>\$1,219.38</b>

This information was presented specifically for informational purposes; no action was taken.

## INVESTMENTS DIVISION

**Presentation by J.P. Morgan and Fixed Income Portfolio Review.** During the 2009-11 biennium, financial assets under management by the Land Board grew from \$995.8 million on June 30, 2009 to \$2.04 billion on June 30 2011. During that time period, permanent trust financial assets grew by more than \$827.2 million, ending the biennium at \$1.73 billion. Effective in 2009, constitutional revisions changed how permanent trust distributions are determined; these changes also affect how the permanent trusts' investment program should be managed going forward.

Payden & Rygel (P&R) manages an increasingly large share of trust assets. As of December 31, 2011, P&R managed approximately \$430 million of trust assets for the Board in various fixed income portfolios. Payden and Rygel does a fine job for the Board and has been a valued partner of the Department for nearly 20 years. However, as total assets have more than doubled in recent years, so has the trusts' exposure to P&R as a single entity. While the Commissioner remains confident in P&R, there are risks involved with putting too many trust assets with one investment firm.

One of the portfolios managed by P&R is the GNMA/Short Bond Fund account, which was established in 2002 as a temporary solution to the problem of then historic low interest rates. The intent was to invest in this high quality, shorter-term portfolio until an opportunity to redeploy assets into longer-term fixed income instruments became available. While interest rates remain near historic lows, with cash flow this portfolio has grown to more than \$240 million; and could reach \$300 million in the near future.

The J.P. Morgan Columbus fixed income team is a firm that the Department has identified as worthy of further review as a potential money manager for trust funds.

The Commissioner requested the authorization to undertake due diligence of J.P. Morgan and its products, and to initiate negotiations with the firm with the objective of hiring J.P. Morgan to manage a new intermediate bond portfolio for the Board's permanent trust assets. Among the reasons for doing so:

- The Columbus team is a stable and seasoned investment team that has a history of providing consistent long-term outperformance versus various fixed income benchmarks.
- The Columbus team uses a value driven approach based on bottom-up fundamental analysis that emphasizes low turnover and research over large macro bets. Many small decisions drive performance and reduce risk, while low turnover minimizes trading costs.
- Hiring the Columbus team will allow the Board to diversify the manager risk associated with the permanent trusts' current fixed income portfolio.
- As page 33 of J.P. Morgan's presentation shows, the excess return generated by the Columbus team's intermediate fixed income style has a very low correlation to P&R's core fixed income strategy. Low correlation means more diversification and less risk.
- The State Investment Board recently hired the Columbus team for a short-term bond mandate, and has worked with the firm for many years. Although the Commissioner will perform due diligence on the firm, knowing that the Investment Board is comfortable with this firm is positive.

Mr. Cavanaugh and Mr. Sakeladis provided the Board with an overview of the services they provide.

**MOTION:** That the Board authorize the Commissioner to undertake a due diligence review, and subsequently negotiate with J.P. Morgan's Columbus team for the possible hiring of the Columbus team to manage a new, \$100 million intermediate bond portfolio for the permanent trusts.

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger			X		
Superintendent Sanstead		X	X		
Treasurer Schmidt			X		
Attorney General Stenehjem	x		X		
Governor Dalrymple			X		

## ENERGY INFRASTRUCTURE AND IMPACT OFFICE

**EIIO Evaluation Guidelines and Funding Status.** The Board was provided with a summary of the recently emergency services and response grant round. Commissioner Gaebe stated that the expectation is for all \$30 million of the contingency money from the special session to be available on April 1, 2012 and requested Board guidance in setting allocations of the “new” money for specific sectors of applicants.

A discussion followed related to “grouping” of applications and emphasizing consideration of applications that would support regional emergency response efforts.

Commissioner Gaebe informed the Board that Gerry Fisher and Duane DeKrey will be traveling to regional locations to personally meet with all applicants.

Treasurer Schmidt questioned the reimbursement process. Commissioner Gaebe explained that invoices or proof of project completion are required and that requests for reimbursements from the first round of awards have been coming in slower than expected, perhaps due to challenges with the availability of contractors to do the work.

**MOTION:** That the Board preliminarily allocate \$5 million of the anticipated \$30 million supplemental appropriation to the Oil and Gas Impact Grant Fund within SB 2371 approved by the November 2011 Special Legislative Session, in addition to the \$2 million already set aside for the emergency services and response grant round.

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger	x		X		
Superintendent Sanstead			X		
Treasurer Schmidt		x	X		
Attorney General Stenehjem			X		
Governor Dalrymple			X		

## A D J O U R N

There being no further business, the meeting was adjourned at 11:00 AM.

\_\_\_\_\_  
Jack Dalrymple, Chairman  
Board of University and School Lands

\_\_\_\_\_  
Lance D. Gaebe, Secretary  
Board of University and School Lands

**Minutes of the Meeting of the  
Board of University and School Lands  
February 23, 2012**

The February 23, 2012 meeting of the Board of University and School Lands was called to order in the Governor's Conference Room at 8:30 AM by Chairman Governor Dalrymple.

**Members Present:**

Jack Dalrymple	Governor (via telephone conference)
Alvin A. Jaeger	Secretary of State
Kelly Schmidt	State Treasurer
Wayne G. Sanstead	Superintendent of Public Instruction (via telephone conference)
Wayne Stenehjerm	Attorney General

**Members Absent:**

None

**Land Department Personnel:**

Lance D. Gaebe	Land Commissioner
Jeff Engleson	Director, Investment Division
Michael D. Brand	Director, Surface Management Division
Linda Fisher	Unclaimed Property Administrator
Judith F. Schell	Administrative Assistant

**Others in Attendance:**

Craig Smith	Crowley Fleck Law
Hope Hogan	ND Assistant Attorney General
Jerod Tufte	Governor's Counsel

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

A motion to approve the minutes of the February 9, 2012 meeting was made by Wayne Stenehjerm and seconded by Kelly Schmidt. Motion carried.

## R E P O R T S

**Report of Easements Issued by Land Commissioner.** The Board reviewed the easements issued by the Land Commissioner pursuant to Board authorization. The list is summarized below. No formal action was required. .

**Financial Statements.** The Board reviewed the Financial Statement Summary and Total Assets by Trust as of November 30, 2012. These reports are on file at the Department of Trust Lands office and were for the Board's information; no action was required.

**Investment Performance Report for Quarter Ending December 31, 2011.** The investment performance report covered the performance of the Land Board's investment program for the period of October 31, 2011 – December 31, 2011. This report is prepared to highlight performance of the investment portfolio as a whole, and regarding the performance of the individual money managers. A complete copy of this report is on file at the Department of Trust Lands office and was for the Board's information; no action was required.

**Update on Habitat Review Procedures.** The Commissioner is working with the ND Department of Mineral Resources (DMR) and the ND Game and Fish Department (NDGFD) on developing procedures to provide and promote interagency consultation and cooperation to reduce wildlife impacts resulting from oil and gas development.

The policies will outline a process to have all trust mineral tracts that are nominated for leasing reviewed by the NDGFD for possible concerns related to habitat or wildlife impact. The Trusts' mineral leases, if issued, could have a surface stipulation indicating that the operating company would need to implement best practices to minimize impacts on a unique habitat.

The NDGFD is developing a registry of critical habitat areas that will allow the Department of Trust Lands to coordinate with NDGFD to screen nominated tracts against the known areas of critical habitat upon receipt of the nominations.

There is general agreement on the processes and the mechanisms and points of contact within each department, and drafting is underway.

The Department and NDGFD have arranged a meeting with federal land and mineral management agencies regarding the prospect and process of swapping surface or mineral assets, with state trust property. Trust minerals have not been exchanged since the creation of the Theodore Roosevelt National Park in the 1940s, thus current processes are not apparent. The swap that occurred between Burlington Resources and the Federal Government in 1998, was authorized by a specific act of Congress. The process may be complicated by state constitutional limitations on the sale or liquidation of minerals, as well as challenges in determining 'appraised' value of the mineral assets.

## **EXECUTIVE SESSION - CLOSED MEETING - ATTORNEY/CLIENT PRIVILEGE**

**MOTION:** Under the authority of North Dakota Century Code Sections 44-04-19.1 and 44-04-19.2, Wayne Stenehjem moved to close the meeting to the public and to enter executive session to consult with the Board's attorney to discuss Richland County Foreclosed Property Title Dispute and potential Lease Extension Litigation that both involve reasonably predictable litigation.

<b>Action Record</b>	<b>Motion</b>	<b>Second</b>	<b>Aye</b>	<b>Nay</b>	<b>Absent</b>
Secretary Jaeger			X		
Superintendent Sanstead		X	X		
Treasurer Schmidt			X		
Attorney General Stenehjem	X		X		
Governor Dalrymple			X		

The Executive Session began at 8:57 AM. Besides Board members, those in attendance were the Governor's Counsel, Jerod Tufte, Assistant Attorney General, Hope Hogan, and staff of the Department of Trust Lands: Lance Gaebe, Jeff Engleson, Michael Brand, Linda Fisher, and Judith Schell.

Hope Hogan, Assistant Attorney General, informed Board members of legal issues and potential litigation in the Richland County Foreclosure Title Dispute and Oil and Gas Mineral Lease Extension Litigation. The Board provided Ms. Hogan with guidance on the matters discussed during executive session.

The discussion during executive session was limited to the announced purpose. The executive session adjourned at 9:45 AM and the public was invited to return to the meeting.

The Board resumed open session. No final action was taken by the Board as a result of the executive session considerations.

The next meeting of the Board of University and School Lands is scheduled for March 29, 2012 at 9:00 AM in the Governor's Conference Room.

**A D J O U R N**

There being no further business, the meeting was adjourned at 9:48 AM.

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Jack Dalrymple, Chairman  
Board of University and School Lands

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Lance D. Gaebe, Secretary  
Board of University and School Lands

**Minutes of the Meeting of the  
Board of University and School Lands  
March 29, 2012**

The March 29, 2012 meeting of the Board of University and School Lands was called to order in the Governor's Conference Room at 9:00 AM by Chairman Governor Dalrymple.

**Members Present:**

Jack Dalrymple	Governor
Alvin A. Jaeger	Secretary of State
Kelly Schmidt	State Treasurer
Wayne G. Sanstead	Superintendent of Public Instruction
Wayne Stenehjem	Attorney General

**Members Absent:**

None

**Land Department Personnel:**

Lance D. Gaebe	Land Commissioner
Jeff Engleson	Director, Investment Division
Michael D. Brand	Director, Surface Management Division
Drew Combs	Director, Minerals Management Division
Levi Erdmann	Programmer Analyst
Gerald Fisher	Assistant Director, Energy Infrastructure & Impact Office
Linda Fisher	Unclaimed Property Administrator
Judith F. Schell	Administrative Assistant
Duane DeKrey	Contract Employee EIO Flood Grants

**Others in Attendance:**

Brady Pelton	NDAOGPC
Ed Gregoire	ND DOH/DEMST
Tom Nehring	ND DOH/DEMST
Craig Smith	Crowley Fleck Law
Teri Finneman	Fargo Forum
Greg Burns	North Dakota Education Association
Jerod Tufte	Governor's Office
Nick Smith	Bismarck Tribune
Jannelle Combs	Leonard, Street & Deinard
Scott Childs	Leonard, Street & Deinard

## APPROVAL OF MINUTES

A motion to approve the minutes of the February 23, 2012 meeting was made by Secretary Jaeger and seconded by Superintendent Sanstead. Motion carried.

Action Record	Aye	Nay	Absent
Secretary Jaeger	X		
Superintendent Sanstead	X		
Treasurer Schmidt	X		
Attorney General Stenehjem	X		
Governor Dalrymple	X		

## ENERGY INFRASTRUCTURE AND IMPACT OFFICE

### Energy Infrastructure and Impact Office Emergency Response Grant Recommendations.

The Energy Impact January/February/March 2012 grant round was emergency services and response needs. The office received and reviewed 163 grant applications with total requests of \$40,433,688. Of the \$100 million appropriated during the regular legislative session, approximately \$4 million remains available in fiscal year 2012. The Tax Commissioner has confirmed that the oil and gas tax collection trigger has been met and on April 1, the Director of the Office of Management and Budget will transfer an additional \$30 million supplemental appropriation from the General Fund into the Oil and Gas Impact fund as authorized in November 2011 Special Legislative Session.

In February, the Energy Impact Office (EIO) staff, joined by representatives from the North Dakota Department of Health's Division of Emergency Medical Services & Trauma (DEMST) traveled to nine communities for meetings with applicants, where applicants were interviewed about their grant requests.

Staff from both the EIO and DEMST scored the applications.

Applications were reviewed and scored by the Energy Infrastructure and Impact Grants Advisory Committee (Committee) which is made up of county commissioners, mayors, a township officer, emergency manager, an industry representative and two state agency officials.

Applications were sorted by average weighted score to assist the Committee in reviewing applications in formulating recommendations to the Land Board. The Committee reviewed all applications and a variety of potential scenarios/awarding options were considered. The Committee and staff emphasize that all of the applying communities have needs and have submitted legitimate requests.

The recommendations of the Committee to be considered by the Land Board are to:

1. Cap awards at no more than 80% of total identified project cost
2. Award grants of \$12 million for energy impacted area emergency response needs; \$2 million from the initial appropriation and nearly \$10 million the supplemental funds appropriated in November.

The accompanying list includes 106 requests recommended by the Committee to receive awards totaling \$11,990,101.

ALAMO RURAL FIRE DIST	FOAMER UNIT & FOAM SUPPLY	\$30,000
ALEXANDER RURAL FIRE DIST	FIRE TRUCK	\$75,000
ARNEGARD RURAL FIRE DIST	UPDATE AIR PACS	\$16,000
BEACH COMMUNITY AMBULANCE SERVICE	REPLACEMENT OF 1994 AMBULANCE	\$160,114
BEULAH RURAL FIRE PROTECTION DIST	PROPANE TRAINING	\$6,088
BEULAH RURAL FIRE PROTECTION DIST	FIRE TRUCK	\$60,000
BILLINGS CO. RURAL FIRE PROTECTION DIST.	RESCUE TRUCK EQUIPMENT	\$150,000
BOWBELLS FIRE DIST	MINI PUMPER FIRE TRUCK	\$100,000
BURLINGTON CITY FIRE DEPARTMENT	HEAVY VEHICLE EXTRACTION AND RESCUE	\$2,800
BURLINGTON CITY FIRE DEPARTMENT	18 SETS OF BUNKER GEAR	\$49,840
BURLINGTON RURAL FIRE DEPARTMENT	AIR BAG REPLACEMENT	\$18,483
CITY OF BELFIELD	EMS CREW QUARTERS	\$50,000
CITY OF BELFIELD	4WD SUV	\$32,156
CITY OF BELFIELD	NEW AMBULANCE	\$200,000
CITY OF BELFIELD	TURN OUT GEAR/MISC	\$13,468
CITY OF BELFIELD	FIRE PROTECTIVE CLOTHING/TRAINING	\$8,000
CITY OF BELFIELD	EMS RESPONSE VEHICLE	\$30,000
CITY OF BOWMAN	NEW AMBULANCE	\$100,000
CITY OF BOWMAN	URBAN INTERFACE UNIT	\$144,000
CITY OF BOWMAN	EMS TRAINING	\$12,000
CITY OF BOWMAN	AMBULANCE EQUIPMENT	\$4,000

(03/29/12)

CITY OF COLUMBUS	NEW PUMPER TRUCK	\$180,000
CITY OF CROSBY	RESCUE TRUCK & EQUIPMENT	\$128,000
CITY OF DICKINSON	OILFIELD EMERGENCY TRAINING CLASSES	\$10,512
CITY OF DICKINSON	PUBLIC SAFETY CENTER	\$1,500,000
CITY OF GOLVA	FIRE TRUCK	\$180,000
CITY OF KILLDEER	POLICE VEHICLES	\$89,662
CITY OF MANDAN	LARGE VEHICLE EXTRICATION CLASS	\$2,256
CITY OF MEDORA	EMS CREW QUARTERS	\$50,000
CITY OF MEDORA	EMS QUICK RESPONSE UNIT	\$30,000
CITY OF MEDORA	NEW AMBULANCE	\$200,000
CITY OF MEDORA	FIRE RESISTANT CLOTHES/MONITORS/CLOTHING	\$16,000
CITY OF MEDORA	NEW EMERGENCY SERVICES BUILDING	\$100,000
CITY OF MINOT	FOAM TRAILER	\$88,000
CITY OF MINOT	RADIO SYSTEM	\$19,509
CITY OF NEW TOWN	RESCUE EQUIPMENT	\$25,554
CITY OF PORTAL	REPLACE AUTO EXTRICATION EQUIPMENT	\$32,000
CITY OF POWERS LAKE	AMBULANCE BUILDING	\$400,000
CITY OF POWERS LAKE	POLICE VEHICLE/COMPUTER/HOUSING/GENERATORS	\$25,295
CITY OF SOUTH HEART	LED FLASHING WARNING SIGNS	\$12,685
CITY OF SOUTH HEART	2 PORTABLE SPEED TRAILERS	\$18,826
CITY OF STANLEY	VEHICLE, RADIO, LIGHTS, IN CAR VIDEO	\$37,600
CITY OF STANLEY	FIRE HALL ADDITION/EQUIPMENT	\$556,000
CITY OF STANLEY	ALS SUPPLIES	\$36,000
CITY OF TIOGA	PERSONNEL AND EQUIPMENT	\$144,000
CITY OF TIOGA	REPLACE FIRE TRUCKS/ADD VEHICLES	\$100,000
CITY OF VELVA	BIG RIG RESCUE EQUIPMENT AND TRAINING	\$16,128
CITY OF WATFORD CITY	POLICE DEPT. EQUIPMENT	\$4,448
CITY OF WATFORD CITY	AMBULANCE SERVICE EQUIPMENT	\$470,702
CITY OF WATFORD CITY	FIRE DEPT. EQUIPMENT	\$104,640
CITY OF WILLISTON	EMERGENCY COMMUNICATION CENTER	\$406,846
CITY OF WILLISTON	AMBULANCE REPLACEMENT AND EQUIPMENT	\$194,139
DICKINSON RURAL FIRE DIST	BIG RIG EXTRICATION REGIONAL TRAINING SCHOOL	\$2,256
DICKINSON RURAL FIRE DIST	NEW RESCUE VEHICLE /EQUIPMENT	\$350,000
DIVIDE COUNTY AMBULANCE SERVICE	NEW AMBULANCE	\$22,000
DUNN COUNTY EMERGENCY MANAGER	COMMUNICATIONS TOWER	\$44,000
EPPING RURAL FIRE DIST	UPDATE TANKER TRUCK	\$70,000
FORTUNA RURAL FIRE DIST	QUICK ATTACK READINESS EQUIPMENT	\$16,800
GOLVA RURAL FIRE DIST	TURN OUT GEAR	\$50,000
GRENORA AMBULANCE DIST	NEW AMBULANCE	\$96,000
GRENORA AMBULANCE DIST	TURN OUT GEAR / COMPUTER	\$8,160
GRENORA AMBULANCE DIST	HOUSING	\$64,000
GRENORA FIRE DIST	PAGERS & FIRE EXTINGUISHERS	\$20,000
HALLIDAY RURAL FIRE DIST	RESCUE TRUCK	\$77,000
KILLDEER AREA AMBULANCE DIST	NEW AMBULANCE	\$120,000
KILLDEER AREA AMBULANCE DIST	AMBULANCE GARAGE	\$466,000
KRAMER FIRE DIST	8 SETS TURN OUT GEAR	\$10,000
LIGNITE FIRE DIST	PUMPER TRUCK	\$30,000
MARMARTH RURAL FIRE DIST	COMPLETE TYPE 4 ENGINE	\$20,000
MARMARTH RURAL FIRE DIST	PURCHASE RESCUE PUMPER	\$104,000
MCKENZIE COUNTY RURAL FIRE PROT. DIST.	REPLACE FIRE TRUCK	\$88,000
MERCER COUNTY RURAL AMBULANCE DIST	BEULAH AMBULANCE BAY CONSTRUCTION	\$200,000
MINOT RURAL FIRE DIST	BOIL OVER PROP TRAINING SYSTEM	\$96,000
MOHALL RURAL FIRE DIST	PURCHASE HEAVY RESCUE TRUCK	\$28,000
MOHALL RURAL FIRE DIST	PURCHASE TRUCK TRACTOR	\$24,000
NEW TOWN AMBULANCE	AMBULANCE HALL	\$845,585

NEW TOWN RURAL FIRE DIST	REPAIR EQUIPMENT PURCHASE CRIBBING MONITOR	\$40,000
PARSHALL AMBULANCE DIST	BUILDING ADDITION/RENOVATION	\$91,120
PORTAL RURAL AMBULANCE DIST	NEW AMBULANCE	\$30,000
POWERS LAKE RURAL FIRE DIST	FIRE TRUCK	\$75,000
RAY AMBULANCE DIST	6 DEFIBULATORS & 4 PAGERS	\$9,600
RAY AMBULANCE DIST	EMT TRAINING	\$8,160
RAY AMBULANCE DIST	NEW AMBULANCE	\$118,954
RAY FIRE DIST	PUMPER-TANKERTRUCK	\$213,000
RENVILLE COUNTY	POLICE EQUIPMENT	\$22,106
RENVILLE COUNTY	VEHICLE PURCHASE	\$20,000
RENVILLE COUNTY RURAL AMBULANCE DIST	EXTRICATION TRAINING	\$4,800
RHAME RURAL FIRE DIST	2012 TURN-OUT GEAR	\$28,560
SENTINEL RURAL FIRE PROTECTION DIST	FORD 1 TON PICKUP	\$25,000
SHERWOOD RURAL FIRE DIST	BATTERY POWERED COT	\$12,000
SHERWOOD RURAL FIRE DIST	RAPID RESPONSE UNIT	\$56,000
SIOUX YELLOWSTONE FIRE DIST	TRUCK CHASSIS REPLACEMENT	\$38,400
SOURIS RURAL FIRE DIST	TV/DVD FIRE SCHOOL	\$2,000
SOUTH HEART FIRE DIST	ADD 20 X 100 LIEN TO EXISTING BUILDING	\$80,000
STANLEY RURAL FIRE DIST	TANKER TRUCK/STANLEY CITY/RURAL FIRE HALL ADDTN	\$720,000
STARK COUNTY	3 VEHICLES AND EQUIPMENT	\$133,960
STARK COUNTY	EMERGENCY OPERATIONS CENTER UPGRADE	\$12,605
TOLLEY FIRE DEPARTMENT	TANKER TRUCK, CASCADE SYSTEM, TRAINING	\$52,000
TRENTON TOWNSHIP	TRENTON RURAL FIRE DEPARTMENT BUILDING	\$50,000
UNITED RURAL AMBULANCE DIST	HYDRAULIC STRETCHER	\$10,586
WARD COUNTY	EMERGENCY MEDICAL RESPONSE TRAINING EQUIPMENT	\$19,528
WEST DUNN RURAL FIRE DIST	COMPUTER/SOFTWARE	\$1,970
WEST DUNN RURAL FIRE DIST	TRUCK REPLACEMENT	\$260,000
WESTHOPE RURAL FIRE DIST	NEW FIRE TRUCK	\$180,000
WILDROSE FIRE DIST	NEW FIRE HALL	\$360,000
WILLIAMS COUNTY	COMMUNICATIONS EQUIPMENT & ROAD SIGNS	\$22,200
		<b>\$11,990,101</b>

**Motion: That the Land Board adopt the Energy Impact Grants Advisory Committee's recommendation for grant awards from the Oil and Gas Impact fund to the requesting emergency services and response applicants as follows:**

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

**Proposal On Enhanced and Accelerated Infrastructure Grant Considerations.** Oil and gas development activities continue at a pace that places significant pressure on political subdivision infrastructure in western North Dakota. The Energy Infrastructure and Impact Office Director proposed that the impact grant program accelerate the consideration of infrastructure improvement requests.

Following is a summary of funding, awards and expenditures to the Oil and Gas Impact Grant Fund:

**Funds appropriated to the Oil and Gas Impact Grant Fund** during the 2011/2013 biennium:

- Appropriation (HB 1013) for Grants \$99,778,269
- (03/29/12)

Reflects reduction of administrative costs	
• Supplemental Appropriation (SB 2371)	\$30,000,000
November 2011 Special Session	-----
<b>Total Biennial Appropriation</b>	<b>\$129,778,269</b>

**Available to be awarded in any one year of the biennium** per North Dakota Century Code §15-01-02.6 "...grants awarded annually may not exceed sixty percent of the biennial appropriation."

<b>60% annual award limit</b> from the identified "Total Biennial Appropriation"	\$77,866,961
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**Funds awarded and appropriated in the 2011/2012 fiscal year** by the Board of University and School Lands (Land Board)

• July 2011 City Infrastructure Grant Round	\$53,500,000
• August 2011 Firefighters Training	\$20,000
• December 2011 HUD Communities Planning Grant Cost Share	\$300,000
• December 2011 Township and Transportation Grant Round	\$2,000,998
• March 2012 Emergency Services and Response	\$11,990,101
	-----
<b>Total Awarded-To-Date</b> (including this meeting)	<b>\$67,811,099</b>

**Remaining of 60% award maximum** for 2011/2012 fiscal year  
60% annual award limit – total awarded-to-date **\$10,055,862**

**Total remaining available to be awarded for the biennium: \$56,617,170**

Total appropriated  
Reduced by Total Awarded-to-date  
Reduced by Rapid School Enrollment appropriation  
(SB 2150) \$5,000,000, \$2,408,560 disbursed  
By ND Dept. of Public Instruction January 2012  
Reduced by Upper Great Plains Transportation study  
(SB 2325) \$350,000

The Energy Office Director suggested the remaining amount available for awards be preliminarily allocated as follows to aid in the planning process:

• Other Infrastructure Grant Round, April – June 2012	\$5,000,000
• City Infrastructure Grant Round, July – September 2012	\$36,600,000
35% to Hub Cities = \$16,788,859	
Other Cities = \$19,811,141	
• Township Roads and Transportation Grant Round	\$2,500,000
October – December 2012	
• Emergency Services and Response Grant Round	\$4,000,000
January – March 2013	
• Other Infrastructure Grant Round, April – June 2013	\$2,500,000
• Contingency Fund	\$5,867,170
• Additional Administrative Costs	\$150,000
	<b>\$56,617,170</b>

The Director recommended that the "City Infrastructure Grant Round" scheduled for July 2012, and the "Other Infrastructure Grant Round" scheduled to start April 2012 be combined; and that application periods for both grant rounds be opened immediately and close April 30, 2012, and that recommendations for Board to grant awards and offer commitments of grants for both rounds be made in May/June 2012.

The Director recommended that the Land Board consider “pledging” a grant amount that may total more than 60% of the biennial budget to applicants to enable them to undertake planning and design as soon as possible.

Formal awarding of the committed grants would be approved by the Land Board during the appropriate quarter and fiscal year as required in N.D.C.C. § 57-62-05.5 for calendar quarter award decisions.

### **Contingency Fund Request**

On March 26, 2012, the Energy Impact Office received a grant application from Williston Public School District #1 requesting assistance for temporary portable classrooms. Additional requests from other school districts within oil producing counties are expected. The request identifies funding needs to support portable classroom facilities, to accommodate projected rapid enrollment as a result of population growth in support of the oil and gas employment in the area. Residential housing construction is underway in support of that increased population. Williston Public School District #1 application indicates a project cost of \$3,752,805 and is requesting \$3,002,244 from the energy infrastructure and impact grant program to assist in obtaining 32 temporary classrooms needed for the next school year. Below are the specifics for a limited grant program for portable classroom. The Director recommended that \$5,000,000 from the contingency fund be used to support this program.

### **Proposed Land Board Policy For Energy Impact Grant Dollars For Temporary K-8 Classrooms**

#### **Requirements:**

1. K-8 temporary classroom space only
2. For installation and use during the 2012-2013 school year
3. 20% local match of the total cost of portable class room not to exceed \$150,000 each (including leasing, placement costs, necessary interior equipment and site preparation)
4. Enrollment projections exceed capacity of permanent & existing temporary classroom space
  - a. Meets rapid enrollment threshold (25 students and 7% increase)
5. Ordered on or after January 1, 2012
6. School is located in an oil producing county

#### **Allowable Expenses:**

1. 1 year Portable Classroom Lease, or 1<sup>st</sup> year of lease to purchase agreement
2. Infrastructure for Land Prep
  - a. Dirt work
  - b. Electricity/sewer/water
  - c. Architectural/construction design costs
3. Basic Equipment Expenses for modular classrooms
  - a. Desks, furniture, fixtures and equipment

**Motion: That the Board concur that the City Infrastructure Grants be accelerated, incorporating the spring and summer Infrastructure rounds together, that the Board allocate the remaining appropriated funds for the next fiscal year as indicated in the director’s recommendation, that the Board authorize a limited grant program making \$5 million available from contingency funds to support the acquisition of temporary classrooms for schools anticipated rapid enrollment growth and that it approve a request by Williston School District #1 for \$3,002,244 for classrooms.**

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

**Flood Impact Grants Application Summary.** The Energy Infrastructure and Impact Office received 100 flood grant applications from the nine counties eligible to receive grants from the Flood Impacted-IMPACTED Political Subdivision Infrastructure Development program. The total projected cost to the political sub divisions of their projects is \$122,087,175. The nine eligible counties and their political sub divisions are requesting a total of \$36,722,683 from the Flood Impact Grant Program.

Applications fall into the following categories as prescribed by the legislation:

- 29 To development new community infrastructure
- 0 To evaluate flood damage to community infrastructure
- 43 To restore or repair flood damaged property
- 24 To raise roads
- 1 To expand landfill capacity
- 1 To acquire homes damaged by levee construction
- 0 To acquire homes to develop a floodway
- 3 For other flood related damage

The Energy Infrastructure and Impact Office is considering many factors to establish an initial target figure for each of the eligible counties to help them with the selection of projects. Criteria that was included were: FEMA public assistance funds allocated to the county, FEMA individual assistance allocated to each county, number of applications to FEMA for Individual Assistance in each county, SBA assistance by county, and Public Assistance Damage Reports. The funding for the current grant round targets \$25.5 million, with the remaining \$4.5 reserved for future requests as new issues or costs are discovered:

Barnes	\$500,000
Benson	\$1,000,000
Burleigh	\$2,300,000
McHenry	\$1,000,000
Morton	\$1,000,000
Ramsey	\$1,000,000
Renville	\$700,000
Richland	\$500,000
<u>Ward</u>	<u>\$17,500,000</u>
<b>Total</b>	<b>\$25,500,000</b>

Since many of the applications that have been submitted may be eligible for other state and federal funding programs, the following individuals or their designees have agreed to assist the Energy Infrastructure and Impact office in evaluating flood grant applications.

- National Guard Adjutant General Dave Spryncynatyk, head of the Department of Emergency Services
- Director of the ND Department of Transportation, Francis Ziegler
- State Engineer Todd Sando, Secretary of the State Water Commission

The applications will be evaluated using the following criteria:

- The project criteria is within state law
- The degree to which the project was necessitated by flooding
- The project promotes public safety
- Financial need
- Project readiness/achievability
- Project contributes to long-term economic activity

Flood - Impacted Political Subdivision Infrastructure Development Grant recommendations will be submitted for consideration at the Board's regularly scheduled April meeting.

## SURFACE MANAGEMENT DIVISION

**City of Bismarck Water Main Special Assessment (Burleigh-139-80-36-S2).** The City of Bismarck has requested payment of a special assessment on the S2 Section 36, T139N, R80W, Burleigh County for a water main. In 2010 the City of Bismarck built a 16 inch water line from Bismarck Expressway to 52<sup>nd</sup> Street. A 12 inch line was also built on 52<sup>nd</sup> Street to the north line of the Rocks and Blocks property. The lands on either side of the rights-of-way will be serviced by this water main.

On September 2, 2010, the City of Bismarck informed the Department that they intended to include the S2 of Section 36 in the special assessment district. The Department disagreed with the authority cited by the City to levy the special assessment upon trust property and an attorney General's Opinion was requested by the Commissioner.

The Attorney General's Opinion issued on March 2, 2012 concluded that "...the real property owned by the Common Schools Trust cannot be included in a special assessment district and specially assessed by the city of Bismarck for the installation of a water line unless the Board of University and School Lands agrees that the real property is benefitted to the extent of the amount of the assessments."

The special assessments are as follows:

Tract	Total Special Assessment	2011 Assessment
SE4	\$115,590.92	\$7,706.06
SW4	\$70,494.74	\$4,699.64
<b>Total</b>	<b>\$186,085.66</b>	<b>\$12,405.70</b>

The above-described property is currently leased for grazing, but its highest and best use is probably to be developed as commercial or residential property. Access is excellent along Highway 10 and East Bismarck Expressway, and development has taken place east of this property. It is difficult to determine the extent to which the property will be benefitted by this water line and a "before and after" appraisal would be necessary to make that determination. However, the cost of the appraisal is not justified based on the annual amount of the special assessments. As instructed by the Board in October of 2011, the Department is examining options of selling these tracts and the availability of city water will certainly be desirable for potential developers and would likely enhance the salability of the property.

**Motion: That the Board approve the payment of Bismarck special assessment for a water line installation that will serve S2 Section 36, T139N, R80W, Burleigh County, to be paid annually out of continuing appropriations until such time as the property is sold.**

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger		X	X		
Superintendent Sanstead			X		
Treasurer Schmidt			X		

(03/29/12)

Attorney General Stenehjem	X		X		
Governor Dalrymple			X		

**Request for Exception to Construction Aggregate Rules (WARD-152-86-16-N2, SE4).** N.D.C.C. §15-05-18 provides the authority for the Board of University and School Lands to issue aggregate/clay/road material leases at no less than fair market value and for a maximum lease term of five years. The Board's Construction Aggregate Rules (includes clays and road materials) provides the Commissioner with the authority to issue a negotiated construction aggregate lease to a public entity provided the lease is for no longer than one year and does not contain more than 160 acres.

The ND Department of Transportation has submitted a request for a lease on the N2 and SE4 Section 16, T152N, R86W, Ward County to mine fill material for reconstruction and grade raises on State Highway 23 in 2012 and 2013. The project begins at the intersection of State Highway 23 and State Highway 28 and continues to the west on State Highway 23. The ND Department of Transportation has offered 45 cents per cubic yard to mine approximately 1 million cubic yards of material which would generate about \$450,000 in revenue for the trusts. The site has been surveyed for archeological sites which will be avoided. The tracts are not currently leased for oil and gas development but if they were, oil and gas development would not be precluded by the Department of Transportation's work.

The ND Department of Transportation has chosen the trust land because it is mostly free of archeology sites and is not encumbered by grassland easements. The trust land also has suitable quality material and may also be able to provide a significant amount of rock rip rap needed for the highway project.

**Motion: That the Board authorize an exception to the Construction Aggregate Rules and allow the Commissioner to negotiate for and issue a lease of construction aggregate and fill from N2 and SE4 Section 16, T152N, R86W, Ward County to the ND Department of Transportation for a term longer than one year and to include up to 480 acres, more or less.**

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

**Approval of Richland County Foreclosed Property Sale.** Action on the sale of Richland County Land acquired through foreclosure which was held at 10:00 AM CT in Wahpeton, ND on March 22, 2012 was tabled until a future meeting.

**Whitted Dispute Settlement (RIC-135-49-7-Lot 4).** In executive session on February 23, 2012, the Board authorized the Attorney General's Office to negotiate a settlement to avoid litigation on a 5-acre tract of land in Lot 4, Section 7, T135N, R49W, Richland County.

In August 2011 the trust funds acquired this tract as part of a larger foreclosure. The remaining 32 acres in Government Lots 3 and 4 were withheld from the public sale to provide an opportunity to settle the dispute over the title on the 5-acre tract claimed by Dennis Whitted.

The Attorney General's Office has received verbal confirmation from Mr. Whitted's attorney that the following offer has been accepted by Mr. Whitted.

"The Board of University and School Lands will sell to Mr. Whitted the five-acre tract as defined by the survey your client previously had completed for \$10,000 plus the cost of attorney fees the Board has incurred in this matter, back taxes, and the fee to record the deed. The total purchase price and fees as described above must be paid no later than June 1, 2012. If not paid by that date, the Department will deem your client's failure to pay as a rejection of this offer and move forward with advertising the property for public sale.

Once the total purchase price has been paid, the Department will prepare a deed and take all steps necessary to have the deed properly recorded. The Department has confirmed with the Richland county recorder that the original survey must be attached to the deed. Your client will need to provide the original survey to the Department for deed preparation and recording purposes as well. The survey will be returned to him along with the deed once they are recorded. Finally, your client will take all responsibility for any zoning or platting that may be required by the township for this residence.”

**Motion: That the Board approve this settlement and authorize the Commissioner to complete the deed for signature by the Governor (attested by the Secretary of State) upon receipt of \$10,000 and any fees and costs as outlined in the settlement.**

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

**MINERALS MANAGEMENT DIVISION**

**Essential Wildlife Habitat Review.** The Board recently directed the Department of Trust Lands (DTL) to work with the ND Game and Fish Department (GFD) to develop policies and procedures to address concerns with developing minerals in areas that could impact wildlife, while at the same time ensuring that the Trust’s assets are managed in a way to realize their potential.

