

**Minutes of the Meeting of the  
Board of University and School Lands  
February 25, 2016**

The February 25, 2016 meeting of the Board of University and School Lands was called to order in the Governor's Conference Room at 9:09 AM by Chairman Jack Dalrymple.

**Members Present:**

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

**Department of Trust Lands Personnel:**

Lance D. Gaebe	Commissioner
Susan Dollinger	Unclaimed Property Administrator
Levi Erdmann	Investment Analyst
Gerry Fisher	Director, Grants and Claims
Linda Fisher	Deputy Commissioner of Operations
Mike Humann	Director, Surface Division
Taylor Lee	Director, Revenue Compliance
Catelin Newell	Office Manager
Rick Owings	Assistant Energy Impact Director

**Others in Attendance:**

Kyle Wanner	North Dakota Aeronautics Commission
Ken Munson	City of Ray
Lonni Fleck	City of Ray – Interstate Engineering
Janelle Moos	CAWS North Dakota
Ryan Skor	State Treasurer's Office
Blake Crosby	ND League of Cities
Micah Rorie	Dakota Access, LLC
Michael Futch	Dakota Access, LLC
Marcia Beard	RVK
Kristen Steffens	RVK
Bonnie Storbakken	Governor's Legal Counsel
Jason Nisbet	Governor's Office
Joel Gilbertson	GA Group PC
Levi Andrist	GA Group PA
Nick Smith	Bismarck Tribune
Mike Nowatski	Forum News Service
James MacPherson	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 January 28, 2016 meeting was made by Secretary of State Al Jaeger and seconded by Attorney General Wayne Stenehjem and the motion carried on a voice vote.

## ENERGY INFRASTRUCTURE AND IMPACT OFFICE

### Revenue Forecast and Spending Plan

Of the \$139.3 million appropriated for grants during the 2015-2017 Biennium, \$42,406,979 has been awarded. Details of grants requested and remaining in various categories were provided to the Board and are available at the Department.

### Revised Revenue

The February 1, 2016 revised State revenue forecast projects that the Oil and Gas Impact Grant Fund (OGIGF) will receive only \$28.6 million of the \$140 million appropriated for the biennium.

In December 2015, the Board requested legal advice regarding the priorities of allocations of OGIGF grants made by the 2015 Legislature in HB 1176, SB 2199, SB 2284 and SB 2015.

The Assistant Attorney General interpretation is that HB 1176 Section 5; subsection 4 requires that one-half of funding must be provided to critical access hospitals in January of each fiscal year of the biennium. Five million dollars has already been distributed in January 2016, an additional \$5 million will need to be distributed in January 2017 to critical access hospitals.

Similar language exists in Section 5 subsection 10 for providers serving individuals with developmental disabilities, which requires an additional \$1 million be distributed in January of 2017 to providers.

The legal analysis further finds that language in SB 2199 regarding \$750,000 for Human Trafficking and in SB 2284 regarding the \$250,000 for Sexual Assault Examiner Programs need to be funded. Grant were provided in January 2016 for these areas and \$2,233 remains to be awarded for sexual assault examiner programs and \$94,576 will need to be awarded for human trafficking service providers. An overview of the awards-to-date and commitments remaining to be made per legal advice was provided to the Board.

Including the \$42.4 million awarded to-date, the additional \$6.1 million required awards and projected biennial administrative costs of \$.62 million, \$49.12 million is the projected total of OGIGF committed in the 2015-17 biennium. The revised forecast projects the fund will receive \$28.6 million resulting in a projected biennial shortfall of \$20.52 million.

The Energy Impact Office has contacted all grantees with open grants, who were cautioned against starting projects or making commitments due to the expected revenue shortfall.

