

**Minutes of the Meeting of the  
Board of University and School Lands  
July 20, 2017**

The July 20, 2017 meeting of the Board of University and School Lands was called to order at 9:00 AM in the Governor's Conference of the State Capitol by Chairman Doug Burgum.

**Members Present:**

Doug Burgum	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 present:**

Lance Gaebe	Commissioner
Linda Fisher	Deputy Commissioner
Jeff Engleson	Director, Investments Division
Susan Dollinger	Unclaimed Property Administrator
Levi Erdman	Investment Analyst
Taylor Lee	Director, Revenue Compliance
Kristie McCusker	Legal Assistant
Catelin Newell	Office Manager
Gerard Schwan	Director, Grants and Claims Division

**Guests in Attendance:**

Cassandra Torstenson	Governor's Staff
Leslie Bakken Oliver	Governor's Legal Counsel
David Garner	Office of the Attorney General
Amy Dalrymple	Bismarck Tribune
James McPherson	Associated Press
Marcia Beard	RVK
Ryan Sullivan	RVK
Savannah Schmidt	Bureau of Criminal Investigation

**APPROVAL OF MINUTES**

A motion to approve the minutes of the June 20, 2017 meeting was made by Attorney General Wayne Stenehjem and seconded by Secretary of State Al Jaeger and the motion carried unanimously on a voice vote.

**ENERGY INFRASTRUCTURE AND IMPACT OFFICE**

**Reauthorization of Human Trafficking Grant Funds**

In December 2015, the Board awarded six grants totaling \$750,000 to agencies working to combat the effects of human trafficking in western North Dakota. The grants were awarded for a project window through June 30, 2017.

In March 2017 the Board authorized extensions for grant recipients which had continued project plans. Grants to the following entities were extended through June 2019:

- 1) Youthworks, Bismarck
- 2) CAWS, Bismarck
- 3) Family Crisis Shelter, Williston

(07/20/17)

- 4) Domestic Violence Crisis Shelter, Minot
- 5) Legal Services of North Dakota, Bismarck

The sixth grant (G160244) awarded in 2015 to 4Her via Watford City expired with none of the \$109,900 funds drawn. Continued attempts to reach this entity were unsuccessful.

Within Senate Bill 2203, as adopted by the 2017 Legislature, \$700,000 of Oil and Gas Impact Grant funds plus \$125,000 of the general fund, was appropriated to combat the effects of human trafficking. The portion from the Oil and Gas Impact Grant Fund is a repurposed allocation from the 2015-2017 biennium appropriation.

The Attorney General's North Dakota Human Trafficking Commission, which is the advisory committee for these grants recommended that the expired grant of \$109,900 be added to the funds that the 2017 Legislature allocated to combat human trafficking. This action will make \$809,900 available from the Oil and Gas Impact Grant fund.

Grant recommendations from the advisory committee and the Attorney General will be offered for Board consideration on its August 2017 agenda.

**Motion: The Board cancels the remaining balance of grant G160244 and authorizes the \$109,900 balance to be considered in addition to the \$700,000 previously authorized, for inclusion in recommendations of future grants to combat the effects of human trafficking grants, which the Board will consider.**

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

#### **Grant Recommendation for Provider Serving Individuals with Developmental Disabilities**

The 2017 Legislature adopted House Bill HB 1015 which included within Section 14 the directive for the Board to award a grant of up to \$261,000 to resolve the debt of a community based provider of services to developmentally disabled citizens. The only qualifying facility, Tri-City Cares, which operates in New Town, Tioga, and Stanley submitted an application for the funds. The language of HB 1015 places priority of this grant above other remaining 2015-2017 grant allocations.

The Department of Human Services verified that the applicant's debt is higher than the amount of the grant authorized in HB 1015, but it agreed with the recommendation of granting \$261,000 appropriated in the legislation.

**Motion: As directed in HB 1015 of the 65<sup>th</sup> Legislative Session, the Board approves a grant award of \$261,000 to Tri-City Cares, a community based provider of services to individuals with developmental disabilities, upon confirmation that the provider is being acquired and that continuation of care will be provided in the areas served.**

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

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

### **Permanent Trust Asset Allocation Study - Update**

In anticipation of the Board's possible adoption of a revised asset allocation for the permanent trust funds in August 2017, a proposed draft asset allocation study document was presented. RVK's Marcia Beard and Ryan Sullivan discussed an updated asset allocation study.