The DTL and the GFD have worked closely to develop a workable policy in establishing a process to mitigate possible problems in the future. The Department of Mineral Resources of the Industrial Commission (DMR) is also involved in the process and has worked closely in the development of the “Joint Policy on Mitigation of Wildlife Impacts” which was presented for the Board’s review.

The following step-by-step procedure has been developed to review wildlife associated areas:

1. Mineral tracts are nominated by an interested party for the quarterly lease auction.
2. At the end of the nomination period, usually six weeks prior to auction, the GFD receives a list of the nominated tracts.
3. The GFD will review the list for those associated with essential wildlife habitat.
4. The GFD notifies the DTL of the specific concern and discusses the issue in detail.
5. In a circumstance of a split estate where only the minerals are managed by the DTL, a notation that the tract is part of an area of essential habitat and that it may be subject to additional procedures as part of the Application for Permit to Drill will be included on the mineral lease auction list.
6. If the mineral acres and surface acres of the identified tract are both managed by the DTL, a stipulation like the following will be noted with the tract on the lease auction list and will be made a part of the lease:

*This tract is within an area identified as essential wildlife habitat. The lessee or lessee’s operator must contact the commissioner prior to any surface activity. Operational mitigation measures to reduce impact, including timing restrictions, location adjustments and reduced or restricted surface occupancy may be required. Habitat or terrain considerations may preclude locating a well site on this tract.*

The DTL has always managed its surface assets in a scientific and methodical way, including managing wildlife concerns, however there may be cases when it is necessary to prohibit any surface disturbance. The stipulation will give the agencies the opportunity to mitigate the potential impact to wildlife habitat and allow the Board to manage the trust asset with those concerns in mind. It also gives notice to potential bidders before acquiring the lease. Before permits are issued for development on the property, an in-depth review will occur on how best to proceed in accordance with recognized best management practices. Location, timing, orientation and seasonal activity restrictions will all be considered before a no surface occupancy prohibition is instituted.

In areas where the DTL manages the minerals, but not the surface, the bidders will still be notified of the potential implications of leasing. The stipulation will not be placed on the lease, but the DMR will coordinate the interaction between the operator and the GFD in the APD process.

During its February 3, 2012 meeting, the Board postponed leasing 3,819.1 mineral acres identified by the GFD as essential habitat. With the implementation of the procedures and incorporation of the lease stipulation, both departments agree with recommending that the Board offer the previously suspended mineral acres for lease, with the exception of 80 acres located in Bowman County, on the upcoming May lease offering. The acreage in Bowman County is near an identified Sage Grouse lek that needs additional consideration on the best course of action.

**Motion: To promote interagency consultation and cooperation to reduce the impact on wildlife from oil and gas development, the Board adopt the “Joint Policy on Mitigation of Wildlife Impacts” along with the ND Industrial Commission and the ND Game and Fish Department; furthermore, that the Board authorize the Commissioner sign the agreement and to execute the policy to incorporate a stipulation amendment on mineral acre tract leases identified as associated with essential wildlife habitat; and to authorize leasing at the May 2012 lease offering, with wildlife stipulations, the mineral tracts in Billings and Golden Valley Counties suspended from the February 2012 lease offering.**

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

## INVESTMENTS DIVISION

**Revised Permanent Trust Fixed Income Allocation and Manager Approval.** The permanent trusts' current investment allocation plan allocates 49% to fixed income assets. The plan was put into place in 2003, and adjusted in 2008. It was designed to generate the interest and income needed to make trust distributions under the income based formula in place at the time. As of 2009, trust distributions are based on the average value of financial assets and the growth of those assets over time.

While an updated investment study needs to be undertaken, it will take time to perform and implement, and in the meantime certain changes related to the fixed income portfolio should be implemented soon.

Because of the historic focus on interest and income, and the demand-based nature of certain assets held in the portfolio, the permanent trusts' fixed income allocation is determined differently than most other entities. There are currently two portfolios that have specific allocations, while the remainder makes up what is known as the “Multi-Bond” portion of the portfolio.

The two asset classes with specific allocations are high yield bonds (10%), and international bonds (5%). The multi-bond portion of the portfolio (34% of total assets) includes the Farm Loan Pool and Energy Construction Loan Program, the BND and Payden & Rygel securities portfolios, a TIPS index fund and GNMA/Short Bond Fund account. The percentage of assets allocated to each of these individual portfolios varies from month-to-month depending on cash flows, loan

demand, price fluctuations, and other factors, but the total multi-bond target allocation is 34%. The Board has granted the Commissioner discretion to determine the amount allocated to each individual portfolio within the multi-bond portion of the portfolio. The included table shows the permanent trusts target fixed income allocation as of February 29, 2012.

The permanent trusts continue to grow at a rapid pace. This growth has resulted in one fixed income manager, Payden & Rygel (P&R), managing more money than is prudent for one firm to manage. On December 31, 2011 P&R managed approximately \$430 million of trust assets; that amount has grown to almost \$480 million as of February 29, 2012. The fixed income portfolio is also becoming less diversified, as the amount allocated to the GNMA/Short Bond Fund continues to grow.

### **New Manager Review**

Following the Board's February instruction to the Department to perform due diligence on the J.P. Morgan fixed income program and team, Investment Director Jeff Engleson traveled to Columbus, Ohio to complete that review. Mr. Engleson interviewed more than a dozen portfolio managers, research analysts, traders, risk managers and operations personnel.

The J.P. Morgan investment process is driven by internal credit research, which allows the team to buy, and hold, good bonds. This low turnover, low cost approach focuses on early decisions that incrementally result in the portfolio consistently outperforming the benchmark. Risk management is embedded in the investment process. Extensive modeling and stress testing allow the Columbus team to consciously identify and manage risk. The focus is on minimizing downside risk relative to the benchmark without limiting upside potential.

J.P. Morgan also completed a formal due diligence questionnaire that provided the Commissioner with additional information and documented the investment strategy and risk management approach. The complete information is available for review. In summary, the due diligence review of the J.P. Morgan's Columbus team and approach, documented a professional team with strong credentials and risk aware performance. The results of the due diligence confirm the Commissioner's recommendation to hire the Columbus team to manage an intermediate grade bond allocation for the permanent trusts.

<b>Comparison of Current and Proposed Fixed Income Allocations</b> (based on February 29, 2012 asset values)				
<b>Specific Allocations</b>	<b>Current Allocation</b>		<b>Proposed Allocation</b>	
	<b>\$ million</b>	<b>Percent</b>	<b>\$ million</b>	<b>Percent</b>
High Yield Bonds	\$192.10	10.0%	\$192.10	10.0%
International Bonds	96.05	5.0%	96.05	5.0%
Payden & Rygel (aggregate focus)	N/A		192.10	10.0%
Intermediate Bonds (new manager)	N/A		192.10	10.0%
Subtotal	\$288.15	15.0%	\$672.35	35.0%
<b>Multi Bond Allocation</b>				
FLP/ECLP (demand based)	\$47.34	2.5%	\$47.34	2.5%
Payden & Rygel (income focus)	137.65	7.2%	0.00	0.0%
BND – Project Notes (going away)	3.67	0.2%	0.00	0.0%
TIPS (up to 10%)	149.12	7.8%	149.12	7.8%
GNMA/Short Bond ( )	315.37	16.3%	72.49	3.7%
Subtotal	\$653.15	34.0%	\$268.95	14.0%
<b>Total Fixed Income</b>	<b>\$941.30</b>	<b>49.0%</b>	<b>\$941.30</b>	<b>49.0%</b>

The Commissioner recommended a near-term fixed income allocation shown in the above table. This would entail:

- Move the current P&R income focused portfolio from the multi-bond portfolio to a specific allocation, and increasing it to a 10% allocation. P&R would also be directed to manage this portfolio to the Barclays Aggregate Index, a relatively minor shift from the way the portfolio is currently being managed.

- Transfer the remaining securities in the BND project note portfolio to the P&R aggregate portfolio.
- Create a new specific allocation of 10% for an intermediate bond portfolio and hiring the J.P. Morgan Columbus group to manage that allocation.

Adopting these changes will help diversify the risk of the fixed income portion of the investment portfolio without materially changing the structure and expected return of the portfolio.

The published fee schedule for this product is 30 basis points (bp) on the first \$75 million, 25 bp on the next \$75 million, 22.5 bp on the next \$150 million and 15 bp on any amount over \$300 million. The Department has been assured by J.P. Morgan that they are willing to negotiate a fee schedule that incorporates their current relationship with the State Investment Board.

**Motion: That the Board adjust the fixed income allocation to incorporate a 10% specific aggregate bond index allocation to be managed by Payden & Rygel and to direct the Commissioner to enter into an agreement with J.P. Morgan, subject to a final review and contract approval by the Attorney General, to manage a 10% specific allocation to an investment grade intermediate bond portfolio.**

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

**Request for Authority to Search for an Investment Consultant.** The Commissioner invited Matt Porter from DiMeo Schneider to make a brief presentation to the Board about the various steps involved in the investment process and what other large endowment-like funds are doing to manage risk, fulfill fiduciary duties, and improve performance.

DiMeo Schneider was the firm hired by the Land Board to perform the most recent investment study of the Board's investment program. That study provided the basis for the discussions that lead to Constitutional Measure #1 in November 2006 and the current percentage of assets based distribution formula. The 2003 investment study was also the driving force behind the permanent trusts' current asset allocation, which was designed to generate the "interest and income" needed to make trust distributions until such time that the more effective and efficient "total return" approach to trust management could be adopted.

The Board is on the final leg of a process that started in 1996, when it was first informed by an investment consultant that trust funds such as those managed by the Board should be managed for total return, not interest and income. Now with the legal authority to manage the permanent trust funds on a total return basis, the Board should adopt and implement policies, procedures, and an asset allocation that takes advantage of this change to generate higher and more consistent returns while also better managing the various risk associated with investing trust assets.

Investment consultants have been an important part of the Board's investment program in the past; consultants' recommendations have been responsible for major changes to the program over time. The Commissioner believes it is time to seek the advice of outside investment professionals to assist the Board and staff in developing and implementing an updated investment plan and associated policies that will guide the program into the future.

As trust assets have grown, so have the risks and responsibilities of both the Board and staff. The Commissioner believes hiring an investment consultant is the most prudent way to reevaluate the program and make the changes needed to better manage the trust funds in the future.

The Commissioner requested permission to initiate a search for an investment consultant, with the plan to return to the Board with a recommendation as to the firm to hire and the extent of the services to be provided.

**Motion: That the Board grant the Commissioner authority to proceed with the search for an investment consultant to perform a study of the Land Board's investment program, with the goal of developing an updated investment plan and associated policies to be used in managing the trust investment program going forward.**

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

## R E P O R T S

**Update of Legal Issues** (Prepared by Assistant Attorney General Charles Carvell). The core issue in the river litigation is title to the area between ordinary high watermark and ordinary low watermark, an area known as the shorezone. Riparian landowners say they own down to the ordinary low watermark. The state, however, asserts that its title to the bed of navigable rivers, like the Missouri, extends up to the ordinary high watermark. Resolving the dispute turns on the proper interpretation of a state statute.

### **Brigham Oil & Gas**

Last summer Brigham Oil & Gas filed a suit seeking resolution of the title question. It did so because it operates a well just to the southeast of Williston. The well produces from a 1,280-acre spacing unit that includes the Missouri River. There are dozens of parties with interests in the spacing unit.

Because of the title disputes among those parties, Brigham has withheld royalty payments. In its lawsuit, Brigham, essentially, asks the court to require all those asserting title to the minerals in the spacing unit to set forth and prove their claims, and once the court rules on those claims, Brigham will know who to pay.

Brigham named 83 defendants in its Complaint, including the Land Board, City of Williston, Williams County, and many individuals and oil companies. Brigham also named the United States.

Brigham filed its suit in state court, and not long after it did the U.S., as it had the right to do, removed the case to federal court in Bismarck. Last autumn the U.S. filed a motion asking to be dismissed on sovereign immunity grounds, which the court granted late last year. After it did so, the Court informed the parties that it was planning on remanding the case back to state court, but Williston asked the Court to retain jurisdiction. For the past several months the parties have been waiting to hear from the federal court whether it is going to keep the Brigham case or send it back to state court.

Last week the AG's Office filed a motion with the federal court asking that the federal court refer to the N.D. Supreme Court the question about title to the shorezone.

There is a procedure under which federal courts can ask state supreme courts to answer unresolved questions of state law. Since the shorezone question depends on how a state statute is interpreted, the AG's Office believes that certifying the question to the N.D. Supreme Court—if the federal court agrees to do so and if the N.D. Supreme Court agrees to answer the question certified—could lead to an expedited resolution to the key part of all three lawsuits. If the question is not certified to the Supreme Court, then the issue will have to be litigated through the trial courts and brought to the Supreme Court on appeal, which will of course greatly lengthen the time before we get a final resolution.

### **Wilkinson Family**

The second lawsuit was filed earlier this year by the Wilkinson family, which asserts that it owns minerals in about 200 acres a few miles west of Williston. This suit was filed in state court (03/29/12)

and is a straight forward quiet title action. The case is still in the initial pleading stage. Once that phase is complete, the Attorney General's Office is looking at ways to get the shorezone issue promptly before the trial court for decision.

### Reep et al

The third lawsuit was filed March 9, 2012. It has six plaintiffs. The lead plaintiff is Stan Reep. This case was filed in state court and it is pled as an unconstitutional taking of private property without just compensation. The Complaint asks that the court certify the case as a class action lawsuit against the state on behalf of all riparian landowners in the state.

The Attorney General's Office believes there are flaws in the Complaint in the Stan Reep case, and is filing a preliminary motion to try to get the suit dismissed, or at least to whittle down some of the claims.

**Financial Statements.** The Board reviewed the Financial Statement Summary and Total Assets by Trust as of December 31, 2011. These reports are on file at the Department of Trust Lands office and were for the Board's information only; no action was required.

<b>Board of University and School Lands</b>					
<b>Quarterly Comparative Financial Schedules (Unaudited)</b>					
<b>Schedule of Net Assets</b>					
<b>Assets by Trust:</b>	<b>December 31, 2011</b>	<b>December 31, 2010</b>	<b>Assets by Type:</b>	<b>December 31, 2011</b>	<b>December 31, 2010</b>
Common Schools	\$1,653,575,109	\$1,443,443,199	Cash	\$2,791,976	\$5,454,452
North Dakota State University	26,596,560	21,048,883	Receivables	18,088,213	17,296,608
School for the Blind	3,324,414	2,998,122	Investments	1,985,551,674	1,715,134,322
School for the Deaf	9,598,817	7,745,232	Farm Real Estate	931,760	-
State Hospital	9,167,465	8,301,666	Office Building (Net of Depreciation)	618,255	656,429
Ellendale *	4,744,054	3,561,595	Farm Loans	40,672,236	42,904,394
Valley City State University	4,474,205	4,148,141	Energy Construction Loans	2,293,037	986,108
Mayville State University	3,078,667	2,643,433	Developmentally Disabled Loans	-	792,247
Youth Correctional Center	10,803,372	9,466,700	Energy Development Impact Loans	8,704,435	4,571,182
State College of Science	8,604,468	7,931,871	School Construction Loans	27,138,273	29,104,534
School of Mines **	10,097,907	8,486,411	Due from Other Trusts and Agencies	13,976,391	7,877,549
Veterans Home	3,145,768	2,931,969			
University of North Dakota	13,226,360	11,285,718			
Capitol Building	3,410,790	3,184,545			
Strategic Investment and Improvements	271,879,508	223,336,515			
Coal Development	64,387,240	63,628,838			
Indian Cultural Education Trust	651,546	634,987			
<b>Total</b>	<b>\$2,100,766,250</b>	<b>\$1,824,777,825</b>	<b>Total</b>	<b>\$2,100,766,250</b>	<b>\$1,824,777,825</b>

**Report of Easements Issued by Land Commissioner.** The Board reviewed a memo showing easements issued by the Land Commissioner pursuant to Board authorization. The detailed memo is on file at the Department of Trust Lands office and was for the Board's information only; no action was required. A summary of approved easements follows:

<b>Grantee</b>	<b>Project Purpose</b>	<b>Date</b>
Whiting Oil And Gas Corporation MOU-153-92-36-SE4	Access Road	2/20/2012
Oneok Rockies Midstream Llc MCK-153-102-36-SE4	Gas Gathering Pipeline	2/20/2012
Oneok Rockies Midstream Llc BIL-141-100-16-NW4	Gas Gathering Pipeline	2/21/2012
Minnkota Power Coop Inc	Electric Transmission Line	2/27/2012

(03/29/12)

EDD-148-64-36-SE4  
 GFO-151-52-36-NW4, SW4  
 OLI-142-83-36-NE4, NW4  
 SHE-146-78-8-NW4, SE4  
 WEL-147-71-2-LOT 1, LOT 2

Belle Fourche Pipeline Co MCK-147-101-16-NE4	Oil Gathering Pipeline	2/27/2012
Sm Energy Company DIV-164-100-36-SW4	Section Line Road	2/27/2012
Hess Corporation MOU-157-90-16-SE4	Pipeline & Communication Cable	3/6/2012
Hess Corporation MOU-157-90-16-SE4	Multiple Pipelines	3/6/2012
Sequel Energy Llc WIL-158-95-16-SE4, SW4	Directional Wellsite Location	3/6/2012
Oneok Rockies Midstream LLC WIL-154-104-36-NE4, SE4, SW4	Gas Gathering Pipeline	3/6/2012
Bear Tracker Energy LLC MOU-158-90-16-SW4 MOU-158-90-36-NW4	Gas Gathering Pipeline	3/6/2012
Whiting Oil And Gas Corporation BIL-140-100-16-NW4	Tower Site	3/15/2012

### **A D J O U R N**

There being no further business, the meeting was adjourned at 11:15 AM.

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Jack Dalrymple, Chairman  
 Board of University and School Lands

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Lance D. Gaebe, Secretary  
 Board of University and School Lands

**Minutes of the Meeting of the  
Board of University and School Lands  
April 26, 2012**

The April meeting of the Board of University and School Lands was called to order in the Governor's Conference Room at 9:03 AM by Governor Jack Dalrymple, Chairman.

**Members Present:**

Jack Dalrymple	Governor
Alvin A. Jaeger	Secretary of State
Kelly Schmidt	State Treasurer
Wayne Stenehjem	Attorney General

**Members Absent:**

Wayne G. Sanstead	Superintendent of Public Instruction
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**Land Department Personnel:**

Lance D. Gaebe	Land Commissioner
Jeff Engleson	Director, Investment Division
Michael D. Brand	Director, Surface Management Division
Drew Combs	Director, Minerals Management Division
Duane DeKrey	Contract Employee EIO Flood Grants
Levi Erdmann	Programmer Analyst
Gerard Fisher	Assistant Director, Energy Infrastructure & Impact Office
Judith F. Schell	Administrative Assistant

**Others in Attendance:**

Jerod Tuffe	Governor's Office
Jeff Zent	Governor's Office
Scott Moum	Minot Public Schools
Mark Vollmer	Minot Public Schools
Ron Merritt	Minot Park District
Cindy Hemphill	City of Minot
Dan Jonasson	City of Minot
Lance Meyer	City of Minot
Mike McEnroe	ND Chapter of the Wildlife Society
Jan Swenson	Badlands Conservation Alliance
Jannelle Combs	Leonard, Street & Deinard
Scott J. Kaisler	5 Stone Development
Nick Smith	Bismarck Tribune

**APPROVAL OF MINUTES**

A motion to approve the minutes of the March 29, 2012 meeting was made by Wayne Stenehjem and seconded by Kelly Schmidt. Motion carried.

## MINERALS MANAGEMENT DIVISION

**Approval of Coal Leases - BNI Coal (Oliver County).** As authorized by the Board on January 26, 2012, a public hearing and offering of leases of coal acres in Oliver County was held on March 30, 2012 at the Department of Trust Lands' office. No comments were received at the hearing. In the lease offering, BNI Coal of Center, ND offered a bonus of \$100.00 per net mineral acre and rental payment of \$3.00 per net mineral acre on the following tracts:

### Oliver County

#### Township 141 North, Range 83 West Section 16: NW4, SW4, SE4

The State Trusts have a 100% interest in the tracts in Section 16 with 480 net mineral acres. There is surface ownership in the SE4-16.

#### Township 141 North, Range 83 West Section 17: SW4

The State Trusts have a 50% interest in Section 17 with 80 net mineral acres.

#### Township 141 North, Range 83 West Section 18: NW4

The State Trusts have a 50% interest in Section 18 with 61.96 net mineral acres with total net mineral acres of 621.96 being leased.

**Royalty:** \$.25/ton or 6% of sales, whichever is greater.

The duration of the lease is for ten (10) years with an option to extend for an additional ten (10) years with the payment of an additional fee per acre.

**Motion: That the Board direct the Commissioner to lease the Oliver County tracts to BNI Coal under the specified terms.**

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

**Approval of Coal Leases - Dakota Westmoreland Corporation (Mercer County).** As authorized by Board on January 26, 2012 a public hearing and offering of leases of coal acres in Mercer County was held on March 30, 2012 at the Department of Trust Lands' office. No comments were received at the hearing. Dakota Westmoreland Corporation of Beulah participated in the lease auction and has offered a bonus of \$100.00 per net mineral acre and rental payments of \$3.00 per net mineral acre on the following tracts:

### Mercer County

#### Township 143 North, Range 88 West Section 20: S2S2

The State Trusts have a 50% interest in this tract containing 80 net mineral acres. The state has no surface ownership in this tract.

**Royalty:** \$.25/ton or 6% of sales, whichever is greater.

The duration of the lease is for ten (10) years with an option to extend for an additional ten (10) years with the payment of an additional fee per acre. Dakota Westmoreland Corporation projects the Trusts' share of coal to be 680,000 tons.

**Motion: That the Board direct the Commissioner to lease the Mercer County tracts to Dakota Westmoreland Corporation under the specified terms.**

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

## SURFACE MANAGEMENT DIVISION

**Approval of Sale of Richland County Foreclosed Property.** The sale of Richland County Land acquired through foreclosure, was held at 10:00 AM CT on March 22, 2012 in Wahpeton, ND. The opening price for each tract set at the appraised value as approved by the Board on January 26, 2012.

DESCRIPTION	Total Acres	Principal & Interest Balance	Opening Bid at Public Auction	High Bid at Public Auction	High Bidder at Public Auction
<b>Tract 1</b> T135N, R52W Sec 1: SE4, NE4SW4  T135 N, R51 W Sec 6: E2SW4, Lots 6 & 7 (SW4)	352.92		\$265,000	\$350,000	Ryan Anderson Chafee, ND
<b>Tract 2</b> T135N, R50W Sec 1: SW4	153.76		\$135,000	\$135,000	Steven/Carol Koenig Walcott, ND
<b>Tract 3</b> T135N, R50W Sec 12: SW4 w of RR ROW	156.00		\$140,000	\$140,000	Patrick Thorson Kindred, ND
<b>Tract 4</b> T135N, R49W Sec 7: E2NW4, Lots 1, 2 (NW4)	169.80		\$500,000	\$570,000	Laverne Sullivan Fargo, ND
<b>Tract 5</b> T135N, R49W Sec 18: E2NE4 less 8.51 acres	71.49		\$253,400	\$270,000	Laverne Sullivan Fargo, ND
<b>Tract 6</b> T135N, R49W Sec 7: W 32.03 acres Lots 3 & 4	32.03			Not Offered	
<b>Totals</b>	<b>936.00</b>	<b>\$778,156.01</b>	<b>\$1,167,400</b>	<b>\$1,465,000</b>	

In accordance with N.D.C.C. §15-07-10, within one hour of the close of the sale the former mortgagor, Mr. David Thompson, 6127 168<sup>th</sup> Ave SE, Walcott, ND 58077 “matched the high bid” of \$1,465,000 for all five parcels and signed an “offer to purchase”. As required in the sales agreement, Mr. Thompson paid the 20% down payment of \$293,000 plus \$2,250 sales costs.

N.D.C.C. §15-08-05 requires the Board to review and approve the sale of acquired land.

After review of the sale process and associated documents, the Commissioner believes that the auction complied with requirements of statute and Board rules for management of foreclosed property and should be approved.

Possession and right of use of the property will not be permitted until full payment is received.

**Motion: That the Board approve David Thompson’s Offer to Purchase Richland County property offered for sale on March 22, 2012 at the full price of \$1,465,000 plus \$2,250 sales costs, and that right of possession and use be provided to Mr. Thompson upon full payment within 60 days, without the possibility of extension.**

Action Record	Motion	Second	Aye	Nay	Absent
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(04/12)

Secretary Jaeger		X	X		
Superintendent Sanstead					X
Treasurer Schmidt			X		
Attorney General Stenehjem	X		X		
Governor Dalrymple			X		

**Property Analysis and Marketability Study (BRL-36-139-80).** On October 27, 2011 the Board directed the Commissioner to evaluate the value of section 36 T139N, R80W, Burleigh County, in anticipation of possible sale.

To formalize the review, the Commissioner recommends the hiring of a qualified contractor for a "property analysis" which will provide evaluation options for marketing the real estate.

The information will be used to formulate a recommendation to the Board on the next step such as a market analysis and deciding on how to market the property. (i.e. what type and size parcel makes sense).

**Motion: That the Board authorize the Commissioner to solicit bids, award a contract and complete a property analysis and marketability study of trust property within Section 36, T139N, R80W, Burleigh County; provided the cost of the professional review is less than \$25,000. The Commissioner shall report the results of this study to the Board upon completion.**

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

## INVESTMENTS DIVISION

**Excess Income Earned By Coal Development Trust Fund.** Effective July 1, 2009, the constitutional changes to the distribution formula for the permanent educational trusts that were approved by North Dakota's voters in November 2006 became law. Under the new formula, distributions for the permanent trusts are based on the value of trust financial assets and the growth of those assets over time.

The one thing that did not change on July 1, 2009 is the method used to determine distributions from the Coal Development Trust Fund. Although this is also a permanent trust, it is not one of the original land grant trusts and thus not subject to article IX of the North Dakota Constitution. Therefore, for the Coal Development Trust, distributions are still based on the amount of income earned each year and capital gains must still be allocated to income over a 10-year period.

In the past, the Land Board had three choices as to what to do with the excess income earned by the Coal Development Trust. According to NDCC 15-03-05.2 (prior to FY 2010), those choices were to:

- distribute all or a portion of the excess income (*must be within beneficiaries' appropriations to be spent*);
- retain all or a portion of the excess income for distribution in future years in an amount not to exceed \$10 million (*currently the full \$10 million is reserved*); or,
- add all or a portion of the excess income to the permanent fund.

Historically, the Land Board has chosen to distribute all excess income earned by the Coal Development Trust Fund to the General Fund. However, effective in the 2009 legislature, 15-03-05.2 was changed and the three options listed above were removed from law. Thus, the Board no longer has legislative guidance as to what must be done with income earned by this trust that is over and above the amount projected to be distributed.

The following table breaks down the income earned by the Coal Development Trust Fund during fiscal years 2010 and 2011.

<b>Coal Development Trust Fund</b>		
	<b>FY 2010</b>	<b>FY 2011</b>
Current Income	\$1,294,543	\$1,001,696
Amortized Gains	111,271	77,846
Available to Distribute	\$1,405,814	\$1,079,542
Distributed	\$1,350,000	\$1,000,000
Excess Income	\$55,814	\$79,542

Consistent with past practices the Commissioner recommends that the Board distribute all of the income earned by this trust to the General Fund for 2010 and 2011 and in future fiscal years, and provide annual reports to the Board.

**Motion: That the Land Board approve the distribution of the \$135,356 of excess income in the Coal Development Trust Fund earned during fiscal years 2010 and 2011 to the General Fund, and that the Land Board give the Commissioner the authority to distribute all income earned by this fund for all fiscal years after fiscal year 2011 to the General Fund.**

<b>Action Record</b>	<b>Motion</b>	<b>Second</b>	<b>Aye</b>	<b>Nay</b>	<b>Absent</b>
Secretary Jaeger			X		
Superintendent Sanstead					X
Treasurer Schmidt	X		X		
Attorney General Stenehjem		X	X		
Governor Dalrymple			X		

**Motion: Treasurer Schmidt moved to direct the Commissioner to explore legislative options to retain income earned by the Coal Development Trust Fund within the fund and to examine potential fund balances if income was retained. Attorney General Stenehjem seconded the motion.**

<b>Action Record</b>	<b>Motion</b>	<b>Second</b>	<b>Aye</b>	<b>Nay</b>	<b>Absent</b>
Secretary Jaeger			X		
Superintendent Sanstead					X
Treasurer Schmidt	X		X		
Attorney General Stenehjem		X	X		
Governor Dalrymple			X		

**Investment Consultant Tasks.** At the March 29, 2012 meeting, the Board approved the hiring of an investment consultant firm. The Commissioner and staff have begun work on developing a scope of work leading to the issuance of a request for proposal for investment consulting services.

Although the details of a request for proposal have not been finalized, the proposed investment study would include, at least the following:

- The recommendation of an asset allocation policy for the permanent trust funds (PTFs) that, while recognizing the Board's risk tolerance and return expectations, balances the Board's responsibilities under North Dakota law to
  - Support the trust beneficiaries;

- Maintain the permanent strength of the fund;
  - follow the prudent investor rule
- Recommendations for a comprehensive rewriting of the Board's current policies and procedures for the PTFs that will help ensure that the Board meets its long-term goals and objectives for the PTFs.
  - A recommendation as to the most appropriate way to transition the PTFs from the current asset allocation plan to the recommended asset allocation plan. Such recommendation should include a time table for the transition as well as an analysis of the cost of using a consulting firm to perform the manager searches needed to implement the new asset allocation.
  - An analysis of the ongoing costs associated with the recommended asset allocation plan, including the cost of paying a consultant to perform performance monitoring and measurement services.
  - This analysis should include an evaluation of the pros and cons and costs of various implementation scenarios, including
    - an ultra low cost investment approach,
    - a more traditional plan sponsor/investment /consultant approach
    - an outsourced CIO approach.
  - An analysis of the costs and potential benefits of using North Dakota's State Investment Board to implement and manage the ongoing operational functions of the permanent trusts investment program.

An RFP will be sent to various consulting/investing firms that suggested by current money managers, industry contacts, other endowment fund managers and the Retirement and Investment Office. As proposals are reviewed, the Board will be informed of introduction opportunities for firms that are interviewed.

## ENERGY INFRASTRUCTURE & IMPACT OFFICE

**Grant Recommendations for Temporary Classrooms.** On March 29, 2012, the Board approved an allocation of \$5 million from contingency portion of the Oil and Gas Impact Fund for a special grant program for schools seeking funding assistance for temporary K-8 portable classrooms. The focus is for schools realizing unprecedented student population growth beyond current facility capacity for the 2012/2013 school year. This student growth has to be a direct result of population growth in support of oil and gas development/production.

Applications for the grant round were accepted from April 4 to April 16, 2012. Five applications were received requesting \$3,812,156 in funds. Past student enrollment history, projected enrollment increases supported with residential home construction data, temporary portable unit costs, financial need, and oil and gas development/production statistics were all considered in the evaluation phase. The recommendations coupled with the award of \$3,002,244 already provided to Williston PSD #1, would result in total awards of \$4,999,244.

<b>AWARDS - K-8 SCHOOLS TEMPORARY PORTABLE CLASSROOMS GRANT ROUND</b>						
Sub Name	City	County	Project Title	Project Total	Amount Requested	Amount Awarded
SOUTH HEART PSD	SOUTH HEART	STARK	PORTABLE CLASSROOMS	\$862,720	\$690,176	\$240,000
NEW PSD #8	WILLISTON	WILLIAMS	CLASSROOM CRISIS	\$1,870,260	\$1,720,260	\$1,350,000
TIOGA PSD #15	TIOGA	WILLIAMS	TEMPORARY CLASSROOM SPACE FOR KG - GRADE 6 STUDENTS	\$1,500,000	\$1,200,000	\$300,000
POWERS LAKE PSD #27	POWERS LAKE	BURKE	ELEMENTARY PORTABLE CLASSROOM ADDITION	\$217,420	\$120,000	\$80,000
MCKENZIE PSD #1	WATFORD CITY	MCKENZIE	WATFORD CITY ELEMENTARY SCHOOL PORTABLE CLASSROOMS	\$102,150	\$81,720	\$27,000
					<b>\$3,812,156</b>	<b>\$1,997,000</b>

Motion: **That the Land Board adopt the recommendation and award grants from the Oil and Gas Impact fund to the requesting school applicants in support of temporary portable K-8 classrooms as identified in the preceding chart.**

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

### Flood Impact Grant Recommendations

The Energy Infrastructure and Impact Office was tasked by the Legislature with implementation of the \$30 million Flood Impacted Political Subdivision Infrastructure Development Grant Program. The Land Board is responsible for awarding grants under the program.

The Energy Infrastructure and Impact Office received over 135 flood grant applications from political subdivisions within the nine counties eligible to receive grants from the Flood-Impacted Political Subdivision Infrastructure Development Grants program. The total projected cost to the political sub divisions of their projects is \$129,701,744. The nine eligible counties and their political sub divisions requested a total of \$39,320,483 from the Flood Impact Grant Program. Projects are eligible for the 50% cost-share grants. Applications fall within the eligible categories described by the Legislation which created the program:

- To develop new community infrastructure

- To evaluate flood damage to community infrastructure
- To restore or repair flood damaged property
- To raise roads
- To expand landfill capacity
- To acquire homes damaged by levee construction
- To acquire homes to develop a floodway
- For other flood related damage

To assist counties with organizing and prioritizing grant requests from eligible subdivisions, an initial target amount for each of the eligible counties was provided for planning purposes. The funding objective was determined based on a combination of factors within each county including: FEMA public assistance funds allocated, FEMA individual assistance allocated, number of applications to FEMA, SBA assistance, and Public Assistance Damage Reports.

Barnes	\$500,000
Benson	\$1,000,000
Burleigh	\$2,300,000
McHenry	\$1,000,000
Morton	\$1,000,000
Ramsey	\$1,000,000
Renville	\$700,000
Richland	\$500,000
Ward	\$17,500,000
<b>Total</b>	<b>\$25,500,000</b>

The remaining \$4.5 million of the appropriated funds were reserved for unknown or additional needs.

Applications were reviewed with assistance and suggestions of the

- Department of Emergency Services
- Department of Transportation
- State Water Commission
- Department of Commerce - Division of Community Services

The applications were evaluated based on compliance with the letter and intent of the legislation:

- That the project was necessitated by flooding
- The degree of flood impact sustained by the applicant
- The project promotes public safety
- Financial need
- Contributes to long-term economic and community expansion
- Project readiness/achievability
- Not eligible for other state, federal or insurance funding

Additional documentation and information is being sought for project requests submitted by the political subdivisions of, and within Benson, McHenry, Renville and Ramsey Counties.

The Director proposed that the Board approve the recommended grants in their entirety for Barnes, Burleigh, Morton, Richland and Ward Counties.

The Director recommended the approval of the recommended grants listed for the political subdivisions within Benson, McHenry, Renville and Ramsey Counties, but also reserving the balance of the target funding for those counties for consideration by the Board in May, after additional applicant detail is provided to these counties.