Status of all grants approved during the current and previous biennium as of February 18, 2016:

- There are 246 entities holding at least one grant with a remaining balance, all have been telephoned
- There are 443 grants with an open balance, there is a total of \$89,697,783.36 committed to these grants
- Of these, 12 grants are to 10 entities legally required to receive grants, total balances \$903,191
- In 63 grants, awardees have not made a commitment or signed a contract etc., total \$7,396,006.77
- According to the contacts, 16 grants totaling \$111,433.39 could possibly be canceled.
- The EIIO identified another possible \$517,980 which could possibly be canceled.

- 250 grants for a total of \$50,737,603.31 have initiated commitments, signed contracts, or have projects underway, etc.
- 76 grants have at least a partial commitment and contacts were not able to clearly identify if an obligation exists. These grants have a total balance of \$28,535,705.97.
- Entities not reached or awaiting responses have 38 awards with balances totaling \$2,917,033.92, thus not categorized.

The table below identifies by type, awards with projects without a current commitment:

Type	Fiscal Year 2016		Past Biennia		Total of All Awards Without Commitments	
	# of Awards	Amount of Award Balances	# of Awards	Amount of Award Balances	# of Awards	Amount of Award Balances
County-Law Enforcement	3	\$659,960.00	0	\$0.00	3	\$659,960.00
Fire	4	\$201,230.04	2	\$407,280.57	6	\$608,510.61
School District	14	\$1,804,255.84	7	\$181,901.87	21	\$1,986,157.71
Township-Roads	1	\$500,000.00	25	\$1,999,280.62	26	\$2,499,280.62
EMS	1	\$200,000.00	1	\$300,000.00	2	\$500,000.00
County-EMS	0	\$0.00	0	\$0.00	0	\$0.00
County-Truck	0	\$0.00	0	\$0.00	0	\$0.00
Airport	0	\$0.00	1	\$858.52	1	\$858.52
City-Infrastructure	0	\$0.00	0	\$0.00	0	\$0.00
City-Law Enforcement	0	\$0.00	0	\$0.00	0	\$0.00
City-Fire	0	\$0.00	1	\$11,940.00	1	\$11,940.00
City-EMS	1	\$29,299.31	0	\$0.00	1	\$29,299.31
City-Miscellaneous	0	\$0.00	0	\$0.00	0	\$0.00
Higher Education	0	\$0.00	1	\$800,000.00	1	\$800,000.00
Social Services	0	\$0.00	0	\$0.00	0	\$0.00
County-Roads	0	\$0.00	1	\$300,000.00	1	\$300,000.00
County-Miscellaneous	0	\$0.00	0	\$0.00	0	\$0.00
Park District	0	\$0.00	0	\$0.00	0	\$0.00
	<b>24</b>	<b>\$3,394,745.19</b>	<b>39</b>	<b>\$4,001,261.58</b>	<b>63</b>	<b>\$7,396,006.77</b>

Except for the most critical requests, reimbursements totaling \$12,164,457.68 from past biennium grants have been held for payment. Of grants in the current biennium, requests for payment of \$2,610,607.68 have been received, as of February 18, 2016.

Some grants provided in 2013-2015, including \$13.6 million remaining for the Williston Airport are not expected to be used until 2017. These funds can be used in the near-term to support reimbursement requests.

Legal Counsel is reviewing the legislative authority to carry forward the obligation or appropriation of grants to the subsequent biennium.

It was recommended that the Board suspend grants for projects which awardees have indicated have not yet started, totaling \$7,396,006.77. Additionally all remaining scheduled grants in the remainder of the biennium should be suspended until additional funding is available.

**Motion: The Board suspended the distribution of \$7.4 million in grants on projects identified by awardees as not started or where no commitments have been made; commitments to these suspended grants remain as grant obligations awaiting funds. The remaining scheduled and uncompleted grant rounds for the 2015-2017 biennium be placed on hold.**

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

## SURFACE MANAGEMENT

### Land Sale Policy – Addition of Sale Procedure for High Value Land

In March of 2015 the Board modified its policy related to the sale of trust land. The new policy related to no-net-loss of leasable trust land; donation of land to trusts; and the prospect of selling land that has changed from agricultural to a higher value land.

