

**Minutes of the Meeting of the
Board of University and School Lands
January 25, 2018**

The January 25, 2018 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 (via telephone)

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Allie Bement	Mineral Title Specialist
Drew Combs	Minerals Manager
Kristie McCusker	Legal Assistant
Catelin Newell	Office Manager
Adam Otteson	Revenue Compliance Manager
Gerard Schwan	Director of Grants and Claims

Guests in Attendance:

Lt. Governor Sanford	
Leslie Bakken Oliver	Governor's Legal Counsel
David Garner	Office of the Attorney General
Hope Hogan	Office of the Attorney General
Jen Verleger	Office of the Attorney General
Amy Dalrymple	Bismarck Tribune
Casey Furey	Crowley Fleck
Shane Goettle	Odney Enterprises

APPROVAL OF MINUTES

A motion to approve the minutes of the December 6, 2017 meeting with the amended Energy Infrastructure and Impact Office motion for the Williston and Dickinson Airport Grant total of \$19,900,000.00 to the correct amount of \$19,902,065.00 was made by Secretary of State Al Jaeger and seconded by Attorney General Wayne Stenehjem and the motion carried unanimously on a voice vote.

ENERGY INFRASTRUCTURE AND IMPACT OFFICE

Cancellation of Grant Balances

Several grants awarded during Fiscal Years 2013, 2015, 2016, 2017 and 2018 were fully completed and have balances remaining. These grants have finished their project under budget or no longer are in need of the funds. The total of \$513,171.67 will be moved to the contingencies allocation for future use where there are unmet needs or used as administrative or operational costs.

The list of recommended retirement of grants for the Board's consideration:

GRANT RETIREMENTS					
Grant	Political Sub	Project	Paid	Balance	Notation
G130029	CITY OF ARNEGARD	POLICE DEPARTMENT	\$99,946.71	\$53.29	PROJECT COMPLETE
G130081	CITY OF STANLEY	POLICE OFFICERS, VEHICLES, & EQUIP	\$99,428.66	\$571.34	PROJECT COMPLETE
G130254	CLINTON TOWNSHIP	WIDEN & RECLAIM WASHED OUT ROAD	\$14,392.85	\$7.15	PROJECT COMPLETE
G130267	GOOSENECK TOWNSHIP	REPAIR ROADWAY AND MAINTENANCE	\$0.00	\$100,000.00	AGED GRANT
G130269	MISSOURI RIDGE TOWNSHIP	134TH AND 58TH STREET	\$0.00	\$100,000.00	AGED GRANT
G150169	MOUNT ROSE TOWNSHIP	BUILD UP KIP FOLTYN ROAD	\$4,187.34	\$15,812.66	PROJECT COMPLETE
G150204	BIG STONE TOWNSHIP	ROAD GRAVELING	\$56,796.24	\$803.76	PROJECT COMPLETE
G160005	DICKINSON MUNICIPAL AIRPORT	MASTER PLAN 2 AMENDMENT	\$244,590.40	\$21,183.60	PROJECT COMPLETE
G160055	CENTRAL ELEMENTARY SCHOOL DISTRICT #32	RENOVATION & IMPROVEMENT PROJECTS	\$0.00	\$88,583.00	CLOSING SCHOOL MAY 2018
G160153	CITY OF BURLINGTON	PERSONNEL & FRINGE, SUPPLIES	\$11,631.57	\$41,546.43	DID NOT HIRE THE PEACE OFFICER
G160192	RHAME RURAL FIRE DISTRICT	TRUCK TANK REPLACEMENT	\$4,819.03	\$580.97	PROJECT COMPLETE
G160198	DICKINSON MUNICIPAL AIRPORT	FAA 2015 AIP #34: ENVIR. ASSESSMENT	\$62,390.00	\$210.00	PROJECT COMPLETE
G160203	DICKINSON MUNICIPAL AIRPORT	COMPATIBLE LAND USE PLAN	\$93,812.50	\$4,937.50	PROJECT COMPLETE
G160206	GARRISON MUNICIPAL AIRPORT	FAA 2015 AIP #12 - RUNWAY 13-31	\$7,282.54	\$1,124.46	PROJECT COMPLETE
G160214	UPPER MISSOURI DHU	SUPPORT FOR LOCAL PUBLIC HEALTH	\$401,126.65	\$141,573.35	DID NOT HIRE THE RN POSITION
G160216	SOUTHWESTERN DHU	SUPPORT FOR LOCAL PUBLIC HEALTH	\$956,874.82	\$10,925.18	PROJECT COMPLETE
G160235	CITY OF BISMARCK	SANE PROGRAM	\$170,977.50	\$82.50	PROJECT COMPLETE
G160236	MERCER COUNTY	SANE PROGRAM	\$10,119.66	\$11.34	PROJECT COMPLETE
G160238	CITY OF JAMESTOWN	SANE PROGRAM	\$11,214.06	\$1,570.94	PROJECT COMPLETE
G160239	PEMBINA COUNTY	SANE PROGRAM	\$6,442.08	\$443.92	PROJECT COMPLETE
G160241	GRAND FORKS COUNTY	SANE PROGRAM	\$4,975.72	\$24.28	PROJECT COMPLETE
G170022	CITY OF JAMESTOWN	SANE PROGRAM	\$0.00	\$744.00	CHOSE NOT TO UTILIZE THE FUNDS
G180015	CENTRAL ELEMENTARY SCHOOL DISTRICT #32	RENOVATION & IMPROVEMENT PROJECTS	\$0.00	\$82,382.00	CLOSING SCHOOL MAY 2018
				\$513,171.67	

Retiring grants with remaining balances will continue on a semi-annual basis through calendar year 2020. Any of the funds would be accounted for in the contingency balance for future consideration by the board, or as administrative/operational costs associated with running the grant program as approved by the board in the June 2017.

Motion: The Board retires the 22 grants identified in the preceding list for a total of \$513,171.67. Subsequently, that the Board declares these funds within the oil and gas impact grant fund as contingent for future unmet needs.

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		

Contingency Grant

In June 2017, the Board approved the establishment of a contingency grant to utilize undistributed funds from the 2013-2015 and 2015-2017 biennia. Section 10 of Senate Bill 2013 allowed the use of unexpended funds to provide for grants and administrative costs during the 2017-2019 biennium:

SECTION 10. EXEMPTION - OIL AND GAS IMPACT GRANT FUND. The amount appropriated from the oil and gas impact grant fund for the energy infrastructure and impact office line item in section 1 of chapter 13 of the 2015 Session Laws and for oil and gas impact grants in section 5 of chapter 463 of the 2015 Session Laws is not

subject to section 54-44.1-11. Any money deposited in the fund for taxable events occurring through June 30, 2017, and any unexpended funds from the appropriation are available for grants and administrative costs associated with the fund during the biennium beginning July 1, 2017, and ending June 30, 2019. (Emphasis added).

The Energy Infrastructure and Impact Office nominated members to serve on the Contingency Grant Advisory Committee, which the Board approved at its December 6, 2017 meeting:

Dan Kalil (Williams County), Jay Elkin (Stark County), Justin Voll (McKenzie County), Marcia Lamb (Billings County), Mark Spooner (Divide County), John Bruce (Burke County), Dave Mahon (Bowman County), Gary Weisenberger (Mountrail County), and Reinhard Hauck (Dunn County)

The Advisory Committee met on December 19, 2017 and reviewed potential grant criteria and application requirements. The committee decided to adopt the following criteria and recommends the Board approve the grant publicly, commencing on February 1, 2018:

- 1) Eligibility will be to any political subdivision within an oil producing county in order to offset costs incurred for an emergency or unknown and unanticipated need.
- 2) Grant funds will be through reimbursement of expenditures by the grantee, up to the maximum amount identified in the grant award letter.
- 3) Applicants are allowed to supplement the application after an application deadline. Supplements must arrive at the EIIO before the grant advisory committee is able to review and consider its recommendation for the Land Board.
- 4) Grant advertisement will commence February 1, 2018 for a three-month period, with an advance authorization to allow for repetitive announcements if there are no such applicants within the previous window, or there are remaining funds left in the grant fund.
- 5) Applications will:
 - a. Be signed by two appointed/elected officials, one being a primary fiscal official;
 - b. Address how current oil and gas development activities has impacted the applicant since December 6, 2017;
 - c. Show phases, or time lines, of how the project will be completed within a 24-month window, upon approval of the project;
 - d. Identify how local funds, or other sources of financial support will combine with grant funding, or if there is no other sources of funding available;
 - e. Address factors of health, welfare, and/or safety of the citizens; and
 - f. Provide supporting bids from contractors, estimates not considered.

The advisory committee will review each application submitted for this grant and make recommendations for approval or disapproval to the Land Board at the next available meeting.

Motion: **The Board approves the Contingency Grant guidelines addressed above, including repetitive application periods, and make recommendations to the Land Board for contingency grants.**

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		

Vacancy of EIO Director

Century Code authorizes the appointment of the Energy Infrastructure and Impact Office director:

57-62-04. Energy infrastructure and impact office - Appointment of director. There is hereby created an energy infrastructure and impact office, to be a division within the office of the commissioner of the board of university and school lands, the director of which must be appointed by and serve at the pleasure of the board of university and school lands. The director shall have knowledge of state and local government and shall have experience or training in the fields of taxation and accounting. The salary of the director must be set by the commissioner of university and school lands within the limits of legislative appropriations. The director may employ such other persons as may be necessary and may fix their compensation within the appropriation made for such purpose. The board of university and school lands shall fill any vacancy in the position of director in the same manner as listed above. All action by the board of university and school lands, including appointment of a director, must be by majority vote.

With EIO Director Gaebe's departure, the Board should consider its preference in the appointment of the next director.

Motion: **The Board appoints the Land Commissioner to the position of EIO Director.**

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

MINERALS MANAGEMENT

Board of University and School Lands Major Case Summary as of January 19, 2018

Case: State of Arkansas, et al. v. State of Delaware
Date Filed: June 9, 2016
Court: United States Supreme Court
Judge: Pierre N. Leval, *Special Master*
Attorney: David Garner
Opposing
Counsel: Delaware Attorney General's Office

Issues: The United States Supreme Court assumed original jurisdiction over this lawsuit involving unclaimed property brought by 30 states, including the state of North Dakota, against the state of Delaware. The substantive issue involved is whether sums payable on unclaimed and abandoned checks sold by MoneyGram Payments Systems, Inc. should be remitted to the Plaintiff States, as the states of purchase, or to Defendant Delaware, as MoneyGram's state of incorporation. Texas and Arkansas are the lead states on behalf of the other Plaintiff states.

Current Status: A Complaint and Answer have been filed. A Special Master has been appointed to preside over the case. The Special Master has accepted the Case Management Order agreed to by the parties. The parties issued discovery requests and responses in November/December 2017.