**Motion: That the Board approve Flood Impacted Political Subdivision Infrastructure Development grants to the projects identified on the accompanying spreadsheet, with a reservation of \$532,194 for Benson County, \$472,974 for McHenry County, \$540,200 for Ramsey County and \$185,999 for project recommendations to be presented to the Board in May.**

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

### Grant Recommendations for Flood-Impact Grants

Political Subdivision	Project Description	Amount Awarded
Barnes County	In Slope Repair	\$14,581
Barnes County	Repair Road Slide	\$58,380
Barnes County	Repair Road Slide	\$136,799
Barnes County	Bridge Repair	\$24,843
Barnes Rural Water	Hill Side Boring	\$18,488
Barnes Rural Water	River Boring	\$10,620
Barnes Rural Water	River Boring	\$10,620
Barnes Rural Water	River Boring	\$18,673
Barnes Rural Water	River Boring	\$6,474
Belsford Township	Move Road	\$25,426
Benson County	Purchase Land to move Co shop	\$21,000
Benson County	Repair Fillmore Road	\$41,000
Benson County	County Wide Road repair	\$200,000
Benson County	Rip Rap Road	\$37,750
Brandenburg Township	Clean out flood debris	\$1,680
Brightwood Township	Raise Road	\$89,000
Burleigh County	Tavis Road Grade Raise and Pumping Station	\$1,179,726
Burleigh County	Burnt Creek Loop Grade Raise	\$750,000
Center Township	Restore Road	\$24,525

City of Bismarck	Riverwood Drive Grade Raise	\$309,438
City of Bismarck	Mills Av Grade Raise	\$282,667
City of Bismarck	Storm Water Outfall Gates & Valves	\$163,775
City of Burlington	Community Infrastructure Expansion	\$2,450,000
City of Devils Lake	Devils Lake City Landfill Expansion	\$150,000
City of Dwight	Upgrade City Sewer	\$2,500
City of Great Bend	Automate City St Drainage	\$5,555
City of Leeds	Expand Landfill	\$14,500
City of Ligerwood	Dike	\$15,000
City of Mandan	Repair WWTP Outfall Pipe	\$672,938
City of Mandan	Flood Control Structures	\$63,840
City of Mandan	Flood Control Structures	\$63,561
City of Minnewauken	Repair City Sewer	\$5,919
City of Minnewauken	Purchase Land for Floodway	\$44,625
City of Minnewauken	Purchase Land to move Town	\$47,877
City of Minot	Sanitary Sewer and Lift Station Repair	\$4,050,000
City of Minot	North Sewer Expansion	\$5,000,000
City of Minot	Home Acquisition from Levee Damages	\$750,000
City of Minot	Landfill Expansion	\$2,150,000
City of Minot	Sewer Expansion	\$650,000
City of Oberon	Raise Dike around City Well	\$10,000
City of Sawyer	Pump Replacement	\$50,000
City of Sawyer	Sanitary Lift station replacement	\$169,400
City of Valley City	Replace Pumping Station	\$200,522
City of Velva	Repair Lagoon	\$214,235
City of Wahpeton	Briarwood Mobile Home Park Levee	\$87,000
City of Wahpeton	Property Acquisition	\$34,500
City of Walcott	Raise 166th Av 6"	\$5,250
City of Wyndmere	Hi Way 18 Lift Station	\$50,000
Creel Township	Widen Washington St in Lakewood Development	\$27,500
Danton Township	Raise Road	\$8,768
Devils Lake Parks and Rec	Lakewood Beach Rip Rap Project	\$17,500
Dwight/Center Townships/	Clean Natural Drain	\$76,915

City of Wahpeton		
Fairmount Township	Upgrade and build above pre disaster condition	\$4,587
Grant Township	Grade Raise	\$18,925
Greater Ramsey Water Dist	Sewer Dike Crossing	\$17,280
Greater Ramsey Water Dist	Restore & Repair West Creel Bay Infrastructure	\$179,100
Greater Ramsey Water Dist	Woodley Subdivision Infrastructure Expansion	\$68,420
Knox Township	Road repair due to wave action	\$20,000
Lohnes Township	Repair Road	\$7,500
Makoti Public School	Replace 5 Sump Pumps, floor tile, rewire	\$16,595
McHenry County	New County Shop	\$70,000
McHenry County	Land purchase for new county shop	\$7,000
McHenry County	Bridge Repair	\$30,000
McHenry County	Install Filter Fabric	\$29,152
McHenry County	Grade Raise, Fabric, Riprap	\$25,777
McHenry County	Grade Raise Fabric Installation	\$17,381
McHenry County	Repair Road	\$14,925
McHenry County	Grade Raise Fabric Installation	\$7,419
McHenry County	Grade Raise	\$6,750
McHenry County	Grade Raise Fabric Installation	\$5,362
McHenry County	Grade Raise	\$4,100
McHenry County	Grade Raise	\$2,600
McHenry County	Bridge repair	\$1,500
McHenry County	Rip Rap Road	\$14,925
McHenry County	Bridge repair	\$750
McHenry County	Culverts	\$47,150
Minco Township	Culvert Replacement	\$2,000
Minot Public School Dist #1	Land Acquisition	\$3,500,000
Morton County	Grade Raise	\$124,314
Morton County	Grade Raise	\$155,096
Nansen Township	Bridge Replacement	\$36,700
Plain Township	2 Culverts and installation	\$9,688
Pleasant Lake Township	Road Repair	\$5,250
Renville County	Rebuild County owned Properties at Mouse River Park	\$504,313

Rock Township	Grade Raise Road Repair	\$4,650
South Viking Township	Flood road repair	\$5,735
Spring Grove Township	Raise road install fabric	\$14,000
Spring Grove Township	Raise Road	\$14,000
Summit Township	Repair concrete culverts	\$10,886
Viking Township	Raise Road	\$1,933
Ward County Water Resource District	Levee Repair	\$50,000
Wyndmere Township	Put in Culvert	\$898
	<b>Total Approved Funding</b>	<b>\$25,570,031</b>

## R E P O R T S

**Report of Easements Issued by Land Commissioner.** The Board reviewed a memo showing easements issued by the Land Commissioner pursuant to Board authorization. The detailed memo is on file at the Department of Trust Lands office and was for the Board's information only; no action was required. A summary of approved easements follows:

Grantee	Project Purpose	Date
Billings County BIL-141-100-16-NW4	Road Right-of-Way	3/19/2012
Burke-Divide Electric Coop Inc, BRK-160-91-16-SE4, SW4	Distribution Line	3/29/2012
Bear Tracker Energy Llc BRK-160-91-16-SE4, SW4	Gas Gathering Pipeline	4/5/2012
Bear Tracker Energy Llc BRK-159-90-36-SE4	Gas Gathering Pipeline	3/19/2012
Oneok Rockies Midstream Llc MCK-153-96-36-SE4	Gas Gathering Pipeline	3/19/2012
Oneok Rockies Midstream Llc MCK-147-101-16-NE4	Gas Gathering Pipeline	3/28/2012
Liberty Resources Llc WIL-156-101-36-SE4	Amend: Horizontal Oil Well	4/11/2012
Denbury Resources Inc	Access Road	4/12/2012

(04/12)

BIL-141-101-16-SE4  
BIL-141-101-21-NE4

Denbury Resources Inc BIL-139-101-36-NE4, SE4	Access Road	4/12/2012
Denbury Resources Inc BIL-141-101-13-NE4, NW4	Access Road	4/12/2012
Williams County Hwy Dept WIL-153-100-36-SE4, SW4	Aggregate Prospecting	3/19/2012
Oneok Rockies Midstream Llc MCK-148-103-36-NW4	Gas Gathering Pipeline	3/28/2012
Bakkenlink Pipeline Llc WIL-154-95-16-NE4, SE4	Soil Testing	3/19/2012
Brosz Engineering Inc	General Land Surveys	3/19/2012
Golden Field Services Inc	General Land Surveys	3/29/2012
HDR Engineering Inc	General Land Surveys	4/5/2012
Kadrmass Lee & Jackson Inc	General Land Surveys	3/29/2012
Slawson Exploration Co. Inc MCK-153-101-36-SE4	Amend: Horizontal Oil Well	4/11/2012
Continental Resources Inc WIL-157-98-16-NE4, NW4	Amend: Access Road	4/5/2012
Interstate Engineering Inc	General Land Surveys	4/5/2012
William H Smith & Associates Pc	General Land Surveys	4/5/2012

The following letters of permission were issued to groups wishing to use school trust lands under the Board's policy for access to trust lands by organizations. No fees are charged for this use.

Us Fish & Wildlife Service                      Piping Plover management  
DIV-160-103-16-NE4, NW4, SE4, SW4  
DIV-161-100-16-NE4, NW4, SE4, SW4, SW4 N OF LAKE, SW4 S OF LAKE  
MOU-157-89-16-LOT 2, LOT 3, LOT 4, LOT 6, LOTS 9,10, NE4, S2SW4, LOTS 7,8  
MOU-157-92-16-NE4NE4, LOTS 1,2, SE4SE4, SE4SE4, LOTS 3,6, SW4SW4, LOT 4,5  
WIL-159-103-16-LOTS 1,2,3, NE4, NE4SW4, S2SW4, LOT 4, SE4

**Spring 2012 Surface Lease Auction Results.** The 2012 spring lease auctions were conducted in March. The summary of auction results (with comparisons to last spring's auctions) is shown in the following table.

Spring 2011

Spring 2012

(04/12)

# Of Counties	24	24
# Of Tracts Offered	69	81
# Of Tracts Leased	45 (65%)	55 (62%)
# Of Leased Tracts Bid-Up	8 (18%)	10 (18%)
Minimum \$ Advertised (Leased Tracts)	\$62,726	\$75,663
\$ Amount Received	\$71,653 (minimum + 14%)	\$86,970 (minimum+15%)

Six tracts (four in Burleigh and two in Towner Counties) were offered at the spring auctions and received bids, but the Department did not receive funds. These tracts will be reoffered for lease via sealed bid in May 2012. (These tracts were considered "unleased" for purposes of reporting the statistics shown above.)

The Commissioner has approved all paid leases bid at the spring 2012 lease auctions.

**Financial Statements.** The Board reviewed the Summary of Total Assets by Trust as of January 31, 2012. This reports was for the Board's information and no action was required.

## Board of University and School Lands

### Summary of Total Assets

Assets by Trust:	January 31, 2012	January 31, 2011
Common Schools	\$1,730,291,204	\$1,470,344,488
North Dakota State University	27,672,129	21,306,770
School for the Blind	3,509,096	3,004,390
School for the Deaf	9,969,581	7,811,364
State Hospital	9,390,294	8,381,495
Ellendale *	4,904,551	3,584,808
Valley City State University	4,615,591	4,173,341
Mayville State University	3,220,486	2,659,839
Youth Correctional Center	11,282,885	9,534,536
State College of Science	8,863,217	8,034,809
School of Mines **	10,428,774	8,584,482
Veterans Home	3,219,759	2,922,233
University of North Dakota	13,801,058	11,364,897
Capitol Building	3,534,903	3,222,316
Strategic Investment and Improvements	279,576,155	224,940,226
Coal Development	64,613,343	63,818,280
Indian Cultural Education Trust	673,648	644,821
Total	\$2,189,566,674	\$1,854,333,095
<b>Assets by Type:</b>		
Cash	\$46,982,569	\$9,823,269
Receivables	15,199,749	14,839,695
Investments	2,033,221,531	1,742,964,089
Farm Real Estate	931,760	-
Office Building (Net of Depreciation)	731,301	656,429
Farm Loans	39,505,687	42,481,830
Energy Construction Loans	2,282,276	984,683
Developmentally Disabled Loans	-	666,344
Energy Development Impact Loans	8,662,634	4,541,525
School Construction Loans	27,138,273	29,104,534
Due From/Due To Other Trusts and Agencies	14,910,894	8,270,697
Total	\$2,189,566,674	\$1,854,333,095

#### Strategic Investment and Improvements

The Strategic Investment and Improvements Fund (SIIF) has an assigned fund balance of \$88,628,244.81 as of January 31, 2012; this designation means that these funds should not be transferred out of the SIIF. The first \$82,378,244.81 of the assigned fund balance will be held until potential title disputes related to certain riverbed leases have been resolved. The remaining \$6,250,000 will be held to potentially fund 25% of the guarantee reserve fund for the Fuel Production Facility Loan Guarantee Program administered by the Bank of North Dakota (NDCC 6-09.7-05).

#### \* Ellendale Trust

The following entities are equal beneficiaries of the Ellendale Trust:

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

#### \*\* School of Mines

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

**A D J O U R N**

There being no further business, the meeting was adjourned at 10:40 AM.

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Jack Dalrymple, Chairman  
Board of University and School Lands

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Lance D. Gaebe, Secretary  
Board of University and School Lands

**Minutes of the Meeting of the  
Board of University and School Lands  
May 31, 2012**

The May 31, 2012 meeting of the Board of University and School Lands was called to order in the Governor's Conference Room at 9:10 AM by Chairman, Governor Jack Dalrymple.

**Members Present:**

Jack Dalrymple	Governor
Alvin A. Jaeger	Secretary of State (Via Teleconference)
Kelly Schmidt	State Treasurer
Wayne G. Sanstead	Superintendent of Public Instruction
Wayne Stenehjem	Attorney General (Via Teleconference)

**Department of Trust Lands Personnel:**

Lance D. Gaebe	Commissioner
Jeff Engleson	Director, Investment Division
Michael D. Brand	Director, Surface Management Division
Drew Combs	Director, Minerals Management Division
Gerald Fisher	Assistant Director, Energy Infrastructure & Impact Office
Judith F. Schell	Administrative Assistant

**Others in Attendance:**

Kayla Effertz	Governor's Office
Shawn Kessel	City of Dickinson
Dan Jonasson	City of Minot
Lance Meyer	City of Minot
Ward Koeser	City of Williston
Joel Gilbertson	City of Williston
Nick Smith	Bismarck Tribune
Teri Finneman	Fargo Forum

**APPROVAL OF MINUTES**

A motion to approve the minutes of the April 26, 2012 meeting was made by Wayne Stenehjem and seconded by Kelly Schmidt. Motion carried.

**SURFACE MANAGEMENT DIVISION**

**Correction to Whitted Conveyance Procedure (RIC-135-49-7-Lot 4).**

On March 29, 2012, the Board approved a settlement on a 5-acre tract of land in Lot 4, Section 7, T135N, R49W, Richland County. The settlement, reached to avoid litigation, provided for payment of \$10,000 plus settlement costs. Payment in full has been received from Mr. Whitted and the quit claim deed has been sent to the Richland County Recorder's Office to be recorded.

The Board's motion on March 29, 2012 stated: "That the Board approve this settlement and authorize the Commissioner to complete the deed for signature by the Governor (attested by the Secretary of State) upon receipt of \$10,000 and any fees and costs as outlined in the settlement."

However, N.D.C.C. Section 15-07-07 provides that the quitclaim deed is "...executed in the name of the state of North Dakota by the commissioner of university and school lands, attested by the secretary of state, with the great seal of the state of North Dakota affixed."

Therefore, the quit claim deed to Mr. Dennis Whitted has been signed by the Commissioner of University and School lands in conformance with N.D.C.C. Section 15-07-07.

This information was for the Land Board's information, no action taken.

#### **Proposed Sale of Acquired Farm Loan Pool Property (RIC-135-49-7).**

Farm real estate in Richland County was acquired by foreclosure of the David and Shari Thompson and Jerome and Arlene Thompson farm mortgage on September 1, 2011.

The property is located 2 miles southeast of Walcott, ND, and consists of the west 32.03 acres of Lots 3 & 4 of section 7 T135N, R49W less the south 5 acres (thus 27.03 acres more or less).

This foreclosure included six tracts. The Board sold five tracts totaling 903.97 acres at public auction on March 22, 2012. The west 32.03 acres of Lots 3 & 4 of Section 7 T135N, R49W was withheld from the sale due to a title dispute. A settlement agreement was reached on the south 5 acres and the remaining 27.03 acres now have clear title and the tract is ready for sale.

The property was appraised by Fadness Realty and Appraisal, Lisbon, ND on January 5, 2012.

<b>RICHLAND COUNTY</b>	Appraised Value	Crop Acres	Hay Acres	Grass/Other Acres	Total Acres
T135N, R49W Sec 7: W 32.03 acres Lots 3 & 4 less the south 5 acres	\$21,600.00	0.00	0.00	27.03	27.03

The property is grassland located along a good county gravel road. The property's cultural condition is average to below average with scattered infestations of bull thistle, leafy spurge and Canada thistle. The property is currently unleased.

The highest and best return to the trusts is to sell this small parcel at public auction.

Under N.D.C.C. §15-07-10, the former owners may repurchase the property by matching the highest bid within one hour after public sale.

**Motion: That the Board authorize the sale at public auction of 27.03 acres within Lots 3 & 4 of section 7 T135N, R49W Richland County, using the appraised value of \$21,600 as the minimum sales price and to direct the Commissioner to complete the sale as provided in N.D.C.C. 15-07.**

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

#### **Request for Appraisal and Preliminary "Small Tract" Sale Approval (SHE-146-78-14).**

On April 13, 2012, Trent Naser submitted a request to have that part of the NE4 lying north of highway #200, Section 14, T146N, R78W, Sheridan County, offered for sale at public auction. This parcel (approximately 37 acres) is severed by the ND Highway #200. The tract was formerly also severed by the Red River and Western Railroad Company track. The railroad easement has been abandoned and the Department filed an affidavit of possession on the abandoned railroad acres in

2004. In 1953 the ND State Highway Department mined 25,000 cu yds of gravel from this area (RW #2837). The pit area is visible. No cattle underpass is present to allow livestock movement between the areas north and south of the present highway. This tract qualifies for sale under the Board's limited land sale policy as a small tract of grass, isolated from other school trust lands and presenting management challenges.

The tract is an original grant for the Common Schools Trust. The Department manages the NE4 (*less easements*) along with the SE4 and SW4.

The highest and best use for this tract is as an add-on to adjacent private land north of the highway or may be suitable for a building site as the land is adjacent to Pickardville, ND. There is legal public access along the section line and from ND #200.

Mr. Naser's family owns adjacent land in Pickardville and would like to purchase this tract for pasture. Mr. Naser's family has never leased this tract. This severed parcel has natural ponded water; the old gravel mined area is bisected by the railroad grade and original grade for the previous ND Highway #7. These factors influenced its limited use for agricultural purposes.

**Motion: That the Board direct the Commissioner to obtain an appraisal of the tract and upon completion, that consideration of offering the tract for sale be brought before the Board for action.**

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

#### **City of Bismarck Street Improvement Special Assessment (1707 N 9th Street).**

The City of Bismarck has requested payment of a special assessment to reconstruct the streets in the neighborhood of the Department of Trusts Lands office building. The property, located at 1707 N 9th Street, is owned by the Common Schools Trust Fund.

The construction is underway this summer, but the special assessment will be due starting in 2014. The estimated assessment of \$20,640 will be collected over 15 years.

An Attorney General's Opinion issued on March 2, 2012 concluded that "...the real property owned by the Common Schools Trust cannot be included in a special assessment district and specially assessed by the city of Bismarck for the installation of a water line unless the Board of University and School Lands agrees that the real property is benefitted to the extent of the amount of the assessments."

The Common School Trust and the Department benefit from the improvement of city streets which serve the office building. Continued good access for department staff, contractors and clients will directly benefit the trusts.

**Motion: That the Board approve the payment of Bismarck special assessment of an estimated \$20,640 for the share in the reconstruction costs of asphalt streets that serve the office property owned by the Common Schools Trust Fund located at 1701 N 9th Street in Bismarck; to be paid as a continuing appropriation.**

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

#### **Proposed Changes to Construction Aggregate Rules.**

Burke County has requested a 5-year gravel lease on two tracts of trust land. The Board's construction aggregate rules allow for negotiated leases with political subdivisions for not more than a 1-year term. This rule allowed political subdivisions to mine gravel for short term needs without going to public auction. For a lease longer than one year, exposure to the market through a public auction assures that the trusts received fair market value for construction aggregate. This is especially important in areas where construction aggregate values are increasing due to high demand.

An alternative some counties have used is to mine sufficient aggregate for more than one year's needs and to pay for all of the material at the time that it is mined. However, Burke County's budget does not allow them to pay for more aggregate than they can use in one year. The Department has worked with the counties in the oil producing areas of the state and encouraged them to prospect for construction aggregate on trust lands. Counties were provided with maps based on digital soil surveys which show the areas on trust lands with the highest probability of mineable gravel reserves. Working proactively with the counties has been a benefit to both the counties and the trust funds.

Because of limited county budgets and county needs for a dependable source of aggregate, especially in oil country, the following change to the Board's construction aggregate rules is proposed.

**85-06-03-05 LEASE TERMS - DESIGNATION OF LANDS.** *Lease terms may be for a maximum of five years. The board may designate any tracts as open or closed to construction aggregate leasing.*

**85-06-03-06 NEGOTIATED LEASES.** *The commissioner is authorized to approve and issue construction aggregate leases on the board's behalf, under the following conditions:*

1. *The construction aggregate lease is to the state or a political subdivision of the state for a term of one year or less with a fixed royalty rate, or for a term greater than one year with an annually adjusted royalty rate based on fair market value.*
2. *The applicant is a private entity requesting less than 5,000 cubic yards for a term of one year or less,*
3. *When the construction aggregate is needed for an emergency situation for a term of one year or less.*

**85-06-03-07 AUCTIONED LEASES.** *Except as provided in section 85-06-03-06(1), leases with a term greater than one year must be offered at public auction. Notice of such an auction must be published in the official newspaper of the county where the lands are located and in the Bismarck Tribune. Such notice must be published once, at least ten days prior to the day of the auction. The notice must contain the legal description of the land, the lease term, and the time and place where the auction will be held. Bidding must be on a royalty per yard basis with proportionate per ton adjustments rounded to the nearest cent.*

The commissioner will prepare a monthly report for the board of the construction aggregate leases issued since the previous board meetings.

**Motion: That the Board approve the recommended changes to its construction aggregate rules.**

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

**MINERALS MANAGEMENT DIVISION**

**Internet Auction Request for Proposal – Notification of Award.**

During 2011, the Department began researching the use of a web-based auction service to conduct mineral lease auctions to maximize the value of trust assets. A web-based lease offering has value, because it:

1. Has the potential of reaching a broader audience of potential lessees of trust assets;
2. Provides a mechanism for reviewing financial integrity of the auction participants; and,
3. Offers the Department the ability to offer tracts for lease that do not fit the quarterly live auction schedule.

EnergyNet.com, Inc. hosted a web-based auction for Trust potash leasing in May of 2011. In December of 2011, EnergyNet.com, Inc. hosted a second web-based auction for the offering of three unique mineral tracts: two 160-acre parcels in Saskatchewan and one tract on which the trust had received notice of intent to drill on unleased minerals. The outcome of the web-based auctions proved that the process could be successful and beneficial to the Trusts.

After receiving a number of AFEs (Authorization For Expenditure), which indicate that wells were to be drilled on unleased minerals, the Commissioner determined it necessary to offer leases between the quarterly auctions on occasion. The experience with the earlier test cases demonstrated the value of utilizing a web-based auction service.

With the assistance of the State Procurement Office and the Attorney General's Office, in April 2012 the Department of Trust Lands issued RFP 110.7-12-001 for web-based auction services for State-owned oil, gas and other minerals. On May 22, EnergyNet.com, Inc. was notified it was the successful bidder.

In the near-term, the Commissioner intends to use the services of EnergyNet.com, Inc. for the offering of unique leases that should not "wait" for the normal scheduled auctions.

Eventually the services of EnergyNet.com, Inc. may be used on a more regular basis. It is difficult to compare auction results because of variables, but the company has demonstrated a 25% premium of private minerals offered by its service as compared with typical open outcry auctions. With more than 16,000 registered bidders, the federal government as well as private mineral holding companies utilize the services of EnergyNet.com, Inc. for exposure, and for the vetting of auction participants.

According to the contract, a bidder's premium not to exceed 2% of the bonus payment for the leased tract(s) will be paid to EnergyNet.com.

## ENERGY INFRASTRUCTURE AND IMPACT OFFICE

### **Adjustments to Previously Awarded Flood Impact Grants.**

Within the \$25.6 million of flood grants approved in April, some amendments and corrections presented to the Board.

The Director recommended in error, and the Board approved, duplicate grant requests submitted by McHenry County with two different names. McHenry County also submitted applications in its own name, which should have been submitted by Bantry Township.

Renville County has amended its plans for renovating county owned facilities at Mouse River Park and reduced the project cost. It has submitted a replacement application for a lesser amount that will be considered in the subsequent Board consideration.

Ramsey County Water District has decided to not proceed with a sewer project to cross a levy. The funds could be redirected to another project from within Ramsey County.

Motion: **That the Board:**

- 1) **Cancel grants F120309 for \$14,000 and F120310 for \$14,925 awarded to McHenry County, as those awards were approved though duplicate requests;**

- 2) Transfer grants F120320 for \$6,750; F120322 for \$4,100 and F120323 for \$2,600 awarded to McHenry County, instead to Bantry Township within McHenry County;
- 3) Cancel grant F120600 in which \$504,313 was awarded to Renville County, to enable consideration of a replacement grant;
- 4) Cancel grant applications F120500 for \$17,280 at the request of the Greater Ramsey Water District so that funds may be redirected to a different project within the county.

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

### Flood Impact Grant Recommendations.

During the April 2012 meeting, the Board approved \$25.5 million of Flood Impacted Political Subdivision Infrastructure Development Grants. The Board reserved \$1.7 million for pending applications from Benson, Ramsey, Renville and McHenry Counties.

Additional information was received and some applications were modified by the applying political subdivision. Applications were evaluated based on compliance with the letter and intent of the legislation including:

- That the project was necessitated by flooding
- The degree of flood impact sustained by the applicant
- The project promotes public safety
- Financial need
- Contributes to long-term economic and community health
- Project readiness/achievability
- Not eligible for other state, federal or insurance funding

Projects that were submitted, but are not being recommended for funding for a variety of reasons, but the most common being the following:

- Projects may be eligible for other funding
- Projects have received other funding and applicants are seeking match
- Some projects have already been completed and the entity is seeking reimbursement
- Projects were not the result of flood impacts
- Other requests may not meet eligibility requirements

The following list includes recommendations for additional grants for eligible political subdivisions of and within Benson, Ramsey, Renville and McHenry Counties. The list also summarizes grants previously approved. The grant recommendations, coupled with the awards already approved will leave \$2,394,920 remaining of the appropriated \$30 million.

## 2012 Flood Impact Grant Applications

Applicant	County	Project	Recommended Award
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Albert Township	Benson	Albert Township Road Repair	\$24,763
City of Minnewauken	Benson	New Town Street Paving	\$105,000
Benson County	Benson	Maddock Road	\$114,928
Benson County	Benson	County Shop	\$280,003
Lohnes Township	Benson	Raise Road	\$7,500
McHenry County	McHenry	Grade Raise	\$12,500
McHenry County	McHenry	Grade Raise	\$5,000
McHenry County	McHenry	Bridge Repair	\$5,000
McHenry County	McHenry	Grade Raise	\$7,500
McHenry County	McHenry	Grade Raise	\$9,000
McHenry County	McHenry	Grade Raise	\$153,636
McHenry County	McHenry	Grade Raise	\$12,500
McHenry County	McHenry	Grade Raise	\$9,000
McHenry County	McHenry	Grade Raise	\$7,500
McHenry County	McHenry	Grade Raise	\$8,438
McHenry County	McHenry	Grade Raise	\$2,500
Layton Township	McHenry	Grade Raise	\$9,163
McHenry County	McHenry	Repair Culvert	\$8,185
McHenry County	McHenry	Repair Culvert	\$15,281
McHenry County	McHenry	Grade Raise	\$12,183
McHenry County	McHenry	Grade Raise	\$66,494
Lake George Township	McHenry	Grade Raise	\$7,215
Strege Township	McHenry	Grade Raise	\$3,750
Deep River Township	McHenry	Grade Raise	\$6,716
Little Deep Township	McHenry	Grade Raise	\$7,380
Lake George Township	McHenry	Grade Raise	\$27,584
Lake George Township	McHenry	Grade raise	\$19,579
Karlsruhe Township	McHenry	Grade Raise	\$28,759
Karlsruhe Township	McHenry	Grade Raise	\$22,468
Strege Township	McHenry	Install Culvert	\$759
Strege Township	McHenry	Install Culvert	\$1,826
Spring Grove Township	McHenry	Grade Raise	\$17,500

## 2012 Flood Impact Grant Applications

Applicant	County	Project	Recommended Award
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City of Anamoose	McHenry	Drainage Ditch & Repair Paved Streets	\$4,483
Voltaire Township	McHenry	Grade Raise	\$10,000
Greater Ramsey Water District	Ramsey	Woodland View Subdivision Infrastructure Expansion	\$150,000
Devils Lake	Ramsey	Sewer Water Expansion	\$122,587
Poplar Grove Township	Ramsey	75th Ave. Cove Road Curve	\$284,893
Renville County	Renville	Restore County Owned Facilities at Mouse River Park	\$257,263
Renville County	Renville	Bridge Repair	\$50,000
Renville County	Renville	Dam Repair	\$83,791
Renville County	Renville	Grade Raise	\$476,500
Prosperity Township	Renville	Repair Roads	\$1,440
Grover Township	Renville	Repair spots on Township Roads	\$10,000
City of Sherwood	Renville	Repair Streets in Park	\$5,000

**Motion: That the Board approve Flood Impacted Political Subdivision Infrastructure Development grants to the projects identified on the preceding list.**

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

### Energy Impact Award Recommendations to Hub Cities.

The Hub Cities (cities with a population of ten thousand or more) of Williston, Dickinson and Minot, have submitted 26 project applications for consideration of grants. These projects reflect a cost of \$140.1 million with the cities requesting \$68.2 million in funding from the Oil and Gas Impact Fund. The identified infrastructure needs include potable water, waste water, buildings and road infrastructure needs to support the increasing population demands which are a direct result of oil and gas development.

On March 29, 2012, the Board approved an allocation of \$16,788,859 of remaining Oil and Gas Impact Funds for Hub Cities. This allocation meets the requirements as defined in N.D.C.C. Section 57-62-05.6 "providing for the distribution of thirty-five percent of moneys available in the oil and gas impact fund to incorporated cities with a population of ten thousand or more."

### Application Summary

Applicant	# of Projects	Project Totals	Application Totals
City of Williston	18	\$56.5 million	\$50.3 million
City of Dickinson	4	\$53.9 million	\$12.6 million

City of Minot	4	\$29.7 million	\$5.3 million
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The following recommendations for pledged awards to the Hub Cities consider the City allocations that were discussed during legislative consideration of HB1013. The recommended amounts consider a total biennial allocation and take into consideration awards made to each of the Hub Cities in July 2011. Pledged awards are to be considered a commitment by the Land Board to award these funds at its July 26, 2012 Meeting.

### Recommendation for Pledged Grant Awards

Applicant	July 2012 Award	2011/13 Biennial Award Total
City of Williston	\$9,593,634	\$21,593,634
City of Dickinson	\$5,796,817	\$10,796,817
City of Minot	\$1,398,408	\$5,398,408

**Motion: That the Board pledge grant awards from the Oil and Gas Impact fund to the City of Williston for \$9,593,634, the City of Dickinson for \$5,796,817 and the City of Minot for \$1,398,408 with the intent to award the funds during Fiscal Year 2013.**

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

### Application Review Process – Non Hub Cities and Political Subdivisions.

The reviews of the applications for Energy Impact grants for the cities smaller than 10,000 population and the other political subdivisions is progressing. Applications were received throughout April and regional meetings were held with applicants May 14 -18, 2012.

Seventy-eight applications were submitted by non hub cities requesting \$178,563,547 for projects costing \$197,691,985. The Board has preliminarily allocated \$19,811,141 for this category.

Fifty-two applications requesting \$86,604,086 were submitted by other political subdivisions with projects costing \$123,783,747. Five million dollars was preliminarily allocated by the Board in this area.

Application scoring and ranking process is underway. A meeting of the Energy Impact Grants Advisory Committee is scheduled in Williston on June 7, 2012 to review the applications and assist in developing award recommendations to be provided at the Board's June 2012 meeting.

The Board was provided with grant requests and copies of the complete applications were provided on a CD.

### City of Golden Valley Coal Impact Loan.

The City of Golden Valley has applied for a \$75,000 coal impact loan from the Coal Development Trust Fund to help finance the sand blasting and repainting of its 100,000 gallon water storage tank. In accordance with NDCC 57-62-02 and 57-62-03, loans may be made by the Land Board to counties, cities and schools that are impacted by coal development.

The interest rate on most past coal impact loans has been 6%. The statutes specifically say that loans shall be made at a rate of no more than 6%. The last loan granted under this program was to McLean County to help finance a new courthouse. That loan was made in September 2010 at a rate of 3.75%. The City of Golden Valley did not ask for a specific interest rate. Information received from the Bank of North Dakota indicate that a municipal bond of similar maturity and quality for an "A" rated borrower would yield approximately 3%.

**Motion: That the Land Board approve a coal impact loan of up to \$75,000, for a term of 10 years with an interest rate at 3% to the City of Golden Valley for sand blasting and painting its municipal water storage tank.**

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

## R E P O R T S

### Investment Performance Report for Quarter Ending March 31, 2012.

The investment performance report covered the performance of the Land Board's investment program for the period of January 1, 2012 through March 31, 2012. A complete copy of this report is on file at the Department of Trust Lands office and was for the Board's information; no action was required.

### Financial Statements.

The Board reviewed the following Financial Statement Summary and Total Assets by Trust as of March 31, 2012.

Board of University and School Lands  
Quarterly Comparative Financial Schedules (Unaudited)

Schedule of Net Assets

Assets by Trust:	March 31_2012	March 31. 2011
Common Schools	\$1,843,505.255	\$1,525,588.116
North Dakota State University	31,231.142	24,183.145
School for the Blind	4,296_179	3,085,737
School for the Deaf	11,212.021	8,514,137
State Hospital	9,969.411	8,640.404
Ellendale *	5,503.887	3,829.345
Valley City State University	4,824.076	4,317.496
Mayville State University	3,392.199	2,773.729
Youth Correctional Center	12,528,686	9,915.183
State College of Science	9,288.448	8,334,372
School of Mines "	10,899.559	9,670.189
Veterans Home	3,327.618	3,055.389
University of North Dakota	14,937,691	11,928.839
Capitol Building	3,531.561	3,250,450
Strategic Investment and Improvements	332,009.388	244,473,157
Coal Development	65,019,121	64,236.580
Indian Cultural Education Trust	693.134	659.158
Total	82,366,169.376	51,936,455.426

Assets by Type:		
Cash	\$12,732,953	\$630.305
Receivables	16,191,549	18,221,298
Investments	2,249,068.524	1,833,128,776
Office Building (Net of Depreciation)	719.243	646.148
Farm Real Estate	638.760	-
Farm Loans	36,522,678	39,678.755
Energy Construction Loans	2,272.066	979.670
Developmentally Disabled Loans	-	666.344
Energy Development Impact Loans	8,578.553	4,479.870
School Construction Loans	24,811,475	29,104,534
Due from Other Trusts and Agencies	14,633.575	8,919.726
Total	\$2,366,169.376	\$1,936,455.426

Ellendale Trust

The following entities are equal beneficiaries of the Ellendale Trust

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

-\* School of Mines

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

## Quarterly Comparative Financial Statements (Unaudited)

## Combined Permanent Trusts

	March 31, 2012	March 31, 2011
<b>Balance Sheet</b>		
Assets:		
Cash	\$4,923,813	5374,136
Interest Receivable	15,326,304	16,726,118
Accounts Receivable		
Investments	1,894,741.625	1,560,537.630
Farm Real Estate	638,760.00	
Farm Loans	36,522,678	39,678,755
Energy Construction Loans	2,272,066	979,670
Due from Other Agencies	14,517,904	8,754,183
Due from Other Trusts		
Office Building (Net of Depreciation)	719,243	646,148
Developmentally Disabled Loans		666,344
Total Assets	\$1,969,662.393	\$1,628,362.984
Liabilities:		
Unclaimed Property Claimant Liability	\$4,701,766	\$4,479,091
Due to Other Trusts		
Due to Other Funds		
Accounts Payable	44,441	47,796
Total Liabilities	4,746,207	4,526,887
Equity:		
Fund Balance	1,727,400,987	1,296,982,142
Net Income/(Loss)	237,515,199	326,853,955
Total Liabilities and Equity	51,969,662.393	51,628,362.984
<b>Income Statement</b>		
Income:		
Investment Income	\$39,330,172	\$35,159,436
Realized Gain(Loss)	17,301,105	(3,722,543)
Unrealized Gain(Loss)	16,454,598	192,944,737
Royalties - Oil and Gas	75,835,933	44,994,533
Royalties - Coal	2,699,259	1,801,748
Royalties - Aggregate	41,151	38,392
Bonuses - Oil and Gas	60,781,229	48,696,519
Bonuses - Coal		40,000
Rents - Surface	7,970,424	6,930,400
Rents - Mineral	438,522	366,056
Rents - Office Building	46,537	11,800
Sale of Capital Asset		-
Tobacco Settlement income		-
Oil Extraction Tax Income	58,676,101	33,783,711
Unclaimed Property Income	3,352,603	4,082,570
Total income	282,927,634	365,127,359
Expenses and Transfers:		
Investment Expense	2,467,584	2,210,915
In-Lieu and 5% County Payments	186,629	-
Administrative Expense	1,274,721	1,290,489
Transfers to Beneficiaries	41,483,501	34,772,000
Total Expense and Transfers	45,412,435	38,273,404
Net Income/(Loss)	\$237,515,199	5326,853.955

## Quarterly Comparative Financial Statements (Unaudited)

## Capitol Building Trust

	March 31, 2012	March 31, 2011
<b>Balance Sheet</b>		
Assets:		
Cash	5298.249	\$72.291
Interest Receivable	3,212	13,509
Investments	3,230.100	3.164.651
Due from other Trusts and Agencies		
Total Assets	53.531,561	\$3,250,451
Liabilities:		
Due to Other Trusts and Agencies	so	so
Equity:		
Fund Balance	3.367.501	2.938.226
Net Income	164,060	312,225
Total Liabilities and Equity	53.531,561	53.250.451
<b>Income Statement</b>		
Income:		
Investment Income	511.994	528,633
Rents - Surface	105.264	96,939
Rents - Mineral	92,240	4,108
Royalties - Oil and Gas	134,716	130.368
Bonuses - Oil and Gas	28.540	82.695
Royalties - Coal		84.456
Unrealized Gain/(Loss)		
Total Income	372.754	427.199
Expenses and Transfers:		
Investment Expense		-
In-Lieu and 5% County Payments	2.531	-
Administrative Expense	16,163	14,974
Transfers to Facility Management	190,000	100.000
Total Expense and Transfers	208.694	114.974
Net Income/(Loss)	5164.060	5312.225