The Board has previously reviewed options to sell high value land in proximity to Bismarck, Williston, Dickinson and Minot. A proposed process that details nomination, earnest deposit and appraisal for selling high value land was presented for Board review and consideration.

The proposed changes involved an addition to paragraph 202 B 3 of the Board's land sale policy. The procedure would be added as an addendum to the land sale policy.

**Motion: The Board approves the proposed addition to paragraph 202 B 3 of its Land Retention Sales Policy and it approves the adoption of the High Value Land Sales Procedure as presented.**

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

The approved Land Retention and Sales policy and High Value Land Sales Procedure are available at the Department.

### Intent to Sell Land –Section 36, T139N, R80W, Burleigh County (East Bismarck)

In 2014, the Board authorized a market analysis relating to possible land sales of parcels of Section 36, T139N, R80W, Burleigh County. In 2015, the Board reviewed a Kadmas, Lee & Jackson report and recommendations on subdividing the property for potential sale.

On January 11, 2016 representatives of the Department along with Joel Quanbeck of KLJ met with officials and staff from the City of Bismarck, Burleigh County, Bismarck Parks and Recreation and

Bismarck Mandan Development Association to discuss how Section 36 could be developed if the property were to be sold. Topics included existing public and private easements; the extension of Divide Avenue; storm water detention/retention plans, park district interest in portions of the property; and the Board’s legal process of selling the land.

There is not an immediate plan for extension and completion of Divide Avenue along the north side of Section 36 and the city has only recently initiated a storm water master plan study, which is anticipated to be completed at the end of 2016. Thus there is no advantage in holding the property in anticipation of completion of the Divide Avenue project or storm water detention/retention purposes. For property dedication purposes it would work best for the city if the property were privately held.

**Motion: This property has high value because of its location and its potential for real estate development but the trusts cannot realize this value except through a sale. Therefore it is the Board’s intent to sell all or portions of Section 36, T139N, R80W, Burleigh County using the Kadrmas, Lee & Jackson recommendation for the subdivision of tracts indicated on the attached map.**

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

The Section 36 East Bismarck Sale Division Concept map provided to the Board is available at the Department.

**MINERALS MANAGEMENT**

**Approval of BNI Coal Lease (142-84 Sec. 29: S2)**

The Board manages 50% of the minerals within two quarters in Township 142N, Range 84W, Section 29: S½, in Oliver County equaling 160 net mineral acres. Action was requested to complete the process of leasing trust coal minerals to BNI Coal.

According to the Board’s rules and policies of leasing coal, a lease auction and hearing was conducted on January 28, 2016. No public comment on this matter was made. Seeing no objection to the proposed coal leasing, the Department moved to auction bidding, and BNI Coal was the sole bidder. The terms offered by BNI conform to the terms set out by the Board on December 16, 2015:

\$0.20 royalty per ton of coal mined, a \$5.00 per acre yearly rental payment, and a one-time payment of \$100.00 per net mineral acre for the standard Board coal lease, with a term of 15 years with an option to extend for an additional 15 years.

**Motion: The Board authorize the Commissioner to issue to BNI Coal two leases for the right to produce coal minerals within Township 142N, Range 84W, Section 29: S2 tracts with a \$0.20 royalty per ton of coal mined, a \$5.00 per acre yearly rental payment, and a one-time payment of \$100.00 per net mineral acre for the standard Department coal lease, with a term of 15 years with an option to extend for an additional 15 years.**

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

## O P E R A T I O N S

### **Continuing Appropriation Policy – Contracted Royalty Audits**

State law permits the Board to declare certain trust or fund management expenditures as continuing appropriation expenses. In May of 2011, the Board adopted a motion affirming several specific costs as continuing appropriations.

### **Costs of Contracted Royalty Audits**

The Department employs three FTEs involved in revenue compliance and royalty collections. These professionals oversee procedures to assure the timely and accurate accounting of all royalties, bonuses, rentals, and other revenues received by the Department. To supplement these efforts, the Department has initiated procurement for the services of one or more professional royalty auditing firms to assist in the verification of compliance with the Board's lease terms, rules, state law and payment expectations and cost allowances.