Case: EOG Resources, Inc. v. Soo Line Railroad Co., et. al.

Date Filed: Jan. 20, 2010

Court: Mountrail County District Court

Judge: Cresap

Attorney: Hope Hogan/Matthew Sagsveen

Opposing

Counsel: Multiple parties.

Issue: At issue is the ownership of mineral rights underlying the railroad in 8 sections of land in Mountrail County. The disputed property is land that the railroad acquired by condemnation and through right-of-way deeds. The railroad's lessee filed a crossclaim against the State and a number of other parties that claim an ownership interest adverse to the railroad.

Current Status: A settlement agreement has been signed by all parties and will be filed with the court once proceeds are distributed in accordance with the agreement.

Case: William S. Wilkinson, et. al. v. Board of University & School Lands, Brigham Oil & Gas, LLP; EOG Resources, Inc.

Date Filed: January, 2012

Court: Williams County District Court

Judge: Paul Jacobson

Attorney: Hope Hogan/Jennifer Verleger/Matthew Sagsveen

Opposing

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

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

On July 1, 2014, the Plaintiffs filed an amended complaint in the case and added claims of unconstitutional takings, conversion, constructive trust and unjust enrichment, civil conspiracy and deprivation of rights under 42 U.S.C. § 1983. Plaintiffs assert in their amended complaint that the Board should be issuing leases on the west side of the Highway 85 bridge pursuant to the Phase II Investigation – the estimated location of the ordinary high watermark (OHWM) prior to inundation of Lake Sakakawea – rather than the Phase I Delineation – current location of the OHWM. Plaintiffs argue that the subject property is located under Lake Sakakawea, which did not exist at statehood, and thus the state did not acquire title to it as sovereign lands. Therefore, the State's title to the Missouri River is limited to the channel as it existed prior to inundation of Lake Sakakawea as determined by the Phase II investigation.

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

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

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

Current

Status: Due to the passage of S.B. 2134, the Court ordered the case stayed and all deadlines be held in abeyance until the final review findings under S.B. 2134 are issued by the Industrial Commission. When the review findings are issued, the parties must request a status conference with the Court to set a new trial date and other deadlines.

Case: Whitetail Wave LLC v. XTO Energy, Inc.; the Board of University and School Lands; and the State of North Dakota – 27-2015-CV-00164

Date Filed: June 4, 2015

Court: McKenzie County District Court

Judge: Robin Schmidt

Attorney: Hope Hogan/Jennifer Verleger

Opposing

Counsel: Whitetail Wave – Christopher Sweeney; XTO Energy – Lawrence Bender, Michael D. Schoepf

Issues: On August 1, 2015, the Attorney General's Office was served with a complaint in the above referenced case. This case is challenging the State's determination of the OHWM east of the Highway 85 Bridge, near the northern border of the Fort Berthold Indian Reservation. The Board has currently leased minerals pursuant to the Phase II Investigation for this tract. The Plaintiff is requesting that title to the minerals be quieted and has alleged claims of Unconstitutional takings, trespass, slander of title, and constructive trust/unjust enrichment against the State. The complaint also makes a number of claims specific to XTO Energy Inc., the operator of the wells on the tracts in dispute. Specifically, the Plaintiff is requesting that the State's claim to sovereign lands' mineral interest be restricted to those minerals located below the OHWM of the Missouri River prior to inundation of the Lake Sakakawea.

An answer was filed on behalf of the Board on July 21, 2015. In January 2016, the State Engineer intervened in the case.

Current Status: Due to the passage of S.B. 2134, the Court ordered the case stayed and all deadlines be held in abeyance until the final review findings under S.B. 2134 are issued by the Industrial Commission. When the review findings are issued, the parties must request a status conference with the Court to set a new trial date and other deadlines.

Case: Mary K. Starin, as Personal Representative of the Estate of Bruno Herman Weyrauch v. Kelly Schmidt, et. al., - 53-2015-CV-00986

Date Filed: August 17, 2015

Court: Williams County District Court

Judge: David Nelson

Attorney: Hope Hogan/Jennifer Verleger

Opposing

Counsel: Dennis Johnson

Issues: Plaintiff initiated this quiet title action to determine title to property located under Lake Sakakawea. In 1939, the State acquired the disputed property through a foreclosure of a Bank of North Dakota loan. In 1945, the State re-sold the property through a contract for deed to the Plaintiff's predecessors in interest. Pursuant to state law, the state reserved 50% of the minerals. The Special Warranty Deed issued after satisfaction of the contract for deed was not recorded and no one has a copy of the fully executed deed. The surface estate was later condemned as part of the Garrison Dam reservoir project. Plaintiffs have brought this action to clear title to the 50% of the minerals that they claim. The Board has leased the 50% mineral interest it reserved in this conveyance.

In January 2016, the State Engineer intervened in this case.

Current Status: Due to the passage of S.B. 2134, the Court ordered the case stayed and all deadlines be held in abeyance until the final review findings under S.B. 2134 are issued by the Industrial Commission. When the review findings are issued, the parties must request a status conference with the Court to set a new trial date and other deadlines.

Case: Whiting Oil and Gas Corporation v. Arlen A. Dean, et. al., - 53-27-2016-CV-00040

Date Filed: January 25, 2016

Court: McKenzie County District Court

Judge: Robin Schmidt

Attorney: Hope Hogan/Jennifer Verleger

Opposing

Counsel: Paul Forster, Shane Hanson (Whiting Oil and Gas Corp.), Kevin Chapman (multiple defendants)

Issues: Whiting Oil and Gas Corporation ("Whiting") operates the Kuykendall 34-31-1H well located in McKenzie County near the Montana border. The Yellowstone River flows through the Kuykendall well spacing unit. Over time, the river has shifted westward. There are also islands within the Kuykendall spacing unit. On January 25, 2016, Whiting filed this interpleader action to resolve alleged title questions that have arisen due to the movement of the Yellowstone River. Because of these title questions, Whiting is withholding royalty payments. In its lawsuit, Whiting 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, Whiting will know who to pay.

The Board claims a mineral interest under the Yellowstone River, including the islands, and the Board also claims a 5% mineral interest in some of the riparian tracts in this spacing unit.

The Board and the State Engineer filed a joint response to the Complaint and several cross claims that have been made against the State.

(01/25/18)

Current

Status: Case has been scheduled for a court trial (no jury) on August 6-10, 2018.

Case: Continental Resources, Inc. v. North Dakota Board of University and School Lands, et al.
 Date Filed: December 23, 2016
 Court: Federal District Court, 8th Circuit
 Judge: Honorable David Hovland
 Attorney: Charles Carvell, David Garner, Hope Hogan, and Jen Verleger
 Opposing
 Counsel: Lawrence Bender, David Ogden, Paul Wolfson, Shaun Pettigrew

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

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

Current

Status: The Board filed a response on December 20, 2017 opposing the motion to dismiss. Continental has until January 19, 2018 to file a response and the United States must file its reply by March 16, 2018.

Case: ND Office of State Engineer, Board of University and School Lands v. BLM - Case No. IBLA 2016-170
 Tribunal: US Dept. of Interior Office of Hearings and Appeals – Board of Land Appeals
 Attorney: Charles Carvell, Hope Hogan, and Jennifer Verleger
 Opposing
 Counsel: Karan Dunnigan

Issues: In 2014, the Bureau of Land Management (BLM) resurveyed land along the Missouri River to locate the boundary, OHWM, between the public domain land owned by the United States and the riverbed owned by the state of North Dakota. In identifying the OHWM, the BLM applied federal law rather than state law. Specifically, the BLM adopted the survey conducted by the Corps of Engineers as part of the Garrison Dam project. In certain areas, the survey overlaps with the state’s claim to sovereign lands.

After the survey work was complete, the BLM published a “Notice of Filing Plats of Survey; North Dakota” in which BLM intends to formally file the survey plats as Official Plats. After the Federal Register Notice appeared, the State Engineer and the Board jointly filed a protest challenging the filing of the survey plats. The BLM rejected the State’s protest and the State appealed the BLM’s decision to the Interior Board of Land Appeals.

Current
Status: The State is waiting for a decision from the Interior Board of Land Appeals.

Paul Sorum, et. al. v. State of North Dakota, et. al.

Case: Paul Sorum, et. al. v. State of North Dakota, et. al.
Tribunal: Cass County District Court
Judge: John C. Irby
Attorney:
Opposing
Counsel: Terrance W. Moore, Fintan L. Dooley

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

Current
Status: Defendants have until March 1, 2018 to answer the Complaint.

Fisketjon v. State of North Dakota

Case: Fisketjon v. State of North Dakota, Case No. 08-2017-CV-03208
Date Filed: November 7, 2017
Court: Burleigh County District Court
Judge: David Reich
Attorney: Jennifer Verleger/Hope Hogan
Opposing
Counsel: Malcolm Brown/Christopher LeCates

Issues: The Plaintiffs filed this quiet title action to clear title to property located adjacent to the Missouri River near Bismarck, North Dakota. An OHWM study was previously prepared on the tract by the State Engineer's Office. The State claims less property than Plaintiffs believe State to claim.

Current
Status: Parties are currently discussing settlement. A proposed settlement may be presented to the Board at its February meeting.

Motion: **The Board authorizes the Commissioner to sign the disclaimer.**

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		

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

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

Date Filed: December 20, 2017

Court: District Court/McKenzie County

Attorneys: David Garner

Opposing

Counsel: Mark S. Barron/Baker & Hostetler LLP

Judge: Robin Schmidt

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

Current

Status: Plaintiff filed a Complaint on December 20, 2017. The Defendants have received an extension to file an Answer until February 5, 2018.

EXECUTIVE SESSION

Motion: **Under the authority of North Dakota Century Code Sections 44-04-19.1 and 44-04-19.2, the Board closed the meeting to the public and entered into executive session for purposes of attorney consultation to consult with the Board's attorneys on litigation related to:**

- **Paul Sorum, et. al. v. State of North Dakota, et. al.**
- **Continental Resources, Inc. v. North Dakota Board of University & School Lands and North Dakota Department of Trust Lands, Civ. No. 27-2017-CV-00661**

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		

At 9:31 AM the Board entered executive session for the purposes outlined in its adopted motion.

EXECUTIVE SESSION

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 (via telephone)

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Allie Bement	Mineral Title Specialist
Drew Combs	Minerals Manager
Kristie McCusker	Legal Assistant
Catelin Newell	Office Manager
Adam Otteson	Revenue Compliance Manager
Gerard Schwan	Director of Grants and Claims

Guests in Attendance:

Lt. Governor Sanford	
Leslie Bakken Oliver	Governor's Legal Counsel
David Garner	Office of the Attorney General
Hope Hogan	Office of the Attorney General
Jen Verleger	Office of the Attorney General

The executive session adjourned at 11:03 AM and the Board returned to open session and the public was invited to return to the meeting. During the executive session, the Board provided its attorneys with guidance on Paul Sorum, et. al. v. State of North Dakota, et. al. and Continental Resources, Inc. v. North Dakota Board of University & School Lands and North Dakota Department of Trust Lands, Civ. No. 27-2017-CV-00661.