## Quarterly Comparative Financial Statements (Unaudited)

## Coal Development Trust

	March 31, 2012	March 31, 2011
<b>Balance Sheet</b>		
Assets:		
Cash	\$1,641	\$3,815
Interest Receivable	512,113	1,008,769
Investments	30,955,228	29,474,048
Coal Impact Loans	8,578,553	4,479,870
School Construction Loans	24,811,475	29,104,534
Due from other Trusts and Agencies	533,703	551,809
Total Assets	<u>\$65,392,713</u>	<u>\$64,622,845</u>
Liabilities:		
Accounts Payable	\$373,592	538,626
Equity:		
Fund Balance	63,449,566	62,449,194
Net Income	1,569,555	1,787,385
Total Liabilities and Equity	<u>\$65,392,713</u>	<u>\$64,622,845</u>
<b>Income Statement</b>		
Income:		
Investment Income	\$316,717	535,857
Interest on School Construction Loans	461,248	750,119
Realized Gain/(Loss)	52,300	121,422
Unrealized Gain/(Loss)	31,693	(156,226)
Coal Severance Tax Income	737,373	741,036
Total Income	<u>1,599,331</u>	<u>1,815,208</u>
<b>Expenses and Transfers:</b>		
Investment	27,260	25,327
Administrative	2,516	2,496
Transfers to General Fund		
Total Expense and Transfers	<u>29,776</u>	<u>27,823</u>
Net Income/(Loss)	<u>51,569,555</u>	<u>51,787,385</u>

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 Quarterly Comparative Financial Statements (Unaudited)
 

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 Indian Cultural Trust
 

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	March 31. 2012	March 31. 2011
<b>Balance Sheet</b>		
Assets:		
Cash	51,210	\$4.112
Interest Receivable	1,444	1.947
Investments	690.481	653.099
Total Assets	<u>5693.135</u>	<u>5659.158</u>
Liabilities:		
Due to Other Funds		
Accounts Payable		
Total Liabilities		
Equity:		
Fund Balance	667 591	562.643
Net Income (Loss)	25.544	96.515
Total Liabilities and Equity	<u>\$693 135</u>	<u>3659 158</u>

**Income Statement**


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income:		
Investment Income	814.305	\$14,253
Realized Gain/(Loss)	6.751	(1.428)
Unrealized Gain/(Loss)	4,593	84.559
Rents - Surface	2.000	
Bonuses - Oil and Gas		
Total Income	<u>27.649</u>	<u>97.384</u>
Expenses and Transfers:		
Investment Expense	865	869
In-Lieu and 5% County Payments	316	
Administrative Expense	924	-
Transfers to Beneficiary	-	
Total Expense and Transfers	<u>2.105</u>	<u>869</u>
Net Income/(Loss)	<u>\$25.544</u>	<u>896.515</u>

## Quarterly Comparative Financial Statements (Unaudited)

## Strategic Investment and Improvements Fund

	March 31. 2012	March 31. 2011
<u>Balance Sheet</u>		
Assets:		
Cash	\$7,508.040	\$175.951
Interest Receivable	348,476	470.957
Investments	324.152.875	243.826.251
Due from other Trusts or Agencies		
Total Assets	<u>S332 009.391</u>	<u>3244.473.159</u>
Liabilities:		
Accounts Payable	\$0	\$0
Equity:		
Fund Balance	249,074,434	148,836,319
Net Income	82.934.957	95 636,840
Total Liabilities and Equity	<u>3332.009.391</u>	<u>S244 473,159</u>
<u>Income Statement</u>		
Income:		
Investment Income	5397,925	81,066.621
Royalties - Oil and Gas	28,837,817	15,170.191
Bonuses - Oil and Gas	53.891,507	79.499.678
Royalties - Coal	137.379	427.094
Bonuses - Coal		800
Rents - Mineral	172.066	273.812
Total Income	<u>83.436.694</u>	<u>96.438.196</u>
Expenses and Transfers:		
Administrative	400.175	402.734
DD Loan Payments (Net)	101.562	181.921
Transfers to General Fund		216.701
Total Expense and Transfers	<u>501,737</u>	<u>801,356</u>
Net Income/(Loss)	<u>S82.934.957</u>	<u>395.636.840</u>

The Strategic Investment and Improvements Fund (SIIF) has an assigned fund balance of 389.062.869.98 as of March 31. 2012: this designation means that these funds should not be transferred out of the SIIF. The first 882.812.869.98 of the assigned fund balance will be held until potential title disputes related to certain riverbed leases have been resolved. The remaining 56.250.000 will be held to potentially fund 25% of the gurarentee reserve fund for the Fuel Production Facility Loan Guarantee Program administered by the Bank of North Dakota (NDCC 6-09.7-05)

### Report of Easements Issued by Land Commissioner.

The Board reviewed a memo showing easements issued by the Land Commissioner pursuant to Board authorization. A summary of approved easements follows:

Grantee	Project Purpose	Date
Burke-Divide Electric Coop Inc BRK-160-91-36-NW4, SW4	Electric Distribution Line	4/18/2012
Oneok Rockies Midstream Llc WIL-158-99-36-NE4	Gas Gathering Pipeline	4/23/2012
Crushed Rock Sales Llc MOU-156-89-16-SE4	Aggregate Prospecting	4/23/2012
Crushed Rock Sales Llc STA-139-95-16-SW4	Aggregate Prospecting	4/23/2012
Crushed Rock Sales Llc WIL-154-100-16-NW4	Aggregate Prospecting	4/23/2012
Crushed Rock Sales Llc WIL-159-100-16-NW4	Aggregate Prospecting	4/23/2012
Crushed Rock Sales Llc MCK-151-99-36-SE4	Aggregate Prospecting	4/23/2012
Crushed Rock Sales Llc MOU-157-89-36-SW4	Aggregate Prospecting	4/23/2012
Crushed Rock Sales Llc MOU-157-90-36-SW4	Aggregate Prospecting	4/23/2012
Crushed Rock Sales Llc WAR-153-85-36-NW4	Aggregate Prospecting	4/23/2012
Crushed Rock Sales Llc WAR-154-87-36-NE4	Aggregate Prospecting	4/23/2012
Crushed Rock Sales Llc WAR-155-87-16-SE4	Aggregate Prospecting	4/23/2012
Crushed Rock Sales Llc WAR-155-84-1-SW4NW4 Lying N & E of River Centerline	Aggregate Prospecting	4/23/2012
ND Dept Of Transportation WAR-152-86-16-NE4, NW4, SE4	Borrow	5/2/2012
Whiting Oil And Gas Corporation MOU-153-92-36-SE4	Section Line Road	5/2/2012
Carlson McCain	General Land Surveys	5/2/2012

WAR-155-84-1-SW4NW4 Lying N & E  
of River Centerline

Plains Pipeline LP MOU-156-93-36-NE4, NW4	Oil Gathering Pipeline	5/3/2012
Oneok Rockies Midstream LLC WIL-156-100-16-NW4	Gas Gathering Pipeline	5/3/2012
Hess Corporation WIL-153-98-16-NE4, NW4	Access Road	5/3/2012
Hiland Operating LLC MCK-146-98-36-SE4, SW4	Gas Gathering Pipeline	5/3/2012
Eog Resources Inc MOU-153-90-16-SE4	Multiple Pipelines	5/3/2012
Continental Resources Inc DIV-161-97-36-SE4, SW4	Section Line Road	5/7/2012
Sm Energy Company DIV-162-100-36-SE4, SW4	Section Line Road	5/10/2012
Bridger Pipeline LLC MCK-153-96-36-SE4	Oil Gathering Pipeline	5/16/2012
Oneok Rockies Midstream LLC WIL-154-99-16-NE4	Gas Gathering Pipeline	5/3/2012

## A D J O U R N

There being no further business, the meeting was adjourned at 10:35 AM..

\_\_\_\_\_  
Jack Dalrymple, Chairman  
Board of University and School Lands

\_\_\_\_\_  
Lance D. Gaebe, Secretary  
Board of University and School Land

**NOTE: The Word Document for this version of the minutes doesn't exist. As explained in the following e-mail, it appeared to have been written over by minutes from a subsequent meeting – as such – the minutes in this document are scans of the hard copy.**

## **Department of Trust Lands Performance Audit - Board Meeting Minutes**

 Kurtz, Jennifer D.

 You replied to this message on 5/18/2015 8:43 AM.

Sent: Mon 5/18/2015 8:22 AM

To:  Fisher, Linda L.

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Hello Linda,

I am finishing up a review of the Board of University of School Lands meeting minutes. During my review, I discovered the minutes labeled "June 13, 2012 Special Meeting," when opened, is a copy of the December 14, 2012 meeting minutes. I was unable to locate a copy of the June 13, 2012 minutes within the drive. Is there another copy of the June 2012 Board meeting minutes available elsewhere that I may get a copy of?

Thank you,

Jennifer D Kurtz  
Office of the State Auditor  
Performance Division  
*600 East Boulevard Avenue-Dept. 117  
Bismarck, ND 58505-0060*

**Minutes of the Special Meeting of the  
Board of University and School Lands  
June 13, 2012**

The June 13, 2012 Special meeting of the Board of University and School Lands was called to order in the Governor's Conference Room at 10:03 AM by Chairman Governor Dalrymple.

**Members Present:**

Jack Dalrymple	Governor
Alvin A. Jaeger	Secretary of State
Kelly Schmidt	State Treasurer
Wayne Stenehjem	Attorney General

**Members Absent:**

Wayne G. Sanstead	Superintendent of Public Instruction
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**Land Department Personnel Present:**

Lance D. Gaebe	Land Commissioner
Gerald Fisher	Assistant Director, Energy Infrastructure & Impact Office
Duane DeKrey	Contract Employee EIIO Flood Grants

## ENERGY INFRASTRUCTURE AND IMPACT OFFICE

**Proposal for a Pilot Project for Childcare Facility Grants.** The Director presented a proposal to allocate \$500,000 of the Oil and Gas Impact Fund to establish a pilot program to assist energy development impacted communities with the acquisition or construction of childcare facilities. The project would seek to assist cities within Childcare Deficient Counties, identified by the Early Childhood and Education Council (ECEC), with grants of dollar-for-dollar match of up to \$125,000 per community.

**Proposed Guidelines**

- Political subdivisions within the identified municipalities could use Energy Impact grant moneys to create new openings for childcare by:
  - Establishing a new community owned modular childcare facility for lease by a for-profit or nonprofit operator, or
  - Expanding an existing public owned and privately operated early childhood facility, or
  - Building a new public early childhood facility
- Communities and other eligible political subdivisions would be eligible for 50% of the cost of the purchase of a permanent childcare modular facility and essential equipment up to \$125,000.
- Local matching funds would not include land or any in-kind sources, but can include other local, private or charitable funds.
- The applying political subdivision must acquire the necessary property and assume the cost of placing the modular facility, or constructing the repurposed space.

(06/13/12)

The concept is for private sector operators to rent the space and operate the childcare facility. Entrepreneurs will be able to operate the business without the overhead expense and liability of owning the building making it possible for a new childcare business to cash flow in high impacted areas.

North Dakota Child Care Resource and Referral (CCR&R) has recommendations for appropriate play, classroom, and common space for childcare facilities; as well as quality care recommendations for plumbing, lavatories, lighting. The CCR&R has offered to assist eligible applicants in the preparation of their applications and facility plans, to help ensure that applications exceed licensing standards and are positioned to offer quality care.

Applicants will need to demonstrate childcare capacity is below 50% and that they have consulted with CCR&R in preparing their funding request.

Grant applications will be reviewed, and recommendations for awards will be offered by a team made up of representatives of:

- The Energy Infrastructure and Impact Office
- The Department of Commerce, Community Services Division
- The Department of Human Services, Children and Family Services Division

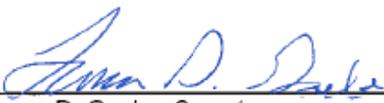
The objective is for grant awards to be considered in July.

**Motion: That the Board establish a pilot program within the Energy Infrastructure and Impact Office to assist in the establishment of community-owned childcare facilities, and that \$500,000 of the Oil and Gas Impact Fund be allocated for grants under the provisions described herein.**

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

### ADJOURN

There being no further business, the meeting was adjourned at 10:30 AM.

  
 Lance D. Gaebe, Secretary  
 Board of University and School Lands

  
 Jack Dalrymple, Chairman  
 Board of University and School Lands

**Minutes of the Meeting of the  
Board of University and School Lands  
June 28, 2012**

The June 28, 2012 meeting of the Board of University and School Lands was called to order in the Governor's Conference Room at 9:03 by Chairman, Governor Dalrymple.

**Members Present:**

Jack Dalrymple	Governor
Alvin A. Jaeger	Secretary of State
Kelly Schmidt	State Treasurer
Wayne G. Sanstead	Superintendent of Public Instruction
Wayne Stenehjem	Attorney General

**Land Department Personnel:**

Lance D. Gaebe	Land Commissioner
Jeff Engleson	Director, Investment Division
Michael D. Brand	Director, Surface Management Division
Drew Combs	Director, Minerals Management Division
Duane DeKrey	Contract Employee EIO Flood Grants
Gerald Fisher	Assistant Director, Energy Infrastructure & Impact Office
Linda Fisher	Unclaimed Property Administrator
Judith F. Schell	Administrative Assistant
Laney Herauf	Legal Intern

**Others in Attendance:**

Teri Finneman	Fargo Forum
Mayor Lyn James	Energy Impact Advisory Committee
Tim Kingstad	EOG Resources
John Morrison	Crowley Fleck Law
Joseph Pull	EOG Resources

**APPROVAL OF MINUTES**

A motion to approve the minutes of the May 31, 2012 meeting and the June 13, 2012 Special Meeting was made by Wayne Stenehjem and seconded by Kelly Schmidt. Motion carried.

**ENERGY INFRASTRUCTURE AND IMPACT OFFICE**

**Award Recommendations - Political Subdivision Spring Grant Round**

The general political subdivision grants round is the last scheduled quarterly grant round for FY 2012. This round considers infrastructure needs of political subdivisions not covered by the three previous quarterly grant rounds, namely; city infrastructure, township transportation, and emergency services. Fifty-two applications were received requesting \$86.6 million in funds.

In May, the Energy Infrastructure and Impact Office staff held regional meetings with energy impact grant applicants across the West. The applications were scored based on the criteria:

- meeting the grant round objective

- response to public safety
- project readiness and achievability
- contribution to long term economic activity
- providing a complete application.

The applications were reviewed by the Board established energy impact grants advisory committee.

Mountrail County Commissioner David Hynek  
 Billings County Commissioner Jim Arthaud  
 Bowman Mayor Lyn James  
 Watford City Mayor Brent Sanford  
 Burke County Sheriff and Emergency Manager Barry Jager  
 Hebron Township officer Floyd Miller (Williams County)  
 Rick Larson, Energy Industry Representative  
 Department of Transportation Director Francis Ziegler  
 Land Commissioner Lance Gaebe

The committee reviewed each of the project applications, the ranked score results, set additional guidelines and created a set of grant recommendations. Following is a list of recommendations for awards from the Energy Impact Grants Advisory Committee for the Land Board's consideration.

Political Subdivision	City	County	Description	Project Amount	Requested Amount	Recommended Award
ALEXANDER PSD #2	ALEXANDER	MCKENZIE	TEACHER HOUSING PROJECT - UPSIZE SEWER AND WATER FOR TEACHER HOUSING	\$490,000	\$190,000	\$190,000
DUNN COUNTY	MANNING	DUNN	MULTI COUNTY (SIX COUNTY) CORRECTIONAL CENTER - UPDATE CONTROL ROOM EQUIPMENT TO IMPROVE FACILITY SAFETY	\$881,060	\$881,060	\$704,848
GRENORA PSD #99	GRENORA	WILLIAMS	FUNDING TO PROVIDE HOUSING FOR EMPLOYEES - SCHOOL DISTRICT PROVIDING RENTAL UNITS FOR NEW TEACHING STAFF	\$244,000	\$200,000	\$200,000
MCKENZIE COUNTY	WATFORD CITY	MCKENZIE	MCKENZIE COUNTY LANDFILL MUNICIPAL CELL AND INERT CELL CONSTRUCTION - OVERWHELMING INCREASE IN MUNICIPAL AND SOLID WASTE	\$1,508,122	\$1,508,122	\$1,206,498
MCKENZIE COUNTY	WATFORD CITY	MCKENZIE	LAW ENFORCEMENT CENTER REMODEL - MCKENZIE COUNTY JAIL - REPLACE DISPATCH EQUIPMENT	\$1,095,800	\$1,000,000	\$800,000
MCKENZIE PSD #1	WATFORD CITY	MCKENZIE	EMPLOYEE HOUSING PROJECT - SCHOOL DISTRICT PROVIDING RENTAL UNITS FOR NEW TEACHING STAFF	\$320,000	\$320,000	\$256,000
NESSON PSD #2	RAY	WILLIAMS	REPLACE WATER & SEWER LINES DUE TO SCHOOL ADDITION - INCREASE CAPACITY TO HANDLE INCREASE IN STUDENTS	\$151,000	\$151,000	\$151,000
NEW PSD #8	WILLISTON	WILLIAMS	SAFETY FOR OUR KIDS - FENCE SCHOOLYARD AND VIDEO MONITORTING EQIPIPMENT	\$1,091,673	\$92,869	\$92,869

PARSHALL RURAL FIRE DISTRICT	PARSHALL	MOUNTRAIL	LIGHT DUTY EXTRICATION TRUCK - COVER INCREASE IN TRAFFIC ACCIDENTS	\$141,118	\$141,118	\$112,894
TIOGA PSD #15	TIOGA	WILLIAMS	TEMPORARY TEACHER HOUSING	\$200,000	\$160,000	\$160,000
WATFORD CITY PARK DISTRICT	WATFORD CITY	MCKENZIE	CORRECT CHILD SAFETY ISSUE BY MOVING BALL DIAMOND AWAY FROM HI-WAY TRUCK ROUTE	\$159,100	\$84,000	\$67,200
WILLIAMS COUNTY	WILLISTON	WILLIAMS	RADIO REPEATER EQUIPMENT - INCREASE RECEPTION FOR SCHOOL BUSES	\$55,500	\$53,000	\$53,000

**TOTAL      \$3,994,309**

**Motion: That the Board adopt the Energy Impact Grants Advisory Committee's recommendation for twelve grant awards totaling \$3,994,309 from the Oil and Gas Impact fund to the political subdivision applicants as identified in the preceding list.**

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

### **Award Recommendations - Cities (less than 10,000 in population)**

The smaller city (less than 10,000 population) grants round is on the schedule as the first quarterly grant round for the 2013 fiscal year (July, August, September). The Land Board had previously authorized the early acceptance of applications in order to commit funds earlier in the construction season.

This round considers infrastructure needs of the cities, primarily to improve community owned water and sewer infrastructure needs in support of the expansion of housing. Seventy-eight applications were received requesting \$178.6 million in funds.

Energy Infrastructure and Impact Office staff held regional meetings in May to meet with all grant applicants. The applications were scored based on criteria:

- objective
- public safety
- project readiness and achievability
- contributions to long term economic activity
- complete application.

The scored applications were thoroughly reviewed by the energy impact grants advisory committee which met twice to formulate a list of the following recommendations for pledged awards for the Board's consideration:

Political Subdivision	County	Description	Project Amount	Requested Amount	Recommended Pledged Grant Award
CITY OF ALEXANDER	MCKENZIE	SEWER LAGOON EXPANSION - EXPANSION TO FACILITATE POULATION INCREASE	\$2,259,200	\$2,259,200	\$1,115,560

CITY OF BELFIELD	STARK	WATER, SEWER, INFRASTRUCTURE CONSTRUCTION - ADDITIONAL LAGOON UPSIZE WATER MAINS	\$1,885,000	\$1,508,000	\$100,000
CITY OF BOWMAN	BOWMAN	NORTH SIDE SEWER EXTENSION - ADD SEWER TRUNK TO SERVE NEW DEVELOPMENT	\$50,000	\$50,000	\$40,000
CITY OF CROSBY	DIVIDE	2012 WATER AND WASTEWATER INFRASTRUCTURE EXPANSION - SUPPORT INCREASE IN WATER AND SEWER REQUIREMENTS	\$9,808,500	\$9,808,500	\$4,148,000
CITY OF GRENORA	WILLIAMS	HICKMAN STREET WATER, SEWER & PAVING IMPROVEMENTS - PROVIDE WATER AND SEWER TO DEVELOPMENT	\$1,025,300	\$1,025,300	\$296,217
CITY OF HALLIDAY	DUNN	2012 WATER SEWER PROJECT - SUPPORT POPULATION GROWTH	\$313,706	\$235,000	\$188,000
CITY OF PARSHALL	MOUNTRAIL	HIGHWAY 37 PHASE II UTILITY EXTENSION - EXTEND SEWER AND WATER FOR DEVELOPMENT	\$2,228,508	\$2,228,508	\$1,538,956
CITY OF PARSHALL	MOUNTRAIL	2012 SEWER IMPROVEMENTS PROJECT - SUPPORT ANNEXATION OF 1531 ACRES	\$5,995,660	\$5,995,660	\$1,297,982
CITY OF RAY	WILLIAMS	WASTEWATER SYSTEM IMPROVEMENTS-WASTERWATER PONDS AND SEWER MAINS - SUPPORT 200% INCREASE IN 20 YRS.	\$8,308,000	\$6,594,164	\$1,888,000
CITY OF RICHARDTON	STARK	WATER AND SEWER IMPROVEMENTS 2012 - TO DESIGN WORK	\$1,639,988	\$1,639,988	\$50,000
CITY OF SOUTH HEART	STARK	SANITARY SEWER AND WATER MAIN IMPROVEMENTS 2012 - INCREASE WATER AND SEWER TO HANDLE POPULATION INCREASE	\$1,690,000	\$1,606,000	\$1,002,800
CITY OF STANLEY	MOUNTRAIL	WATER STORAGE RESERVOIR UPSIZE AND SYSTEM EXPANSION	\$6,562,500	\$6,562,500	\$2,278,400
CITY OF TIOGA	WILLIAMS	INFRASTRUCTURE IMPROVEMENTS - INCREASE SIZE TRUNK LINES AND WATER MAINS	\$31,978,896	\$31,978,896	\$3,617,120
CITY OF WATFORD CITY	MCKENZIE	WATER AND WASTEWATER SCADA SYSTEM WATER AND WASTEWATER INFRASTRUCTURE	\$225,000	\$225,000	\$180,000
CITY OF WATFORD CITY	MCKENZIE	WATERMAIN UPSIZING PROJECT - HANDLE INCREASING POPULATION	\$813,211	\$813,211	\$213,091
CITY OF WATFORD CITY	MCKENZIE	WASTEWATER TREATMENT FACILITY IMPROVEMENTS - CONSTRUCT TWO WASTE WATER BASINS	\$4,585,351	\$4,526,200	\$2,862,706

**TOTAL            \$20,816,832**

The preceding list of recommended pledge awards includes 16 applications recommended by the Advisory Committee to receive grants totaling \$20,816,832. Pledged awards are to be considered a commitment by the Land Board with the intent to formally award the grants in July.

**Motion: That the Land Board pledge grant awards totaling \$20,816,832 from the Oil and Gas Impact Fund to the cities identified on the preceding list, with the intent to award the funds during Fiscal Year 2013.**

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

### Energy Infrastructure and Impact Office – Grants Summary

Following is a recap of appropriations and awards from the oil and gas impact fund. The sixty-second legislative assembly, during its regular session appropriated \$100 million to the oil and gas impact grant fund. An additional \$30 million was appropriated to the fund during the special session in November 2011 with a recommendation that priority be given to emergency services. An additional \$5 million was appropriated for up to four potential counties emerging as oil and gas producers. Thus far, no county has met the requirements defined to obtain a \$1.25 million share of the “emerging counties” appropriation.

Of the \$130 million in appropriated funds, \$5 million was designated by the legislature to schools with rapid enrollment growth and \$350,000 was designated for the Upper Great Plains Transportation Institute. \$221,731 was budgeted for administrative costs.

The Board has made awards totaling \$72,810,343 from the fund to-date. These awards are summarized as follows:

With grants and grant pledges approved at this meeting, Board-committed funds to date will total \$114.4 million:

	Awarded as of May 31, 2012	\$72,810,343
June 2012	Other Political Subdivisions	\$5,000,000
July 2012	Hub cities (Pledged May 2012)	\$16,788,859
July 2012	Smaller Cities (being run early)	\$19,811,141
		<hr/>
		\$114,410,343

The preliminary funding targets for remainder of the biennium:

December 2012	Township Roads & Transportation	\$2,500,000
March 2013	Emergency Services	\$4,000,000
June 2013	Other Political Subdivisions	\$2,500,000
	Contingency fund childcare allocation –pilot project underway	\$500,000
	Remaining contingency	\$367,000

### Flood Impacted Political Subdivision Infrastructure Development Grants - Contingency Funds

During previous meetings the Board has awarded 133 grants totaling \$27,495,080 of the \$30,000,000 appropriation for Flood Infrastructure Grants. The legislation allows for up to \$110,000 to be set aside for administration of the grants. This leaves \$2,394,920 remaining to be awarded.

Eligible political subdivisions flood grant awards were submitted and approved in a short time-frame in order to get projects underway for the 2012 construction season. It is anticipated that as political subdivisions will repair of the flood damage, unanticipated costs and project overruns are going to be realized. The Director suggests the \$2,394,920 remaining funds be held in contingency for unanticipated needs and cost overruns of projects already awarded.

Future awards will be recommended and considered on an ad hoc basis, and subsequent competitive grant rounds will not be undertaken.

Chairman Dalrymple called for a fifteen minute recess at 9:40 AM. The meeting reconvened at 9:55 AM

## MINERALS MANAGEMENT DIVISION

### Lease Amendment to Authorize Wayzetta #4-16H Secondary Recovery Efforts

EOG Resources is the lessee of trust minerals and the operator of the Wayzetta #4-16H well (Wayzetta) in Mountrail County. The well is currently producing, but EOG has requested that the leases be amended to allow for testing of a new technique to potentially enhance recovery of hydrocarbons.

Specifically, EOG plans to inject water at an average rate of 1,500 bpd into the well for a period of 20 to 60 days; then let it to soak for a period of 10 to 30 days; then return the well to production for 10 to 60 days. This cycle will be conducted three times, with additional repetition possible if results – improvement in oil production – so warrant. After all cycles of the test are completed, the well will return to normal operations. In order to continue to “hold” the lease, continuous production is to be maintained, however, the recovery techniques proposed by EOG will involved a “soaking” period which will pause active production from the well.

The Industrial Commission granted EOG permission to conduct this Secondary Recovery Pilot Project on February 14, 2012, by order 19029 entered in case 16760.

The Wayzetta is a 640 acre spacing unit, wholly owned by the Common Schools Trust and located in 153-90-16 in Mountrail County. There are four Oil & Gas leases, OG- 05-00430, OG-05-00431, OG-05-00432, & OG-05-00433, which cover the section. The primary term of the leases expired on February 1, 2010, but the lease has been “held” by production.

These tests, while not guarantying success, could enhance the recovery of hydrocarbons of this well, and have broader implications within the field, and potentially the entire Bakken. EOG has assured the Commissioner that even if enhanced production is not accomplished, the worst expected outcome at the end of the water flooding recovery effort would be for the well to revert back to its current production.

To conduct these tests, EOG seeks assurances that their lease hold will not be compromised while conducting these tests. The Commissioner requests that the Board authorize that the above-referenced four leases be amended as follows:

During the conduct of those procedures approved for the Wayzetta #4-16H well in accordance with Industrial Commission Order 19029, dated February 14, 2012 (the “Secondary Recovery Pilot Project”), this lease shall not terminate due to cessation of production of oil and/or gas on the leased premises. The injection phase, during which fluids shall be injected into the well, and the “soaking” phase, during which the well shall remain shut-in for a limited period to allow the fluids injected into the well to soak, of the Secondary Recovery Pilot Project shall each be considered “reworking operations” that prevent this lease from terminating.

EOG has agreed to supply reports and documentation throughout the test and acknowledge the Department of Trust Lands as a contributor to the experiment.

**Motion: That the Board authorize the Commissioner to amend leases pertaining to the Wayzetta #4-16H to allow EOG to conduct the tests to possibly enhance recovery of this and future wells.**

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger			X		

Superintendent Sanstead	X		X		
Treasurer Schmidt			X		
Attorney General Stenehjem		X	X		
Governor Dalrymple			X		

### Essential Wildlife Habitat Memorandum of Understanding

In March, the Board approved a joint policy which outlined the working arrangement between the North Dakota Department of Trust Lands (NDDTL), Game and Fish Department (GFD) and the North Dakota Industrial Commission (NDIC) regarding policies and procedures to minimize impact to wildlife from the production of trust minerals.

The Joint Agreement on Mitigation of Wildlife Impacts has not been adopted by the Industrial Commission nor the Game and Fish Department. Subsequent to Land Board approval, concerns about private property rights were highlighted in cases where the Board manages the mineral but not the surface. The policy indicated that even when the state trusts no longer owned the surface property, that the identification of tracts associated with essential wildlife habitat could sanction the state to stipulate how and where surface activity were to occur on private land.

The NDDTL, the GFD and the Department of Mineral Resources (DMR) of the NDIC have worked to reword a Memorandum of Understanding which outlines the steps undertaken in the review, leasing and permitting of mineral tracts associated with essential wildlife habitat.

The following procedures to review wildlife associated areas are in current practice:

1. Mineral tracts are nominated by an interested party for the quarterly lease auction.
2. At the end of the nomination period, usually six weeks prior to auction, the GFD receives a list of the nominated tracts.
3. The GFD reviews the list for tracts associated with essential wildlife habitat.
4. The GFD notifies the NDDTL of the specific habitat areas and discusses the issue in detail.
5. In a circumstance of a split estate where only the minerals are managed by the NDDTL, a notation that the tract is part of an area of essential habitat is included on the mineral lease auction list offering, and the information is provided to the DMR as part of the Application for Permit to Drill process.
6. If the mineral acres and surface acres of the identified tract are both managed by the NDDTL, the following stipulation is noted with the tract on the lease auction list and is made a part of the lease:

*This tract is within an area identified as essential wildlife habitat. The lessee or lessee's operator must contact the commissioner prior to any surface activity. Operational mitigation measures to reduce impact, including timing restrictions, location adjustments and reduced or restricted surface occupancy may be required.*

The stipulation gives the agencies the opportunity to mitigate the potential impact to wildlife habitat and allow the Board to manage the trust asset with those concerns in mind. It also gives notice to potential bidders before acquiring the lease.

Before permits are issued for development on the property, an in-depth review will occur on how best to proceed in accordance with recognized best management practices. Location, timing, orientation and seasonal activity restrictions are considered along with potential surface use restrictions. The NDDTL has always managed its surface assets in a scientific and methodical way, including managing wildlife concerns, however there may be cases when it is necessary to prohibit any surface disturbance.

In areas that the NDDTL manages the minerals, but not the surface, the bidders will be notified of the designation, but the stipulation will not be part of the lease, and the DMR will coordinate the interaction between the operator and the GFD during the permitting process.

The following draft MOU is under review by interested parties to ensure that earlier concerns of impacting private property rights have been addressed. The processes outlined within it, are essentially in practice since March.

**-DRAFT-**

**MEMORANDUM OF UNDERSTANDING  
REGARDING  
MITIGATION OF WILDLIFE IMPACTS**

**North Dakota Department of Trust Lands (NDDTL)  
North Dakota Game and Fish Department (NDGF)  
North Dakota Industrial Commission  
Department of Mineral Resources  
Oil and Gas Division (NDIC)**

**P U R P O S E**

This MOU is intended to promote interagency consultation and to facilitate information sharing between the agencies, the oil and gas industry, and interested members of the public in order to reduce wildlife impacts resulting from oil and gas development on trust lands.

**A U T H O R I T Y**

The North Dakota Department of Trust Lands manages surface and minerals. It has a fiduciary responsibility to manage the trusts under the authority of the Board of University and School Lands, in the best interests of beneficiaries when leasing minerals, including leases subject to certain restrictions on surface use where the trusts also own the surface.

The Oil and Gas Division regulates the oil and gas industry pursuant to North Dakota Century Code (NDCC) Chapter 38-08, Control of Gas and Oil Resources. Regulatory authority includes approval of applications for permits to drill.

The North Dakota Game and Fish Department represents the state's interest in wildlife and has the information and expertise pertinent to essential habitat for the state's wildlife and is best positioned to monitor impacts and recommend mitigation strategies to reduce the impacts of oil and gas development in these essential habitat areas.

**E S S E N T I A L H A B I T A T A R E A S**

NDGF will identify essential habitat areas and propose mitigation appropriate to reduce impacts. Essential habitat areas may include areas having unique characteristics and particular significance to an identified species in terms of its long-term viability. Indicator species to be included in the registry are: mule deer; big horn sheep; elk, pronghorn antelope; sage grouse; eagles (bald and golden), and terns and plovers.

**N O T I F I C A T I O N A N D R E S P O N S E A C T I O N S**

To promote consultation and cooperation toward the protection of the state's wildlife, surface waters, and natural environment, NDIC, NDGF, and NDDTL will respond to nominations for lease of trust minerals and applications for permit to drill in the following manner:

- 1) NDGF will develop and maintain a registry of trust lands containing essential habitat areas. This registry will be shared with NDIC and NDDTL to automate, to the extent possible, the identification

(06/12)

of proposed mineral leases and APDs that may impact lands listed in the registry. NDGF will maintain a set of Best Management Practices for mitigation of impacts to wildlife.

2) NDDTL will provide notice to NDGF upon nomination of Trust Minerals for Lease.

a) ***NDDTL mineral acres where surface is also managed by NDDTL***

- i) NDDTL will notify NDGF of nominations for lease of mineral acres where the trust also owns the surface so that NDGF may determine whether any such land contains an essential habitat area. All mitigation measures will be founded on a sound scientific basis and will be no more restrictive than necessary to achieve the mitigation objective consistent with the fiduciary responsibility of the NDDTL to the trust.
- ii) Upon NDGF having developed a registry of essential habitat areas, NDDTL will coordinate with NDGF to screen nominated tracts against the registry of essential habitat areas promptly upon receipt.
- iii) The NDDTL will incorporate a stipulation within the leases involving essential habitat, in which it may be appropriate for mitigation measures such as reduced or restricted surface occupancy. Stipulations will require lessees to coordinate with the NDDTL prior to surface occupancy.

b) ***NDDTL mineral acres where surface is not managed by NDDTL***

- i) NDDTL will notify NDGF of nominations for lease of severed trust mineral acres nominated for lease, so that NDGF may determine whether the minerals are under land that contains essential habitat area.
  - ii) Upon NDGF having developed a registry of essential habitat areas, the NDDTL will include a notation on the lease offering which indicates that the minerals have been identified as associated with an essential habitat area and that the NDGF will provide information regarding recommended best management practices when an Application for Permit to Drill (APD) is filed with NDIC.
  - iii) This MOU does not restrict a surface owner in negotiating terms of surface occupancy with a company seeking to develop minerals.
- 3) Upon NDGF having developed a registry of trust lands essential habitat areas, NDIC will coordinate with NDGF to identify APDs filed for tracts in the registry of essential habitat areas promptly upon receipt.
- 4) For proposed well locations within an essential habitat area, the NDIC shall require the applicant to discuss the proposed well location with the designated NDGF contact and also with the designated NDDTL contact where trust surface acres are involved. This MOU does not restrict a surface owner in negotiating terms of surface occupancy with a company seeking to develop minerals. The intent of this MOU is to create the conditions for applicants, surface owners, and state agencies to better share information and facilitate consideration of wildlife impacts in well siting decisions.

\_\_\_\_\_  
North Dakota Board of University and School Lands  
By: Lance D. Gaebe, Secretary

\_\_\_\_\_  
Date

\_\_\_\_\_  
North Dakota Game and Fish Department  
By: Terry Steinwand, Director

\_\_\_\_\_  
Date

**SURFACE MANAGEMENT DIVISION****City of Ray 15-09 Purchase (WIL-16-156-97-NE4SW4, S2NW4SW4)**

The City of Ray has submitted an application under N.D.C.C. 15-09 to purchase a 60-acre tract described as follows: NE4SW4, S2NW4SW4 of Section 16, T156N, R97W, Williams County. The City of Ray initially applied to purchase 140 acres (SW4 less N2NW4SW4) as a disposal site for lime sludge, and for the City lagoon and landfill. The city was asked to submit a development plan for the 140-acre parcel. This plan did not show an immediate need for the southern 80-acre parcel (S2SW4). To avoid potential reversion issues, the City of Ray reduced their application request to the 60-acre parcel. A construction schedule which demonstrates a need for the 60-acre parcel was submitted by Intestate Engineering. This schedule shows construction of two City lagoon cells is anticipated for late summer 2012. It is apparent that the property is being purchased and will be used for its intended public purpose in accordance with N.D.C.C. 15-09. An 80-acre parcel will remain and will continue to be leased for grazing. On May 2, 2012, the lessee was notified of the pending sale.

**Sale Value:** At its October 2011 meeting the Board approved the appraised value of \$2,750 per acre for the land within the SW4 of Section 16, T156N, R97W, Williams County and authorized the Commissioner to advertise the proposed sale and conduct a hearing on the Board's behalf. On June 7, 2012 a hearing was held as required by Chapter 15-09 to take testimony as to why the 60-acre parcel described as the NE4SW4, S2NW4SW4 of Section 16, T156N, R97W, Williams County should not be sold or why the price fixed is insufficient. No one was present to offer testimony at the hearing.

**Environmental Considerations:** This tract is gently rolling native grassland currently leased for pasture. The major soils within the proposed purchase area are Williams-Zahl loams, 6% to 9% slope and Williams-Bowbells loams, 3% to 6% slopes. These soils have a moderate rating for sanitary facilities which means there are some soil limitations for sanitary facilities, but these limitations can generally be overcome by good management or special design. There are no significant environmental impacts anticipated from this project.