The planned RFP will require that the firms identify an hourly rate, so that costs can be managed. The procurement process will be designed to generate a list of several qualified firms that can be activated as needed and as available.

North Dakota Century Code Sections 15-04-24, 15-07-22 and 15-05-19 permit the Board to determine certain expenditures as necessary to manage, preserve, and enhance the value of the trust land and mineral assets, to be considered as continuing appropriation expenses. The costs of external royalty audit firm work to verify royalty payments on behalf of the permanent trusts and the sovereign assets is necessary to preserve and enhance the value of the mineral assets, and the Board can affirm that the costs are a continuing appropriation.

The Commissioner recommended the approval of the contract royalty auditor costs as additional to the continuing appropriation items it approved in 2011 and for it to consider the amended list as standing Board policy.

The following (except for the underlined) is a summation of the action taken in 2011:

**Board of University and School Lands  
Continuing Appropriation Authority Policy**

Continuing appropriation authority is provided in state law for certain operating expenditures.

**A. Unclaimed Property - Continuing Authority.**

Unclaimed property expenses as outlined in NDCC Section 47-30.1-23 may be paid under continuing appropriation authority including, but not limited to: payments of claims, service charges for address verification and updates, advertising costs, audit services, legal costs and outreach efforts.

**B. Grant Land, Non-Grant Land and Mineral Leases - Continuing Authority.**

NDCC Sections 15-04-24, 15-07-22 and 15-05-19 permit expenditures to be considered as continuing appropriation expenditures. These sections appropriate annually the expenses determined by the Board as necessary to manage, preserve, and enhance the value of the trust land and mineral assets.

Specifically authorized by the Board as continuing appropriation authority:

1. Salaries and travel expenses for temporary field men who conduct inspections to ensure rangeland integrity and surface reclamation.
2. Advertising surface and mineral lease auctions. Section 15-04-09 of the NDCC requires the Board to publish multiple notices of surface and mineral leases auctions. Advertising of the lease auctions are done to ensure the trusts receive competitive bids to enhance the trusts' value.
3. Legal expenditures that are incurred by a specific trust or trusts to maintain their value and integrity.
4. Costs of hiring independent contract firms to perform accounting, audit, compliance review or collection efforts to ensure the proper payment of oil, gas, coal or other mineral royalty.

**Motion: The Board adopted the continuing appropriation policy presented herein, including the inclusion of continuing appropriation authority for the costs of royalty auditors contracted to help manage, preserve and enhance the value of the trust assets.**

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

## I N V E S T M E N T   M A N A G E M E N T

### **RVK Investment Performance Report – 4th Quarter 2015**

Kristen Steffens and Marcia Beard from RVK reviewed the performance of the permanent trust funds' pool of investment assets for the period ending December 31, 2015. The report is available at the Department.

### **Asset Class Review - Equities**

RVK's Kristen Steffens and Marcia Beard reviewed the permanent trusts' equity portfolio, as part of the Board's quarterly review of investment asset classes in which the permanent trust funds participate.

The majority of the trusts' equity exposure is achieved through passive index funds, though the Board has directed trusts' investments into an active domestic small cap portfolio and two active emerging market equity funds.

The presentation evaluated the asset class as a whole, as well as the specific strategies and managers.

### **Asset Allocation**

The Board reviewed the status of the asset allocation of the permanent trusts as of January 31, 2016.

In early February, 2016, an additional \$17.8 million was moved From the Payden & Rygel Low Duration Fund to the Jamestown Premier Property Fund, completing the funding of that \$75.0 million real estate portfolio.