O P E R A T I O N S

Administrative Rules Update

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 was January 1, 2018.

The Board has implemented a number of rules over time. The Department is reviewing the Board's existing rules, together with policies and procedures, to incorporate necessary wording from those into rules to comply with the North Dakota Administrative Code. North Dakota Century Code § 28-32-07 states: "Any rule change, including a creation, amendment, or repeal, made to implement a statutory change must be adopted and filed with the legislative council within nine months of the effective date of the statutory change."

Certain proposed rules will be provided to the Board for review at its February meeting. If approved by the Board, those rules will proceed through the administrative rules making process, including publication, public hearings, review by the Office of Attorney General, and presentation to the Administrative Rules Committee.

The Department's proposed administrative rules are at varying stages of completion. It is anticipated that the Department will have the general information, together with rules for the Energy Infrastructure and Impact Office, Unclaimed Property, Surface Management and Investments divisions, complete for Board review at its February meeting:

The Department proposes that those rules be submitted prior to the rules for the Minerals and Revenue Compliance Divisions, with those two divisions being submitted at a later date due to their complexity.

The Department proposes the following timeline for those rules:

Seek Board Approval of Rules	February 2018
Publish Notice of Intent	early March 2018
Conduct Public Hearings	mid-April 2018
Review Public Comments	early May 2018
Prepare Packet for Review	late May 2018
Submit for Attorney General Review	early June 2018
Administrative Rules Committee Hearing	September 2018
Rules Become Effective	October 2018

Motion: The Board will review the Department's proposed administrative rules concerning the general information, together with rules for the Energy Infrastructure and Impact Office, Unclaimed Property, Surface and Investments Divisions, for submission to the Administrative Rules Committee at its February 2018 meeting. The proposed rules for the Minerals and Revenue Compliance Divisions will be submitted at a later date.

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

Commissioner Smith provided an update on the Performance Audit and the Department's Human Resources and Fiscal Policy's update. The Performance Audit findings and Commissioner testimony for the Legislative Audit and Fiscal Review Committee as well as the Human Resources and Fiscal Policy updates are available at the Department upon request.

R E P O R T S

The Summary of Assets for period ended October 31, 2017 was presented to the Board and is available at the Department upon request.

Report of Easements Issued by Land Commissioner (11/28/17 to 1/12/18)

Granted to:	ARROW WATER LLC, HOUSTON-TX
For the Purpose of:	Easement-Amend: Salt Water Disposal Well
Right-of-Way Number:	RW0007974
Trust :	A - Common Schools
Legal Description:	MCK-150-95-16-NW4
Granted to:	CYPRESS ENERGY PARTNERS, TULSA-OK
For the Purpose of:	Easement: Salt Water Pipeline
Right-of-Way Number:	RW0008085
Trust :	A - Common Schools
Legal Description:	WIL-156-101-36-SE4

Granted to: For the Purpose of: Right-of-Way Number: Trust : Legal Description:	ONEOK ROCKIES MIDSTREAM LLC, SIDNEY-MT Easement: Gas Gathering Pipeline RW0008113 A - Common Schools WIL-156-100-16-NW4, SE4, SW4
Granted to: For the Purpose of: Right-of-Way Number: Trust : Legal Description:	ROUGH RIDER ELECTRIC COOPERATIVE, INC., DICKINSON-ND Easement: Maintenance Yards RW0008134 A - Common Schools BIL-142-101-36-SW4
Granted to: For the Purpose of: Right-of-Way Number: Trust : Legal Description:	ONEOK ROCKIES MIDSTREAM LLC, SIDNEY-MT Easement: Drop Line-Gas Gathering Pipeline RW0008137 A - Common Schools MCK-150-96-36-SE4
Granted to: For the Purpose of: Right-of-Way Number: Trust : Legal Description:	XTO ENERGY INC, FORT WORTH-TX Easement: Directional Wellsite Location RW0008138 A - Common Schools MCK-150-98-36-SW4
Granted to: For the Purpose of: Right-of-Way Number: Trust : Legal Description:	ARROW WATER LLC, HOUSTON-TX Easement: Salt Water Disposal Well - Extension RW0008153 A - Common Schools MCK-150-95-16-NW4, SW4
Granted to: For the Purpose of: Right-of-Way Number: Trust : Legal Description:	HENRY HILL OIL SERVICES LLC, WILLISTON-ND Easement: Salt Water Pipeline RW0008155 A - Common Schools WIL-154-100-16-SE4
Granted to: For the Purpose of: Right-of-Way Number: Trust : Legal Description:	MCKENZIE ELECTRIC COOPERATIVE INC, WATFORD CITY-ND Easement: Drop Line-Buried Electric Distribution Line RW0008158 A - Common Schools MCK-151-96-36-SW4
Granted to: For the Purpose of: Right-of-Way Number: Trust : Legal Description:	ND DEPT OF TRANSPORTATION, BISMARCK-ND Permit: Temporary Construction RW0008164 A - Common Schools MOU-158-89-36-NE4, SE4
Granted to: For the Purpose of: Right-of-Way Number: Trust : Legal Description:	GOODNIGHT MIDSTREAM BAKKEN LLC, DALLAS-TX Easement: Drop Line-Saltwater Pipeline RW0008166 A - Common Schools MCK-150-96-36-SE4

Granted to:

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

MOUNTRAIL-WILLIAMS ELECTRIC COOPERATIVE, WILLISTON-ND

Easement: Electric Distribution Line - Above Ground
 RW0008169
 A - Common Schools
 WIL-158-101-16-NE4, NW4

Granted to:

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

LIBERTY MIDSTREAM SOLUTIONS LLC, DENVER-CO

On-lease Act. Amend: Gas Gathering Pipeline
 RW0008175
 A - Common Schools
 WIL-158-95-16-SW4

Granted to:

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

STATOIL PIPELINES LLC, AUSTIN-TX

Easement: Drop Line-Saltwater Pipeline
 RW0008178
 A - Common Schools
 MCK-153-98-36-SW4

Granted to:

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

SELECT ENERGY SERVICES LLC, WILLISTON-ND

Letter of Permission: Access to School Land
 RW0008179
 A - Common Schools
 MCK-153-96-16-NE4, SE4

Granted to:

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

PETRO-HUNT LLC, BISMARCK-ND

On-lease Act. Amend: Horizontal Oil Well
 RW0008180
 A - Common Schools
 MOU-158-91-16-SE4

Granted to:

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

MOUNTRAIL-WILLIAMS ELECTRIC COOPERATIVE, WILLISTON-ND

Easement: Drop Line-Buried Electric Distribution Line
 RW0008181
 A - Common Schools
 WIL-158-101-16-NE4

Granted to:

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

TOPOGRAPHIC LAND SURVEYORS INC, FORT WORTH-TX

Permit: Planning & Preconstruction Survey
 RW0008183
 A - Common Schools
 WAR-155-84-1-SW4NW4 LYING N & E OF RIVER
 CENTERLINE

Granted to:

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

LIBERTY MIDSTREAM SOLUTIONS LLC, DENVER-CO

On-lease Act. Amend: Multiple Pipelines
 RW0008186
 A - Common Schools
 WIL-158-95-16-SW4

Granted to:

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

ANDEAVOR FIELD SERVICES LLC, SAN ANTONIO-TX

Permit: Temporary Construction
 RW0008187
 A - Common Schools
 MOU-155-93-36-SW4

Granted to:

For the Purpose of:

Right-of-Way Number:

Trust :

Legal Description:

ND ENERGY SERVICES, DICKINSON-ND

Letter of Permission: Access to School Land

RW0008190

A - Common Schools

DUN-146-94-16-NE4, NW4

Granted to:

For the Purpose of:

Right-of-Way Number:

Trust :

Legal Description:

WEST DAKOTA WATER LLC, WILLISTON-ND

Letter of Permission: Access to School Land

RW0008192

A - Common Schools

WIL-156-100-9-S2SE4

A D J O U R N

There being no further business, the meeting was adjourned at 11:19 AM.

Doug Burgum, Chairman
Board of University and School Lands

Jodi Smith, Secretary
Board of University and School Lands

**Minutes of the Meeting of the
Board of University and School Lands
February 7, 2018**

The February 7, 2018 special meeting of the Board of University and School Lands was called to order at 3:30 PM in the Governor's Conference of the State Capitol by Chairman Doug Burgum.

Members Present:

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State (via telephone)
Wayne Stenehjem	Attorney General
Kelly Schmidt	State Treasurer (via telephone)
Kirsten Baesler	Superintendent of Public Instruction

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Kristie McCusker	Legal Assistant
Beckie Strege	Administrative Assistant

Guests in Attendance:

Brent Sanford	Lieutenant Governor
Leslie Bakken Oliver	Governor's Legal Counsel
Troy Seibel	Office of the Attorney General
Matt Sagsveen	Office of the Attorney General
Brady Pelton	North Dakota Petroleum Council

EXECUTIVE SESSION

Motion: Under the authority of North Dakota Century Code Sections 44-04-19.1 and 44-04-19.2, the Board closed the meeting to the public and entered into executive session for purposes of attorney consultation to consult with the Board's attorneys on litigation related to:

- **Paul Sorum, et. al. v. State of North Dakota, et. al.**

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

At 4:09 PM the Board entered executive session for the purposes outlined in its adopted motion.

EXECUTIVE SESSION

Members Present:

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State (via telephone)
Wayne Stenehjem	Attorney General
Kelly Schmidt	State Treasurer (via telephone)
Kirsten Baesler	Superintendent of Public Instruction

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Kristie McCusker	Legal Assistant
Rebecca Strege	Administrative Assistant

Guests in Attendance:

Lt. Governor Sanford
Leslie Bakken Oliver
Troy Seibel
Matt Sagsveen

Governor's Legal Counsel
Office of the Attorney General
Office of the Attorney General

The executive session adjourned at 5:30 PM and the Board returned to open session and the public was invited to return to the meeting. During the executive session, the Board provided its attorneys with guidance on Paul Sorum, et. al. v. State of North Dakota, et. al.

A D J O U R N

There being no further business, the meeting was adjourned at 5:35 PM.