The City of Ray has paid the purchase price plus appraisal and sales costs.

**Motion: That the Board approve the sale of the 60-acre parcel described as NE4SW4, S2NW4SW4 of Section 16, T156N, R97W, Williams County to the City of Ray under N.D.C.C. 15-09 for a total price of \$165,000.00 plus appraisal and sales costs.**

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

**INVESTMENTS DIVISION****Coal Development Trust Fund**

At the Land Board's April 26, 2012 meeting, the Board approved the transfer of \$135,356 of income earned by the Coal Development Trust Fund in fiscal years 2010 and 2011 to the General Fund. The amount represented income earned by this trust, over and above previously transferred estimates of trust income.

During that meeting, the Board directed the Commissioner to investigate the possibility of retaining the income earned by the Coal Development Trust Fund to help grow the trust faster. At the present time, the only growth this trust experiences is from the approximately \$1 million of coal severance taxes deposited in it each year.

After review of the laws that govern the Coal Development Trust Fund, it apparent that unless a constitutional change is pursued, earned income cannot be reinvested back into the trust. Both Article X of the North Dakota Constitution and N.D.C.C. 57-62-02 state that income earned by this trust fund must first be used to replace any uncollectable loans that made by the trust and that any remaining income must be deposited in the general fund. During the April Board discussion, the Commissioner was only aware of the restriction on the uses of income provided for in century code.

Unless the Board wishes to seek a change of the State Constitution, the income of the Coal Development Trust Fund will continue to be transferred to the General Fund.

### **State Street Global Advisors International Alpha Portfolio**

On June 22, 2012 the State Investment Board (SIB) voted to place State Street Global Advisors (SSGA) under "manager review" for its International Alpha portfolio, due to substandard performance and a recent change to the investment process. This is the same product the permanent trusts currently use for the permanent trusts' international equity exposure.

As has been reported to the Board on various occasions, quantitative strategies such as this fund utilizes tend to struggle during highly volatile markets that are driven by fear, rather than fundamental stock valuation criteria. Since this portfolio was funded in 2006, the markets have experienced two fear driven market downturns. Over the past six months, SSGA has incorporated a new dynamic component to its model that tries to incorporate the current market environment into investment decisions, rather than just relying on the static, long-term model it has used in the past to manage the portfolio.

The Commissioner has concerns about the portfolio performance and changes to the investment process. Although the Land Board does not have a formal "manager review" designation, a meeting was held last week with SSGA to discuss the portfolio's weak performance, changes to the investment process, personnel changes and expectations for the future. One result of that meeting was that SSGA offered to adjust the fee schedule for this portfolio so that the trusts would not pay active manger fees unless the portfolio generates the expected Alpha (the manager influenced return above the benchmark) from the portfolio.

Commissioner will work with SIB to continue to assess SSGA and this product, and plans to monitor performance on a monthly basis to determine the reasons for over or under performance. The Commissioner will report back to the Board of any recommendations of future action if necessary.

## **R E P O R T S**

### **Report of Easements Issued by Land Commissioner**

The Board reviewed a memo showing easements issued by the Land Commissioner pursuant to Board authorization. A summary of approved easements follows:

Grantee	Project Purpose	Date
Vantage Pipeline US LP DIV-164-103-36-NW4, SW4 WIL-159-97-36-SE4	Gas Gathering Pipeline	6/11/2012
Hess Corporation MOU-155-93-16-NE4, NW4	Section Line Road	6/1/2012
Continental Resources Inc MCK-153-94-16-NE4, NW4, SW4	Access Road	6/6/2012
Oneok Rockies Midstream LLC WIL-155-102-36-LOTS 1,2,5,6	Gas Gathering Pipeline	5/17/2012
Reservation Telephone Cooperative MCK-145-104-16-NW4, SW4 MCK-147-104-36-NE4, NW4, SE4 MCK-148-105-36-SW4	Communication Cable	5/17/2012
Reservation Telephone Cooperative GOL-143-105-16-NE4 GOL-144-103-16-NW4, SE4, SW4 GOL-144-104-16-NE4, NW4	Communication Cable	5/17/2012
Continental Resources Inc BOW-129-104-16-NW4	Salt Water Pipeline	5/28/2012
McKenzie County MCK-149-100-16-NE4	Road Right-of-Way	5/17/2012
Banner Transportation Co LLC WIL-156-102-16-NE4, SE4, SW4	Oil Gathering Pipeline	6/11/2012
Hess Corporation MOU-157-93-16-NE4, SE4, SW4	Gas Gathering Pipeline	6/6/2012
Oasis Petroleum North America LLC WIL-156-101-16-NE4, NW4	Multiple Pipelines	5/17/2012
Oneok Rockies Midstream LLC WIL-154-104-36-SE4	Gas Gathering Pipeline	5/28/2012
Western Area Water Supply WIL-156-101-36-SW4	Raw Water Pipeline	6/13/2012
Oneok Rockies Midstream LLC MCK-150-102-36-SW4	Gas Gathering Pipeline	5/28/2012

Oneok Rockies Midstream LLC DUN-147-95-16-NE4 NORTH OF HWY, NE4 SOUTH OF HWY, NW4 NORTH OF HWY, SE4	Gas Gathering Pipeline	6/1/2012
Oneok Rockies Midstream LLC BIL-143-99-16-NW4	Gas Gathering Pipeline	5/28/2012
Consolidated Telcom, HET-135-97-24-SE4	Amend: Communication Cable	6/6/2012
Roughrider Electric Coop, Inc. STA-137-91-16-NE4, NW4	Electric Distribution Line	5/29/2012
ND Dept of Transportation WEL-145-73-4-S2NE4, LOTS 1,2	Road Right-of-Way	6/5/2012
Wood Group PSN WAR-155-84-1-SW4NW4 Lying N & E of River Centerline	General Land Surveys	5/17/2012
Hiland Operating LLC WIL-156-101-36-SE4, SW4	Multiple Pipelines	6/11/2012
Oneok Rockies Midstream LLC BIL-141-100-16-NW4	Gas Gathering Pipeline	5/28/2012
Zenergy Inc MCK-153-102-36-NE4 E OF ROAD, SE4	Section Line Road	5/28/2012
Reservation Telephone Cooperative MOU-153-91-16-NW4	Communication Cable	5/28/2012
Midstate Telephone Company MOU-156-90-36-NW4, SW4	Communication Cable	5/29/2012
Oneok Rockies Midstream LLC MCK-149-100-16-NE4	Gas Gathering Pipeline	6/11/2012
Oneok Rockies Midstream LLC BIL-142-102-16-NW4	Gas Gathering Pipeline	5/25/2012
Oneok Rockies Midstream LLC MCK-147-101-16-NE4	Gas Gathering Pipeline	5/28/2012
Hess Corporation MOU-155-94-28-NE4	Multiple Pipelines & Communication Cable	6/22/2012
Crushed Rock Sales LLC BRK-159-93-16-SW4	Aggregate Prospecting	6/6/2012
Crushed Rock Sales LLC BRK-159-94-36-NE4	Aggregate Prospecting	6/6/2012
Crushed Rock Sales LLC DIV-161-100-16-SE4	Aggregate Prospecting	6/6/2012

Crushed Rock Sales LLC DIV-162-100-16-SE4	Aggregate Prospecting	6/6/2012
Crushed Rock Sales LLC DIV-164-103-36-NW4	Aggregate Prospecting	6/6/2012
Crushed Rock Sales LLC MCK-145-102-36-NE4	Aggregate Prospecting	6/6/2012
Crushed Rock Sales LLC WAR-151-81-36-NW4	Aggregate Prospecting	6/6/2012
Crushed Rock Sales LLC WIL-155-96-16-NW4	Aggregate Prospecting	6/6/2012
Crushed Rock Sales LLC WIL-159-103-16-NE4	Aggregate Prospecting	6/6/2012
Oneok Rockies Midstream LLC MCK-153-96-36-SE4	Gas Gathering Pipeline	6/22/2012
SKW INC WAR-155-84-1-SW4NW4 Lying N & E of River Centerline	General Land Surveys	6/14/2012
Engineering Testing WIL-156-100-16-NE4, NW4	Aggregate Prospecting	6/15/2012

The following letters of permission were issued to groups wishing to use school trust lands under the Board's policy for access to trust lands by organizations. No fees are charged.

Birding Drives Dakota STU-142-68-16-SW4	Nature Study
US GEOLOGICAL SURVEY BRK-159-90-36-SE4 DIV-160-95-36-SE4 MOU-155-90-16-SE4 WIL-158-103-36-SW4	Wetland Water Sampling
NDSU MOU-153-91-16-NW4 MOU-154-90-36-SW4	Dust Impact Study
Continental Resources Inc, DIV-161-97-36-SE4	Water Removal

**Financial Statements.** The Board reviewed the Financial Statement Summary and Total Assets by Trust as of April 30, 2012. The following is a copy of that report.

<b>Summary of Total Assets</b>		
<b>Assets by Trust:</b>	<u>April 30, 2012</u>	<u>April 30, 2011</u>
Common Schools	\$1,860,556,987	\$1,573,498,879
North Dakota State University	31,424,624	24,870,053
School for the Blind	4,314,402	3,164,731
School for the Deaf	11,344,002	8,882,004
State Hospital	9,993,139	8,864,354
Ellendale *	5,533,371	4,028,541
Valley City State University	4,836,364	4,437,703
Mayville State University	3,440,742	2,858,422
Youth Correctional Center	12,582,100	10,186,557
State College of Science	9,329,382	8,567,494
School of Mines **	10,949,134	9,959,075
Veterans Home	3,334,351	3,130,980
University of North Dakota	15,045,148	12,290,775
Capitol Building Strategic Investment and Improvements	3,513,732 336,385,578	3,272,349 247,257,145
Coal Development	65,153,516	64,426,788
Indian Cultural Education Trust	<u>693,361</u>	<u>675,338</u>
Total	<u><u>\$2,388,429,933</u></u>	<u><u>\$1,990,371,188</u></u>
 <b>Assets by Type:</b>		
Cash	\$17,301,869	\$7,571,855
Receivables	10,133,365	10,032,861
Investments	2,273,553,920	1,886,673,675
Farm Real Estate	628,667	-
Office Building (Net of Depreciation)	719,243	646,148
Farm Loans	35,305,240	39,829,098
Energy Construction Loans	2,268,678	977,672
Developmentally Disabled Loans	-	666,344
Energy Development Impact Loans	8,536,271	4,451,819
School Construction Loans	24,811,475	29,104,534
Due From/Due To Other Trusts and Agencies	15,171,205	10,417,182
Total	<u><u>\$2,388,429,933</u></u>	<u><u>\$1,990,371,188</u></u>

**\* Ellendale Trust**

The following entities are equal beneficiaries of the Ellendale Trust:

Dickinson State University  
Minot State University  
Dakota College at Bottineau

School for the Blind  
Veterans Home  
State Hospital  
State College of Science -  
Wahpeton

**\*\* School of Mines**

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

**Strategic Investment and Improvements**

The Strategic Investment and Improvements Fund (SIIF) has an assigned fund balance of \$101,956,753.73 as of April 30, 2012; this designation means that these funds should not be transferred out of the SIIF. The first \$95,706,753.73 of the assigned fund balance will be held until potential title disputes related to certain riverbed leases have been resolved. The remaining \$6,250,000 will be held to potentially fund 25% of the guarantee reserve fund for the Fuel Production Facility Loan Guarantee Program administered by the Bank of North Dakota (NDCC 6-09.7-05).

**A D J O U R N**

There being no further business, the meeting was adjourned at 10:25 AM.

\_\_\_\_\_  
Jack Dalrymple, Chairman  
Board of University and School Lands

\_\_\_\_\_  
Lance D. Gaebe, Secretary  
Board of University and School Lands

**Minutes of the Meeting of the  
Board of University and School Lands  
July 26, 2012**

The July 26, 2012 meeting of the Board of University and School Lands was called to order in the Governor's Conference Room at 9:03 AM by Chairman, Governor Dalrymple.

**Members Present:**

Jack Dalrymple	Governor
Alvin A. Jaeger	Secretary of State by teleconference
Kelly Schmidt	State Treasurer
Wayne G. Sanstead	Superintendent of Public Instruction
Wayne Stenehjem	Attorney General by teleconference

**Department of Trust Lands Personnel:**

Lance D. Gaebe	Land Commissioner
Jeff Engleson	Director, Investment Division
Drew Combs	Director, Minerals Management Division
Gerald Fisher	Assistant Director, Energy Infrastructure & Impact Office
Linda Fisher	Unclaimed Property Administrator
Laney J. Herauf	Legal Intern
Judith F. Schell	Administrative Assistant

**Others in Attendance:**

Teri Finneman	Fargo Forum
Nick Smith	Bismarck Tribune

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

A motion to approve the minutes of the June 28, 2012 meeting was made by Wayne Sanstead and seconded by Kelly Schmidt. Motion carried.

**E N E R G Y   I N F R A S T R U C T U R E   A N D   I M P A C T   O F F I C E**

**Pilot Childcare Facilities Grant Round Award Recommendations.** At a special meeting on June 13, 2012, the Board reserved \$500,000 for a childcare facilities grant pilot program. The grant round focused on communities most deficient in childcare offerings as defined by the Early Childhood and Education Council.

**Published Guidelines**

- Political subdivisions could use Energy Impact grant moneys to create new openings for childcare by:
  - Establishing a new community owned modular childcare facility for lease by a for-profit or nonprofit operator, or
  - Expanding an existing public owned and privately operated early childhood facility, or
  - Building a new public early childhood facility.

- Communities and other eligible political subdivisions are eligible for 50% of the cost of the purchase of a permanent childcare modular facility and essential equipment up to \$125,000.
- Local matching funds would not include land or any in-kind sources, but can include other local, private or charitable funds.
- The applying political subdivision must acquire the necessary property and assume the cost of placing the modular facility, or constructing the repurposed space.

### **Requests**

Twenty-three applications requesting \$2,037,781 were received. Projects ranged from small to large remodel projects in existing structures and construction of larger facilities, to placing specially designed modular units. All applications identify ways to increase childcare capacity within communities.

### **APPLICATIONS - PILOT CHILDCARE FACILITIES GRANTS**

<b>Political Subdivision Name</b>	<b>County</b>	<b>Project Description</b>	<b>Total Project Cost</b>	<b>Amount Requested</b>
ALEXANDER PSD #2	MCKENZIE	PRE-SCHOOL BUILDING PROJECT	\$160,000	\$125,000
BOWMAN COUNTY	BOWMAN	TOT LOT CHILDCARE CENTER - EQUIP	\$972,101	\$48,172
CITY OF BOTTINEAU	BOTTINEAU	NEW CONSTRUCTION OF A DAYCARE FACILITY	\$850,000	\$125,000
CITY OF BOWBELLS	BURKE	ESTABLISH CHILD CARE FACILITY IN BOWBELLS	\$192,210	\$96,109
CITY OF CROSBY	DIVIDE	CROSBY DAYCARE FACILITY	\$250,000	\$125,000
CITY OF DICKINSON	STARK	KINDERKIDZ DAYCARE EXPANSION	\$400,000	\$125,000
CITY OF KILLDEER	DUNN	DUNN COUNTY DAYCARE	\$300,000	\$125,000
CITY OF MINOT	WARD	EXPANSION AT MINOT YMCA FOR CHILDCARE FACILITY	\$3,100,000	\$125,000
CITY OF PARSHALL	MOUNTRAIL	PARSHALL SCHOOL FOR TOTS-CHILDCARE CENTER	\$250,000	\$125,000
CITY OF RICHARDTON	STARK	EXPAND A PRIVATELY OPERATED DAYCARE PROGRAM	\$50,000	\$25,000
CITY OF TURTLE LAKE	MCLEAN	TINY TURTLES DAYCARE FACILITY	\$261,221	\$125,000
CITY OF WATFORD CITY	MCKENZIE	WOLF RUN VILLAGE CHILDCARE FACILITY	\$1,779,860	\$125,000
CITY OF WILLISTON	WILLIAMS	DEVELOP MULTI-USE CHILD CARE AND HOUSING FACILITY - GOOD SHEPHERD MODULAR	\$250,000	\$125,000
CITY OF WILLISTON	WILLIAMS	DEVELOP MULTI-USE CHILD CARE AND HOUSING FACILITY - GOOD SHEPHERD LARGER FACILITY UNDER APARTMENTS	\$1,200,000	\$125,000
<b>Political Subdivision Name</b>	<b>County</b>	<b>Project Description</b>	<b>Total Project Cost</b>	<b>Amount Requested</b>

CITY OF WILLISTON	WILLIAMS	MODULAR CHILD CARE FACILITY ON TRINITY CHRISTIAN SCHOOL PROPERTY	\$250,000	\$125,000
CITY OF WILLISTON	WILLIAMS	PROVIDE HEAD START EARLY CHILDHOOD SERVICES TO CHILDREN AND FAMILIES IN WILLISTON - MODULARS	\$250,000	\$125,000
CITY OF WILLISTON	WILLIAMS	EXPANSION AND QUALITY OF LIFE ENHANCEMENT TO EXISTING CHILD CARE FACILITY - SPECIAL CARE DAY CARE	\$125,000	\$62,500
CITY OF WILLISTON	WILLIAMS	EXPANSION AND QUALITY OF LIFE ENHANCEMENT TO EXISTING CHILD CARE FACILITY-COUNTRY CARE DAY CARE	\$40,000	\$20,000
CITY OF WILLISTON	WILLIAMS	EXPANSION AND QUALITY OF LIFE ENHANCEMENT TO EXISTING CHILD CARE FACILITY - LOLLIPOPS AND GUMDROPS	\$30,000	\$15,000
CITY OF WILLISTON	WILLIAMS	EXPANSION AND QUALITY OF LIFE ENHANCEMENT TO EXISTING CHILD CARE FACILITY-AMANDA BROSE	\$30,000	\$15,000
CITY OF WILLISTON	WILLIAMS	EXPANSION AND QUALITY OF LIFE ENHANCEMENT TO EXISTING CHILD CARE FACILITY-TEDDY BEAR DAY CARE	\$7,000	\$3,500
CITY OF WILLISTON	WILLIAMS	EXPANSION AND QUALITY OF LIFE ENHANCEMENT TO EXISTING CHILD CARE FACILITY, TOT STOP DAY CARE	\$5,000	\$2,500
NESSON PSD #2	WILLIAMS	REMODEL CURRENT KITCHEN FOR DAYCARE	\$250,000	\$125,000
<b>TOTAL AMOUNT REQUESTED</b>			<b>\$2,037,781</b>	

The Energy Impact Office was assisted in a review of all applications by staff from the Division of Community Services of the Department of Commerce and Children and Family Services Division within the Department of Human Services. Consideration was given to:

- Communities with the greatest childcare deficiency
- Project plans most ready to be implemented and adding additional childcare capacity
- Financial need and benefit a grant would assist in realizing success
- The need being a result of direct impact from oil and gas development
- Community (health and welfare) benefit.

Using the criteria above, the review team recommended awards to the following political subdivisions:

#### RECOMMENDED AWARDS - PILOT CHILDCARE FACILITIES GRANTS

Political Subdivision	County	Project Description	Total Project Cost	Amount Requested	Recommended Award
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Name					
CITY OF CROSBY	DIVIDE	CROSBY DAYCARE FACILITY, CITY PROVIDING MATCHING FUNDS & CITY OWNED, CCR&R MODULAR FOR UP TO 18 CHILDREN	\$250,000	\$125,000	\$125,000
CITY OF KILLDEER	DUNN	DUNN COUNTY DAYCARE, COUNTY HAS PLEDGED \$100,000, SR. CENTER HAS DONATED THE LAND, WILL BE NON-PROFIT OWNED, MODULAR UNIT FOR UP TO 18 CHILDREN	\$300,000	\$125,000	\$125,000
CITY OF WATFORD CITY	MCKENZIE	WOLF RUN VILLAGE CHILDCARE FACILITY, LAND IS CITY OWNED, WILL BE NON-PROFIT OWNED, TRADITIONAL CONSTRUCTION, 70 CHILD CAPACITY	\$1,779,860	\$125,000	\$125,000
CITY OF WILLISTON	WILLIAMS	RECOMMEND AWARD OF \$125,000 TO CITY OF WILLISTON. WILLISTON TO DECIDE FROM THEIR 10 APPLICATIONS WHERE TO AWARD, WITHIN PROGRAM GUIDELINES.	\$2,437,000	\$743,500	\$125,000
<b>TOTAL RECOMMENDED AWARDS</b>					<b>\$500,000</b>

**Motion: That the Land Board award a total of \$500,000 from the Oil and Gas Impact Grant Fund to the four pilot childcare facilities applicants as identified in the preceding list.**

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

**Motion: That the Land Board expand the Pilot Childcare Facilities Grants to include the Nesson PSD #2 application with a Grant of \$125,000 from the Oil and Gas Impact Grant Fund.**

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

**2012 City Grant Round – Ratify Awards.** On May 31, 2012, the Land Board committed \$16,788,859 from the oil and gas impact grant fund to hub cities with a population of 10,000 or more. The pledge awards were identified as follows:

Applicant	July 2012 Amount	2011/13 Biennial Award Total
City of Williston	<b>\$9,593,634</b>	\$21,593,634
City of Dickinson	<b>\$5,796,817</b>	\$10,796,817

City of Minot	<b>\$1,398,408</b>	\$5,398,408
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On June 28, 2012 the Board, pledged grant awards from the oil and gas impact grant fund totaling \$20,816,832 to cities with less than 10,000 population. Committed grant amounts were as follows:

Political Subdivision	County	Description	Project Amount	Requested Amount	Committed Grant
City of Alexander	McKenzie	Sewer Lagoon Expansion - to Facilitate Population Increase	\$2,259,200	\$2,259,200	<b>\$1,115,560</b>
City of Belfield	Stark	Water, Sewer, Infrastructure Construction - Additional Lagoon Upsize Water Mains	\$1,885,000	\$1,508,000	<b>\$100,000</b>
City of Bowman	Bowman	North Side Sewer Extension - Add Sewer Trunk to Serve New Development	\$50,000	\$50,000	<b>\$40,000</b>
City of Crosby	Divide	2012 Water And Wastewater Infrastructure Expansion - Support Increase In Water and Sewer Requirements	\$9,808,500	\$9,808,500	<b>\$4,148,000</b>
City of Grenora	Williams	Water, Sewer Improvements - Provide Water And Sewer to Housing Development	\$1,025,300	\$1,025,300	<b>\$296,217</b>
City of Halliday	Dunn	2012 Water Sewer Project - Support Population Growth	\$313,706	\$235,000	<b>\$188,000</b>
City of Parshall	Mountrail	Highway 37 Phase II Utility Extension - Extend Sewer And Water For Development	\$2,228,508	\$2,228,508	<b>\$1,538,956</b>
City of Parshall	Mountrail	2012 Sewer Improvements - Support Annexation Of 1531 Acres	\$5,995,660	\$5,995,660	<b>\$1,297,982</b>
City of Ray	Williams	Wastewater System Improvements-Wastewater Ponds And Sewer Mains - Support 200% Increase In 20 Yrs.	\$8,308,000	\$6,594,164	<b>\$1,888,000</b>
City of Richardton	Stark	Water And Sewer Improvements 2012 – Design of Infrastructure Increase to Handle Increasing Population	\$1,639,988	\$1,639,988	<b>\$50,000</b>
City of South Heart	Stark	Sanitary Sewer and Water Main Improvements 2012 - to Handle Population Increase	\$1,690,000	\$1,606,000	<b>\$1,002,800</b>
City of Stanley	Mountrail	Water Storage Reservoir Upsize and System Expansion	\$6,562,500	\$6,562,500	<b>\$2,278,400</b>

Political Subdivision	County	Description	Project Amount	Requested Amount	Committed Grant
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City of Tioga	Williams	Infrastructure Improvements - Increase Size Trunk Lines And Water Mains	\$31,978,896	\$31,978,896	<b>\$3,617,120</b>
City of Watford City	Mckenzie	Water And Wastewater System - Installation Of A New Supervisory Control And Data Acquisition (SCADA) System For The City's Expanding Water And Wastewater Infrastructure	\$225,000	\$225,000	<b>\$180,000</b>
City of Watford City	Mckenzie	Water main Upsizing Project - Handle Increasing Population	\$813,211	\$813,211	<b>\$213,091</b>
City of Watford City	Mckenzie	Wastewater Treatment Facility Improvements - Construct Two Waste Water Basins	\$4,585,351	\$4,526,200	<b>\$2,862,706</b>
<b>TOTAL</b>					<b>\$20,816,832</b>

Motion: **That the Board formally award \$37,605,691 from the Oil and Gas Impact Grant Fund for previously committed Grants to cities for the projects and in the amounts identified on the preceding tables.**

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

**Advancing Schedule for Emergency Services Grant Round.** The Energy Infrastructure and Impact Office had previously publicized the following three grant rounds for the remainder of the 2011/2013 biennium.

- October through December 2012 – Township Roads and Transportation
- January through March 2013 – Emergency Services and Response
- April through June 2013 – Other Political Subdivisions

The Director proposed to advance the emergency services grant round with a preliminary allocation of \$4 million to this fall.

The township roads and transportation grant round would start October 2012 as originally scheduled, with up to \$2.5 million of grants awarded in January 2013.

These adjustments to the schedule advance the pace of awards to impacted entities. Notice of the earlier availability of funds for Emergency Response needs, would be provided through direct mail and e-mail to the political subdivisions, by press release, through the associations, and State Health Department.

Motion: **That the Board authorize the Energy Impact Office director to adjust the grant schedule to allow for consideration of Energy Impact Grant requests in the fall of 2012.**

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger			X		
Superintendent Sanstead			X		

Treasurer Schmidt	X		X		
Attorney General Stenehjem		X	X		
Governor Dalrymple			X		

## INVESTMENTS DIVISION

**Strategic Investment and Improvements Fund – Expected Near Term Revenues.** The Strategic Investment and Improvements Fund (SIIF) was created by enactment of House Bill 1451 by the 2011 Legislature. It merged the roles of the former Permanent Oil Tax Trust Fund and the former Lands and Minerals Trust Fund.

The Lands and Minerals Trust was initially created in 1977 to manage the state's sovereign minerals and the minerals acquired by the Bank of North Dakota and the State Treasurer as a result of foreclosures. Historically, this trust earned a few million dollars of mineral revenues each biennium and the majority of the funds were transferred to the general fund each biennium. However, between the current energy development activity and the passage of HB 1451, the fund now known as "SIIF" has changed dramatically.

Section 9 of HB 1451 dictates that the State Treasurer deposits and distributes portions of the gross production and extraction tax revenues into the SIIF. Once the unobligated balance in the SIIF reaches \$300 million, 25% of all revenues received by this fund will be deposited into the Legacy Fund.

Presently, there is \$360 million in the SIIF. The majority of this balance is mineral royalty and bonus income earned in recent years. Of this amount, approximately \$95.8 million of the fund has been declared by the Board as an assigned (formerly "designated") fund balance. These funds should not be transferred out of the SIIF until potential title disputes related to certain riverbed leases have been resolved.

Oil and gas tax revenues will begin flowing into the SIIF within the next few months. The monthly deposit into the SIIF are estimated to be in the range of \$65 to \$70 million per month. There are many variables, and formal forecasts have not been updated, but based on current tax collections and the amount of royalties being earned by the SIIF, the Commissioner believes that total dollars flowing into SIIF could be in excess of \$600 million or more by the end of the biennium. This is in excess of the \$305 million slated for transfer to the General Fund during the current biennium.

The Board has historically taken minimal risk investing these funds. Due to the unknown time horizon for spending/transferring the remaining assets of this fund, it is currently invested entirely in Treasury securities that mature on or before June 30, 2013.

The Commissioner is in discussions with the BND about the possibility of investing these funds on the Board's behalf.

## OFFICE OPERATIONS

**Commissioner Salary Adjustment.** As authorized by the 62<sup>nd</sup> Legislative Assembly, state employees were eligible for the equivalent of a 3% general salary increase on July 1, 2011.

**Motion: That the Board approve increasing the Commissioner's salary of \$8,400 per month, by 3% to \$8,652, effective August 1, 2012.**

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger			X		
Superintendent Sanstead			X		
Treasurer Schmidt		X	X		

Attorney General Stenehjem	X		X		
Governor Dalrymple			X		

### ITEMS TO BE NOTED

**Revenue Compliance Division Update.** A Revenue Compliance Division has been reviewing past oil and gas royalty payments to determine if payments were made in accordance with the Board's lease terms, rules and regulations, and North Dakota statutes. Results to date are shown in the table below.

REVENUE COMPLIANCE SUMMARY		
	Quarter Ended June 30, 2012	Fiscal Year Ended June 30, 2012
Royalties Collected	\$ 851,850	\$ 5,033,003
Taxes or Other Deductions Collected	\$ 60,088	\$ 541,319
Penalties Collected	\$ 133,555	\$ 437,279
<b>Total Collected</b>	<b>\$ 1,045,493</b>	<b>\$ 6,011,601</b>
NDIC Report Corrections	-	\$ 21

It is important to note that the "penalty" provision in the Department's lease is calculated at the rate of 1% per 30 days. Thus, although it is called a penalty, it is in fact based on the time value of money, and is assessed in lieu of the Commissioner seeking interest on late royalty payments as provided for in NDCC 47-16-39.1.

Although over \$6 million has been collected to date as a result of the Revenue Division's efforts, most of the money owed is a result of errors made by operating oil companies, not the deliberate underpayment of royalties.

In addition to royalty revenues and penalties collected, the Revenue Compliance Division, working together with the Minerals Management Division, is identifying non-producing leases in an effort to encourage leaseholders to satisfy the terms or terminate the lease.

To date, actions taken by the two divisions have resulted in more than 2,000 acres being released; some are on the list for the August 2012 auction. These efforts have also served to bring operators to the table, to renegotiate lease terms and bring the wells back to a more productive status.

NON-PRODUCING LEASE SUMMARY **		
	Quarter Ended June 30, 2012	Fiscal Year Ended June 30, 2012
Acres Released	2,000.69	2,059.86

#### Report of Easements Issued by Land Commissioner. (06-25-12 through 07-12-12)

ENBRIDGE PIPELINES (ND) LLC MOU-156-93-36-NE4, NW4 MOU-156-94-36-NE4, NW4 WIL-156-95-36-SE4, SW4	Oil Gathering Pipeline	7/2/2012
MOUNTRAIL-WILLIAMS ELECTRIC COOP WIL-156-102-16-NE4, NW4	Electric Distribution Line	6/29/2012
MOUNTRAIL-WILLIAMS ELECTRIC COOP (07/12)	Electric Distribution Line	6/29/2012

MOU-154-89-16-SE4 MOU-158-90-16-NW4, SW4		
MOUNTRAIL-WILLIAMS ELECTRIC COOP WIL-158-96-16-SE4	Electric Transmission Line	6/28/2012
MOUNTRAIL-WILLIAMS ELECTRIC COOP MOU-154-92-16-NE4	Electric Distribution Line	6/28/2012
MOUNTRAIL-WILLIAMS ELECTRIC COOP WIL-156-95-16-NE4, SE4	Electric Transmission Line	6/28/2012
MOUNTRAIL-WILLIAMS ELECTRIC COOP MOU-153-91-16-NW4	Electric Distribution Line	6/29/2012
MOUNTRAIL-WILLIAMS ELECTRIC COOP WIL-155-103-36-N2SW4, LOTS 11,12	Electric Transmission Line	6/29/2012
MOUNTRAIL-WILLIAMS ELECTRIC COOP WIL-156-99-36-SE4, SW4	Electric Transmission Line	6/28/2012
LEGACY RESERVES OPERATING LP  GOL-143-103-36-NE4, NW4, SE4	Salt Water Disposal Well Assignment	7/5/2012
HESS CORPORATION MOU-158-94-16-NE4, SE4	Gas Gathering Pipeline	7/5/2012
HILAND OPERATING LLC WIL-158-103-36-SW4	Multiple Pipelines	7/5/2012
MOUNTRAIL-WILLIAMS ELECTRIC COOP MOU-153-92-32-S2NW4	Electric Distribution Line	6/28/2012
NORTH AMERICAN COAL ROYALTY CO MER-142-88-6-E2SW4, LOTS 6,7, SE4NW4, LOTS 3,4,5,; SW4NE4, LOT 2, W2SE4; 142-89-12- N2NE4, N2NW4; 143-88-8-SE4, SW4; 143-89-24-SE4; 143-89-26-NE4, NW4, SW4; 143- 89-36-NE4, NW4, SW4	Coal Exploration	7/7/2012

**Financial Statements.** The Board reviewed a Statement of Total Assets by Trust as of May 31, 2012. This report is on file at the Department of Trust Lands office and was for the Board's information; no action was required.

**August, 2012 Oil and Gas Lease Auction Review.** The Board reviewed the oil and gas lease sale list, which will be held in Medora ND at the Roughrider Convention Center on August 7, 2012.

## A D J O U R N

There being no further business, the meeting was adjourned at 9:50 AM.

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Jack Dalrymple, Chairman  
Board of University and School Lands

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Lance D. Gaebe, Secretary  
Board of University and School Lands

**Minutes of the Meeting of the  
Board of University and School Lands  
August 30, 2012**

The August 30, 2012 meeting of the Board of University and School Lands was called to order in the Governor's Conference Room at 9:10 AM by Chairman, Governor Dalrymple.

**Members Present:**

Jack Dalrymple	Governor (by teleconference)
Alvin A. Jaeger	Secretary of State
Kelly Schmidt	State Treasurer (by teleconference)
Wayne G. Sanstead	Superintendent of Public Instruction
Wayne Stenehjem	Attorney General (by teleconference)

**Department of Trust Lands Personnel:**

Lance D. Gaebe	Commissioner
Jeff Engleson	Director, Investment Division
Michael D. Brand	Director, Surface Management Division
Drew Combs	Director, Minerals Management Division
Gerald Fisher	Assistant Director, Energy Infrastructure & Impact Office
Judith F. Schell	Administrative Assistant

**Others in Attendance:**

Greg Burns	North Dakota Education Association
Dale Wetzel	Associated Press

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

A motion to approve the minutes of the July 26, 2012 meeting was made by Attorney General Stenehjem and seconded by Treasurer Schmidt. Motion carried.

## E N E R G Y   I N F R A S T R U C T U R E   A N D   I M P A C T   O F F I C E

**Oil and Gas Impact Fund Grants**

**EIIO Grant Recommendation.** The North Dakota Firefighters Association (NDFA) requested \$6,000 for costs associated with a Train-the-Trainer: Haz Mat IQ course to be held in Mandan in September. The course will be facilitated by Texas Engineering Extension Service (TEEK) and will be made available to fire departments in western and west central North Dakota.

The \$6,000 would be awarded from the oil and gas impact grant funds allocated to the Emergency Response grant round, for which applications are still being received.

**Motion: The Board authorize \$6,000 be awarded from the Oil and Gas Impact Grant Fund through a political subdivision to facilitate the North Dakota Firefighters Association Haz Mat IQ training program.**

Action Record	Motion	Second	Aye	Nay	Absent
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(08/12)

Secretary Jaeger			X		
Superintendent Sanstead		X	X		
Treasurer Schmidt	X		X		
Attorney General Stenehjem			X		
Governor Dalrymple			X		

**Energy Impact Grant Schedule.** At its July 26, 2012 meeting, the Board supported advancing the remaining scheduled grant rounds for the 2011-2013 biennium. The three grant rounds remaining are:

- Emergency services and response
- Open (Political subdivisions other than Cites, Townships and Emergency Services)
- Township Roads and Transportation

The Energy Infrastructure and Impact office is accepting grant applications for enhancing emergency services and response capabilities through September 9, 2012. Regional meetings with applicants will be on September 17 through 21. Assisting again will be staff from the Division of Emergency Medical Services and Trauma within the Department of Health. Recommendations for awards will be presented to the Land Board for consideration at it's September 27, 2012 meeting. The Land Board has preliminarily allocated \$4 million for this round.

The Open Grant Round is for political subdivisions without a designated grant round (other than cities, townships and emergency services), but including school districts, park districts, water resource districts, airport authorities and other taxing entities may apply through September 27, 2012. Award recommendations will be presented to the Land Board at it's October 25, 2012 meeting. The Board has preliminarily allocated \$2.5 million for this round.

The Township Roads and Transportation Grant Round will open for applications October 1, 2012 with applications being accepted through October 29, 2012. Regional meetings with the applicants will be scheduled in early November followed by a review by the Energy Infrastructure and Impact Grants Advisory Committee. There was a preliminary allocation of \$2.5 million for the township roads and transportation grant round.

## Flood Impact Political Subdivision Infrastructure

**Flood Impacted Political Subdivision Infrastructure Development – Grant Program Recommendations.** The Energy Infrastructure and Impact Office was tasked by the Legislature with implementation of the \$30 million Flood Impacted Political Subdivision Infrastructure Development Grant Program. The Land Board is responsible for awarding grants under the program.

The Office received over 170 grant requests for a total of over \$100 million. In two previous meetings the Board awarded \$27,495,080.

The nine eligible counties were asked to submit applications for the remaining funds that reflected unanticipated needs or cost overruns for projects funded by the earlier awards. Applicants were again asked to prioritize project needs on a county wide basis.