The Board's discussion in May led to a reevaluation of the data and the outputs generated by the model. The information reflects the variability of the oil royalty and tax revenues and the model was refined to incorporate the impact of the trusts' biennial spending formula on trust growth. RVK's presentation also addressed the sustainability of the current spending policy.

The results of the study show:

- Significant changes to target asset allocation are not warranted, although a slight adjustment will be recommended in August to decrease exposure to fixed income by approximately 3% and increase exposure to international equities similarly.
- Due to the amount of contributions (royalties, rents, taxes, etc.) into the funds, the 50<sup>th</sup> percentile result of the modeling shows the real value of trust assets growing by more than 50% over the next 20 years.
- Due to the "lag effect" of the distribution, in which the formula is calculated one year before a biennium begins and the large amount of contributions going into the fund, the distribution formula protects the interests of both current and future generations.
- If contributions to the fund decline (or cease) and projected asset class investment returns remain at present levels, the current distribution formula will need to be reevaluated as it is likely not sustainable over time.

The studies and the Updated Asset Allocation Scenario Analysis report were presented in anticipation of the Board's August consideration of a modified target allocation.

### **Recommendation to Extend the RVK Investment Consulting Contract**

On September 22, 2015, the Board entered into a contract for consulting services with RVK to provide strategic investment consulting services through August 31, 2017 in the following primary areas:

- Advice in setting investment objectives; assist with the preparation and revision of investment policy guidelines, including the selection of target rates of return and allocation of assets among various asset classes and investment vehicles; monitoring trust asset allocations and recommend changes as necessary; and assistance with the transition to new investment options.
- Quarterly investment performance monitoring; review of investment funds according to the Board's investment policy and other appropriate standards; analyzing both portfolio wide and investment manager performance; providing quarterly performance reports to the Board which summarize the performance of the portfolio(s) compared to indices, peer groups, and standards.
- Assist with investment manager searches based on the Board's philosophy and performance objectives and evaluating investment manager proposals and presentations, with the exception of illiquid asset classes which would be quoted on a case-by-case basis.
- Due diligence monitoring of investment managers; conducting on-site visits of managers as needed; providing periodic review of investment manager fees with recommendations for action to ensure appropriate fee structure; providing advice in the planning, oversight, and review of asset transitions among investment managers and investment vehicles.
- Providing client education on investment principles, topics, and vehicles.

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RVK has supplied these services to the Board for two years for a fee of \$145,000 annually. This fee includes four personal visits per year during which representatives of RVK have reviewed investment performance with the Board, advised on asset allocation and asset class structure issues, reviewed investment policy, and provided educational presentations and summaries. RVK and the Department staff also meet regularly during biweekly conference calls and continuously share information by emails.

The Board's relationship with RVK (then known as R.V. Kuhns) began in 2013 when the firm was hired to perform an investment allocation study for the Board. The hiring involved a process that included sending requests for proposals to twelve investment consulting firms. After the initial investment study and preparation of an investment policy statement, the Board contracted with RVK to help implement the asset allocation in the search and hiring of new managers.

The Commissioner recommended the Board extend its present contract with RVK, which provides for a one-year extension with an annual fee increase of 3% to \$149,350.

The Commissioner also recommended that the investment consultant relationship should be reviewed to entail a procurement effort to determine if other firms can provide better or less expensive service; or alternatively to implement a formal evaluation process of the current relationship to ensure that the Board's objectives are accomplished at a fair price. The Board will be provided with information to help it appraise the value of the service it receives from RVK or that it might receive from another investment consultant.

The Board reviewed a memo from 2013 outlining the general process it used in the consultant search and a Board memo from 2015 which evaluated investment operations and investment consultative services.

**Motion: The Board approves extending the current investment consulting contract with RVK through August 2018 and directed the Commissioner to provide investment consulting evaluation information with the intent for the Board to consider future investment consulting services in early 2018.**

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

**OPERATIONS**

**Initial Draft of the Proposed Administrative Rules for Unclaimed Property**

House Bill 1300, as adopted by the 2017 Legislature, removed the Board's established exemption from the Administrative Agencies Practice Act (N.D.C.C. Ch. 28-32). The bill's effective date is January 1, 2018.

The Department has initiated drafting existing rules and policies into the form and style of the North Dakota Administrative Code. The focus has been on the review of rules, for possible adoption, that affect the general public. North Dakota Century Code § 28-32-07 states: "Any rule change, including a creation, amendment, or repeal, made to implement a statutory change must be adopted and filed with the legislative council within nine months of the effective date of the statutory change."