As money is called to fund the real estate mandates, the permanent trusts' equity, fixed income, absolute return, and diversified inflation strategies target allocations will be adjusted down towards long-term target allocations. Ten percent of the permanent trusts' planned 15% policy allocation to real estate has been funded. The remaining real estate commitments are anticipated to be funded on the following timeframe:

- Prologis                      \$75.0 million                      beginning 2<sup>nd</sup> qtr. 2016 (100%)
- JP Morgan                      \$113.0 million                      2nd qtr. 2017

### **Strategic Investment and Improvements Fund- Update**

The Strategic Investment and Improvements Fund (SIIF) holds the assets and collects the revenues earned from sovereign mineral acres, including those formerly owned by the Bank of North Dakota and State Treasurer, as well as the minerals located under navigable rivers and lakes. The SIIF also receives a portion of the oil and gas production and extraction taxes collected by the State. It is invested in a conservative, short-term fixed income portfolio.

	12/31/15 Asset Balances	Yield/Total Return for Qtr. Ended 12/31/15
<b><u>Strategic Investment and Improvements Fund</u></b>		
Loan Guarantee – Fuel Production	\$ 18,125,000	0.61% Yield
Investments/Cash	348,546,000	-0.22%
<b>Total</b>	<b>\$ 366,671,000</b>	



- Many changes occurred within the SIIF during the first six months of the biennium, as legislation passed by the 64<sup>th</sup> Legislative Assembly became effective.
- \$150 million of school construction loans were transferred to the newly created School Construction Assistance Loan Fund (SCALF) in July 2015. SB 2039 gave control of the SCALF to the BND; contingent on voter approval of a constitutional measure in November 2016. The Board will manage the SCALF until it is determined if it will be transferred to the BND after the election.
- The medical facilities infrastructure fund, which had been managed by the BND but owned by the SIIF, became a revolving fund managed by the BND in July 2015. The approximately \$50 million of loans and assets in this Fund will no longer be paid back to the SIIF
- The funds set aside to guarantee a loan for the Dakota Spirit AgEnergy biomass fuel production facility earned an annualized yield of approximately 0.55% during the quarter. This program will earn a modest amount of income going forward, as it is invested in short-term bonds.
- During the quarter ended December 31, 2015, the SIIF earned about \$23.3 million, with the majority (almost \$20 million) coming from mineral royalties.
- The latest projections indicate that the SIIF will receive about \$30.7 million of gross production and oil extraction taxes during the biennium. This is down from legislative projections of over \$200 million of tax revenues.
- The new Northern Trust Investments (NTI) Ultra-Short account was funded in mid-July 2015 with \$250 million of SIIF cash.
- The NTI Ultra-Short portfolio earned a total return of -0.22% during the quarter ended December 31, 2015; it has earned a return of +0.13% since its August 1, 2015 inception date.

The following table shows the transfers from the SIIF during the first six months of fiscal year 2016:

Amount	Bill (Agency)	Purpose
\$237 million	SB 2103 - surge (DOT)	Balance of distributions to counties for road and bridge infrastructure needs.
\$13,125,322	HB 1014 - (NDIC)	Balance of funding for new core library
\$ 650,000	HB 1285 - (Commerce)	Grants to domestic violence organizations
\$3.75 million	HB 1018 - (Commerce)	Partial transfers of funding to enhanced use lease grant program at GFAB
\$3 million	HB 1020 -(NDSU)	Partial transfer of funding for veterinary diagnostic laboratory project

An additional \$101.60 million of appropriated transfers are scheduled to come from the SIIF over the remainder of the 2015-2017 biennium:

Amount	Bill (Agency)	Purpose
\$7.0 million	HB 1012 - (DOT)	One-time funding for DOT's short line railroad program
\$3.75 million	HB 1018 - (Commerce)	Balance of funding for enhanced use lease grant program at GFAB
\$15.0 million	HB 1020 - (Extension Ser.)	Balance of funding for veterinary diagnostic laboratory project
\$50.0 million	HB 1443 - (BND)	Transfer to BND infrastructure revolving loan fund
\$25.85 million	SB 2015 - (DOT) CONTINGENT on Excess General Fund Collections	Enhance state highway investment

### School Construction Assistance Loan Fund (SCALF)

As of December 31, 2015, the SCALF consisted of \$149.9 million of school construction loans and approximately \$48,000 of cash on the outstanding loan balance. The cash represents principal and interest payments received on gross production backed school construction loans since the loan program was turned over to the SCALF in July, 2015.