The Director and staff evaluated the applications on the following criteria:

- The project is a result of the flood impact
- The project will minimize further damage to infrastructure
- The project moves people away from flood prone areas
- The political subdivision has the ability to complete and match cost share in the time frame prescribed in the legislation
- The project is a good investment

- The project is connected with earlier projects

Based on its review, the EIO Director and staff recommend that the Board approve the following applications for funds with this grant award of \$2.4 million coupled with previous awards, the Board has now approved \$28,895,080 for flood infrastructure needs

### 2012 FLOOD IMPACT GRANT AWARD RECOMMENDATIONS

Political Sub Name	Project	Project Description	Anticipated Cost of Project	Amount Requested	Recommend Award
<b>WARD</b>					
Ward County	Old Settlers Park, Burlington	Flood Reconstruction to Pedestrian Bridge.	\$20,033	\$10,017	\$10,017
Ward County	Rip Rap 359th AV	Installation of Rip Rap to Prevent Erosion to Inundated Roadway from 2011 Flood Event.	\$12,000	\$6,000	\$6,000
Ward County	CR-20	Grade Raise for Flooded Roadway.	\$67,871	\$33,936	\$33,936
Ward County	CR -22	Rip Rap/ Grade Raise for Flood Inundated Roadway.	\$75,000	\$37,500	\$37,500
Ward County	County Wide Flood Road Base Repair	Repair of Road Base in Roadways Due to High Water on Both Sides of Roadway throughout County	\$300,000	\$150,000	\$150,000
Ward County	CR-14	Drive Sheet Pile to Protect Roadway from Eroding Due to Increased Periodic Flows of the Mouse River.	\$400,000	\$200,000	\$200,000
Ward County	Tatman Township Bridge	Replace Structure, Old Bridge was Damaged beyond repair from Prior Floods.	\$250,000	\$125,000	\$125,000
City of Minot	Sewer Expansion/Lift Station Upgrade	Repair of 6 lift stations and expansion of sewer system to North and South of town, to move residents away from river. Already received \$4,050,000 Cost Over run	\$28,000,000	\$1,810,000	\$1,810,000
<b>McHENRY</b>					
McHenry County	Mouse River Bank Stabilization	Stabilize river bank so it doesn't cut new channel and run into east bay area, causing the loss of many irrigated acres	\$235,438	\$40,000	\$27,547
			<b>\$29,360,342</b>	<b>\$2,412,453</b>	<b>\$2,400,000</b>

Motion: **That the Board approve the final flood grant awards as identified in the preceed table from funds allocated to the Flood Impacted Political Subdivision Infrastructure Development Grant Program.**

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger	X		X		
Superintendent Sanstead		X	X		

Treasurer Schmidt			X		
Attorney General Stenehjem			X		
Governor Dalrymple			X		

**SURFACE MANAGEMENT DIVISION**

**Construction Aggregate Lease Application.** Crushed Rock Sales LLC Spokane WA submitted a Construction Aggregate Lease application requesting to mine approximately 775,000 cubic yards of gravel from the NW4-16-157-90 Williams County to be used for area oil field projects.

The major soil within the proposed mine site is Wabek sandy loam (2361) 2 –6% slopes and Wabek sandy loam (2362) 6 –25% slopes. Gravel deposits are common to Wabek soils. Mining would involve the stockpiling the top eight inches suitable plant growth material for use in reclamation and the removal of an approximate 12 to 16 ft seam of sand and gravel. Potential area of disturbance is approximately 80 acres. Crushed Rock Sales LLC is requesting a 5 year lease term.

An area survey indicates royalty rates ranging from 49¢ to \$3.50 per cubic yard for the area with \$2.00/cubic yard being the most common rate reported. Chapter 85-06-03-07 of the Construction Aggregate Rules requires that lease application with a lease term greater than one year from private entities must be offered at public auction.

Chapter 85-06-03-13 of the Construction Aggregate Rules requires the lessee to obtain and retain in force a bond, in an amount and in the form required by the Commissioner to assure payment of royalties and proper reclamation. The initial bond for an 80-acre mining site would be \$86,400 and adjusted annually.

Motion: **That the Board authorizes the Commissioner to advertise and lease at public auction the construction aggregate deposit located within the NW4-16-157-90 Williams County for a term of 5 years with an opening bid of \$2.10 per cubic yard.**

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

**Proposed Changes to Construction Aggregate Rules.** Construction aggregate leases with a term greater than one year go to public auction. Paragraph 85-06-03-07 of the board's construction aggregate rules requires the Board to approve each auctioned lease. The Commissioner requested the Board's approval for the following changes to the construction aggregate rules.

**85-06-03-07 AUCTIONED LEASES.** *Except as provided in section 85-06-03-06(1), leases with a term greater than one year must be offered at public auction. The Commissioner, on behalf of the board, is authorized to approve leases for a term greater than a year. If the commissioner determines that board review is warranted, the application will be brought before the board for its consideration. Notice of such an auction must be published in the official newspaper of the county where the lands are located and in the Bismarck Tribune. Such notice must be published once, at least ten days prior to the day of the auction. The notice must contain the legal description of the land, the lease term, and the time and place where the auction will be held. Bidding must be on a royalty per yard basis with proportionate per ton adjustments rounded to the nearest cent. The commissioner will prepare a report for the board of the construction aggregate leases issued since the previous board meetings.*

Motion: **That the Board approve the recommended changes to its construction aggregate rules.**

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger		X	X		

Superintendent Sanstead	X		X		
Treasurer Schmidt			X		
Attorney General Stenehjem			X		
Governor Dalrymple			X		

**“Small Tract” Sale Approval of Original Grant Land (Burke 159-93-36: Lot 6).** On January 26, 2012 the Land Board directed the Commissioner to obtain an appraisal for the potential sale of the above-referenced 3.2-acre small tract. This lot is on the border of Burke and Mountrail Counties and on the shore of Powers Lake, a small non-navigable lake directly south of the City of Powers Lake. This is the last parcel of original grant land in section 36.

Burke County completed an appraisal of the 3.2-acre parcel on June 4, 2012. The appraised valuation for the parcel was \$8,000. The appraisal included 3 comparable sales from 2010 and 2011.

This tract is currently leased for hay. The lessee was notified in January, 2012 of the possible sale. The sale would be subject to the lease through December 31, 2012 with possession of the property on January 1, 2013.

**Motion: That the Board direct the Commissioner to offer for sale at public auction: 3.2 acres of property within Section 36, T159N, R93W, Lot 6, Burke County. The auction would be held at the Burke County Courthouse with the minimum acceptable bid set at \$8,000 for the tract.**

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

**“Small Tract” Sale Approval of Original Grant Land (Stutsman 143-64-36: Lot 1).** On April 29, 2011 the Land Commissioner requested authority to obtain an appraisal for the potential sale of this small tract. This lot is the last parcel in the section and is situated along the shore of an alkali lake. The tract has been unleased since 1994 and is of no leasing value to the Common Schools Trust.

The highest and best use for this tract is as a cabin site or as an add-on to the adjacent pastureland. In 2002 the ND Game and Fish Department deemed this tract to be low value for public purposes. There is legal access along the north section line.

Stutsman County completed an appraisal on the 36.2 acre parcel on August 29, 2011. The appraised valuation was \$ 143/acre or \$5,200 for the parcel. This was an extremely low appraisal because of some erroneous assumptions. The Department of Trust Lands staff further evaluated the county’s comparable sales and has proposed a minimum opening bid of \$468 per acre for a total price of \$16,941. This is the 2007-2011 average pastureland value for Stutsman County from the U.S.D.A. Agricultural Statistics Service Cash Rent Survey and is similar to the county appraisal’s comparable sales.

**Motion: That the Board authorize the Commissioner to offer/sell the 36.2 acre tract within Lot 1 of Section 36 of T143N, R64W, Stutsman County at public auction with a minimum opening bid of \$468 per acre for a total of \$16,941.**

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

**Request for Appraisal and “Small Tract” Sale Approval (Cass 137-55-24: SE4NW4).** The Commissioner requested approval to appraise and sell the SE4NW4 of Section 24, T137N, R55W, Cass County. This 40-acre tract has not been leased for over 30 years and has minimal agricultural value. The

tract qualifies for sale under the Board’s land sale policy as a small, isolated, difficult to manage tract. The property is the only trust land in Cass County.

This tract is original grant land in the University of North Dakota trust fund.

The parcel is currently inundated by the adjacent wetland, which fluctuates over time. The North Dakota Game and Fish department rated this tract as having low value for wildlife and other recreational uses (1975 Classification of State School Lands).

There is no legal section line access to this land-locked tract.

**Motion: That the Board authorize the Commissioner to obtain an appraisal on the SE4NW4 of Section 24, T137N, R55W, Cass County, and that he offer/sell this tract at public auction for not less than the appraised value.**

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

**Request for Appraisal and “Small Tract” Sale Approval (Cavalier 159-57-4: SE4SW4).** The Commissioner requested approval to appraise and sell the SE4SW4 Section 4, T159N, R57W, Cavalier County. This 40-acre tract has been sporadically leased in the past 30+years. The current lease value is \$244/year. The tract qualifies for sale under the Board’s land sale policy as a small, isolated, difficult to manage tract.

The parcel contains the north branch of the Park River and has steep topography and is suitable only for grazing. Due to the soil and topography limitations, similar adjacent land to the east and west remain in permanent cover. At 40 acres in size, this tract is too small and too isolated to be of value for hunting, hiking, or other public recreation uses. The Game and Fish Department has indicated that this tract’s value for public purposes is low and have not expressed an interest in this tract.

There is legal section line access to this tract by following two track trails. This 40-acre tract is managed for the University of North Dakota Trust. The tract was sold under contract in 1906 but later cancelled in 1927. There is minimal demand for leasing a small parcel of grass in a predominately cropland neighborhood. The highest and best use of this land will be either for an add-on grazing unit or a cabin site for recreation.

**Motion: That the Board authorize the Commissioner to obtain an appraisal on the SE4SW4 of Section 4, T159N, R57W, Cavalier County, and that he offer/sell this tract at public auction for not less than the appraised value.**

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

**Request for Appraisal and “Small Tract” Sale Approval (Walsh 158-57-29: SE4NW4).** The Commissioner requested approval to appraise and sell the SE4NW4 of Section 29, T158 N, R57 W, Walsh County. This 40-acre tract has no leasing history in the past 20+ years. The tract qualifies for sale under the Board’s land sale policy as a small, isolated, difficult to manage tract.

The parcel contains a coulee and the topography makes it unsuitable as cropland. Similar land adjacent to the eastern boundary remains in permanent cover due to the soil and topography limitations. ND Game and Fish department rated this tract as having low value for wildlife and other recreational uses (1975 Classification of State School Lands). At 40 acres in size, this tract is too small to be of public value for recreation. It also does not have legal or section line access and is surrounded by privately owned land.

This 40-acre tract is managed for the University of North Dakota Trust. The tract was sold under contract in 1909 but later cancelled in 1932. There has been no agricultural leasing of this small parcel of grass, which is in a predominately cropland neighborhood.

**Motion: That the Board authorize the Commissioner to obtain an appraisal of SE4NW4 of Section 29, T158N, R57W, Walsh County, and that he offer/sell this tract at public auction for not less than the appraised value.**

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

## I N V E S T M E N T S   D I V I S I O N

**Creation of New EAFE Index Account.** During the June 28, 2012 Board meeting, the Commissioner expressed concerns about the International Alpha portfolio managed for the permanent trusts by State Street Global Advisors (SSGA). The Commissioner and staff had met with SSGA to discuss historic performance and changes made to the quantitative models used to manage this portfolio.

The Commissioner continues to review this investment product. SSGA has been asked to prepare a detailed attribution analysis which will help identify the source of portfolio gains and losses. From that information, the Commissioner will form a recommendation regarding whether the Board should continue using this product.

In the meantime, there are funds that need to be added to an international equity allocation, and the Commissioner has concerns about adding money to an investment that is under “watch”. Also, if the Board decides to terminate this mandate, a home will be needed for the funds currently invested in this account. For those reasons, the Commissioner recommends opening an EAFE Index account with a major index provider.

The EAFE index is a benchmark of the performance of large cap stocks in the major markets of Europe, Australia and Southeast Asia. This index has been in existence for more than 40 years and is the primary index used by institutional investors to benchmark the performance of large cap international equity portfolios.

State Street Global Advisors and Northern Trust, two of the country’s largest index managers, were asked to submit bids to manage an EAFE Index account for the Board. Invitations were limited to these two entities because they offer an EAFE Index product and the Board has existing contractual relationships that will allow for the prompt opening of a new account. Since an EAFE Index product is essentially a commodity, the primary consideration when hiring an EAFE Index manager is price. Although both companies made competitive offers, Northern Trust’s fee offer was better than SSGA’s offer.

**Motion: That the Board grant the Commissioner the authority to hire Northern Trust to establish an EAFE Index account for the permanent trusts’ portfolio and that near-term funding allocations for international equity be put into this account. The EAFE Index account will be restricted as a non-securities lending account.**

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

Governor Dalrymple			X		
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## R E P O R T S

**Investment Performance Report for Quarter Ending June 30, 2012.** The investment performance report covered the performance of the Land Board's investment program for the period of April 1, 2012 through June 30, 2012. A complete copy of this report is on file at the Department of Trust Lands office and was for the Board's information; no action was required.

**Financial Statements.** The Board reviewed the Financial Statement Summary and Total Assets by Trust as of June 30, 2012. These reports are on file at the Department of Trust Lands office and were for the Board's information; no action was required.

### Report of Easements Issued by Land Commissioner

(07-12-12 thru 08-21-12: No Action Requested)

BAKKENLINK PIPELINE LLC MCK-149-98-16-SE4 MCK-152-96-36-NW4, SW4 WIL-154-95-16-NE4, SE4	Oil Gathering Pipeline	7/30/2012
CONSOLIDATED TELCOM DUN-143-92-16-SE4 DUN-146-91-16-NW4 E OF HWY, SW4 E OF HWY	Communication Cable	7/24/2012
BEAR TRACKER ENERGY LLC MOU-157-90-36-SW4	Gas Gathering Pipeline	8/3/2012
BNI COAL OLI-141-83-16-NE4	Equipment Site	8/7/2012
SEQUEL ENERGY LLC GOL-139-103-16-NE4, NW4	On-lease Act. Amend: Vertical Oil Well	7/20/2012
MCKENZIE ELECTRIC COOP INC MCK-148-101-16-E2NE4, E2SE4	Electric Transmission Line	8/2/2012
WESTERN AREA POWER ADMIN STU-139-69-16-NE4	Access Road	7/20/2012
HILAND OPERATING LLC MCK-152-99-36-NE4, SE4	Multiple Pipelines	7/31/2012
TERRITORIAL - LANDWORKS INC WAR-155-84-1-SW4NW4 LYING N & E	General Land Surveys OF RIVER CENTERLINE	8/16/2012
ND STATE WATER COMMISSION DIV-161-103-36-NE4, NW4	Water Test Well	7/26/2012
MOUNTRAIL-WILLIAMS ELECTRIC WIL-155-102-36-LOTS 1,2,5,6	Electric Distribution Line	7/27/2012
MOUNTRAIL-WILLIAMS ELECTRIC WIL-158-102-36-SE4	Electric Distribution Line	7/27/2012
ONEOK ROCKIES MIDSTREAM WIL-159-100-36-NE4, SE4, SW4	Gas Gathering Pipeline	8/6/2012
HILAND OPERATING LLC BRK-160-94-16-NE4, SE4	Multiple Pipelines	7/26/2012

MCKENZIE ELECTRIC COOP	Electric Transmission Line	8/2/2012
MCK-148-103-36-NE4, NW4, SE4, SW4		
NORTH AMERICAN COAL ROYALTY	Soil Testing	7/16/2012
MER-142-88-6-E2SW4, LOTS 6,7, SE4NW4, LOTS 3,4,5, SW4NE4, LOT 2, W2SE4		
MER-142-89-12-N2NE4, N2NW4		
MER-143-88-8-SE4, SW4		
MER-143-89-24-SE4		
MER-143-89-26-NE4, NW4		
MER-143-89-36-NE4, NW4, SW4		
ONEOK ROCKIES MIDSTREAM	Gas Gathering Pipeline	7/17/2012
BIL-141-101-16-NW4, SE4		
BIL-141-101-21-NE4		
BIL-141-101-22-NW4		
BIL-141-101-22-NW4		
PETRO-HUNT LLC	Section Line Road	7/20/2012
MCK-154-95-36-SE4		
BISON PIPELINE LLC	Amend: Gas Transmission Pipeline	8/2/2012
BOW-130-106-16-NE4SE4, LOTS 7,10, W2SW4, LOTS 8,9		
BOW-131-104-16-SE4		
HET-135-96-36-NE4		
SLO-133-101-36-SE4		
HILAND OPERATING LLC	Amend: Gas Gathering Pipeline	7/18/2012
WIL-156-101-16-NE4, NW4, SE4, SW4		
BANNER TRANSPORTATION LLC	Amend: Oil Gathering Pipeline	7/18/2012
WIL-156-101-16-NE4, NW4, SE4, SW4		
BANNER TRANSPORTATION LLC	Amend: Multiple Pipelines	7/17/2012
WIL-156-101-16-NE4, SE4		
CONTINENTAL RESOURCES INC	Section Line Road	7/16/2012
WIL-157-99-36-SE4		
CONTINENTAL RESOURCES INC	Water Injection	7/26/2012
BOW-129-104-16-SW4		
CONSOLIDATED TELCOM	Easement Release	7/17/2012
HET-134-94-8-SE4		
CONSOLIDATED TELCOM	Easement Release	7/17/2012
HET-134-95-16-NW4		
CONSOLIDATED TELCOM	Easement Release	7/17/2012
HET-134-94-8-SE4		
CONSOLIDATED TELCOM	Easement Release	7/17/2012
HET-134-94-8-SE4		
CONSOLIDATED TELCOM	Easement Release	7/17/2012
HET-134-94-8-SE4		
CONSOLIDATED TELCOM	Easement Release	7/17/2012
DUN-146-91-16-NW4 E OF HWY, SW4 E OF HWY		
CONSOLIDATED TELCOM	Easement Release	7/17/2012
DUN-146-91-16-NW4 E OF HWY, SW4 E OF HWY		

CONSOLIDATED TELCOM DUN-142-92-16-NE4 DUN-143-92-16-SE4	Easement Release	7/17/2012
R-SQUARED GLOBAL LLC: General Land Surveys WAR-155-84-1-SW4NW4 LYING N & E OF RIVER		7/30/2012
BURLINGTON RES OIL & GAS LP MCK-151-96-36-SE4, SW4	Section Line Road	8/12/2012

### CRUSHED ROCK AGGREGATE PROSPECTING

AGGREGATE CONSTRUCTION INC MOU-156-89-36-NE4 HET-134-94-16-NE4 HET-135-96-16-SW4 MOU-156-89-36-NW4 W OF LAKE MOU-152-92-14-SE4 MOU-157-94-36-NE4 OLI-141-85-16-SW4 OLI-143-87-36-SW4 WIL-154-96-16-NE4 WIL-156-101-36-SW4	Aggregate Prospecting	8/15/2012
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The following letters of permission were issued to groups wishing to use school trust lands under the Board's policy for access to trust lands by organizations. No fees are charged for this use.

NDSU SCHL OF NATRL RES SCIENCES WAR-151-81-16-SE4, SW4	Access to School Land
EARTHWORM EXCAVATING ADA-129-94-16-NE4, NW4	Access to School Land – Mine Reclamation

**August 2012 Oil and Gas Lease Auction Results.** The Board reviewed a report of the results from the August 07, 2012 oil and gas lease sale, which was held at Roughrider Conference Center, Medora, ND. The memo is on file at the Department of Trust Lands office and was for the Board's information only; no action was required.

### ADJOURN

There being no further business, the meeting was adjourned at 10:10 AM.

\_\_\_\_\_  
Jack Dalrymple, Chairman  
Board of University and School Lands

\_\_\_\_\_  
Lance D. Gaebe, Secretary  
Board of University and School Lands

**Minutes of the Meeting of the  
Board of University and School Lands  
September 27, 2012**

The September 27, 2012 meeting of the Board of University and School Lands was called to order in the Governor's Conference Room at 9:02 AM by Chairman Jack Dalrymple.

**Members Present:**

Jack Dalrymple	Governor
Alvin A. Jaeger	Secretary of State
Kelly Schmidt	State Treasurer
Wayne G. Sanstead	Superintendent of Public Instruction
Wayne Stenehjem	Attorney General

**Department of Trust Lands Personnel:**

Lance D. Gaebe	Land Commissioner
Jeff Engleson	Director, Investment Division
Drew Combs	Director, Minerals Management Division
Levi Erdmann	Programmer Analyst
Gerry Fisher	Assistant Director, Energy Infrastructure & Impact Office
Linda Fisher	Unclaimed Property Administrator
Judith F. Schell	Administrative Assistant

**Others in Attendance:**

Greg Burns	North Dakota Education Association
Charles Carvell	Attorney's General Office
Jerod Tufte	Governor's Office

## APPROVAL OF MINUTES

A motion to approve the minutes of the August 30, 2012 meeting was made by Attorney General Stenehjem and seconded by Treasurer Schmidt. Motion carried.

## ENERGY INFRASTRUCTURE AND IMPACT OFFICE

**Energy Infrastructure and Impact Office – Fall 2012 Emergency Response Grants.** The focus for the Energy Impact Fall 2012 grant round was emergency services and response. The office received and reviewed 137 grant applications with total requested funds of \$24,648,878. The Land Board has previously designated \$4 million for awards this grant round.

The Energy Impact Office (EIO) staff, joined by a representative from the North Dakota Department of Health's Division of Emergency Medical Services & Trauma (DEMST) traveled to eleven communities holding fourteen meetings with applicants. Applicants were interviewed about their requests and the information was put to use during the application evaluation process in consideration for award.

Staff from both the EIO and DEMST evaluated the applications giving consideration to the criterion of objective, public safety, financial need, project being ready and achievable, contributing to long term economic activity and the project being a direct result of oil and gas production activity.

Applications were reviewed by the Energy Infrastructure and Impact Grants Advisory Committee and the accompanying list includes 65 recommended awards totaling \$3,994,000.

Political Sub Name	City	County	Project	Amount Requested	Grant
ALAMO RURAL FIRE DISTRICT	ALAMO	WILLIAMS	TRUCKS AND FOAMERS	\$150,000	\$60,000
ALEXANDER RURAL FIRE DISTRICT	ALEXANDER	MCKENZIE	TANKER TRUCK	\$35,000	\$35,000

Political Sub Name	City	County	Project	Amount Requested	Grant
ALEXANDER RURAL FIRE DISTRICT	ALEXANDER	MCKENZIE	PERSONAL PROTECTION GEAR	\$30,000	\$15,000
AMIDON RURAL FIRE DISTRICT	AMIDON	SLOPE	CLASS A FOAM	\$5,000	\$5,000
BILLINGS CO. RURAL FIRE PROTECTION DIST.	BELFIELD	BILLINGS	TRUCK REPLACEMENT	\$260,000	\$100,000
CARPIO RURAL FIRE DISTRICT	CARPIO	WARD	GEAR FOR NEW RECRUITS	\$11,026	\$5,513
CITY OF ARNEGARD	ARNEGARD	MCKENZIE	ARNEGARD AND ALEXANDER POLICE DEPARTMENT ESTABLISHMENT	\$708,000	\$100,000
CITY OF BEACH	BEACH	GOLDEN VALLEY	TURN OUT GEAR	\$28,000	\$28,000.00
CITY OF BEACH	BEACH	GOLDEN VALLEY	SCBA AND THERMO IMAGE CAMERA	\$37,000	\$37,000
CITY OF BELFIELD	BELFIELD	STARK	AMBULANCE AND CARDIAC MONITOR	\$26,000	\$26,000
CITY OF BELFIELD	BELFIELD	STARK	AMBULANCE AND CARBON MONOXIDE MONITORS	\$11,520	\$11,520
CITY OF BOWMAN	BOWMAN	BOWMAN	CPR COMPRESSION MACHINE FOR BOWMAN AMBULANCE	\$14,767	\$14,767
CITY OF DICKINSON	DICKINSON	STARK	PURCHASE OF A LENCO BEARCAT SPECIAL RESPONSE VEHICLE	\$250,000	\$100,000
CITY OF MANDAN (FIRE DEPARTMENT, for NDFA) - Awarded August 2012	MANDAN	MORTON	HAZMAT IQ TRAINING FOR AREA PUBLIC SAFETY STAFF	\$6,000	\$6,000
CITY OF MINOT	MINOT	WARD	RELOCATION OF FIRE DEPARTMENT TRAINING GROUNDS	\$1,700,000	\$250,000
CITY OF NEW TOWN	NEW TOWN	MOUNTRAIL	RESCUE TRUCK AND PERSONAL PROTECTIVE EQUIPMENT	\$205,00	\$60,000
CITY OF NEW TOWN	NEW TOWN	MOUNTRAIL	TWO NEW PATROL VEHICLES AND RELATED EQUIPMENT	\$77,800	\$50,000
CITY OF NEW TOWN	NEW TOWN	MOUNTRAIL	PURCHASE A MODULAR OFFICE FOR POLICE DEPARTMENT	\$61,831	\$50,000
CITY OF POWERS LAKE	POWERS LAKE	BURKE	POLICE EQUIPMENT	\$175,820	\$55,670
CITY OF SOUTH HEART	SOUTH HEART	STARK	SOUTH HEART POLICE EQUIPMENT	\$24,352	\$24,352
CITY OF STANLEY	STANLEY	MOUNTRAIL	SCBA AND SPRAY NOZZLES	\$33,600	\$21,000
CITY OF STANLEY	STANLEY	MOUNTRAIL	NEW AMBULANCE PURCHASE	\$254,000	\$85,000
CITY OF STANLEY	STANLEY	MOUNTRAIL	2 POLICE VEHICLES AND EQUIPMENT	\$185,262	\$100,000
CITY OF TIOGA	TIOGA	WILLIAMS	LADDER TRUCK	\$601,328	\$150,000
CITY OF WATFORD CITY	WATFORD CITY	MCKENZIE	AMBULANCE - BUILDING CONSTRUCTION/RENOVATION AND VEHICLE	\$449,805	\$200,000
CITY OF WATFORD CITY	WATFORD CITY	MCKENZIE	FIRE DEPARTMENT BUILDING CONSTRUCTION	\$2,500,000	\$500,000
CITY OF WATFORD CITY	WATFORD CITY	MCKENZIE	POLICE VEHICLES	\$152,120	\$126,060
CITY OF WILLISTON	WILLISTON	WILLIAMS	TURN OUT GEAR AND FIRE EQUIPMENT	\$450,000	\$125,500
DICKINSON RURAL FIRE DISTRICT	DICKINSON	STARK	PERSONAL PROTECTIVE EQUIPMENT	\$110,000	\$55,000
DIVIDE COUNTY AMBULANCE SERVICE	CROSBY	DIVIDE	AMBULANCE REPLACEMENT	\$90,351	\$90,351
DUNN COUNTY	MANNIN	DUNN	EMERGENCY RESPONSE VEHICLES	\$80,618	\$40,309
FORTUNA RURAL FIRE DISTRICT	FORTUNA	DIVIDE	INFRARED IMAGING CAMERA	\$9,500	\$4,000
GLENBURN RURAL FIRE DISTRICT	GLENBURN	RENVILLE	RESCUE VEHICLE AND EQUIPMENT	\$40,000	\$40,000
GRENORA AMBULANCE DISTRICT	GRENORA	WILLIAMS	EQUIPMENT	\$9,740	\$9,740
GRENORA AMBULANCE DISTRICT	GRENORA	WILLIAMS	BUILDING/GROUNDS IMPROVEMENT	\$27,725	\$27,725

Political Sub Name	City	County	Project	Amount Requested	Grant
HALLIDAY RURAL FIRE DISTRICT	HALLIDAY	DUNN	WATER TANKER TRUCK & GRASS UNIT	\$195,541	\$97,770
KENMARE RURAL FIRE PROTECTION DISTRICT	KENMARE	WARD	REPLACE QUICK RESPONSE TRUCK	\$70,000	\$35,000
KILLDEER AREA AMBULANCE DISTRICT	MANNING	DUNN	REPLACING A 1995 AMBULANCE WITH A MODERN 2012 AMBULANCE	\$67,166	\$67,166
KILLDEER AREA AMBULANCE DISTRICT	MANNING	DUNN	CONSTRUCTION OF A NEW AMBULANCE HALL	\$1,071,000	\$14,869
LANSFORD FIRE DISTRICT	LANSFORD	BOTTINEAU	BUNKER GEAR & PAGERS	\$20,000	\$10,000
MARMARTH AMBULANCE SERVICE	MARMARTH	SLOPE	LAPTOPS FOR STUDENTS	\$2,845	\$2,845
MARMARTH AMBULANCE SERVICE	MARMARTH	SLOPE	OFFICE COMPUTER	\$2,850	\$2,850
MARMARTH RURAL FIRE DISTRICT	MARMARTH	SLOPE	PURCHASING PERSONAL PROTECTIVE EQUIPMENT	\$47,106	\$23,553
MAXBASS RURAL FIRE DEPARTMENT	MAXBASS	BOTTINEAU	PICKUP REPLACEMENT	\$64,485	\$64,485
MCKENZIE COUNTY RURAL FIRE PROT. DIST.	WATFORD CITY	MCKENZIE	SCBA'S	\$64,000	\$35,500
MERCER COUNTY	STANTON	MERCER	WESTERN MERCER COUNTY RADIO REPEATER	\$6,845	\$6,845
NEW TOWN RURAL FIRE PROTECTION DISTRICT	NEW TOWN	MOUNTRAIL	RESCUE TRUCK AND PERSONAL PROTECTIVE EQUIPMENT	\$205,000	\$60,000
PARSHALL AMBULANCE DISTRICT	PARSHALL	MOUNTRAIL	COT LIFTER	\$164,307	\$20,000
PARSHALL RURAL FIRE DISTRICT	PARSHALL	MOUNTRAIL	INITIAL RESPONSE TRUCK	\$100,000	\$100,000
POWERS LAKE RURAL FIRE DISTRICT	POWERS LAKE	BURKE	PERSONAL PROTECTION EQUIPMENT	\$99,977	\$3,500
RAY AMBULANCE DISTRICT	RAY	WILLIAMS	PORTABLE RADIOS	\$12,000	\$12,000
RAY AMBULANCE DISTRICT	RAY	WILLIAMS	DEFIBRILLATOR	\$24,685	\$24,685
RAY FIRE DISTRICT	RAY	WILLIAMS	CRASH/RESCUE TRUCK	\$219,750	\$175,800
RENVILLE COUNTY RURAL AMBULANCE DISTRICT	MOHALL	RENVILLE	AMBULANCE	\$50,000	\$50,000
SHERWOOD RURAL FIRE DIST	SHERWOOD	RENVILLE	TURNOUT GEAR	\$30,000	\$15,000
STANLEY RURAL FIRE DISTRICT	PALERMO	MOUNTRAIL	TRUCK AND SCBA EQUIPMENT	\$206,000	\$103,000
STARK COUNTY	DICKINSON	STARK	9-1-1 ENHANCEMENTS	\$17,725	\$17,725
STARK COUNTY	DICKINSON	STARK	AMBULANCE AND EQUIPMENT	\$145,500	\$72,750
TRENTON TOWNSHIP	TRENTON	WILLIAMS	FIRE DEPARTMENT PERSONAL PROTECTIVE GEAR	\$40,000	\$27,500
TRENTON TOWNSHIP	TRENTON	WILLIAMS	TRENTON RURAL FIRE DEPARTMENT BUILDING	\$50,000	\$50,000
UNITED RURAL AMBULANCE DISTRICT	BERTHOLD	WARD	POWER LIFT STRETCHER	\$22,065	\$20,000
VELVA AMBULANCE	VELVA	MCHENRY	COMMUNICATION EQUIPMENT	\$12,500	\$6,250
WESTHOPE AMBULANCE SERVICE	WESTHOPE	BOTTINEAU	AMBULANCE	\$90,000	\$90,000
WILLIAMS COUNTY	WILLISTON	WILLIAMS	SHERIFF OFFICE VEHICLE EQUIPMENT AND COMPUTER	\$71,400	\$71,400
WILLISTON RURAL FIRE DISTRICT	WILLISTON	WILLIAMS	SCBA'S	\$32,000	\$16,000
WILLISTON RURAL FIRE DISTRICT	WILLISTON	WILLIAMS	INITIAL RESPONSE TRUCK	\$95,000	\$95,000
<b>Number of Awards</b>	<b>66</b>			<b>\$12,802,912</b>	<b>\$3,994,000</b>

**Motion: That the Land Board adopt the Energy Impact Grants Advisory Committee and EIIO staff recommendations for grant awards from the Oil and Gas Impact Grant fund to the requesting emergency services and response applicants as identified in the preceeding list.**

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

**Contingency Fund – City of Flaxton Emergency Request.** The City of Flaxton in Burke County requested funds for an emergency infrastructure repair to their elevated water storage tank due to sudden and unexpected leaks to the riser pipe supplying water from the tower.

The population of Flaxton has risen from 57 to 120 in the past two years, as a result of energy activity in the area. With the leaks, the water pressure has been lowered considerably. The City submitted a grant application and is requesting consideration by the Land Board to fund this emergency need.

The unallocated balance of the Oil and Gas Impact Grant Fund is \$242,926, which had been reserved as a contingency for emergency requests.

**Motion: That the Land Board approve an emergency grant award from the Oil and Gas Impact Grant Fund for the City of Flaxton not to exceed \$25,000.**

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

## FINANCIAL OPERATIONS

**Assigned Fund Balance of the Strategic Investment and Improvements Fund.** Revenues from sovereign lands are deposited into the Strategic Investment and Improvements Fund (SIIF); this fund was previously known as the Lands and Minerals Trust Fund. At its August 25, 2011 meeting, the Land Board classified \$76,630,216 of this fund as of June 30, 2011, as a “Designated Fund Balance” indicating the capital should not be transferred out of the fund until title claims to certain riverbed leases have been resolved. The Board also stipulated that any similar revenues received during FY 2012 be included in the Designated Fund Balance.

The former accounting term “Designated Fund Balance” has changed and the monies set aside are now known as an “Assigned Fund Balance”.

The Assigned Fund Balance within the SIIF relates to potential disputes to the State’s ownership of the minerals beneath navigable bodies of water. Until there is a resolution of claims to these minerals, the balance is an estimate of potential disputed amounts so money would be available for refunds if needed. The 2011 Legislature affirmed the Land Board’s decision to set these monies aside when they passed House Bill 1451, which referenced funds reserved from transfer to other uses.

Based on the Department’s analysis, there are approximately 453 tracts that contain acreage that could potentially be disputed or questioned, with bonuses and rentals associated with these acres totaling an estimated \$95,799,332. The calculation includes all bonus and rentals received for tracts within the Fort Berthold Reservation, as well as an estimate of the bonus and rentals collected from the approximate “shore zones” of the Missouri and Yellowstone Rivers.

Legal actions related to sovereign ownership continue, but there is no specific outcome anticipated related to these tracts. The Commissioner is seeking this action because it is possible, not probable that at least a portion of funds related to riverbed tracts may need to be refunded.

**Motion: That the Board declare \$95,799,332 as the cumulative Assigned Fund Balance of the Strategic Investment and Improvements Fund, as of June 30, 2012. These funds should not be transferred from the SIIF until title claims related to these leases have been resolved. Secondly, any amounts collected on potentially disputed riverbed acreage during FY 2013 should be similarly designated for both distribution and financial statement purposes.**

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

## INVESTMENTS DIVISION

**Trust Company of the West Investment Manager Termination.** The Trust Company of the West (TCW) has managed a convertible securities portfolio for the Land Board for over 20 years. During that time, although the performance of the portfolio often lagged the benchmark by a small margin, TCW generally did what they were hired to do, which was to manage a conservative, higher than index quality portfolio of convertible securities.

Over the years there have been a number of changes in both the people that manage this portfolio and in the ownership of the firm. These changes have been transparent and have not resulted in changes in the way the portfolio was managed. This portfolio has historically been managed in an equity-like way, and the Land Board has always considered convertible securities as a part of the permanent trusts' equity portfolio. The last major change in personnel at TCW was in 2009 and 2010, when TCW's fixed income team left the company, and in response, TCW merged with MetWest, a company that specialized in fixed income management.

However, during the first six month of 2012, the portfolio underperformed the investment grade index by close to 400 basis points and the broader index by almost 600 basis points.

In early August it was announced that the Carlyle Group, a private equity firm, was in negotiations to buy TCW from TCW's current parent company Societe General SA. A detailed conversation was arranged with TCW about the portfolio and upcoming ownership changes.

During an August 22, 2012 conversation with TCW, and in a subsequent email from them, it became apparent that a number of things had changed at TCW, including:

- TCW's merger with MetWest had resulted in Tom Lyon, the person who had been responsible for managing this portfolio for over 15 years, being removed from the day to day decision making. Although Tom has input, he is no longer making portfolio decisions.
- This portfolio had always been managed with an equity-like focus, however now the people making decisions have experience in bond portfolios, not stocks. In fact, it wasn't until an email was received two days after the conference call that TCW actually admitted that the current approach to managing this portfolio "has more of a credit angle" than prior to the Met West merger.

The reasons that the Commissioner believes TCW should be removed from managing this portfolio include:

- The merger with the Carlyle Group brings even more uncertainty.
- The failure to inform the Commissioner of portfolio management changes.
- The performance of this portfolio over the past six-months has been poor and without indication that it will improve.