The Department administers the Uniform Unclaimed Property Act (N.D.C.C. Ch. 47-30.1). Under this authority, the Unclaimed Property Division collects “unclaimed” or “abandoned” property (e.g. uncashed checks, dormant bank accounts, safe deposit box contents, unclaimed insurance proceeds, etc.), and attempts to reunite owners with the property. Property acquired under the Act is held in trust in perpetuity on behalf of the owner, allowing owners a place to search for their rightful property. The investment earnings from unclaimed property becomes part of the Common Schools Trust Fund.

An initial draft of the proposed Administrative Rules for Unclaimed Property was presented for the Board’s consideration, however the Commissioner requested that it not take formal action on the rules, as additional changes and edits needed to be implemented.

No action was taken.

**OTHER BUSINESS**

**Commissioner Position Posting and Selection Process**

The proposed description of the Commissioner position was provided to the Board for its review before its public posting requesting applications. The members requested time to review the description.

**Motion: The Board accepts the Commissioner position posting as written on July 20, 2017 unless prior to the end of business day on Monday, July 24, 2017, changes to the position are suggested to Human Resources Management Services by a member of the Board. If changes are suggested a special oard meeting will be scheduled to take action on those changes. A budget of \$5,000 has been allocated for the hiring process.**

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

**REPORTS**

**The Summary of Total Assets (Unaudited) for Period Ended April 30, 2017 was presented to the Board.**

**Report of Easements Issued by Land Commissioner 6/16/17 to 7/7/17**

**Granted to:** BASIN ELECTRIC POWER COOP INC, BISMARCK-ND  
For the Purpose of: Easement-Amend: Electric Transmission Line  
Right-of-Way Number: RW0005601  
Trust: A – Common Schools  
Legal Description: MCK-145-100-16-SE4, SW4

**Granted to:** WILLIAMS COUNTY HWY DEPT, WILLISTON-ND  
For the Purpose of: Road Right-of-Way  
Right-of-Way Number: RW0007573  
Trust: A – Common Schools  
Legal Description: WIL-159-102-36-SW4 LESS PATENTED ACRES

<p><b>Granted to:</b>  For the Purpose of:  Right-of-Way Number:  Trust:  Legal Description:</p>	<p><b>BASIN ELECTRIC POWER COOP INC, BISMARCK-ND</b>  Easement-Amend: Electric Transmission Line  RW0007764  A – Common Schools  MCK-145-103-16-NE4, NW4</p>
<p><b>Granted to:</b>  For the Purpose of:  Right-of-Way Number:  Trust:  Legal Description:</p>	<p><b>BASIN ELECTRIC POWER COOP INC, BISMARCK-ND</b>  Easement-Amend: Electric Transmission Line  RW0007765  A – Common Schools  MCK-146-103-16-NE4, SE4</p>
<p><b>Granted to:</b>  For the Purpose of:  Right-of-Way Number:  Trust:  Legal Description:</p>	<p><b>GOODNIGHT MIDSTREAM BAKKEN LLC, DALLAS-TX</b>  Easement: Salt Water Pipeline  RW0008027  A – Common Schools  MCK-153-94-36-NE4, NW4, SE4, SW4</p>
<p><b>Granted to:</b>  For the Purpose of:  Right-of-Way Number:  Trust:  Legal Description:</p>	<p><b>NESSON GATHERING SYSTEM LLC, FORT WORTH-TX</b>  Easement: Drop Line-Gas Gathering Pipeline  RW0008029  A – Common Schools  WIL-154-95-16-NW4</p>
<p><b>Granted to:</b>  For the Purpose of:  Right-of-Way Number:  Trust:  Legal Description:</p>	<p><b>XTO ENERGY INC, FORT WORTH-TX</b>  On-lease Act. Amend: Horizontal Oil Well  RW0008069  A – Common Schools  MCK-149-96-36-NE4</p>
<p><b>Granted to:</b>  For the Purpose of:  Right-of-Way Number:  Trust:  Legal Description:</p>	<p><b>NORTHWEST COMMUNICATIONS COOP, RAY-ND</b>  Easement: Communication Cable - Buried  RW0008070  A – Common Schools  WIL-158-101-36-SE4, SW4</p>
<p><b>Granted to:</b>  For the Purpose of:  Right-of-Way Number:  Trust:  Legal Description:</p>	<p><b>ABRAXAS PETROLEUM CORP, SAN ANTONIO-TX</b>  Letter of Permission: Access to School Land  RW0008087  A – Common Schools  MCK-150-97-36-SE4, SW4</p>
<p><b>Granted to:</b>  For the Purpose of:  Right-of-Way Number:  Trust:  Legal Description:</p>	<p><b>SELECT ENERGY SERVICES LLC, WILLISTON-ND</b>  Letter of Permission: Access to School Land  RW0008090  A – Common Schools  MOU-154-94-16-SW4</p>
<p><b>Granted to:</b>  For the Purpose of:  Right-of-Way Number:  Trust:  Legal Description:</p>	<p><b>MBI ENERGY SERVICES, KILLDEER-ND</b>  Letter of Permission: Access to School Land  RW0008091  A – Common Schools  DUN-146-93-16-NE4</p>