### Coal Development Trust Fund - Update

The **Coal Development Trust Fund** (CDTF) is a permanent fund from which the Board issues loans to energy impacted counties, cities and school districts as provided in NDCC Section 57-62-03 and lends to school districts pursuant to NDCC Chapter 15-60. The Board is responsible for investing all funds that have not been loaned to political subdivisions. As directed in the Constitution, the income earned by the CDTF is transferred to the General Fund each year. The CDTF has historically been invested in a conservative short-term fixed income portfolio.

	12/31/15 Asset Balances	Yield/Total Return for Qtr. Ended 12/31/15
<b>Coal Development Trust Fund</b>		
School Construction Loans	\$ 49,740,000	1.67% Yield
Coal Warrants	13,636,000	3.37% Yield
Investments/Cash	4,159,000	-0.22%
<b>Total</b>	<b>\$ 67,535,000</b>	

- During the quarter, a \$6.0 million school construction loan to Fargo PSD #1 was funded out of the CDTF. At quarter's end, only about \$260,000 of loan authority remained within the \$50 million cap for school construction loans. No new coal impact loans were funded during the quarter.
- The investable balance of the CDTF was less than \$4.2 million on December 31, 2015, as school construction loan and coal impact loan balances both reached 20 year highs.
- In September 2015, the assets of the Coal Development Trust Fund were transferred to the new NTI Ultra-Short portfolio, where they are now commingled with the assets of the SIIF and the Capitol Building Fund.
- ◆ The NTI Ultra-Short portfolio earned a total return of -0.22% during the quarter ended December 31, 2015; it has earned a return of +0.13% since its August 1, 2015 inception date.

### Capitol Building Fund - Update

The Capitol Building Fund is a Constitutional fund created for the construction and maintenance of "public buildings at the capital." It generates revenues from almost 10,000 surface and 27,700 mineral acres it owns. The fund is invested in conservative, short-term fixed income portfolio.

The Capitol Grounds Planning Commission (CGPC) has official control over the Capitol Building Fund; the Land Board is responsible for investing the assets on behalf of the CGPC.

	12/31/15 Asset Balance	Total Return Qtr. Ended 12/31/15
<b>Capitol Building Fund</b>		
Investments/Cash	\$ 6,609,000	-0.22%

The 64<sup>th</sup> Legislative Session appropriated approximately \$5.7 million from the Capitol Building Fund:

- \$4.0 million for a new Governor's residence (SB 2304)
  - \$1.4 million for capitol building entrance and signage projects (SB 2015)
  - \$310,000 for legislative wing electrical and ceiling repairs (SB 2015)
- In addition to the specific appropriations noted above, NDCC 48-10-02 provides the CGPC with continuing appropriation authority of \$175,000 out of this Fund and SB 2015 contains a \$25,000 operating appropriation for the CGPC.
  - No transfers have been made to Facilities Management during the first six months of the biennium.
  - During the quarter, the Capitol Building Fund collected approximately \$336,000 of oil and gas royalties and annual surface rentals of \$131,000.
  - In September 2015, most of the assets of the Capitol Building Fund were transferred to the NTI Ultra-Short portfolio, commingled with the assets of the SIIF and the Coal Development Trust Fund.
  - The NTI Ultra-Short portfolio earned a total return of -0.22% during the quarter ended December 31, 2015; it has earned a return of +0.13% since it's' August 1, 2015 inception date.