Doug Burgum, Chairman
Board of University and School Lands

Jodi Smith, Secretary
Board of University and School Lands

**Minutes of the Meeting of the
Board of University and School Lands
February 13, 2018**

The February 13, 2018 special meeting of the Board of University and School Lands was called to order at 2:05 PM 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:

Jodi Smith	Commissioner
Kristie McCusker	Legal Assistant
Catelin Newell	Office Manager
Beckie Strege	Administrative Assistant

Guests in Attendance:

Brent Sanford	Lieutenant Governor
Leslie Bakken Oliver	Governor's Legal Counsel
Troy Seibel	Office of the Attorney General
Matt Sagsveen	Office of the Attorney General
Brady Pelton	North Dakota Petroleum Council
Jack Dura	Bismarck Tribune

EXECUTIVE SESSION

Motion: **Under the authority of North Dakota Century Code Sections 44-04-19.1 and 44-04-19.2, the Board closed the meeting to the public and entered into executive session for purposes of attorney consultation to consult with the Board's attorneys on litigation related to:**

- **Paul Sorum, et. al. v. State of North Dakota, et. al.**

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		

At 2:10 PM the Board entered executive session for the purposes outlined in its adopted motion.

EXECUTIVE SESSION

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:

Jodi Smith	Commissioner
Kristie McCusker	Legal Assistant
Catelin Newell	Office Manager
Beckie Strege	Administrative Assistant

Guests in Attendance:

Brent Sanford	Lieutenant Governor
Leslie Bakken Oliver	Governor's Legal Counsel
Troy Seibel	Office of the Attorney General
Matt Sagsveen	Office of the Attorney General

The executive session adjourned at 2:38 PM and the Board returned to open session and the public was invited to return to the meeting. During the executive session, the Board provided its attorneys with guidance on Paul Sorum, et. al. v. State of North Dakota, et. al.

A D J O U R N

There being no further business, the meeting was adjourned at 2:40 PM.

Doug Burgum, Chairman
Board of University and School Lands

Jodi Smith, Secretary
Board of University and School Lands

**Minutes of the Meeting of the
Board of University and School Lands
February 22, 2018**

The February 22, 2018 meeting of the Board of University and School Lands was called to order at 8:00 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 (via telephone)

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Drew Combs	Minerals Division Manager
Susan Dollinger	Unclaimed Property Administrator
Levi Erdmann	Investment Analyst
Michael Humann	Surface Division Manager
Kristie McCusker	Legal Assistant
Catelin Newell	Office Manager
Beckie Strege	Administrative Assistant

Guests in Attendance:

Zach Morgan	Marathon Oil
Brenda Selinger	Marathon Oil
Dave Garner	Office of the Attorney General
Brady Pelton	ND Petroleum Council
Geoff Simon	Western Dakota Energy Association
Thomas Von Bische	NextEra Energy
Leslie Bakken Oliver	Governor's Legal 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 January 25, 2018, February 7, 2018, and February 13, 2018, meetings was made by Secretary of State Al Jaeger and seconded by Attorney General Stenehjem and the motion carried unanimously on a voice vote.

O P E R A T I O N S

Administrative Rules to be Presented to the Administrative Rules Committee

Set forth in House Bill 1300, the 65th Legislative Assembly directed that the Board of University and School Lands no longer be exempt from the Administrative Practices Act. With passage of the legislation the agency began preparing rules for consideration by the Board, reviewed by the Office of Attorney General, and heard by the Legislative Rules Committee. The intent is to adopt these rules with an effective date on October 1, 2018.

The department considered existing rules, together with policies and procedures, to incorporate necessary wording from those into rules which comply with the North Dakota Administrative Code.

North Dakota Century Code 28-32-07 states; “Any rule change, including a creation, amendment, or repeal, made to implement a statutory change must be adopted and filed with the Legislative Council within nine months of the effective date of the statutory change.”

If approved by the Board, these rules will move next before a public hearing scheduled for 8:30 a.m. in the Peace Garden Room of the state capitol building, on April 18, 2018. Required newspaper advertisements will be placed in the 53 official county newspapers before March 9, 2018.

Motion: The Board approves the Commissioner move forward with the adoption of rules process, as contained in North Dakota Century Code chapter 28-32, for the Energy Infrastructure and Impact Office, Unclaimed Property, Surface Management, and Investments Divisions.

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

Performance Audit Update

Commissioner Smith presented the recommendation groupings provided by the State Auditor’s Office for the Department’s performance audit follow-up.

Information Technology Project Status Update

The Department’s 2017-2019 biennial budget appropriation includes \$3.6 million to replace legacy information technology systems.

Department staff, with assistance of Office of Management and Budget procurement staff and Information Technology Department project management staff prepared two Requests for Proposals (RFP) with the objective of procuring design and implementation services for two commercial off-the-shelf programs; one for Land Management and Accounting and one for Unclaimed Property.

Upon review and approval by the Executive Steering Committee, organized under NDCC § 54-59-32, the RFPs for both projects were released on September 25, 2017.

The Executive Steering Committee has determined to reissue the Land Management and Accounting Software RFP. The Unclaimed Property Software has issued the best and final offers and is in the review period of these results.

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

Foxtail Wind LLC Wind Energy Easement Agreement

At the June 29, 2017 Board meeting, the Board approved a recommendation authorizing the Commissioner to confirm by letter that the Board would consider a Wind Energy Easement Agreement with Foxtail Wind LLC involving the potential use of trust land within the Foxtail Wind

Farm located on the N2 section 36, T131N, R66W, Dickey County (see attached location map). Further, if the project was approved by the Public Service Commission, the Commissioner would be authorized to negotiate and submit a recommended easement and terms for Board consideration.

Pursuant to local approval and Public Service Commission issuance of the Certificate of Site Compatibility for this project, a Wind Energy Easement Agreement has been negotiated with NextEra Energy Resources for the Foxtail Wind LLC to place 3 wind turbines located on the N2 section 36, T131N, R66 W, Dickey County (see attached project map). The proposed Foxtail Wind Farm is located southeast of Kulm, North Dakota and will contain up to 75 wind towers and produce 150 megawatts of power. The attached Wind Energy Agreement is submitted for Board approval. The easement form used in past agreements was used to develop the Wind Energy Agreement. The Attorney General's Office and Office of Risk Management provided guidance related to the form and to verify conformity with the state contract requirements. The major difference between this agreement and past agreements is that language regarding Met Towers and Transmissions Lines was removed from the agreement because these applications are addressed using separate easement agreements. Exhibit D regarding compensation was also refined to simplify management of the easement agreement.

The following is a brief review of the easement agreement, contract term and compensation package:

Term:

An initial term of 3 years to develop the wind farm with a 35 year operating term and the option for 2 additional 25 year renewal terms.

Compensation:

- **Easement Consideration** – a one-time payment of \$6.25 per acre to be paid within 30 days of execution of the easement agreement.
- **Development Period Payment:** \$6.25 per acre to paid annually in advance of the anniversary date of the execution of the Easement Agreement for years 2 through 3 of the initial term.
- **Access Road Payment** – a one-time payment of \$1,200.00 per mile of access roads installed, due within 30 days after the installation of any access roads.
- **Collector Line Payments** – a one-time payment of \$1,200.00 per mile of collector lines installed, due within 30 days after the installation of any underground collector lines.
- **Annual Turbine Payment** - \$4,000.00 per nameplate megawatt rating, per Turbine installed, as increased on an annual basis by 2% beginning with the payment due 1 year after the commencement date of the operating term, with the annual payment due on or before February 15th of each calendar year.
- **Annual Land Payment** - \$3,200.00 per year on an annual basis increased on an annual basis by 2% beginning with the payment due 1 year after the commencement date of the operating term, with the annual payment due on or before February 15th of each calendar year.

The compensation rates negotiated for the Wind Energy Easement Agreement are consistent with what other landowners will be paid for easements within the Foxtail Wind Farm. Consequently, revenue to the Common Schools Trust Fund for the turbine and land payment when the wind farm becomes operational will yield a combined initial annual payment of \$27,200.00.

Motion: The Board recommends the Commissioner give approval of the Wind Energy Easement Agreement with Foxtail Wind LLC.

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

The Board was provided with a copy of the Wind Easement Agreement, it is available at the Department upon request.

Report of Easements Issued by Land Commissioner (1/13/18 to 2/12/18)

Granted to: **ROUGH RIDER ELECTRIC COOPERATIVE, INC., DICKINSON-ND**
 For the Purpose of: Easement: Electric Transmission Line
 Right-of-Way Number: RW0008116
 Trust: A - Common Schools
 Legal Description: BIL-144-98-16-SE4

Granted to: **PETRO-HUNT LLC, BISMARCK-ND**
 For the Purpose of: Easement-Amend: Raw Water Pipeline
 Right-of-Way Number: RW0008147
 Trust: A - Common Schools
 Legal Description: WIL-154-99-16-SW4

Granted to: **WESTERN AREA WATER SUPPLY AUTHORITY, WILLISTON-ND**
 For the Purpose of: Easement: Potable Water Pipeline
 Right-of-Way Number: RW0008149
 Trust: A - Common Schools
 Legal Description: MOU-154-89-16-SW4

Granted to: **WESTERN AREA WATER SUPPLY AUTHORITY, WILLISTON-ND**
 For the Purpose of: Easement: Potable Water Pipeline
 Right-of-Way Number: RW0008150
 Trust: A - Common Schools
 Legal Description: WIL-154-95-16-NE4

Granted to: **MCKENZIE ELECTRIC COOPERATIVE INC, WATFORD CITY-ND**
 For the Purpose of: Easement: Electric Distribution Line - Buried
 Right-of-Way Number: RW0008167
 Trust: A - Common Schools
 Legal Description: MCK-153-96-16-SE4

Granted to: **MCKENZIE ELECTRIC COOPERATIVE INC, WATFORD CITY-ND**
 For the Purpose of: Easement: Drop Line-Buried Electric Distribution Line
 Right-of-Way Number: RW0008168
 Trust: A - Common Schools
 Legal Description: MCK-153-96-16-SE4

Granted to: **ADVANCED ENGINEERING & ENV SERVICES INC, FARGO-ND**
 For the Purpose of: Permit: Planning & Preconstruction Survey
 Right-of-Way Number: RW0008184
 Trust: A - Common Schools
 Legal Description: WAR-155-84-1-SW4NW4 LYING N & E OF RIVER CENTERLINE

Granted to:	SELECT ENERGY SERVICES LLC, WILLISTON-ND
For the Purpose of:	Letter of Permission: Access to School Land for the purpose of
	Temporary Surface Frac Water Pipeline
Right-of-Way Number:	RW0008196
Date Issued:	1/22/2018
Trust:	A - Common Schools
Legal Description:	MCK-151-96-36-S2