### Revenue Compliance Division Update

Through its Revenue Compliance Division, the Department ensures that oil and gas royalty payments to determine if payments are in accordance with the Board's lease terms, rules and regulations, and North Dakota statutes. The total oil and gas royalties and interest and penalties collected in the 2015-2017 biennium was \$385,598,255. Included in this total is \$2,400,763 as a result of enhanced efforts to examine royalty reports and submittals.

During the 2015-2017 biennium, the Department processed royalties from 5,626 producing properties compared to 4,853 properties during the prior biennium.

REVENUE COMPLIANCE SUMMARY		
	Biennium 2013-2015	Biennium 2015-2017
Additional Royalties Collected	\$10,519,938	\$1,211,456
Additional Taxes or Other Deductions Collected	720,158	395,836
Penalties Collected	563,726	793,471
<b>Total Collected</b>	<b>\$11,803,822</b>	<b>\$2,400,763</b>
NDIC Report Corrections	221	23

Currently ten oil and gas operators have royalties from 217 wells escrowed totaling \$61,137,881 for the production of disputed minerals within the Missouri and Yellowstone Rivers.

The status of the oil and gas audits in which the Department is engaged:

Company	Audit Initiated	Audit Status
ConocoPhillips	August 2015	Preliminary Findings sent to operator.
Continental Resources	August 2015	Preliminary Findings sent to operator.
Hess	August 2015	Need additional information from operator.
Fidelity Exploration	February 2016	Preliminary Findings sent to operator.
Statoil	February 2016	Need additional information from operator.
Marathon	March 2016	Need additional information from operator.
Newfield Exploration	June 2016	Preliminary Findings sent to operator.
Zavanna	June 2016	Need additional information from operator.
Oasis Petroleum	August 2016	Need additional information from operator.
Slawson Exploration	August 2016	Need additional information from operator.
XTO Energy	October 2016	Need additional information from operator.
Whiting Petroleum	November 2016	Need additional information from operator.
Petro-Hunt	December 2016	Received information, audit in progress.
Crescent Point	March 2017	Received information, audit in progress.
SM Energy	March 2017	Received information, audit in progress.
Murex	March 2017	Awaiting receipt of documentation.
WPX Energy	March 2017	Received information, audit in progress.
Hunt Oil Company	April 2017	Received information, audit in progress.
Denbury	April 2017	Awaiting receipt of documentation.

The Revenue Compliance Division also ensures payments for coal production, surface easements, and saltwater disposal are correctly accounted. It has engaged in the following coal and saltwater disposal audits:

<b>Company</b>	<b>Product</b>	<b>Audit Initiated</b>	<b>Audit Status</b>
Missouri Basin Well Service	SWD	February 2016	Audit complete.
Crestwood Midstream Partners	SWD	March 2016	Audit complete.
Legacy Reserves Operating	SWD	March 2016	Audit complete.
Citation Oil and Gas	SWD	July 2016	Audit complete.
Enduro Operating	SWD	July 2016	Audit complete.
Pride Energy Company	SWD	July 2016	Preliminary Findings sent to operator.
BNI Coal	Coal	March 2017	Audit complete.
North American Coal	Coal	March 2017	Received information, audit in progress.

**The tract offerings for the upcoming Oil and Gas Lease Auction which will conclude on August 2<sup>nd</sup> on the internet with [www.energynet.com](http://www.energynet.com) was provided to the Board for review.**

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

There being no further business, the meeting was adjourned at 11:13 AM.

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Doug Burgum, Chairman  
Board of University and School Lands

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