## R E P O R T S

**The Board reviewed the results of its February 2016 Oil and Gas Lease Auctions**

**The Board reviewed an unaudited Summary of Total Assets for Period Ended November 30, 2015**

**Report of Easements Issued by Land Commissioner 01-15-16 through 02-12-2016**

**Granted to:** **BOE MIDSTREAM, DENVER-CO**  
 For the Purpose of: Easement: Oil Gathering Pipeline  
 Legal Description: DUN-148-96-16-N2SE4, SW4SE4, LOT 2

**Granted to:** **ONEOK ROCKIES MIDSTREAM LLC, SIDNEY-MT**  
 For the Purpose of: Easement: Drop Line-Gas Gathering Pipeline  
 Legal Description: MCK-151-96-36-SE4, SW4

**Granted to:** **EOG RESOURCES INC, DENVER-CO**  
 For the Purpose of: Easement-Amend: Drop Line-Pipeline  
 Legal Description: MOU-155-90-16-SE4

**Granted to:** **MARATHON OIL COMPANY INC, DICKINSON-ND**  
 For the Purpose of: Easement: Multiple Pipelines  
 Legal Description: DUN-146-92-16-S2SW4

**Granted to:** **ONEOK ROCKIES MIDSTREAM LLC, SIDNEY-MT**  
 For the Purpose of: Easement: Drop Line-Gas Gathering Pipeline  
 Legal Description: MCK-150-95-36-LOTS 1, 2

**Granted to:** **MOUNTRAIL-WILLIAMS ELECTRIC COOPERATIVE, WILLISTON-ND**  
For the Purpose of: Easement: Electric Distribution Line - Above Ground  
Legal Description: WIL-159-96-16-NE4, NW4

**Granted to:** **MOUNTRAIL-WILLIAMS ELECTRIC COOPERATIVE, WILLISTON-ND**  
For the Purpose of: Easement: Drop Line-Electric Distribution Line  
Legal Description: WIL-154-99-16-NE4, NW4, SW4

**Granted to:** **LIBERTY RESOURCES MANAGEMENT CO LLC, DENVER-CO**  
For the Purpose of: On-lease Act. Amend: Horizontal Oil Well  
Legal Description: WIL-158-95-16-SE4

**Granted to:** **HEP HB 3903 LLC, DENVER-CO**  
For the Purpose of: Easement: Drop Line-Saltwater Pipeline  
Legal Description: MCK-149-99-16-NW4

**Granted to:** **ONEOK ROCKIES MIDSTREAM LLC, SIDNEY-MT**  
For the Purpose of: Easement: Easement Release  
Legal Description: MCK-146-104-36-NW4

**Granted to:** **MCKENZIE ELECTRIC COOPERATIVE INC, WATFORD CITY-ND**  
For the Purpose of: Easement-Amend: Electric Transmission Line  
Legal Description: MCK-153-97-16-NW4

**Granted to:** **MCKENZIE ENERGY PARTNERS LLC, BELFIELD-ND**  
For the Purpose of: Easement: Drop Line-Saltwater Pipeline  
Legal Description: MCK-151-100-16-NW4

**Granted to:** **BURLINGTON RESOURCES OIL & GAS CO LP, BARTLESVILLE-OK**  
For the Purpose of: Permit: Access Road  
Legal Description: DUN-146-94-36-SE4, SW4

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. Fees may be charged for this use.

**Granted to:** **MCKENZIE ELECTRIC COOPERATIVE INC, WATFORD CITY-ND**  
For the Purpose of: Letter of Permission: Access to School Land to a proposed electric distribution line across the N2 of section 21

Legal Description: DUN-147-95-16-NE4 NORTH OF HWY, SE4

**Granted to:** **SOUTH DAKOTA STATE UNIVERSITY/ NDGFD, DICKINSON-ND**  
For the Purpose of: Letter of Permission: Access to School Land to conduct mountain lion research

Legal Description: BIL-141-101-14-NE4  
Legal Description: BIL-141-101-16-NW4, SW4  
Legal Description: MCK-146-100-16-NE4, SE4  
Legal Description: MCK-147-98-16-NE4, NW4, SE4  
Legal Description: MCK-149-96-36-ALL  
Legal Description: MCK-149-97-36-SW4SE4, LOTS 2, 3, 7  
W2SW4, LOTS 4, 5, 6

## Comments on US Fish and Wildlife Proposed Oil and Gas Regulations

The Board reviewed comments that the Commissioner submitted in response to U.S. Fish and Wildlife Service proposed rules and draft environmental impact regarding non-federal oil and gas rights and activities.