Thus, the Commissioner recommended liquidating the portfolio and redeploying it to other portfolios invested via the index funds the Board currently has established for large cap stocks, small/mid cap stocks and international stocks as follows:

Asset Class	Current Allocation	Revised Allocation
Large Cap	15.0%	18.7%
Small/Mid Cap	10.0%	12.4%
REITS	6.0%	7.5%

International Equities	10.0%	12.4%
Convertible Securities	10.0%	-
Total	51.0%	51.0%

Motion: **That the Board terminate the investment manager contract with Trust Company of the West and redeploy the assets in the portfolio in the most expedient and prudent manner to include the possibility of hiring a third party to effect the deployment and allocate the funds on a prorated basis to the permanent trusts' large ca, small/mid cap and EAFE index accounts, as well as to the active REIT account.**

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

**Proposed Change to Farm Loan Pool Terms and Conditions (R 15-03-06).** The Farm Loan Pool is collectively owned by the 13 Permanent Trusts. An account is maintained at, and loans are administered by the Bank of North Dakota, under terms and conditions set by the Land Board.

The BND recently raised its loan limit to \$2.0 million and has requested that the Land Board do the same. In February 2005, the Board raised the loan limit from \$600,000 to \$1 million and from \$1 million to \$1.5 million in September 2010.

Historically BND has funded shorter-term adjustable rate loans while the Land Board has funded the 10-year adjustable and 25-year fixed rate loans. Although the BND is not currently lending Land Board supervised funds due to interest rate floors that were established by the Board, it is important for the programs to be in sync when rates rise above the Land Board's current floors.

The higher limit does not create any serious risk concerns for the trusts, as the loan-to-value ratios for any given loan is 75% or less, and a \$2.0 million loan represents approximately 0.1% of total financial investments. If a loan fails, the Department has expertise in land management; to help minimize any loss that might be experienced which allows the trusts to earn income from a property until such time that it is sold.

The Commissioner proposed the following change to the Farm Loan Pool's "Terms and Conditions Pursuant to R 15-03-06":

#### **TERMS & CONDITIONS PURSUANT TO R 15-03-06**

##### **General Terms**

- \$1.5 million \$2.0 million limit on total outstanding loans per borrower.*
- Adjustable rate with 25 year loan term and amortized payment schedule, with adjustments to the interest rate and payment schedule on every tenth anniversary date as appropriate; or fixed rate 25 year loan term and amortized payment schedule.*
- Total amount of loan may not exceed 75% of the appraised value of the security.*

Motion: **That the Board approve the change in the general terms of the established farmer real estate loan rules as proposed, to permit loans of up to \$2 million.**

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

## **R E P O R T S**

### **Update of Legal Issues (Prepared and Presented by Attorney General Staff)**

(09/12)

## SHOREZONE LITIGATION

The core issue in the river litigation is title to the area between ordinary high watermark and ordinary low watermark, an area known as the shorezone. Riparian landowners say they own down to the ordinary low watermark. The state, however, asserts that its title to the bed of navigable rivers, like the Missouri, extends up to the ordinary high watermark. Resolving the dispute turns on the proper interpretation of a state statute.

### **Brigham Oil & Gas**

On June 9, 2011, Brigham Oil & Gas filed a suit seeking resolution of the title question. It did so because it operates a well just to the southeast of Williston. The well produces from a 1,280-acre spacing unit that includes the Missouri River. There are dozens of parties with interests in the spacing unit.

Because of the title disputes among those parties, Brigham has withheld royalty payments. In its lawsuit, Brigham, essentially, asks the court to require all those asserting title to the minerals in the spacing unit to set forth and prove their claims, and once the court rules on those claims, Brigham will know who to pay.

Brigham named 83 defendants in its Complaint, including the Land Board, City of Williston, Williams County, and many individuals and oil companies. Brigham also named the United States.

Brigham filed its suit in state court, and on July 14, 2011, the United States, a named Defendant in the case, removed the case to federal court in Bismarck. On September 20, 2011, U.S. filed a motion asking to be dismissed on sovereign immunity grounds, which the court granted on November 23, 2011. After it did so, the Court informed the parties that it was planning on remanding the case back to state court, but several other defendants asked the Court to retain jurisdiction.

On March 5, 2012, Defendant Kerry Hoffman filed an answer and crossclaim against the ND Board of University and School Lands asserting claims of an unconstitutional taking of private property without just compensation (identical to the claims made in the Reep case). On March 26, 2012, the AG's Office filed a motion to dismiss the Kerry Hoffman's crossclaim against the Board.

On March 22, 2012, the AG's Office filed a motion with the federal court asking that the federal court refer to the N.D. Supreme Court the question about title to the shorezone. On June 7, 2012, Judge Hovland issued an order remanding this case back to state court.

Pursuant to a stipulation between attorneys for Stanford Reep and Kerry Hoffman and the AG's Office, the Court issued an order on August 16, 2012, consolidating the Brigham case with the Reep case for the purpose of determining rights to the shorezone minerals. It is anticipated that both parties will file summary judgment motions requesting that the Court decide, as a matter of law, ownership of shorezones. The parties have agreed to a briefing schedule which includes several deadlines throughout September, October, and the beginning of November, 2012. The court has scheduled oral arguments for December 17, 2012.

### **Wilkinson Family**

The second lawsuit was filed on January 10, 2012, by the Wilkinson family, which asserts that it owns minerals in about 200 acres a few miles west of Williston. This suit was filed in state court and is a straight forward quiet title action. The AG's Office filed an Answer and Counterclaim on February 27, 2012. The case is still in the initial pleading stage.

The Plaintiffs in the Wilkinson case did not want this case to be consolidated with the Brigham and Reep cases for the summary judgment motions to determine ownership of the shorezones.

### **Reep et al**

The third lawsuit was filed March 9, 2012. It has six named plaintiffs, but plaintiffs are requesting the court certify the matter as a class action. The lead plaintiff is Stan Reep. This case was filed in state court and it is pled as an unconstitutional taking of private property without just compensation. The AG's Office filed a motion to dismiss the complaint on April 9, 2012. In an order dated July 16, 2012, Judge Nelson denied the motion to dismiss but agreed that the issue of ownership of shorezone should be resolved before the case moves forward.

Pursuant to a stipulation between attorneys for Stanford Reep and Kerry Hoffman and the AG's Officer, the Court issued an order on August 16, 2012, consolidating the Brigham case with the Reep case for the purpose of determining rights to the shorezone minerals. It is anticipated that both parties will file summary judgment motions requesting that the Court decide, as a matter of law, ownership of shorezones. The parties have agreed to a briefing schedule which includes several deadlines throughout September,

October, and the beginning of November, 2012. The court has scheduled oral arguments for December 17, 2012.

## **OTHER LITIGATION**

### **Jared Enander v. State of North Dakota:**

On June 22, 2011, the trustees for the Harold R. Enander Administrative Trust filed a quiet title action against the State of North Dakota. The State of North Dakota sold the land in dispute through a contract for deed in which the State reserved 50% of the minerals. The land was sold to the owner from whom the State acquired its title to the property. Between the signing of the contract for deed and when the property was deeded from the State, N.D.C.C. § 38-09-01.3 was enacted which prevents the State from reserving any interest in property when the property is sold to the person from whom the State derived its title. Plaintiffs in this case argued that the State was thus prevented from reserving any interest in the minerals to this property since N.D.C.C. § 38-09-01.3 was enacted before the State deeded the property. The case was decided pursuant to a summary judgment motion filed by Plaintiffs on July 15, 2011. The Court issued an order on June 12, 2012, finding in favor of the State. Specifically, the Court found that the plain language of the statutes and general law regarding contract for deed provide that title transfers upon the signing of the contract for deed and not by the deed issued after the contract is complete.

### **EOG Resources v. Soo Line Railroad Company, et. al.**

EOG Resources filed this quiet title action on January 20, 2010, against the railroad and its lessee to determine the ownership of the minerals to land acquired by the railroad in Mountrail County. The railroad acquired its interest to the disputed land by three different means: railroad right-of-way deeds, condemnation, and the 1899 Act. The railroad leased its mineral interests to G-4, LLC. The railroad claims that it acquired fee simple interest to this land, whereas EOG claims the railroad only acquired a surface easement. The parties have already filed cross summary judgment motions, G-4 filed its motion on July 28, 2011, and EOG filed its motion on October 26, 2011. Before considering the summary judgment motions, the court directed G-4 to plead in all the other parties claiming an interest in the disputed property. The Department of Trust Lands was served with a crossclaim on August 9, 2012, and has interest in three out of the eight sections of disputed property. The Attorney General's Office filed an answer to the crossclaim on September 11, 2012, on behalf of the Board.

### **Stenehjem ex rel. State of North Dakota v. United States:**

The Attorney General's Office filed suit in federal court naming the United States as the defendant. The United States, through its Forest Service, refuses to recognize that section lines in the Little Missouri, Sheyenne, and Cedar River National Grasslands are subject to a public easement to travel over thirty-three feet on each side of section lines. On several occasions, this refusal has required that roads be built entirely on state school land. Both federal and state law recognize a public easement over section lines, even section lines on federal land, and the suit asks that the court declare that the Grasslands are subject to this public easement.

## **Report of Easements Issued by Land Commissioner. (08-21-12 through 09-19-12)**

### **Consolidated Telcom**

Communication Cable

24/2012

HET-134-94-18-LOT 3, LOT 4

HET-134-94-8-NE4, SE4

HET-134-95-16-NW4

HET-134-96-32-N2SW4, SW4SW4

<b>Hiland Operating LLC</b> WIL-153-100-36-NE4, SE4, SW4	Gas Gathering Pipeline	9/5/2012
<b>ND Dept of Transportation</b> MOU-152-88-16-SE4	Road Right-of-Way	9/7/2012
<b>Dunn County</b> DUN-146-94-36-NW4, SW4	Road Right-of-Way	8/29/2012
<b>Whiting Oil and Gas Corporation</b> MOU-153-92-16-NE4, NW4	Oil Gathering Pipeline	9/18/2012
<b>Oneok Rockies Midstream LLC</b> BIL-142-101-36-NE4, NW4	Gas Gathering Pipeline	8/28/2012
<b>Whiting Oil and Gas Corporation</b> MOU-155-92-36-SW4	Gas Gathering Pipeline	8/31/2012
<b>Whiting Oil and Gas Corporation</b> MOU-153-92-32-	Gas Gathering Pipeline	9/18/2012
<b>Saddle Butte Pipeline LLC</b> MCK-151-100-16-NW4	Oil Gathering Pipeline	9/18/2012
<b>Hess Corporation</b> MOU-155-94-28-NW4	Directional Wellsite Location	9/6/2012
<b>Western Area Water Supply Authority</b> WIL-156-100-16-NE4, NW4 WIL-156-99-16-NE4	Amend: Raw Water Pipeline	8/29/2012
<b>Oneok Rockies Midstream LLC</b> WIL-157-98-16-NE4, SE4	Gas Gathering Pipeline	8/22/2012
<b>Continental Resources Inc</b> WIL-159-97-36-SE4, SW4	Access Road	9/14/2012
<b>Oneok Rockies Midstream LLC</b> MCK-153-101-36-SE4	Gas Gathering Pipeline	9/18/2012
<b>HILAND OPERATING LLC</b> WIL-159-97-16-NE4, NW4	Gas Gathering Pipeline	8/29/2012
<b>Oneok Rockies Midstream LLC</b> MCK-149-100-16-NE4	Gas Gathering Pipeline	8/29/2012
<b>XTO Energy Inc</b> DIV-160-95-16-SE4	Amend: Horizontal Oil Well	9/11/2012
<b>WPX Energy Williston LLC</b> MOU-150-92-10-S2SW4	Multiple Pipelines	9/18/2012
<b>Bridger Pipeline LLC</b>	Amend: Oil Gathering Pipeline	9/5/2012

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MOU-155-91-36-SW4

<b>Oneok Rockies Midstream LLC</b> MCK-150-102-36-SW4	Amend: Gas Gathering Pipeline	9/18/2012
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<b>Whiting Oil and Gas Corporation</b> MOU-155-91-36-SW4	Gas Gathering Pipeline	9/18/2012
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<b>Whiting Oil and Gas Corporation</b> MOU-153-92-32-S2NW4	Gas Gathering Pipeline	8/31/2012
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<b>Keitu Engineers &amp; Consultants</b> WAR-155-84-1-SW4NW4 LYING N & E OF RIVER CENTERLINE	General Land Surveys	8/29/2012
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<b>Oneok Rockies Midstream LLC</b> WIL-154-97-16-NW4	Gas Gathering Pipeline	9/5/2012
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<b>Parnell Consultants Inc</b> WAR-155-84-1-SW4NW4 Lying N & E of River Centerline	General Land Surveys	9/11/2012
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## ADJOURN

There being no further business, the meeting was adjourned at 10:25 AM.

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Jack Dalrymple, Chairman  
Board of University and School Lands

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Lance D. Gaebe, Secretary  
Board of University and School Lands

**Minutes of the Meeting of the  
Board of University and School Lands  
October 25, 2012**

The October 25, 2012 meeting of the Board of University and School Lands was called to order in the Governor's Conference Room at 9:05 AM by Chairman Jack Dalrymple.

**Members Present:**

Jack Dalrymple	Governor
Alvin A. Jaeger	Secretary of State
Kelly Schmidt	State Treasurer
Wayne G. Sanstead	Superintendent of Public Instruction
Wayne Stenehjem	Attorney General

**Department of Trust Lands Personnel:**

Lance D. Gaebe	Land Commissioner
Jeff Engleson	Director, Investment Division
Michael D. Brand	Director, Surface Management Division
Drew Combs	Director, Minerals Management Division
Levi Erdmann	Programmer Analyst
Gerry Fisher	Assistant Director, Energy Infrastructure & Impact Office
Linda Fisher	Unclaimed Property Administrator
Judith F. Schell	Administrative Assistant

**Others in Attendance:**

Chris Pieske	Crowley Fleck Law Firm
Roger Chinn	McKenzie County
Greg Burns	North Dakota Education Association

## APPROVAL OF MINUTES

A motion to approve the minutes of the September 27, 2012 meeting as corrected was made by Treasurer Schmidt and seconded by Attorney General Stenehjem. Motion carried.

## ENERGY INFRASTRUCTURE AND IMPACT OFFICE

**Energy Infrastructure and Impact Office Grant Recommendations for Fall 2012 Open Round.**

The focus for the Open Energy Impact Fall 2012 grant round is for all political subdivisions without a grant round. This round includes schools, counties, park districts, airport authorities, water resource districts and all other taxing political subdivisions. The office received and reviewed 63 grant applications with total requested funds of \$27,561,830. The Land Board preliminarily designated \$2.5 million for awards this grant round.

The Energy Impact Office (EIO) staff traveled to five communities holding eight meetings with applicants. Political subdivision officials were updated about the Energy Impact grant program. Applicants were individually interviewed about their requests and the information was put to use during

the application scoring process. Staff from the EIO evaluated the applications giving consideration to the criterion of:

- objective
- public safety
- financial need
- project readiness and achievability
- contribution to long term economic activity
- direct result of oil and gas production activity

All applications, as well as county oil drilling and production statistics were reviewed by the Committee in formulating recommendations to the Land Board. Infrastructure needs with impacts as a direct result of oil and gas development were considered focusing especially on housing, infrastructure supporting housing and safety issues. The Committee and staff emphasize that all of the applying political subdivisions have legitimate needs and have submitted justifiable requests.

The recommended awards identified by the EIO staff and Advisory Committee with possible awards totaling \$2.5 million follow:

<b>Counties</b>	<b>Schools</b>
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### 2012 Fall Open Grant Round - Recommended Awards

Sub Name	City	County	Project	Amount Requested	Project Summary	Recommended Award
BURKE CENTRAL PSD #36	LIGNITE	BURKE	HOUSING FOR BURKE CENTRAL TEACHERS	\$300,000	STUDENT POPULATION INCREASED BY 28 STUDENTS FROM ONE YEAR AGO TO 119 STUDENTS. NEED TO PROVIDE AFFORDABLE HOUSING FOR THE NEW TEACHERS THAT HAVE BEEN ADDED.	\$240,000
DUNN COUNTY	MANNING	DUNN	WATER TRUCKS/TRAILERS FOR SOIL STABILIZATION AND FIRE DEPARTMENT SUPPORT	\$275,000	INCREASED OIL FIELD TRAFFIC HAS CREATED INCREASED TRAVEL SAFETY ISSUES RELATED TO DUST, ESPECIALLY IN LOW WIND SPEEDS. TWO TRUCKS & WATER TRAILERS TO PROVIDE SOIL STABILIZATION, IMPROVE SAFETY.	\$250,000
EIGHT MILE PSD #6	TRENTON	WILLIAMS	TEACHER HOUSING	\$25,000	SET UP TWO FEMA TRAILERS FOR TEACHER HOUSING IN TRENTON	\$20,000
GRENORA PSD #99	GRENORA	WILLIAMS	TEACHERS HOUSING 4-PLEX, BUS	\$100,000	COST TO PUT UP THE 4-PLEX THAT \$200,000 WAS AWARDED FOR LAST TIME EXCEEDED PROJECTED. ALSO THE DISTRICT TOOK A MODEST APPROACH TO THE APPLICATION. A \$100,000 LOAN WAS TAKEN OUT TO COVER THE REMAINING COST. SEEKING FUNDS TO COVER THE LOAN.	\$80,000
HALLIDAY SCHOOL DISTRICT	HALLIDAY	DUNN	HALLIDAY SAFE SCHOOLS PROJECT 2 - SECURITY CAMERAS FOR SCHOOL	\$11,320	INCREASED ENROLLMENT RESULTS IN SECURITY CONCERNS. LAST YEAR THERE WAS A BREAK-IN & VANDALISM. ASKING FOR ASSISTANCE TO COVER ADDING A VIDEO SURVEILLANCE SYSTEM	\$9,060
KILLDEER PSD	KILLDEER	DUNN	TEACHER/STAFF HOUSING	\$225,000	CONSTRUCT 2 DUPLEX UNITS TO HELP ADDRESS SHORT AND LONG TERM TEACHER HOUSING NEEDS.	\$225,000
MCKENZIE COUNTY	WATFORD CITY	MCKENZIE	MCKENZIE COUNTY HIGHWAY AND STREET SIGNAGE	\$54,370	PROVIDE IMPROVED SIGNAGE IN THREE LOCATIONS. ALONG BIA 12 DIVIDING MANDAREE, STREETS LEADING TO MANDAREE SCHOOL, ALONG MAIN STREETS WITHIN MANDAREE. PROVIDE IMPROVED SAFETY FOR STUDENTS.	\$25,000

MOUNTRAIL COUNTY	STANLEY	MOUNTRAIL	OVERLAY PALERMO SOUTH ROAD	\$1,800,000	OVERLAY 12 MILES OF ROAD REFERRED TO AS PALERMO SOUTH ROAD, SOUTH OF US#2.	\$200,000
NESSON PSD #2	RAY	WILLIAMS	RAY SCHOOL WOULD LIKE TO BUILD A 4-PLEX TO HOUSE TEACHERS IN THE DISTRICT	\$350,000	CURRENTLY OWN 4 PROPERTIES HOUSING 9 PEOPLE. TO PROVIDE AFFORDABLE HOUSING FOR TEACHERS. THEIR NEARING THE LIMIT OF THEIR BONDED INDEBTEDNESS, THEY ARE RUNNING OUT OF NECESSARY FUNDS.	\$350,000
STANLEY PSD #2	STANLEY	MOUNTRAIL	TEACHER HOUSING DUPLEXES	\$750,000	PROVIDE 8 APARTMENTS FROM 2 4-PLEX UNITS. 4 3-BEDROOM AND 4 2-BEDROOM APARTMENTS.	\$600,000
WARD COUNTY	MINOT	WARD	MODIFY SPACE USAGE TO CREATE MORE INMATE ROOM	\$250,000	HAVE 104 BEDS, MORE INMATES THAN BEDS (SLEEP ON THE FLOOR WITH AIR MATTRESS.) WANT TO MODIFY TO CREATE SPACE FOR 8 MORE BEDS. STORAGE SPACE CONVERTED TO JUVENILE DETENTION.	\$200,000
WILLISTON PSD #1	WILLISTON	WILLIAMS	MCVAY ELEMENTARY SCHOOL RENOVATION	\$401,750	REQUESTING FUNDING TO ASSIST WITH EXPENDITURES FOR RENOVATION OF MCVAY ELEMENTARY SCHOOL. AIR QUALITY, LIBRARY (BOOKS, SHELVING, TABLES, COMPUTERS), PLAYGROUND EQUIP, CAFETERIA TABLES/EQUIP, FLOORING, TECHNOLOGY, CURRICULUM MATERIALS, COPIER, DOORS	\$270,940
YELLOWSTONE PSD #14	FAIRVIEW	MCKENZIE	UPDATE BATHROOMS NOW BEING USED RESULTING FROM INCREASED STUDENTS	\$30,000	STUDENT POPULATION INCREASED FROM 35 TO 80 OVER 3 YEARS. FACILITIES NEED TO BE UPDATED TO SUPPORT THE INCREASED STUDENT POPULATION	\$30,000
Number of Recommended Awards: 13				\$4,572,453		\$2,500,000

**Motion: That the Land Board adopt the Energy Impact Grants Advisory Committee and EIO staff recommendations for grant awards from the Oil and Gas Impact Grant fund to the requesting Open Grant Round applicants as identified in the preceding recommendation list.**

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

## SURFACE MANAGEMENT DIVISION

**McKenzie County Request to Purchase Land (MCK-36-150-100-NE4).** In December, 2011, McKenzie County applied under N.D.C.C. 15-09 to purchase part of the NE 1/4 Section 36, T150N, R100W, McKenzie County (90 acres, more or less) to expand their existing 30 acre landfill. The property is located about 2 miles southeast of Arnegard. The land for the existing landfill was purchased from the common schools trust fund in 1992.

The proposed expansion was encumbered by a natural gas pipeline easement, however the Department and the County were able to work with Hess and they agreed to release the easement in August, 2012.

Results of the two appraisals on the 90 acres are as follows:

McKenzie County Appraisal	\$528/acre
Boulder Appraisal, LLC, Bismarck	\$3,000/acre

The Boulder appraisal, at \$3,000 per acre, is well documented and based on recent sales in this area. Particularly relevant were offers for 40-50 acre parcels adjacent to the subject tract for about \$5,000 per acre which were rejected by the seller. Instead the seller sold the land in a large parcel of 411 acres for \$2,000 per acre. In addition, a 40 acre parcel immediately north of the subject parcel is being offered for \$14,000 per acre. McKenzie County appraised the subject tract as agricultural land which does not reflect its true value.

McKenzie County Commissioner, Roger Chinn appeared before the Board to explain the project and discuss some of the challenges of energy impact on McKenzie County.

The sale of a 90 acre parcel to McKenzie County will leave 40 acres in the NE4 section 36.

**Motion: That the Board approve the appraised value of \$3,000 per acre for the land within the NE4 of Section 36, T150N, R100W, McKenzie County required for landfill and other public purposes and authorize the Commissioner to publish the proposed sale to McKenzie County and conduct a hearing, and complete the sale on the Board's behalf.**

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

## R E P O R T S

**Revenue Compliance Division Update.** The Revenue Compliance Division within the Department ensure that royalty and other collections made on behalf of the trusts and other funds are complete and accurate. The Division has been reviewing past oil and gas royalty payments to determine if payments were made in accordance with the Board's lease terms, rules and regulations, and North Dakota statutes. The oil and gas royalty revenue collected in the first quarter of FY 2013 was \$51,168,210. Included in this total is \$0.5 million that is a result of enhanced efforts to examine royalty reports and submittals. The additional collections and corrections are detailed in the following table:

REVENUE COMPLIANCE SUMMARY			
	Fiscal Year Ended June 30, 2012		Quarter Ended September 30, 2012
Additional Royalties Collected	\$ 5,033,003		\$ 318,211
Additional Taxes or Other Deductions Collected	\$ 541,319		\$ 88,148
Penalties Collected	\$ 437,279		\$ 93,490
<b>Total Collected</b>	<b>\$ 6,011,601</b>		<b>\$ 499,849</b>
NDIC Report Corrections	21		13

Although over \$6.5 million has been collected to date as a result of the Revenue Division's efforts, most of the money owed is a result of errors and interpretations made by operating oil companies, not the deliberate underpayment of royalties.

In addition to royalty collection efforts, the Revenue Compliance Division together with the Minerals Management Division has worked to identify non and low producing leases in an effort to encourage leaseholders to satisfy the terms or terminate the lease.

To date, this action has resulted in 2,300 acres that were previously designated as "held by production" being made available to lease again, where they can generate new lease bonus revenues for the trusts and eventually higher production and royalty revenues. Some of the acres are on the list for the November 2012 auction.

NON-PRODUCING LEASE SUMMARY			
	Fiscal Year Ended June 30, 2012		Quarter Ended September 30, 2012
Acres Relinquished	2,059.86		239.95
Bonus Received from Relinquished Acres	\$ 0		\$ 19,230

**Report of Easements Issued by Land Commissioner. (9-20-12 thru 10-15-12))**

BEK COMMUNICATIONS COOP	Easement-Amend: Communication Cable	10/8/2012
BRL-137-76-36-NE4, NW4 N of RR Tracks BRL-137-78-16-NW4, SE4, SW4 BRL-137-79-36-E2SE4, NW4SE4, LOT 3 BRL-138-75-17-SE4 BRL-139-76-16-SE4 BRL-140-76-27-N2NE4, SW4NE4 BRL-141-77-36-NW4, SW4		
BRIGHAM OIL & GAS LP	Easement-Amend: Gas Gathering Pipeline	9/20/2012
MOU-156-93-36-SE4, SW4		
ZENERGY INC	Section Line Access Road	9/27/2012
MCK-150-100-16-NW4		
HILAND CRUDE LLC	Oil Gathering Pipeline	9/25/2012
MCK-150-98-36-NE4, SE4, SW4		
NESSON GATHERING SYSTEM LLC	Gas Gathering Pipeline	10/3/2012
WIL-157-95-16-NW4, SW4		
ONEOK ROCKIES MIDSTREAM LLC	Gas Gathering Pipeline	10/4/2012
GOL-143-103-36-SW4		
BRIGHAM OIL & GAS LP	Salt Water Pipeline	9/20/2012
MOU-155-92-25-SW4		
BRIGHAM OIL & GAS LP	Multiple Pipelines	9/20/2012
MOU-155-93-16-NE4, NW4		
ALLIANCE PIPELINE LP	Gas Transmission Pipeline	9/25/2012
BRK-159-93-16-NW4, SW4 BRK-161-91-36-SE4, SW4		
ONEOK ROCKIES MIDSTREAM LLC	Gas Gathering Pipeline	10/4/2012
WIL-153-98-16-NW4		
PECAN PIPELINE (NORTH DAKOTA) INC	Easement-Amend: Gas Gathering Pipeline	10/1/2012
MOU-155-90-36-SE4		
ONEOK ROCKIES MIDSTREAM LLC	Gas Gathering Pipeline	10/4/2012
MCK-152-97-36-SW4		
ONEOK ROCKIES MIDSTREAM LLC	Gas Gathering Pipeline	9/27/2012
DIV-160-98-16-SE4		

PEREGRINE PETROLEUM PARTNERS LTD MCK-145-101-6-S2NE4, LOTS 1,2	Access Road	10/8/2012
PETRO-HUNT LLC MCK-154-95-36-SE4	Permit-Amend: Access Road	10/8/2012
ONEOK ROCKIES MIDSTREAM LLC MCK-149-99-16-NW4	Gas Gathering Pipeline	10/8/2012
LAKE REGION STATE COLLEGE RAM-154-64-16-W2NE4	Electric Distribution Line	10/3/2012
CONTINENTAL RESOURCES INC WIL-153-99-22-W2SE4 Less Acres Condemned	Oil Gathering Pipeline	10/11/2012
HILAND OPERATING LLC WIL-154-104-36-SW4	Oil Gathering Pipeline	10/8/2012
HILAND OPERATING LLC DIV-161-97-36-SE4	Multiple Pipelines	10/11/2012
WENCK ASSOCIATES WAR-155-84-1-SW4NW4 Lying N & E of River Centerline	General Land Surveys	10/11/2012

The following letters of permission were issued to groups wishing to use school trust lands under the Board's policy for access to trust lands by organizations. No fees are charged for this use.

CONTINENTAL RESOURCES INC	Access to School Land
SM ENERGY COMPANY	Access to School Land

## A D J O U R N

There being no further business, the meeting was adjourned at 10:20 A.M.

\_\_\_\_\_  
Jack Dalrymple, Chairman  
Board of University and School Lands

\_\_\_\_\_  
Lance D. Gaebe, Secretary  
Board of University and School Lands

**Minutes of the Meeting of the  
Board of University and School Lands  
December 14, 2012**

The November and December 2012 meeting of the Board of University and School Lands was called to order in the Lewis and Clark Conference Room at the Department of Trust Lands office at 9:03 AM by Chairman Jack Dalrymple.

**Members Present:**

Jack Dalrymple	Governor
Alvin A. Jaeger	Secretary of State
Kelly Schmidt	State Treasurer
Wayne G. Sanstead	Superintendent of Public Instruction
Wayne Stenehjem	Attorney General

**Department of Trust Lands Personnel:**

Lance D. Gaebe	Land Commissioner
Jeff Engleson	Director, Investment Division
Michael D. Brand	Director, Surface Management Division
Drew Combs	Director, Minerals Management Division
Levi Erdmann	Programmer Analyst
Gerard Fisher	Assistant Director, Energy Infrastructure & Impact Office
Linda Fisher	Unclaimed Property Administrator
Judith F. Schell	Administrative Assistant

**Others in Attendance:**

Hope Hogan	Attorneys General Office
Charles Carvell	Special Assistant Attorney General

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

A motion to approve the minutes of the October 25, 2012 meeting was made by Wayne Stenehjem and seconded by Wayne Sanstead. Motion carried.

**E N E R G Y   I N F A S T R U C T U R E   A N D   I M P A C T   O F F I C E**

**Energy Infrastructure and Impact Office. Grant Recommendations for Township Roads and Transportation Round.** The focus for the 2012 October/November/December grant round is on impacts to townships as a direct result of oil and gas development. This is the last scheduled grant round for the 2011–2013 biennium, \$2.5 million remains for awards this grant round.

The office reviewed 190 applications requesting \$33.49 million for projects totaling \$38.75 million.

Sixteen meetings were held with the grant applicants in ten communities from November 13 to November 27, 2012. Over these three weeks, time was spent updating the applicants regarding the program and providing an opportunity to offer additional information about their application. Energy Impact Office staff drove 4,800 miles reviewing nearly all of the roads identified in applications. Knowledge gained by the EIIO staff from these meetings and tours was integral the application review process.

The Energy Impact Grants Advisory Committee recommended township grants this round. The advisory committee and staff emphasize that all of the applying political subdivisions have needs and have submitted legitimate requests.

The recommendation of the advisory committee is to give funding priority to 32 applications with identified safety issues and/or the roads deemed to be worst condition based on driving the roads. The recommendation by the advisory committee is to provide an award of 80% of the total project amount, not to exceed \$100,000 or the requested amount. The committee further recommends the remaining funds be awarded to all other applying townships on an equal share basis to assist with the common request for maintenance funding.

The following list includes recommended awards identified by the EIO staff and Advisory Committee with recommended awards totaling \$2,500,118.

<b>2012 Township Roads and Transportation - Recommended Awards</b>		
<b>Political Sub Name</b>	<b>County</b>	<b>Award</b>
ALEXANDRIA TOWNSHIP	DIVIDE	\$2,600
ALGER TOWNSHIP	MOUNTRAIL	\$2,600
AMBROSE TOWNSHIP	DIVIDE	\$2,600
AMOR TOWNSHIP	BOWMAN	\$2,600
ANTELOPE CREEK TOWNSHIP	MCKENZIE	\$18,000
ANTLER TOWNSHIP	BOTTINEAU	\$2,600
ATHENS TOWNSHIP	WILLIAMS	\$2,600
AUSTIN TOWNSHIP	MOUNTRAIL	\$2,600
BATTLEVIEW TOWNSHIP	BURKE	\$50,000
BATTLEVIEW TOWNSHIP	BURKE	\$72,000
BENTINCK TOWNSHIP	BOTTINEAU	\$2,600
BIG MEADOW TOWNSHIP	WILLIAMS	\$2,600
BLAINE TOWNSHIP	BOTTINEAU	\$2,600
BLOOMING PRAIRIE TOWNSHIP	DIVIDE	\$20,000
BLOOMING VALLEY TOWNSHIP	DIVIDE	\$2,600
BLUE BUTTE TOWNSHIP	MCKENZIE	\$2,600
BORDER TOWNSHIP	DIVIDE	\$2,600
BOWBELLS TOWNSHIP	BURKE	\$2,600
BOWMAN TOWNSHIP	BOWMAN	\$2,600
BRANDER TOWNSHIP	BOTTINEAU	\$2,600
<b>Political Sub Name</b>	<b>County</b>	<b>Award</b>

BROOKBANK TOWNSHIP	MOUNTRAIL	\$2,600
BUFORD TOWNSHIP	WILLIAMS	\$50,000
BURG TOWNSHIP	DIVIDE	\$2,600
BURKE TOWNSHIP	MOUNTRAIL	\$2,600
CARTER TOWNSHIP	BURKE	\$2,600
CHAMPION TOWNSHIP	WILLIAMS	\$2,600
CHATFIELD TOWNSHIP	BOTTINEAU	\$2,600
CLAY TOWNSHIP	RENVILLE	\$2,600
CLAYTON TOWNSHIP	BURKE	\$2,600
CLEARWATER TOWNSHIP	MOUNTRAIL	\$2,600
CLEARY TOWNSHIP	BURKE	\$44,842
CLINTON TOWNSHIP	DIVIDE	\$14,400
COALFIELD TOWNSHIP	DIVIDE	\$50,000
COLQUHOUN TOWNSHIP	RENVILLE	\$2,600
COLVILLE TOWNSHIP	BURKE	\$2,600
CORDELIA TOWNSHIP	BOTTINEAU	\$2,600
COTTONWOOD TOWNSHIP	MOUNTRAIL	\$2,600
CRANE CREEK TOWNSHIP	MOUNTRAIL	\$2,600
DALE TOWNSHIP	BURKE	\$2,600
DELHI TOWNSHIP	GOLDEN VALLEY	\$87,600
DENMARK TOWNSHIP	WARD	\$2,600
DEWITT TOWNSHIP	DIVIDE	\$2,600
DRY FORK TOWNSHIP	WILLIAMS	\$2,600
EAST FORK TOWNSHIP	WILLIAMS	\$2,600
EDEN VALLEY TOWNSHIP	RENVILLE	\$2,600
EGG CREEK TOWNSHIP	MCHENRY	\$2,600
EIDSVOLD TOWNSHIP	BOTTINEAU	\$2,600
ELKHORN TOWNSHIP	DIVIDE	\$2,600
ELMS TOWNSHIP	BOTTINEAU	\$2,600
ENSIGN TOWNSHIP	RENVILLE	\$2,600

Political Sub Name	County	Award
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EQUALITY TOWNSHIP	WILLIAMS	\$2,600
FARMLAND TOWNSHIP	WILLIAMS	\$2,600
FAY TOWNSHIP	BURKE	\$2,600
FERTILE VALLEY TOWNSHIP	DIVIDE	\$2,600
FOOTHILLS TOWNSHIP	BURKE	\$2,600
FORTHUN TOWNSHIP	BURKE	\$100,000
FRAZIER TOWNSHIP	DIVIDE	\$2,600
FREDERICK TOWNSHIP	DIVIDE	\$2,600
GARNESS TOWNSHIP	BURKE	\$2,600
GARNET TOWNSHIP	DIVIDE	\$2,600
GOOSENECK TOWNSHIP	DIVIDE	\$100,000
GRASSLAND TOWNSHIP	RENVILLE	\$2,600
GREENBUSH TOWNSHIP	WARD	\$2,538
GRENORA TOWNSHIP	WILLIAMS	\$2,600
GROVER TOWNSHIP	RENVILLE	\$2,600
HAMERLY TOWNSHIP	RENVILLE	\$2,600
HAMLET TOWNSHIP	RENVILLE	\$2,600
HARAM TOWNSHIP	BOTTINEAU	\$2,600
HARDSCRABBLE TOWNSHIP	WILLIAMS	\$2,600
HARMONIOUS TOWNSHIP	BURKE	\$2,600
HASTINGS TOWNSHIP	BOTTINEAU	\$2,600
HAWKEYE TOWNSHIP	DIVIDE	\$2,600
HAWKEYE VALLEY TOWNSHIP	MCKENZIE	\$84,000
HAYLAND TOWNSHIP	DIVIDE	\$2,600
HENRY TOWNSHIP	GOLDEN VALLEY	\$2,600
HURLEY TOWNSHIP	RENVILLE	\$2,600
IDAHO TOWNSHIP	MOUNTRAIL	\$2,600
JAMES HILL TOWNSHIP	MOUNTRAIL	\$2,600
KANDIYOHI TOWNSHIP	BURKE	\$2,600