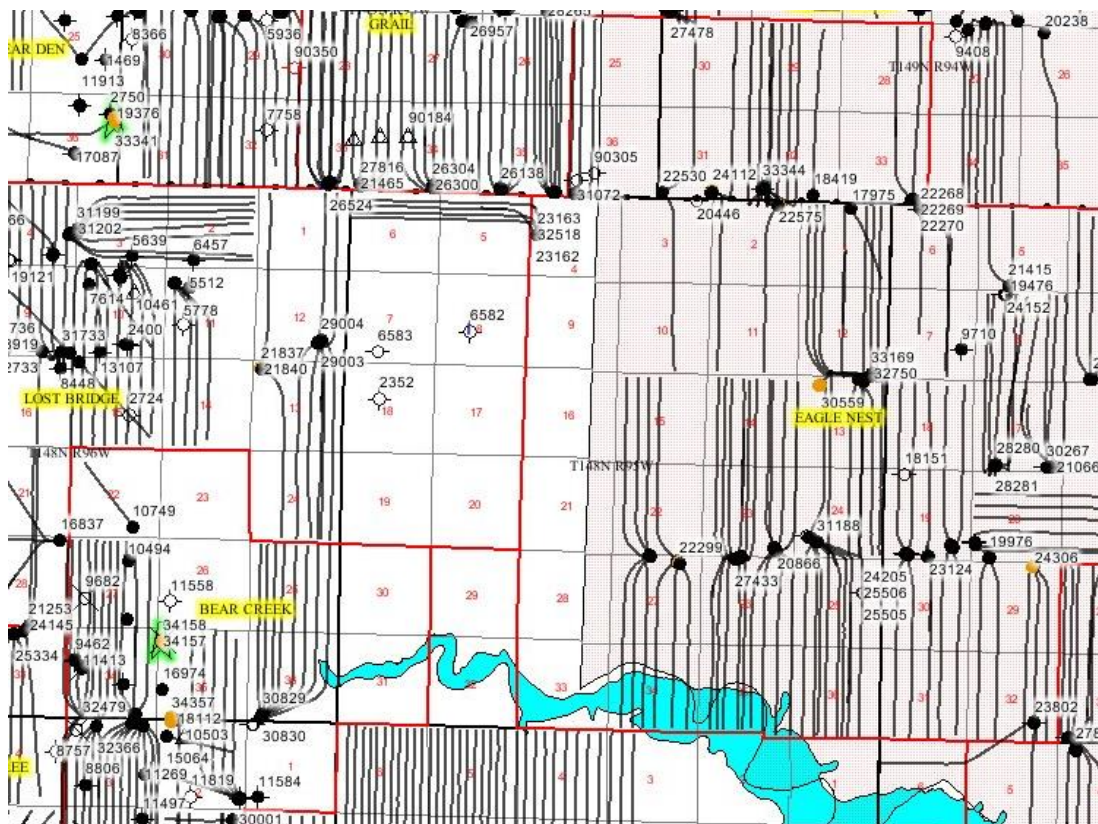
Granted to:	CONTINENTAL RESOURCES INC, OKLAHOMA CITY-OK
For the Purpose of:	Easement: Subsurface Well Bore
Right-of-Way Number:	RW0008200
Trust:	A - Common Schools
Legal Description:	MCK-151-97-36-S2

MINERALS MANAGEMENT DIVISION

Marathon Oil Company Request for Lease Extension in Dunn County T148-R95W-16: All

In May of 2013, Marathon Oil Company (Marathon) entered into four leases with the Board of University and School Lands (Board) (OG13-00342, OG13-00343, OG13-00344, and OG13-00345). These leases cover 469.52 acres of common schools mineral tracts in T148N-R95W-16, Dunn County, North Dakota, and Marathon paid a total bonus to the Board of \$3,850,064. Marathon states their total expenses to date are in excess of \$4 million (bonus, surveys, archeological surveys, etc.).

Below is a depiction of the area and the oil and gas development using GIS data from the North Dakota Industrial Commission (NDIC).



Marathon has experienced extreme difficulties in developing these mineral tracts, including; complex stakeholders, environmental concerns, and rough terrain which have impeded timely development of the area. The North Dakota Department of Trust Lands (NDDTL) has been working with Marathon since late 2015 in search of a viable solution to develop the section. At this time, Marathon is seeking two 180-day extensions for all four leases, for a total extension of 360 days.

Note, the current spacing order is the product of a lengthy series of NDIC hearings, protests, and an eventual order favoring Marathon's proposal, which further delayed development within the primary term.

Additionally, surrounding lands are owned in fee and in trust by the Three Affiliated Tribes, allottees, Federal government, ND Game and Fish, NDDTL and various fee owners and each of these owners has their own interests and development plans. Some of the federally managed lands have not been offered for lease; however, the BLM has given Marathon an indication these leases may soon be auctioned. With certain provisions, Marathon could produce NDDTL minerals without those Federal lands.

While the NDDTL manages the minerals, the ND Game and Fish holds the surface and manages those lands. This is an area that is active with bighorn sheep and is in the Little Missouri River corridor. Current plans for development would have a surface location approximately three miles from these lands.

Marathon plans to drill as many as eleven three-mile lateral wells in the Three Forks and Middle Bakken. Their engineers estimate that there are 800,000 barrel of oil equivalent in gross reserves on the Trust lands and estimate that, after full development, the Trust's net income to be \$18,000,000 based on a flat West Texas Intermediate of \$55 barrel.

Section 8 of the Board's Oil and Gas lease states:

If, at the expiration of the primary term, production of oil and/or gas has not been obtained in commercial quantities on the leased premises but drilling, testing, completion, recompletion, reworking, deepening, plugging back, or repairing operations are being conducted thereon in good faith, lessee may, on or before the expiration of the primary term, file a written application with the Commissioner of University and School Lands for a one hundred eighty (180) day extension of this lease, such application to be accompanied by a payment of ten dollars (\$10.00) per acre, and the Commissioner shall, in writing, extend this lease for a period of one hundred eighty (180) days beyond the expiration of the primary term and as long as oil and/or gas is produced in commercial quantities; lessee may, as long as such drilling, testing, or completion operations are being conducted in good faith, make written application to the Commissioner, on or before the expiration of the initial extended period of one hundred eighty (180) days for an additional extension of one hundred eighty (180) days, such application to be accompanied by a payment of twenty dollars (\$20.00) per acre, and the Commissioner shall, in writing, extend this lease for an additional one hundred eighty (180) day period from and after the expiration of the initial extended period of one hundred eighty (180) days, and as long as oil and/or gas is produced in commercial quantities; this lease shall not be extended for more than a total of three hundred sixty (360) days from and after the expiration of the primary term unless production in commercial quantities has been obtained or unless extended by some other provision hereof.

All parties recognize this request does not constitute the activation of paragraph 8; however, given the circumstances, it may be beneficial to all parties to come to a mutually acceptable solution in granting Marathon a 360 day extension to the leases.

Motion: The Board directs the Commissioner to negotiate a onetime 360 day extension for leases OG13-00342, OG13-00343, OG13-00344, and OG13-00345 and bring those negotiated terms to the Board's regularly scheduled meeting in March 2018.

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

The Board was provided with a copy of Marathon's extension request letter and Marathon's Lease Extension Request presentation, both are available at the Department upon request.

R E P O R T S

The Summary of Assets (Unaudited) for Period Ended November 30, 2017 was provided to the Board.

A D J O U R N

There being no further business, the meeting was adjourned at 8:32 AM.

Doug Burgum, Chairman
Board of University and School Lands

Jodi Smith, Secretary
Board of University and School Lands

**Minutes of the Meeting of the
Board of University and School Lands
March 29, 2018**

The March 29, 2018 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:

Jodi Smith	Commissioner
Allie Bement	Mineral Title Specialist
Drew Combs	Minerals Division Manager
Jeff Engleson	Investment Division Manager
Levi Erdmann	Investment Analyst
Michael Humann	Surface Division Manager
Kristie McCusker	Legal Assistant
Catelin Newell	Office Manager
Adam Otteson	Revenue Compliance Division Manager
Rick Owings	Administrative Officer
Gerard Schwan	Grants and Claims Division Manager

Guests in Attendance:

Brent Sanford	Lt. Governor
Dave Garner	Office of the Attorney General
Hope Hogan	Office of the Attorney General
Charles Carvell	Office of the Attorney General
Matt Sagsveen	Office of the Attorney General
Leslie Bakken Oliver	Governor's Legal Counsel
Will Gardner	Self
Amy Dalrymple	Bismarck Tribune
Bradley Pederson	Tradewind Energy
Josh Kevan	RVK

APPROVAL OF MINUTES

A motion to approve the minutes of the February 22, 2018 meeting was made by Attorney General Stenehjem and seconded by Secretary of State Al Jaeger and the motion carried unanimously on a voice vote.

MINERALS MANAGEMENT DIVISION

Newfield Exploration Company v. North Dakota Board of University & School Lands and North Dakota Department of Trust Lands Civ. No. 27-2018-CV-00143

Case: Newfield Exploration Company, Newfield Production Company, and Newfield RMI LLC v. State of North Dakota ex rel. the North Dakota Board of University & School Lands, and the Office of the Commissioner of University and School Lands, a/k/a the North Dakota Department of Trust Lands; Civ. No. 27-2018-CV-00143

Date Filed: March 9, 2018

Court: District Court/McKenzie County

Attorneys: David Garner

Opposing Counsel: Lawrence Bender & Spencer D. Ptacek, Fredrickson & Byron, P.A.

Judge: Robin Schmidt

Issues: Newfield is seeking a Declaratory Judgment that it is paying royalties properly under the Board's lease. Specifically, Newfield is asking the Court to order that gas royalty payments made by Newfield be calculated based upon the gross amount received by Newfield from an unaffiliated third-party purchaser, not upon the gross amount paid to a third party by a downstream purchaser. Further, Newfield requests a judgment declaring Defendants are not entitled to any additional gas royalty payments from Newfield for gas on which royalty payments have already been made.

Current Status: Plaintiff filed a Complaint dated March 7, 2018. Defendants received an extension to April 12, 2018 to file an Answer.

Continental Resources, Inc. v. North Dakota Board of University and School Lands, and the United States of America, 8th Circuit District Court, Case No. 1:17-cv-00014

Date Filed:	December 23, 2016
Date Served:	December 23, 2016
Tribunal:	U.S. District Court
Judge:	Honorable Daniel Hovland/Magistrate Charles Miller
Attorney:	Hope Hogan, Charles Carvell, David Garner, Jennifer Verleger
Continental's Counsel:	Lawrence Bender, Danielle M. Krause, David W. Odgen, Nathaniel B. Custer, Paul R.Q. Wolfson
United States' Counsel:	Kent Rockstad, Shaun M. Pettigrew

In December 2016, Continental Resources, Inc. (Continental) brought an interpleader action against the Board of University and School Lands and the United States regarding certain lands underlying Continental operated wells located in McKenzie, Mountrail, and Williams Counties. This case addresses overlapping ownership claims by the State and the United States of minerals underlying the Missouri River. Continental is requesting the Court determine the property interests for the disputed lands so that Continental can correctly distribute the proceeds from the affected wells. Continental has claimed that there is "great doubt as to which Defendant is entitled to be paid royalties related to the Disputed Lands." Currently, Continental is paying the United States its full royalty based on the acreage it claims. The remaining royalty, over and above what is due the United States, is being escrowed with the Bank of North Dakota pursuant to the Board's rules.