The restrictions placed upon these private and USFWS lands may limit drilling and extraction activity in areas where conservation easements are prevalent, thereby reducing the income producing potential where trust assets are pooled with these tracts. These proposed rules could result in significant delays in the drilling of wells and in the subsequent payment of royalties owed to the trusts and funds managed by the Board.

The USFWS Refuge Rule comment letters were presented to the Board and are available at the Department.

### Status of Legal Issues

The following cases are pending regarding the ownership of sovereign lands on the Missouri River:

- *William S. Wilkinson, et al. v. The Board of University and School Lands of the State of N.D., et al.*, No. 53-2012-CV-00038 (Honorable Judge Jacobson assigned);
  - *On February 22, 2016 the Court granted the State Engineer's Motion to intervene as a Defendant.*
- *EEE Minerals, LLC, et al. v. Continental Resources, Inc., et al.*, No. 27-2014-CV-00282 (Honorable Judge Schmidt assigned);
- *Statoil Oil & Gas LP v. Abaco Energy, LLC, et al.*, No. 53-2015-CV-00744 (Judge Nelson);
- *Starin v. Schmidt*, No. 53-2015-CV-00986 (Honorable Judge Nelson assigned);
- *Statoil Oil & Gas LP v. 1280 Royalties, LLC, et al.*, No. 53-2015-CV-01437 (Honorable Judge Jacobson assigned);
- *Mary K Starin v. Kelly Schmidt, et al.*, No. 53-2015-CV-00986 (Honorable Judge Nelson assigned);

The following case is pending regarding ownership of sovereign lands on the Yellowstone River:

- *Whiting Oil and Gas Corp. v. Arlen A. Dean, et al.*, No. 27-2016-CV-00040 (Judge Schmidt).

Bench trial set for May 23 – 27 and June 1, 2016 for *Wilkinson*.

Separate Litigation:

*Willard Burk v. State of North Dakota by and through its Board of University and School Lands, et al.*, Case No. 08-2015-CV-01849

- In January, district court judge issued summary judgment order dismissing the case and award attorneys' fees to the state
- Plaintiff's counsel has indicated that Plaintiff intends to appeal case to Supreme Court

*EOG Resources v. Soo Line Railroad Company, et. al. and Stenehjem ex rel. State of North Dakota v. United States* - No change

**Dakota Access Pipeline Easement Request**

Dakota Access LLC plans to construct a crude oil transmission pipeline beginning near Stanley, ND and ending near Patoka, IL.

On December 16, 2015 the Board approved the general Dakota Access route involving 4 ½ miles of trust land in Mountrail, Williams, and McKenzie Counties. The Board then authorized the Commissioner to work on completing site specific route right-of-way evaluations and to propose final easement documents and consideration for its subsequent approval.

On January 29, 2016, the Department received an offer from Dakota Access coupled with substantial proposed changes to the Board's easement template. Since then Department staff has met with company representatives and counsel several times and proposed extensive revisions to the Board's easement template to Dakota Access. Subsequently, Dakota Access replied with concerns about the Department's proposals and offered additional modifications.

The Board reviewed a timeline of correspondence, meetings and action related to the easement request; copies of which are available at the Department.

The easement language and consideration were not final and not presented.

The Commissioner was informally directed to continue negotiations with Dakota Access with the objective of presenting a formal recommendation at a future Board meeting.

**Performance Audit Management of Energy Infrastructure and Impact Office and Unclaimed Property**

Final State Auditor performance audit letters and findings pertaining to the Energy Infrastructure and Impact office and Unclaimed Property division were distributed to members. These documents are available at the Department.

**A D J O U R N**

There being no further business, the meeting was adjourned at 11:05 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