Political Sub Name	County	Award
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KANE TOWNSHIP	BOTTINEAU	\$2,600
KEENE TOWNSHIP	MCKENZIE	\$2,600
KELLER TOWNSHIP	BURKE	\$2,600
LAKEVIEW TOWNSHIP	BURKE	\$2,600
LANSFORD TOWNSHIP	BOTTINEAU	\$2,600
LEAF MOUNTAIN TOWNSHIP	BURKE	\$2,600
LINCOLN VALLEY TOWNSHIP	DIVIDE	\$100,000
LINDAHL TOWNSHIP	WILLIAMS	\$2,600
LONG CREEK TOWNSHIP	DIVIDE	\$28,000
LOSTWOOD TOWNSHIP	MOUNTRAIL	\$2,600
LOWLAND TOWNSHIP	MOUNTRAIL	\$2,600
LUCY TOWNSHIP	BURKE	\$2,600
LUND TOWNSHIP	WARD	\$2,538
MARSHALL TOWNSHIP	WILLIAMS	\$2,600
MCALMOND TOWNSHIP	MOUNTRAIL	\$100,000
MCGAHAN TOWNSHIP	MOUNTRAIL	\$24,000
MENTOR TOWNSHIP	DIVIDE	\$2,600
MINNEHAHA TOWNSHIP	BOWMAN	\$2,600
MINNESOTA TOWNSHIP	BURKE	\$2,600
MISSOURI RIDGE TOWNSHIP	WILLIAMS	\$100,000
MOUNT ROSE TOWNSHIP	BOTTINEAU	\$20,000
MYRTLE TOWNSHIP	MOUNTRAIL	\$2,600
NEWBORG TOWNSHIP	BOTTINEAU	\$19,200
NORTHSTAR TOWNSHIP	BURKE	\$2,600
OAKLAND TOWNSHIP	MOUNTRAIL	\$2,600
ORLIEN TOWNSHIP	WARD	\$2,600
OSBORN TOWNSHIP	MOUNTRAIL	\$2,600
OSLOE TOWNSHIP	MOUNTRAIL	\$2,600
PALERMO TOWNSHIP	MOUNTRAIL	\$2,600
PALMER TOWNSHIP	DIVIDE	\$2,600

Political Sub Name	County	Award
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PARSHALL TOWNSHIP	MOUNTRAIL	\$100,000
PASSPORT TOWNSHIP	WARD	\$2,600
PEABODY TOWNSHIP	BOTTINEAU	\$2,600
PHERRIN TOWNSHIP	WILLIAMS	\$100,000
PLAIN TOWNSHIP	RENVILLE	\$2,600
PLAZA TOWNSHIP	MOUNTRAIL	\$2,600
PLUMER TOWNSHIP	DIVIDE	\$2,600
PORTAL TOWNSHIP	BURKE	\$2,600
POWERS LAKE TOWNSHIP	MOUNTRAIL	\$2,600
PRESCOTT TOWNSHIP	RENVILLE	\$2,600
PROSPERITY TOWNSHIP	RENVILLE	\$2,600
PURCELL TOWNSHIP	MOUNTRAIL	\$280,000
RAINBOW TOWNSHIP	WILLIAMS	\$2,600
RAT LAKE TOWNSHIP	MOUNTRAIL	\$2,600
REE TOWNSHIP	WARD	\$2,600
RENVILLE TOWNSHIP	BOTTINEAU	\$2,600
RICHBURG TOWNSHIP	BOTTINEAU	\$2,600
RICHLAND TOWNSHIP	BURKE	\$2,600
ROCK ISLAND TOWNSHIP	WILLIAMS	\$2,600
ROOSEVELT TOWNSHIP	RENVILLE	\$2,600
ROSS TOWNSHIP	MOUNTRAIL	\$64,000
ROUND PRAIRIE TOWNSHIP	WILLIAMS	\$2,600
SADDLE BUTTE TOWNSHIP	GOLDEN VALLEY	\$100,000
SAUK PRAIRIE TOWNSHIP	WARD	\$2,600
SAUK VALLEY TOWNSHIP	WILLIAMS	\$2,600
SCANDIA TOWNSHIP	BOTTINEAU	\$2,600
SCORIO TOWNSHIP	WILLIAMS	\$2,600
SCOTIA TOWNSHIP	BOTTINEAU	\$2,600
SENTINEL CIVIL TOWNSHIP	GOLDEN VALLEY	\$2,600

Political Sub Name	County	Award
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SERGIUS TOWNSHIP	BOTTINEAU	\$21,600
SHERMAN TOWNSHIP	BOTTINEAU	\$8,000
SHORTCREEK TOWNSHIP	BURKE	\$136,000
SIDONIA TOWNSHIP	MOUNTRAIL	\$2,600
SIKES TOWNSHIP	MOUNTRAIL	\$2,600
SIOUX TOWNSHIP	MCKENZIE	\$80,000
SIOUX TRAIL TOWNSHIP	DIVIDE	\$2,600
SMOKEY BUTTE TOWNSHIP	DIVIDE	\$2,600
SOO TOWNSHIP	BURKE	\$2,600
SORKNESS TOWNSHIP	MOUNTRAIL	\$2,600
SPENCER TOWNSHIP	WARD	\$2,600
SPRING COULEE TOWNSHIP	MOUNTRAIL	\$2,600
SPRINGBROOK TOWNSHIP	WILLIAMS	\$40,000
STAR TOWNSHIP	BOWMAN	\$2,600
STARBUCK TOWNSHIP	BOTTINEAU	\$40,000
STONE CREEK TOWNSHIP	BOTTINEAU	\$2,600
STONEVIEW TOWNSHIP	DIVIDE	\$2,600
STONY CREEK TOWNSHIP	WILLIAMS	\$100,000
STRANDAHL TOWNSHIP	WILLIAMS	\$2,600
TACOMA TOWNSHIP	BOTTINEAU	\$2,600
THORSON TOWNSHIP	BURKE	\$95,600
TRENTON TOWNSHIP	WILLIAMS	\$100,000
TROY TOWNSHIP	DIVIDE	\$2,600
TWELVE MILE TOWNSHIP	WILLIAMS	\$2,600
TWIN BUTTE TOWNSHIP	DIVIDE	\$2,600
TYRONE TOWNSHIP	WILLIAMS	\$2,600
UPLAND TOWNSHIP	DIVIDE	\$2,600
VALE TOWNSHIP	BURKE	\$2,600
VAN BUREN TOWNSHIP	RENVILLE	\$2,600
VIEW TOWNSHIP	WILLIAMS	\$2,600

Political Sub Name	County	Award
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WARD TOWNSHIP	BURKE	\$2,600
WAYNE TOWNSHIP	BOTTINEAU	\$2,600
WAYZETTA TOWNSHIP	MOUNTRAIL	\$100,000
WESTBY TOWNSHIP	DIVIDE	\$2,600
WHEATON TOWNSHIP	BOTTINEAU	\$2,600
WHEELOCK TOWNSHIP	WILLIAMS	\$2,600
WHITE ASH TOWNSHIP	RENVILLE	\$2,600
WHITE EARTH TOWNSHIP	MOUNTRAIL	\$2,600
<b>177 Awards</b>		<b>\$2,500,118</b>

Motion: **That the Land Board adopt the Energy Impact Grants Advisory Committee and EIO staff recommendations for grant awards from the Oil and Gas Impact Grant fund to the requesting Township Roads and Transportation Grant Round applicants as identified in the preceding recommendation list.**

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

**Energy Infrastructure and Impact Office. Contingency Fund – Emergency Request, Fire Engine, Trenton Township**

Trenton Township, Trenton Volunteer Fire Department (TVFD) contacted the Energy Infrastructure and Impact Office (EIO) with a request. The engine on TVFD’s 1982 Ford F700 pumper truck blew up. This truck is their primary response unit. With this unit out of service, TVFD has been using three brush fire trucks to cover their response needs. The three pickup trucks include a 1976 Dodge, a 1982 Chevrolet and a 1986 Ford (on loan from a resident). The Department services the city of Trenton, Trenton Township, and are first mutual aid for Hardscrabble and Buford Townships.

Trenton Township, via TVFD has researched and found two used fire trucks. A 2004 Pumper priced at \$139,000 and a 2007 Pumper priced at \$159,000. Replacing the engine in the current 1982 pumper truck has been estimated to cost roughly \$7,000.

The EIO contingency fund balance is \$234,808. With six months of the biennium remaining, a truck purchase would diminish the fund balance placing any additional emergency needs in future requests at risk. To address the critical need the TVFD has identified, the EIO recommended an award of \$10,000 for engine replacement expenses and to assist in expediting replacement of the engine in their existing pumper to get it back in service as quickly as possible.

Motion: **That the Land Board award \$10,000 to Trenton Township to be used to replace the engine in the Trenton Volunteer Fire Department 1982 Ford F700 pumper truck**

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger		X	X		
Superintendent Sanstead			X		

Treasurer Schmidt			X		
Attorney General Stenehjem	X		X		
Governor Dalrymple			X		

## SURFACE MANAGEMENT DIVISION

**Sale Approval of Original Grant Land.** (Sheridan 146-78-14: NE4 lying North of the Highway #200 centerline)

On May 31, 2012 the Board approved proceeding with an appraisal for the potential sale of a small and severed tract in Sheridan County. Trent Nasser requested this parcel be considered for sale. In 2004, the Department claimed title to the abandoned railroad easement that bisected this parcel. The elevated railbed is still present. In 1954 the ND DOT mined gravel from this land and the pit is still visible. However, the soils on this tract indicate that this was an isolated pocket and additional mineable gravel is not likely. This tract has been leased with the balance of the NE4, but had not been fenced for grazing due to the small size and the railroad and highway obstructions. Sporadic haying was observed and reported by fieldmen on small areas of this severed parcel. The present lessee, Kip Sparrow, is not opposed to a public sale of this parcel.

The highest and best use of for this tract is an add-on to adjacent land or may be suitable for a building site, as the land is adjacent to Pickadville, ND.

Sheridan County completed an appraisal on the 34.3 acres on October 24, 2012. The appraised valuation was \$750/acre or \$25,725 for the parcel. The Department staff concurs with that valuation. This local value exceeds the U.S.D.A. Agricultural Statistics Service Cash Rent Survey 2012 for Sheridan County Non-cropland, which posted an average value of \$478/acre. A land survey is not required, as the highway #200 survey can be used to legally define the extent of this tract.

**Motion: That the Board authorize the Commissioner to sell the 34.3 acres, more or less, generally described as T143N, R78W, Section 14, NE4 lying north of the Highway #200 centerline, with a minimum opening bid of \$750 per acre for a total of \$25,725.**

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

## INVESTMENTS DIVISION

**Permanent Trust Distributions for the 2013-2015 Biennium.** For the past two biennia permanent trust distributions have been determined using the distribution formula found in Article IX, Section 2 of the Constitution of North Dakota. Section 2 states that "biennial distributions from the perpetual trust funds must be ten percent of the five-year average value of trust assets, excluding the value of lands and minerals. The average value of trust assets is determined by using the assets' ending value for the fiscal year that ends one year before the beginning of the biennium and the assets' ending value for the four preceding fiscal years. Equal amounts must be distributed during each year of the biennium."

Prior to 2009, the Board would approve estimated permanent trust distributions for a biennium based on the amount interest and income the trusts were projected to make for the biennium, with the anticipation that the legislature would use those numbers when budgeting distributions for the

biennium. With the constitutional changes approved by voters in 2006, estimates are no longer needed as the actual distributions are determined by the formula prior to each legislative session.

The figures in the following table are the distributions that will be made during the 2013-15 biennium. They will not change during the legislative session nor as a result of investment portfolio changes over the next two years.

Trust Fund	2011-2013 Distributions	To be Appropriated 2013-2015 Bi. Distributions	Increase in Distributions	Percentage Increase in Distributions
Common Schools	\$ 92,514,000	<b>\$ 130,326,000</b>	\$ 37,812,000	40.9%
NDSU	1,424,000	<b>2,066,000</b>	642,000	45.1%
School for the Blind	216,000	<b>282,000</b>	66,000	30.6%
School for the Deaf	454,000	<b>720,000</b>	266,000	58.6%
State Hospital	572,000	<b>754,000</b>	182,000	31.8%
Ellendale	220,000	<b>345,996</b>	125,996	57.3%
Valley City	286,000	<b>372,000</b>	86,000	30.1%
Mayville	184,000	<b>236,000</b>	52,000	28.3%
Industrial School	528,000	<b>810,000</b>	282,000	53.4%
School of Science	492,000	<b>682,000</b>	190,000	38.6%
School of Mines	560,000	<b>794,000</b>	234,000	41.8%
Veteran's Home	248,000	<b>276,000</b>	28,000	11.3%
UND	750,000	<b>1,020,000</b>	270,000	36.0%
<b>TOTAL</b>	<b>\$ 98,448,000</b>	<b>\$ 138,683,996</b>	<b>40,235,996</b>	<b>40.9%</b>

Motion: **That the Board approve the actual distributions of the Trust Funds for the 2013-2015 biennium as shown on the above table.**

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

**The Commissioner provided an Update on Strategic Investment and Improvements Fund.**

The Strategic Investment and Improvements Fund (SIIF) was created as a result of the enactment of House Bill 1451 by the 2011 Legislature. The SIIF became effective July 1, 2011 when the balance of the former Lands and Minerals Trust Fund was transferred into it.

The LMTF was initially created in 1977 to manage the state's sovereign minerals and the minerals acquired by the Bank of North Dakota and the State Treasurer as a result of foreclosures. Historically, this trust earned a few million dollars of mineral revenues each biennium and the majority of the funds were transferred to the general fund each biennium. However, with the huge increase in oil and gas activity, and the passage of HB 1451, the fund now known as the SIIF has changed dramatically.

When projections were made at the end of the 2011 legislative session it was expected that the SIIF would collect about \$105 million of mineral related bonuses, rentals and royalties, and that it would also collect an additional \$36.5 million of oil and gas tax revenues. Coupled with a beginning balance, the budget anticipated an ending balance of only \$1 million over the \$305 million that will be transferred to the General Fund.

However, recent projections indicate that more than \$200 million of mineral bonuses, rentals and royalties will be collected and that more than \$688 million of oil and gas tax revenue will be deposited into the SIIF during the current biennium. It is now projected that the SIIF will end the 2011-13 biennium with a balance of \$709.2 million; the Governor's budget projects a balance of \$1.35 billion at the end of the 2013-15 biennium.

(11-12/12)

In accordance with HB 1451 of the 2011 Legislature, once the unobligated balance in the SIIF reaches \$300 million, 25% of all revenues received for deposit in the fund in subsequent months must be deposited instead into the Legacy Fund. With the large amount of funds currently flowing into the SIIF it is expected that the unobligated balance of SIIF will reach the \$300 million threshold during January 2013.

The Commissioner is working with the State Treasurer to make sure this provision of HB 1451 is followed correctly. It is anticipated that the Treasurer will begin transferring 25% of the state's share of gross production and oil extraction taxes directly into the Legacy Fund beginning in February 2013. The Department will transfer 25% of the royalty, bonus and other revenues received into the SIIF during February, to the Legacy Fund in March.

Historically the primary focus of the Land Board's investment program has been to invest the permanent trust assets in a way that balances the Board's dual obligations of preserving the purchasing power of the funds and maintaining stable distributions to fund beneficiaries. The cash management aspects of the permanent trusts' investment program are relatively simple, as the timing and amount of cash outflows is known ahead of time and predictable.

Managing the cash flows for the SIIF is different. Projections indicate that close to \$1.4 billion of oil and gas tax receipts will be deposited into SIIF during fiscal years 2013, 2014 and 2015, with an estimated \$240 million of mineral revenues earned during that time-frame. However, little is finalized about the timing or amount of cash outflows from the SIIF, with the Executive budget allocating \$204 million of the funds.

The SIIF currently owns \$599.8 million of low yielding Treasury securities, all of which mature before the end of the current biennium. These funds are invested in this way because of the possibility of being accessed by the Legislature during its session. However, if the SIIF is not going to be transferred or spent each biennium, the current method of investing these funds should change to better balance the liquidity needs of the state with the desire to earn revenue from the assets held.

Developing a sophisticated cash management process will take time and effort, and could involve seeking outside help in managing these funds. Considerations include, duration risk, credit risk, liquidity, interest rate risk and loss risk.

All of these things and more need to be considered when developing an investment policy for these funds. If the management of these funds stays with the Board, the cash management and investment program for these funds will need to improve and expand.

**Unclaimed Property Update.** The Board has been responsible for the Uniform Unclaimed Property Act (Act) since it was enacted in 1975 under the authority of NDCC 47-30 (which was repealed and replaced by 47-30-1). This legislation was established to provide a centralized custodial repository for unclaimed property (namely financial assets), with the intent to return the property to the rightful owner, their heirs or assigns. Varying versions of the Uniform Unclaimed Property Act have been adopted by all 50 states, Puerto Rico, the US Virgin Islands, and three Canadian provinces.

Beyond protecting the assets of the rightful owners, funds received on behalf of the owners are held in perpetuity, and earnings on those funds until the time they are claimed, are utilized to benefit the "greater good" within the Common Schools Trust Fund.

In the first year of existence, the program resulted in the Department receiving 87 reports and roughly \$190,000. For the 2011 report year (July 1, 2011 thru June 30, 2012) the Department processed 2,261 reports totaling \$4.5 million.

In FY11, 3,745 properties, totaling \$1.9 million, were recovered by owners.

The Act requires publication of the following notices intended to inform the public of unclaimed property:

- Annual publication of names and last known address in the official county paper of the owner's last known address.
- Annual publication of a display ad relating to unclaimed property in county newspapers.

Additionally, the Department has developed and enhanced the following outreach initiatives with the objective of increasing public awareness of unclaimed property:

- Free searches on the Department's website and on [www.missingmoney.com](http://www.missingmoney.com)
- On-line customized claims forms and claim instructions
- E-mail distribution to on-line user groups (State/County government, education system etc.)
- Television and radio interviews
- Service club presentations
- Public contact at fairs and tradeshows
- Address updates and direct mailings
- Cooperative Agreement for data matching with ND Child Support and Enforcement

Important to the success of the program is ensuring industry compliance with the requirements of the Act. If property is never reported, it can never be returned to the owner(s). While certain property types (such as gift certificates and cooperative patronage dividends) have specific reporting exemptions, no business is exempt entirely from the Act, which provides authorization to assess penalties and interest on late-reported or non-reported property in the event it is determined there has been a "willful" failure to comply.

In 1984 the Department entered into its first "third party" contingency custodial/compliance contract. Several third party audit vendors are currently under contract for conducting out-of-state audits; however, legislation enacted in 1995 prohibits the use of contract auditors to exam North Dakota businesses.

Processes and procedures for an in-house audit program exist; however, turnover of auditors, limited FTEs for the position and overall burgeoning Department responsibilities have required that vacant positions be reclassified to accommodate other staffing needs. Current compliance initiatives have been limited to identifying industry groups with low rates of compliance, providing those businesses with information related to the requirements of the Act, and offering assistance in helping them become compliant.

Audit Finding and Proposed Legislation. The *Financial Statements June 30, 2012 and 11* audit report prepared by Eide Bailly identified the following audit "condition" related to unclaimed property compliance:

*While the board utilizes third-part contract auditors to address compliance issues out-of-state, currently there is no audit function in place in the Unclaimed Property Division to ensure North Dakota businesses are appropriately submitting unclaimed property and that penalties are appropriated assessed for noncompliance. The Board has compliance and audit policies and procedures in place; however they have no employee to currently fill this role internally.*

*We recommend that the Board find a way to implement this audit function with North Dakota entities to ensure that all unclaimed property is received and penalties properly assessed and collected for those businesses not in compliance.*

The Commissioner concurs with the finding and recommendation, and in an effort to address compliance concerns, has initiated two actions.

1. An FTE for unclaimed property compliance and education was requested in the agency budget. The position was not included in executive recommendation as OMB believes that the position can be filled under the program's continuing appropriation authority. The Commissioner will review hiring options under this standing authority.
2. In order to regain the ability to pursue options relating to contracting for audit help in-state, the proposed legislation has been submitted for Legislative consideration that would remove the restriction on hiring contract auditors of in-state property holders.

## O P E R A T I O N S

**Appropriation Line Transfers.** The 2011 legislature approved one FTE for the Energy Infrastructure and Impact Office at the salary funding level for an office assistant of just over \$90,000 for the biennium. An Assistant Director was hired at a higher salary in order to compensate for the expected professional level of program management. Additionally, temporary administrative support and technical assistance has been hired on occasion, and the Commissioner has logged time spent on EIIO management and tasks. Anticipating these additional costs, in March of 2012, the Board allocated the funds within the Oil and Gas Impact Grant Fund to grant priorities for the remainder of the fiscal year categories, while reserving \$150,000 for “additional administrative costs”.

The salary expenditures for the EIIO will exceed the amount appropriated by approximately \$133,000 at the close of the biennium. This figure includes temporary salaries, a portion of the commissioner’s salary, additional salary earned by the assistant director and benefits. EIIO operating costs and other unallocated department staff time will be covered by the amount appropriated for operating expenses.

Under Section 2 and 3 of HB1013, as passed by the 2011 Legislative session, the Board has the authority to transfer funds between the various line items of the Department’s biennial appropriation.

**Motion: As authorized in section 2 and 3 of chapter 13 of the 2011 Session Laws (HB 1013) the Board approve a transfer of \$133,000 from the 2011-2013 grants line item to salaries and wages line item of the commissioner of university and school lands 2011-2013 appropriation authorization, and make Oil and Gas Impact Grant Funds available for EIIO related salaries and wages.**

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

Separately, applications for easements and surface occupancy continue at a hectic pace, not slowed by the season.

The Commissioner seeks to purchase a utility terrain vehicle (UTV) with tracks, a cab and rollover protection that will allow year-round access to rough and remote terrain. The Department has a traditional ATV, but it is impractical for winter use and is unbalanced and unsafe when used for weed spraying. A trailer to haul the UTV to all locations will also be acquired. The purchases are categorized as capital assets and the legislature appropriated only \$10,000 for that line item. The Legislature did appropriate \$100,000 on the contingency line. The equipped UTV and trailer will total nearly \$40,000, but will allow ongoing access to the surface land and rights-of-way and allow the Department to continue to be responsive to industry requests.

**Motion: As authorized in section 2 and 3 of chapter 13 of the 2011 Session Laws (HB 1013), the Board approve a transfer of \$40,000 from the 2011-2013 contingency line item to capital assets line item of the commissioner of university and school lands 2011-2013 appropriation authorization.**

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger			X		
Superintendent Sanstead			X		
Treasurer Schmidt	X		X		

Attorney General Stenehjem		X	X		
Governor Dalrymple			X		

**Governor's Budget Recommendation.** The Commissioner provided an overview of Governor Dalrymple's executive budget recommendation for the Department of Trust Lands for the 2013-2015 biennium.

The budget submitted by the Governor included an additional 4.25 FTEs and associated administrative costs for the Board and Department's trust management responsibilities. The executive budget includes:

- One land management specialist to assist in the processing of easements and reclamation inspections related to expanded energy activity
- A minerals title specialist to address growing demand in title research and lease tracking
- An audit technician to assist in the interpretation and entry of royalty information and data
- An additional administrative assistant
- A quarter FTE to convert an existing  $\frac{3}{4}$  position to full-time

**Energy Infrastructure and Impact Office (EIIO).** The Governor's budget for the 2013-15 biennium increases the amount of gross production tax allocated to the oil and gas impact grant fund from the current level of \$100 million per biennium to \$214 million. During the current biennium, the fund was supplemented by \$30 million from the general fund.

The executive budget recommends a permanent change in the energy impact grant program to \$150 million and one-time inclusion of \$60 million for energy impacted airport needs and \$4 million for energy impacts at higher education institutions.

The EIIO program is currently served by one authorized FTE who is assisted by department staff in processing grant applications, accounting, IT, and reimbursement requests. The executive budget includes salary for temporary technical staff and recommends 2.00 FTEs:

- A grants administrator
- An accounting budget specialist

**Ordinary High Watermark Court Hearing.** The core issue in the river litigation is title to the area between ordinary high watermark and ordinary low watermark, an area known as the shorezone. Riparian landowners claim down to the ordinary low watermark. The state, however, asserts that it's title to the bed of navigable rivers, like the Missouri, extends up to the ordinary high watermark. Resolving the dispute turns on the proper interpretation of a state statute.

The Northwest Judicial District Court has scheduled oral arguments December 17, on the consolidated Brigham Oil and Stanford Reep cases for the purpose of determining title to shorezone minerals.

The State has requested that the Court enter an Order finding that the title held by the State of North Dakota in the beds of navigable waterways, in particular its title to the subsurface or mineral estate, extends up to the ordinary high water mark, and finding that the title held by riparian landowners along navigable waterways in North Dakota, in particular their title to the subsurface or mineral estate, does not extend beyond the ordinary high watermark. All parties have filed summary judgment motions requesting that the Court decide, as a matter of law, ownership of the shorezone.

The Board should be aware of the following issues:

1. This case is a property title dispute between the State and private landowners. Under federal law, the State owns the beds of all navigable rivers and lakes, such as the Yellowstone River, Missouri River, Lake Sakakawea, Lake Metigoshe, and the Red River, and at statehood the State took title to these riverbeds and lakebeds up to the high watermark.
2. The dispute turns on interpreting a state statute, Section 47-01-15, and a 1994 ND Supreme Court decision, *Sprynczynatyk v. Mills*, that considered that statute. The Court did not give a

definitive interpretation of the statute, stating that both the State and riparian landowners have interests within the shorezone.

3. The statute must be interpreted in light of provisions of the N.D. State Constitution, particularly the provision prohibiting the State from giving special privileges to any group of citizens. Another constitutional provision is the anti-gift clause, which prohibits the State from giving away state assets without getting value in return.
4. The State contends that its title continues to extend up to the high watermark, as it did at statehood, while riparian landowners contend that their title to riparian lots extends down to the low watermark.
5. For at least 30 years, oil and gas leases issued by the State for riverbeds and lakebeds have included the shorezone.
6. The bonus and royalty payments that the State receives for these leases are deposited into a fund that the legislature uses for enhancing the state's infrastructure.
7. The value at stake is substantial, approximately 20,000 surface and mineral acres and many tens of millions of dollars.
8. The case concerns title to both the surface area of the shorezone as well as the subsurface, or mineral estate. If the State does not own the shorezone the public's access to and enjoyment of the state's greatest rivers and lakes may be compromised.
9. The dispute has come to a head now because of the Bakken Play and advances in drilling technology which allow for horizontal access.

A Resolution was proposed to acknowledge Charles Carvell and his retirement.

Motion: **That the Board of University and School Lands adopt a Resolution thanking and commending Charles Carvell for his dedication and service to the State of North Dakota.**

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

**Report of Easements Issued by Land Commissioner. (10-15-12 thru 12-07-12:**

<b>MOUNTRAIL-WILLIAMS ELECTRIC COOP</b> MOU-157-93-36-NW4, SE4, SW4	Electric Distribution Line	11/08/2012
<b>MOUNTRAIL-WILLIAMS ELECTRIC COOP</b> MOU-155-92-36-SW4	Electric Distribution Line	11/08/2012
<b>MOUNTRAIL-WILLIAMS ELECTRIC COOP</b> MOU-155-92-16-NW4, SW4	Electric Distribution Line	11/07/2012
<b>MOUNTRAIL-WILLIAMS ELECTRIC COOP</b> MOU-158-90-36-NE4, NW4, SE4	Electric Distribution Line	11/08/2012
<b>MOUNTRAIL-WILLIAMS ELECTRIC COOP</b> MOU-157-90-23-NE4	Electric Distribution Line	11/06/2012
<b>MOUNTRAIL-WILLIAMS ELECTRIC COOP</b> WIL-154-98-16-NE4, SE4	Electric Distribution Line	11/06/2012
<b>MOUNTRAIL-WILLIAMS ELECTRIC COOP :</b> WIL-158-95-16-SE4, SW4	Electric Transmission Line	11/05/2012

<b>ONEOK ROCKIES MIDSTREAM LLC</b> MCK-153-94-16-NE4, NW4	Gas Gathering Pipeline	11/08/2012
<b>MOUNTRAIL-WILLIAMS ELECTRIC COOP</b> MOU-153-91-18-SW4 MOU-153-92-16-NW4	Electric Distribution Line	11/06/2012
<b>ROUGH RIDER ELECTRIC COOP, INC</b> BIL-140-100-16-NW4	Electric Distribution Line	11/05/2012
<b>HORGAN SURVEYING</b> WAR-155-84-1-SW4NW4 LYING N & E OF RIVER CENTERLINE	General Land Surveys	11/08/2012
<b>MOUNTRAIL-WILLIAMS ELECTRIC COOP</b> BRK-159-90-36-SE4, SW4	<b>Amend</b> Electric Distribution Line	11/07/2012
<b>MOUNTRAIL-WILLIAMS ELECTRIC COOP</b> WIL-156-97-36-SE4, SW4	<b>Amend</b> Electric Distribution Line	11/07/2012
<b>MOUNTRAIL-WILLIAMS ELECTRIC COOP</b> WIL-156-100-16-NW4, SW4 WIL-156-100-9-S2SE4	Electric Distribution Line	11/08/2012
<b>MOUNTRAIL-WILLIAMS ELECTRIC COOP</b> WIL-158-103-36-SW4	Electric Distribution Line	11/07/2012
<b>MOUNTRAIL-WILLIAMS ELECTRIC COOP</b> WIL-158-95-36-NE4, NW4, SE4, SW4	Electric Distribution Line	11/07/2012
<b>MOUNTRAIL-WILLIAMS ELECTRIC COOP</b> WIL-156-95-16-NW4, SW4	Electric Distribution Line	11/08/2012
<b>MOUNTRAIL-WILLIAMS ELECTRIC COOP</b> MOU-153-93-36-NE4 SOUTH OF HWY, NW4 SOUTH OF HWY, SE4 NORTH OF HWY, SE4 SOUTH OF HWY	<b>Amend</b> Electric Distribution Line	11/08/2012
<b>MOUNTRAIL-WILLIAMS ELECTRIC COOP</b> WIL-156-101-16-NE4, NW4	Electric Distribution Line	11/08/2012
<b>MOUNTRAIL-WILLIAMS ELECTRIC COOP</b> MOU-154-91-16-SE4 MOU-155-90-16-NE4, SE4, SW4	Electric Distribution Line	11/08/2012
<b>ONEOK ROCKIES MIDSTREAM LLC</b> DIV-162-100-16-NE4, NW4 DIV-162-99-16-SE4	Gas Gathering Pipeline	10/24/2012
<b>HILAND CRUDE LLC</b> WIL-156-95-36-SE4, SW4	Oil Gathering Pipeline	10/18/2012
<b>RESERVATION TELEPHONE COOP</b> MOU-153-92-16-NW4	Communication Cable	11/06/2012
<b>PETRO-HUNT LLC</b> MCK-153-96-36-NE4	Salt Water Disposal Well	11/19/2012
<b>HILAND CRUDE LLC</b> (11-12/12)	Oil Gathering Pipeline	10/18/2012

MOU-156-94-36-NE4, NW4		
<b>CMG CONSTRUCTION</b> MOU-158-92-16-NE4 NORTH OF ROAD R/W	Lease: Borrow	11/20/2012
<b>CMG CONSTRUCTION</b> MOU-158-92-16-NW4 SOUTH OF RR R/W	Lease: Borrow	11/20/2012
<b>HESS CORPORATION</b> MOU-154-93-16-NW4	Section Line Access Road	10/23/2012
<b>AGGREGATE CONSTRUCTION INC</b> MOU-155-92-16-NE4	Lease: Borrow	11/20/2012
<b>CRUSHED ROCK SALES LLC</b> WIL-159-100-16-NW4	Lease: Borrow	11/20/2012
<b>ONEOK ROCKIES MIDSTREAM LLC</b> MCK-150-97-36-SE4, SW4	Gas Gathering Pipeline	11/30/2012
<b>MOUNTRAIL-WILLIAMS ELECTRIC COOP</b> MOU-157-90-36-NW4	Electric Distribution Line	11/09/2012
<b>MOUNTRAIL-WILLIAMS ELECTRIC COOP</b> WIL-158-95-16-SE4, SW4	<b>Amend</b> Electric Distribution Line	11/06/2012
<b>ONEOK ROCKIES MIDSTREAM LLC</b> DUN-147-96-36-NE4	Gas Gathering Pipeline	10/18/2012
<b>VERENDRYE ELECTRIC COOP INC</b> WAR-157-85-36-SE4, SW4	Electric Distribution Line	10/30/2012
<b>HILAND CRUDE LLC</b> MOU-155-94-36-NE4, SE4	Oil Gathering Pipeline	10/23/2012
<b>SADDLE BUTTE PIPELINE LLC</b> MCK-150-99-16-NE4, NW4	Oil Gathering Pipeline	10/19/2012
<b>MOUNTRAIL-WILLIAMS ELECTRIC COOP</b> MOU-155-91-36-SW4	<b>Amend</b> Electric Distribution Line	11/09/2012
<b>ONEOK ROCKIES MIDSTREAM LLC</b> MCK-148-104-16-NE4, NW4, SE4	Gas Gathering Pipeline	11/19/2012
<b>BEAR TRACKER ENERGY LLC</b> WIL-155-99-16-NE4, SE4	Oil Gathering Pipeline	11/20/2012
<b>SRT COMMUNICATIONS INC</b> MCH-156-79-16-NE4	Communication Cable	11/19/2012
<b>CARBO CERAMICS INC</b> STA-139-94-36-NE4, NW4, SE4, SW4	Aggregate Prospecting	10/30/2012
<b>PETROLEUM FIELD SERVICES LLC</b> WAR-155-84-1-SW4NW4 LYING N & E OF RIVER CENTERLINE	General Land Surveys	10/19/2012
<b>HILAND CRUDE LLC</b> MCK-150-98-36-SE4, SW4	Amend: Oil Gathering Pipeline	11/06/2012
<b>WHITING OIL &amp; GAS CORPORATION</b>	Amend: Gas Gathering Pipeline	11/30/2012 (11-12/12)

MOU-155-92-36-SW4

<b>R CHRISTOPHER GOODWIN &amp; ASSOCIATES INC</b> WAR-155-84-1-SW4NW4 LYING N & E OF RIVER CENTERLINE	General Land Surveys	10/23/2012
<b>ONEOK ROCKIES MIDSTREAM LLC</b> BIL-143-101-36-SE4	Gas Gathering Pipeline	11/20/2012
<b>CARBO CERAMICS INC</b> DUN-143-91-36-NW4, SW4	Aggregate Prospecting	10/30/2012
<b>RESERVATION TELEPHONE COOP</b> MOU-152-88-16-SE4	Communication Cable	11/27/2012
<b>CONTINENTAL RESOURCES INC</b> BIL-143-101-36-SE4	Amend: Horizontal Oil Well	11/16/2012
<b>NORTH PLAINS ENERGY LLC</b> WIL-154-98-16-NE4	Amend: Salt Water Disposal Well	11/19/2012
<b>HILAND OPERATING LLC</b> WIL-153-100-36-NE4, SE4, SW4	Oil Gathering Pipeline	11/19/2012
<b>HESS CORPORATION</b> WIL-153-98-16-NE4, NW4	Amend: Access Road	11/21/2012

**Quarterly Financial Statements.** The Board reviewed the Financial Statement Summary and Total Assets by Trust as of September 30, 2012. These reports are on file at the Department of Trust Lands office.

**Investment Performance Report for Quarter Ended September 30, 2012.** The investment performance report covers the performance of the Land Board's investment program for the period of July 1, 2012 – September 30, 2012.

This report is prepared quarterly to evaluate the performance of the investment portfolio as a whole, and the performance of the individual money managers hired to help meet the Board's investment goals and objectives.

**November 06, 2012 Oil and Gas Lease Auction Results.** The Board reviewed a report of the results from the November 06, 2012 oil and gas lease sale, which was held at the ND Capitol Building House Chambers, Bismarck, ND. The memo is on file at the Department of Trust Lands office and was for the Board's information only; no action was required.

**Fall 2012 Surface Lease Auction Results.** The 2012 fall lease auctions were completed in October. Below is the summary of statistics as compared to the fall of 2011. The lower acreage eastern counties expired this year in the in the auction rotation resulting in more counties hosting auction, but fewer tracts being offered for lease.

	2011	2012
Number of counties	34	41
Total leases offered	1517	868
Number of leases bid	1469 (97%)	832 (96%)
Number of leases bid-up	91 (6%)	112 (13%)
Total amount of minimum advertised bids (leased tracts)	\$1,767,838	\$1,238,568

(11-12/12)

Total amount received	\$1,885,331	1,480,362
Competition factor (% of total income)	\$117,493 (6%)	\$241,794 (16%)

Competition was brisk, especially in the east where the trusts own more cropland acres. Of the 78 cropland tracts offered, 19 (25%) were bid beyond the advertised minimum rent accounting for 27% of the "competition factor" shown above.

In the fall of 2013, no fall lease auctions will be conducted as lease expirations have been adjusted over time to allow for the elimination of one auction rotation every five years.

On behalf of the Board, the Commissioner has approved all fall leases.

## A D J O U R N

There being no further business, the meeting was adjourned at 10:50 AM..

\_\_\_\_\_  
Jack Dalrymple, Chairman  
Board of University and School Lands

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Lance D. Gaebe, Secretary  
Board of University and School Lands