DW Slate, LLC February 16, 2018 Letter

On February 16th, 2018 the North Dakota Department of Trust Lands, on behalf of the Board of University and School Lands (Board), received a letter from the attorneys for DW Slate, LLC (DW Slate) regarding thirteen leases issued by the Board and currently held by DW Slate. DW Slate alleges that the Board does not own the leased interest and has requested, pursuant to N.D.C.C. § 32-12-03, that the Board refund \$8,409,094.07 for the bonuses, rentals, leasing fees and interest on the thirteen leases.

Paul Sorum, et al. v. The State of North Dakota, et al., Cass County District Court, Civil No. 09-2018-CV-00089

Date Filed: January 10, 2018
 Date Served: January 10, 2018
 Tribunal: Cass County District Court
 Judge: John C. Irby
 Attorney: Matthew Sagsveen, Solicitor General
 Opposing Counsel: Terrance W. Moore, Fintan L. Dooley

Plaintiffs brought this action against the State of North Dakota, the Board of University and School Lands, the North Dakota Industrial Commission, Governor Burgum and Attorney General Stenehjem (Defendants) seeking to declare N.D.C.C. ch. 61-33.1 unconstitutional, and to enjoin Defendants from implementation or enforcement of N.D.C.C. ch. 61-33.1.

Plaintiffs argue that the Legislature, by passing Senate Bill 2134, codified at N.D.C.C. ch. 61-33.1, has violated the public trust doctrine and the anti-gift (see N.D. Const. art. X, § 18), “equal protection” (see N.D. Const. art. I, § 21), and special laws (see N.D. Const. art. IV, § 13) clauses of the North Dakota Constitution. Plaintiffs are claiming that the legislation results in the unlawful transfer of “approximately \$1.96 billion in cash and State-owned sovereign lands from the citizens of the State . . . to a small group of private parties in western North Dakota.” Plaintiffs allege N.D.C.C. ch. 61-33.1 “disclaims [the State’s] perpetual rights to all minerals under Lake Sakakawea, a total of about 108,000 mineral acres.”

At this time the Commissioner recommended the Board consider entering executive session for consultation with legal counsel regarding pending and potential litigation.

EXECUTIVE SESSION

Motion: Under the authority of NDCC §§ 44-04-19.1 and 44-04-19.2, the Board enter into executive session for attorney consultation related to:

- **Continental Resources, Inc. v. North Dakota Board of University and School Lands, and the United States of America.**
- **DW Slate, LLC.**
- **Paul Sorum, et al. v. The State of North Dakota, et al.**

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		

At 9:05 AM the Board entered executive session for the purposes outlined in its adopted motion.

EXECUTIVE SESSION**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:

Jodi Smith	Commissioner
Allie Bement	Mineral Title Specialist
Drew Combs	Minerals Division Manager
Kristie McCusker	Legal Assistant
Catelin Newell	Office Manager
Adam Otteson	Revenue Compliance Division Manager
Rick Owings	Administrative Officer

Guests in Attendance:

Brent Sanford	Lt. Governor
Dave Garner	Office of the Attorney General
Hope Hogan	Office of the Attorney General
Charles Carvell	Office of the Attorney General
Matt Sagsveen	Office of the Attorney General
Leslie Bakken Oliver	Governor's Legal Counsel

The executive session adjourned at 10:16 AM and the Board returned to open session and the public was invited to return to the meeting. During the executive session, the Board provided its attorneys with guidance on Continental Resources, Inc. v. North Dakota Board of University and School Lands, and the United States of America, DW Slate, LLC, Paul Sorum, et al. v. The State of North Dakota, et al.

Marathon Oil Company Request for Lease Extension in Dunn County T148-R95W-16: ALL

At the February 22, 2018 regular meeting of the North Dakota Board of University and School Lands (Board), the Board directed the Commissioner and staff to negotiate terms to allow Marathon Oil Company (Marathon) an additional 360 days to produce from a particularly challenging and complex section. These lands are located to the Western border of Fort Berthold, in rough and broken terrain, and is favored habitat of the bighorn sheep. They consist of four leases OG13-00342, OG13-00343, OG13-00344, and OG13-00345 and cover 469.52 acres of common schools mineral tracts in T148N-R95W-16, Dunn County, North Dakota. Marathon paid a total bonus to the Board of \$3,850,064 in May of 2013. Marathon states their total expenses to date are in excess of \$4 million (bonus, surveys, archeological surveys, etc.).

Motion: The Board authorizes Marathon Oil Company a three hundred sixty day (360) extension of the four leases (OG13-00342, OG13-00343, OG13-00344, and OG13-00345) in exchange for \$100 per net mineral acre and increasing the royalty rate to 20%.

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

SURFACE MANAGEMENT DIVISION

Aurora Wind Project, LLC (Williams County: E2-16-158-96, N2-36-158-96, NE4-16-158-97, ALL-16-159-97, S2-36-159-97 and NW4-36-159-98)

Tradewind Energy, Inc. (Tradewind) headquartered in Lenexa, Kansas, has applied for a Wind Energy Easement Agreement (easement) for its Aurora Wind Project, LLC ("Aurora") to develop a proposed 300 Megawatt wind project and associated 345 kilovolt transmission line to be located in Williams County Northwest of Tioga adjacent to the operating Lindahl Wind Project.

The following common schools trust fund surface interests are included in the Wind Project Area: E2-16-158-96, N2-36-158-96, NE4-16-158-97, ALL-16-159-97, S2-36-159-97, and NW4-36-159-98.

The Department will be conducting an onsite inspection of the trust property with Tradewind to review proposed wind tower locations, associated access roads, collection lines and construction crane access paths. Wind tower locations will be sited in coordination with the Department to maximize the number of wind towers and minimize environmental interference on trust lands. Oil and Gas development will have absolute priority with the towers and associated infrastructure location to not interfere with potential oil and gas development. The State Geologist will also be contacted to determine if there is minable coal and potash deposits on any of the surface interests so that these deposits can be avoided.

Tradewind was informed an easement will not be approved until the project receives PSC approval and the Board of University and School Lands (Board) has considered the easement terms.

Tradewind has asked for confirmation that the Board will consider an easement for the Aurora Wind Project should the project be approved by the PSC. Tradewind would like a letter to provide to Township, County and the PSC to document Board interest and to allow trust lands to be included within the permit application. If the PSC approves the project, the Department would negotiate proposed easement terms with Tradewind and present a draft easement agreement to the Board for its consideration.

Motion: The Board authorizes the Commissioner to confirm by letter that the Board will consider a Wind Energy Easement Agreement with Tradewind Energy, Inc. for the Aurora Wind Project, LLC regarding the location and potential use of trust land within the Aurora Wind Project; and upon Township, Williams County and Public Service Commission's approval of the project, the Board authorizes the Commissioner to negotiate and submit a recommended easement and terms for Board consideration.

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

ENERGY INFRASTRUCTURE AND IMPACT OFFICE

Dickinson Airport Grant G160203

At the January 25, 2018 regular meeting of the Board of University and School Lands (Board), the Board retired 22 grants. A mis-communication by the Energy Infrastructure and Impact Office (EIIO) placed Grant G160203 onto the list of retiring grants. On February 21, 2018 a reimbursement request in the amount of \$4,937.50 was received by the Energy Infrastructure and Impact Office; reflecting the remaining funds of the grant.

(03/29/18)

A reversal of retiring the remaining balance of the grant will allow the final invoice be paid and expend all of the funds for G160203. Additionally, by removing the G160203 a corrected amount would reflect a retired amount of \$508,234.17 moved to the Contingency Grant fund as oppose to the previously reported amount of \$513,171.67.

Motion: The Board authorizes the Director of the Energy Infrastructure and Impact Office to reverse the retirement of G160203 – Compatible Land Use Plan, for the Dickinson Municipal Airport. Adjusting the amount applied to the Contingency Grant from \$513,171.67 to \$508,234.17.

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

INVESTMENT MANAGEMENT DIVISION

Restructure of Permanent Trust Funds' Fixed Income Portfolio

During early 2017, RVK and the Department performed a comprehensive review of the permanent trust funds' asset allocation. This was done in accordance with Board policy which states that a detailed asset allocation review should be performed at least every four years.

On August 21, 2017 the Board approved a new target asset allocation for the trusts that increased the trusts' allocation to international equities by 2%, to 17%, while decreasing the allocation to fixed income by 2%, to 21%. At that time, the Board also directed the Commissioner to undertake asset class reviews of both the international equity and fixed income portfolios in order to provide recommendations for Board consideration.

The heart of the permanent trust funds' fixed income portfolio is made up of the Payden & Rygel Aggregate and the JP Morgan Intermediate portfolios. These investment grade fixed income strategies currently compromise about 60% of the permanent trusts' total fixed income portfolio, each manager invests one-half of that amount. Both of these portfolios hold primarily high quality, investment grade U.S. fixed income securities that trade in public markets. These portfolios are the anchor of the trusts' fixed income portfolio and are focused on capital preservation, low volatility, liquidity, and income generation.

Although both portfolios have exposure to interest rate risk, these managers have complementary styles that exhibit relatively low excess return correlations. Both manager's also tend to provide downside protection versus their respective benchmark and charge fees that are among the lowest for their respective sub-asset classes. RVK and the Department do not recommend changes to the core domestic fixed income portfolio.

In reviewing the non-core portion of the fixed income portfolio, RVK and the Department concluded that changes could be made that would improve the risk/return profile of the overall fixed income portfolio. The non-core portion of the current fixed income portfolio is currently made up of three mandates; a global bond portfolio managed by Brandywine, an international bond portfolio managed by First International Advisors, and a high yield bond portfolio managed by Lazard.

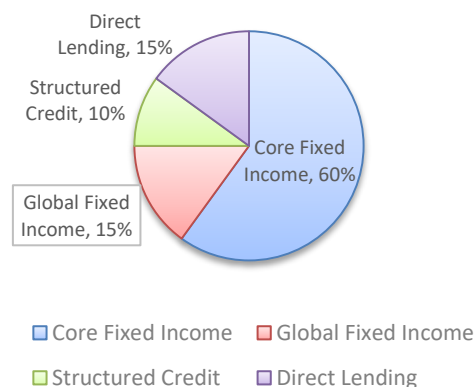
Interest rates in many developed international markets are well below current U.S. rates; in fact much sovereign debt currently yields less than 1.0%, and in some cases yields are even negative.

With interest at current levels, return expectations for investment grade international portfolios such as the one managed by First International Advisors over the next 10-20 years are low. Similar arguments can be made about high yield bonds. With both interest rates and spreads near historic lows, projected returns for this asset class do not compensate bond holders for the expected risks. Although both of these asset classes have served the trusts well over the past 14 years, RVK and staff believe that there are other fixed income products available that will better serve the trusts' needs going forward.

Research into other fixed income strategies leads RVK and the Department to believe that the addition of private debt and structured credit strategies to the permanent trust funds' fixed income portfolio should result in higher returns, increased income generation, lower interest rate risk, and improved downside protection, while maintaining the high credit quality of the current portfolio.

The Board agrees with the recommendation to eliminate the high yield and international fixed income portfolios, and to add new direct lending and structured credit portfolios, RVK and the Department propose that the Board adopt the following structure for the permanent trusts fixed income portfolio:

Proposed Fixed Income Structure



The allocation to core fixed income would be split evenly between current Payden and Rygel and JP Morgan portfolios. Brandywine would continue managing the allocation to global bonds.

Adopting the proposed structure for the permanent trusts' fixed income portfolio would have a material impact on the risk/return profile of the permanent trusts' fixed income portfolio. The table below compares certain characteristics of the trusts current fixed income portfolio to the proposed portfolio, and to two broad fixed income indexes.

	Current Portfolio	Recommended Portfolio	Bloomberg US Universe Bond Index	Bloomberg Multiverse Index
Effective Duration (yrs.)	4.61	3.86	5.77	6.82
Avg. Maturity (yrs.)	6.52	6.43	8.07	8.67
Avg. Quality	A2	A2		
Yield to Maturity	3.18%	3.77%	3.05%	1.92%
Expected Return	3.49%	4.19%		
Expected Risk	6.11%	6.17%		
Exp. Risk/Return Ratio	0.57	0.68		

The proposed fixed income structure should result in higher yields and total returns, lower interest rate risk and improved downside protection, while maintaining the credit quality of the portfolio and increasing risk only slightly. The restructured fixed income portfolio will still retain the key attributes investors want from their fixed income portfolios, including safety, liquidity and deflation protection, but it will do so while also providing improved yields, enhanced diversification and improved downside risk.

Motion: The Board

1. **Adopts a new structure for the permanent trusts' 21% allocation to fixed income that includes a 60% allocation to core fixed income, a 15% allocation to global fixed income, a 15% allocation to direct lending and a 10% allocation to structured credit.**
2. **Directs the Commissioner to work with consultant RVK to conduct searches to identify managers to invest in the new direct lending and structured credit allocations, and to provide the Board with recommendations of one or more finalist candidates to manage the new allocations to direct lending and structured credit.**

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		

Quarterly Investment Reports – 4th Quarter 2017

Josh Kevan from RVK reviewed the performance of the Land Board's investment program for the period ending December 31, 2017.

Mr. Kevan reviewed the RVK Permanent Trust Funds Performance Report. This quarter Commissioner Smith and staff have worked with RVK to develop a more concise executive summary document. RVK and staff will continue to inform the Board of any specific concerns related to fund managers and their performance.

Mr. Kevan presented a one page report prepared by RVK covering the performance of the Northern Trust Ultra-short portfolio. This is the short-term bond portfolio in which the Strategic Investment and Improvements Fund, the Coal Development Fund and the Capitol Building Fund invest.

The final report prepared by the Department addresses the status of the Strategic Investment and Improvements Fund, the Coal Development Trust Fund and the Capitol Building Fund as of December 31, 2017 and activities in those funds during the 4th quarter of 2017.

All investment material presented to the Board is available at the Department upon request.

O P E R A T I O N S

The Employee Survey Update and Administrative Rules Update material was presented to the Board but not discussed due to time constraint.

Information Security Risk Assessment

The Department of Trust Lands had an Information Security Risk Assessment conducted on February 9, 2018. The purpose of the assessment was to identify and report on potential information technology (IT) and sensitive data risks. The assessment is an integral part of the State of North Dakota's risk management process and helps validate that the Department has implemented an appropriate control environment (e.g., people, processes and technologies) to reduce cyber security risks.

The Department is in the process of completing the implementation of recommended control enhancements to address the level of identified risk.

EXECUTIVE SESSION

Motion: Under the authority of NDCC §§ 44-04-19.2, the Board enter into executive session for Board consultation related to:

- **Information Technology Update**

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		

At 11:05 AM the Board entered executive session for the purposes outlined in its adopted motion.

EXECUTIVE SESSION

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:

Jodi Smith	Commissioner
Catelin Newell	Office Manager
Rick Owings	Administrative Officer

Guests in Attendance:

Leslie Bakken Oliver	Governor's Legal Counsel
Shawn Weiss	Information Technology Department (ITD)
Shane Swanson	Information Technology Department (ITD)

The executive session adjourned at 11:16 AM and the Board returned to open session and the public was invited to return to the meeting. During the executive session, the Board discussed the Information Technology Update.

R E P O R T S

The Financial Statement (Unaudited) for Period Ended December 31, 2017 was provided to the Board.

Investment Updates

Asset Allocation

The status of the permanent trusts' asset allocation as of February 28, 2018:

Asset Class	Long-Term Asset Allocation	2/28/18 Actual Allocation \$	2/28/18 Actual Allocation %
Large Cap US Equity	13.2%	584,985,035	13.2%
Mid/Small Cap US Equity	3.8%	167,737,754	3.8%
International Equity	13.3%	588,400,048	13.3%
Emerging Market Equity	3.7%	160,809,791	3.6%
Total Equities	34.0%	1,501,932,628	33.9%
Domestic Investment Grade	13.0%	578,721,606	13.1%
High Yield FI	2.7%	121,158,828	2.7%
International/Global FI	5.3%	239,555,033	5.4%
Total Fixed Income	21.0%	939,435,467	21.2%
Total Absolute Return	20.0%	884,441,612	20.0%
Commodities	3.0%	138,108,525	3.1%
MLPs	3.0%	124,748,431	2.8%
TIPS	2.0%	87,828,465	2.0%
Natural Resource Equities	2.0%	85,070,067	1.9%
Total Inflation Strategies	10.0%	435,755,488	9.8%
Core Real Estate	8.0%	362,319,316	8.2%
Core Plus Real Estate	7.0%	303,790,725	6.9%
Total Real Estate	15.0%	666,110,040	15.0%
Total Asset	100.0%	4,427,675,235	100.0%

Jamestown Premier Property Fund (\$78.6 million, 1.8% of assets) Sale of Major Real Estate Asset

In February Google agreed to purchase Chelsea Market, a significant real estate property in Manhattan that is owned by Jamestown Premier Property Fund, one of the Board's non-core real estate managers. The property will sell for \$2.4 billion when the deal closes in April. The building was formerly a Nabisco factory, and currently is a 1.2 million square foot complex with many high end restaurants and shops, as well as considerable office space on the upper floors. Chelsea Market is across the street from Google's New York headquarters. Jamestown bought the property in 2011 for \$793 million.

The sale will result in \$23.5 million of cash being distributed to the Board. This is about 30% of the Board's total investment with Jamestown.

QMA (International Small Cap Equity: 2.6% of assets) Initial Funding of Account

In January the new international small cap equity mandate was fully funded with initial deposits totaling \$118 million. QMA was hired by the Board in December, 2017 as part of a restructuring of the international equity portfolio.

Upcoming Meetings with Money Managers

Representatives from Northern Trust Custody will be visiting the Department on April 12th at 2:00 PM.

Report of Easements Issued by Land Commissioner from 2/22/18 to 3/20/18

Granted to:	BNI COAL LTD, CENTER-ND
For the Purpose of:	Permit-Amend: Soil Stockpile Agreement
Right-of-Way Number:	RW0008054
Trust:	A – COMMON SCHOOLS
Legal Description:	OLI-142-84-36-S2
Granted to:	ND DEPT OF TRANSPORTATION, BISMARCK-ND
For the Purpose of:	Permit: Temporary Construction
Right-of-Way Number:	RW0008176
Trust:	A – COMMON SCHOOLS
Legal Description:	PIE-154-73-36-SE4
Granted to:	ONEOK ROCKIES MIDSTREAM LLC, SIDNEY-MT
For the Purpose of:	Easement: Drop Line-Gas Gathering Pipeline
Right-of-Way Number:	RW0008182
Trust:	A – COMMON SCHOOLS
Legal Description:	WIL-158-101-16-NE4
Granted to:	ONEOK ROCKIES MIDSTREAM LLC, SIDNEY-MT
For the Purpose of:	Easement: Drop Line-Gas Gathering Pipeline
Right-of-Way Number:	RW0008188
Date Issued:	3/19/2018
Trust:	A – COMMON SCHOOLS
Legal Description:	MCK-150-97-36-SE4
Granted to:	OASIS PETROLEUM NORTH AMERICA LLC, WILLISTON-ND
For the Purpose of:	Permit: Section Line Access Road
Right-of-Way Number:	RW0008198
Trust:	A – COMMON SCHOOLS
Legal Description:	WIL-154-103-36-W2
Granted to:	ND DEPT OF TRANSPORTATION, BISMARCK-ND
For the Purpose of:	Easement: Road Right-of-Way
Right-of-Way Number:	RW0008199
Trust:	C – CAPITOL BUILDING, A – COMMON SCHOOLS
Legal Description:	MOU-155-94-28-S2 – Turst C, MOU-155-94-32-NE4 – Trust A MOU-155-94-36-N2 – Trust A
Granted to:	MCKENZIE ELECTRIC COOPERATIVE INC, WATFORD CITY-ND
For the Purpose of:	Easement: Easement Release
Right-of-Way Number:	RW0008207
Trust:	A – COMMON SCHOOLS
Legal Description:	MCK-151-96-36-W2
Granted to:	ONEOK ROCKIES MIDSTREAM LLC, SIDNEY-MT
For the Purpose of:	Easement-Amend: Gas Gathering Pipeline
Right-of-Way Number:	RW0008209
Date Issued:	3/19/2018
Trust:	A – COMMON SCHOOLS
Legal Description:	MCK-150-97-36-SE4
Granted to:	WHITING OIL AND GAS CORPORATION, DENVER-CO
For the Purpose of:	Assignment: Directional Wellsite-Assignment
Right-of-Way Number:	RW0008214
Trust:	A – COMMON SCHOOLS
Legal Description:	WIL-155-99-16-NE4

Granted to: MCKENZIE ELECTRIC COOPERATIVE INC, WATFORD CITY-ND
 For the Purpose of: Easement: Drop Line-Buried Electric Distribution Line
 Right-of-Way Number: RW0008226
 Trust: A – COMMON SCHOOLS
 Legal Description: MCK-150-96-36-SE4

Granted to: MCKENZIE ELECTRIC COOPERATIVE INC, WATFORD CITY-ND
 For the Purpose of: Easement: Drop Line-Buried Electric Distribution Line
 Right-of-Way Number: RW0008227
 Trust: A – COMMON SCHOOLS
 Legal Description: MCK-150-96-36-SE4

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: B O B ENTERPRISES LLC, KILLDEER-ND
 For the Purpose of: Letter of Permission: Temporary Water Layflat Line
 Right-of-Way Number: RW0008218
 Trust: A – COMMON SCHOOLS
 Legal Description: DUN-146-95-16-NE4

Granted to: NUVERRA ENVIRONMENTAL SOLUTIONS, WATFORD CITY-ND
 For the Purpose of: Letter of Permission: Temporary Water Layflat Line
 Right-of-Way Number: RW0008223
 Trust: A – COMMON SCHOOLS
 Legal Description: MCK-153-97-16-W2

A D J O U R N

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

Doug Burgum, Chairman
Board of University and School Lands

Jodi Smith, Secretary
Board of University and School Lands

**Minutes of the Meeting of the
Board of University and School Lands
April 24, 2018**

The April 24, 2018 meeting of the Board of University and School Lands was called to order at 8:03 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:

Jodi Smith	Commissioner
Kristie McCusker	Legal Assistant
Catelin Newell	Office Manager
Rick Owings	Administrative Officer

Guests in Attendance:

Brent Sanford	Lt. Governor
Troy Sebel	Attorney General's Office
Leslie Bakken Oliver	Governor's Legal Counsel
Will Gardner	Self
Amy Dalrymple	Bismarck Tribune
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 March 29, 2018 meeting was made by Secretary of State Al Jaeger and seconded by State Treasurer Kelly Schmidt and the motion carried unanimously on a voice vote.

O P E R A T I O N S

Information Security Risk Assessment

The Department of Trust Lands had an Information Security Risk Assessment conducted on February 9, 2018. The purpose of the assessment was to identify and report on potential information technology (IT) and sensitive data risks. The assessment is an integral part of the State of North Dakota's risk management process and helps validate that the Department has implemented an appropriate control environment (e.g., people, processes and technologies) to reduce cyber security risks.

The Department is in the process of completing the implementation of recommended control enhancements to address the level of identified risk.

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

Litigation Update - Paul Sorum, et al. v. The State of North Dakota, et al.

Paul Sorum, et al. v. The State of North Dakota, et al., Cass County District Court, Civil No. 09-2018-CV-00089

Date Filed: January 10, 2018
 Date Served: January 10, 2018
 Tribunal: Cass County District Court
 Judge: John C. Irby
 Attorney: Matthew Sagsveen, Solicitor General
 Opposing Counsel: Terrance W. Moore, Fintan L. Dooley

Plaintiffs brought this action against the State of North Dakota, the Board of University and School Lands, the North Dakota Industrial Commission, Governor Burgum and Attorney General Stenehjem (Defendants) seeking to declare N.D.C.C. ch. 61-33.1 unconstitutional, and to enjoin Defendants from implementation or enforcement of N.D.C.C. ch. 61-33.1.

Plaintiffs argue that the Legislature, by passing Senate Bill 2134, codified at N.D.C.C. ch. 61-33.1, has violated the public trust doctrine and the anti-gift (see N.D. Const. art. X, § 18), “equal protection” (see N.D. Const. art. I, § 21), and special laws (see N.D. Const. art. IV, § 13) clauses of the North Dakota Constitution. Plaintiffs are claiming that the legislation results in the unlawful transfer of “approximately \$1.96 billion in cash and State-owned sovereign lands from the citizens of the State . . . to a small group of private parties in western North Dakota.” Plaintiffs allege N.D.C.C. ch. 61-33.1 “disclaims [the State’s] perpetual rights to all minerals under Lake Sakakawea, a total of about 108,000 mineral acres.”

February 28, 2018	Defendants moved to dismiss Plaintiffs’ Complaint as Plaintiffs failed to join indispensable parties.
March 5, 2018	Plaintiffs brought a Motion for Preliminary Injunction. A hearing was previously scheduled for March 27, 2018.
March 7, 2018	Defendants brought an Expedited Motion to Stay or Extend Time to Respond to Plaintiffs’ Motion for Preliminary Injunction and to Postpone the March 27, 2018 Hearing on Such Motion (Motion to Stay).
March 8, 2018	The Court granted Defendants’ Motion to Stay pending a decision on Defendants’ Motion to Dismiss currently pending before the court, and cancelled the March 27, 2018 hearing.
March 9, 2018	Plaintiffs opposed the Motion to Stay and requested reconsideration of the Order.
March 14, 2018	Plaintiffs’ request for reconsideration was denied.
March 19, 2018	Rule 16 Conference held.
March 21, 2018	Defendants filed a joint Reply Brief in Support of Motion to Dismiss.
March 27, 2018	North Dakota Petroleum Council filed a Motion for Leave to File an Amicus Curiae Brief in Opposition of Plaintiff’s Motion for Preliminary Injunction (Motion to File Amicus Brief).
April 2, 2018	Defendants filed a Response of No Objection to North Dakota Petroleum Council’s Motion to File Amicus Brief.
April 4, 2018	Plaintiffs’ filed a Brief in Opposition to North Dakota Petroleum Council’s Motion to File Amicus Brief.
April 5, 2018	North Dakota Petroleum Council filed a Reply Brief in Support of Motion to File Amicus Brief.
April 9, 2018	Defendant North Dakota Industrial Commission filed a Second Amended Notice of Hearing on Defendants’ Motion to Dismiss changing the time of the hearing on April 11 from 1:30 p.m. to 2:30 p.m.
April 11, 2018	Request by Media to Attend Hearing Via Telephone Conference Call, proposed Order, Certificate of Service (RE: April 1, 2018 hearing)
April 11, 2018	Hearing on Defendants’ Motion to Dismiss. Motion to Dismiss was denied.
April 11, 2018	Order Allowing Media Coverage Via Telephone Conference Call denied as untimely.
April 18, 2018	State Defendants filed a Response to Plaintiffs Motion for Preliminary Injunction, with supporting documents.
April 30, 2018	Scheduled hearing on the Plaintiffs’ Motion for Preliminary Injunction.

EXECUTIVE SESSION

Motion: Under the authority of NDCC §§ 44-04-19.2, the Board enter into executive session for Board consultation related to:

- Information Security Risk Assessment

And

Under the authority of NDCC §§ 44-04-19.1 and 44-04-19.2, the Board enter into executive session for attorney consultation related to:

- Paul Sorum, et al. v. The State of North Dakota, et al.

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		

At 8:03 AM the Board entered executive session for the purposes outlined in its adopted motion.

EXECUTIVE SESSION

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:

Jodi Smith	Commissioner
Kristie McCusker	Legal Assistant (present for Paul Sorum discussion only)
Catelin Newell	Office Manager
Rick Owings	Administrative Officer

Guests in Attendance:

Brent Sanford	Lt. Governor
Troy Sebel	Attorney General's Office
Leslie Bakken Oliver	Governor's Legal Counsel
Shane Swanson	State Information Technology Department (present for ITD discussion only)

The executive session adjourned at 9:31 AM and the Board returned to open session and the public was invited to return to the meeting. During the executive session, the Board discussed the Department's Information Security Risk Assessment and provided its attorneys with guidance on Paul Sorum, et al. v. The State of North Dakota, et al.

R E P O R T S

The Summary of Assets (Unaudited) for Period Ended January 31, 2018 was provided to the Board.

Investment Updates

Asset Allocation

The status of the permanent trusts' asset allocation as of March 31, 2018:

Account/Asset Class	Long-Term Asset Allocation	3/31/18 Actual Allocation \$	3/31/18 Actual Allocation %
Large Cap US Equity	13.2%	\$ 587,664,958	13.3%
Mid/Small Cap US Equity	3.8%	\$ 169,772,178	3.8%
International Equity	13.3%	\$ 568,318,666	12.9%
Emerging Market Equity	3.7%	\$ 160,993,486	3.6%
Total Equities	34.0%	\$ 1,486,749,289	33.7%
Domestic Investment Grade	13.0%	\$ 580,806,743	13.1%
High Yield FI	2.7%	\$ 120,875,480	2.7%
International/Global FI	5.3%	\$ 242,357,182	5.5%
Total Fixed Income	21.0%	\$ 944,039,405	21.4%
Total Absolute Return	20.0%	\$ 887,797,154	20.1%
Commodities	3.0%	\$ 137,817,018	3.1%
MLPs	3.0%	\$ 129,964,588	2.9%
TIPS	2.0%	\$ 88,784,293	2.0%
Natural Resource Equities	2.0%	\$ 88,653,627	2.0%
Total Inflation Strategies	10.0%	\$ 445,219,526	10.1%
Core Real Estate	8.0%	\$ 369,028,361	8.4%
Core Plus Real Estate	7.0%	\$ 284,543,674	6.4%
Total Real Estate	15.0%	\$ 653,572,035	14.8%
Total Asset	100.0%	\$ 4,417,377,409	100.0%

Update on Direct Lending and Structured Credit Searches

The Commissioner and RVK have developed a timeline for completion of the manager searches authorized by the Board on March 29, 2018.

April 16	RVK to provide structured credit search book (done)
April 23	Conference call between RVK and staff to review structured credit products and determine semi-finalists (3-4) to interview via phone
April 26	RVK to provide direct lending search book
April 27	Conference call between RVK and staff to review direct lending products and determine semi-finalist (3-4) to interview via phone
April 30 - May 18	Conference calls with semi-finalists to determine which finalists (2-3 in each category) to bring to Bismarck for in person interviews
June 12 - 13	Finalist interviews in Bismarck
June 28	Recommend managers to hire for both the direct lending and structured credit mandates and have those managers present to Land Board

UBS Trumbull Property Fund (\$171.9 million, 3.9% of assets) Succession Planning, Additions and Fee Reduction

Paul Canning will be joining the TPF team as senior portfolio manager; this is part UBS's ongoing succession planning efforts. Paul has been with UBS since 1991, most recently as the portfolio manager of the Trumbull Property Growth and Income Fund. Over the next several months, Paul will transition to become the sole TPF senior Portfolio Manager effective as of July 1, 2018. Kevin Crean, the current portfolio manager will remain with the TPF team to provide his guidance and ensure a seamless transition in anticipation of his eventual retirement. As part of the transition plan Peter Shaplin and Mario Maturo were recently added to the TPF team. Both have strong real estate backgrounds.

In addition to the changes in personnel, UBS announced a fee reduction for the TPF that will be effective the next 2 years. Starting April 1, 2018, TPF will waive its right to charge the variable (incentive) fee it is allowed under the partnership agreement. Fees for this fund will now be approximately 83 (based on current assets). This should result in a fee reduction of 5-15% for each of the next 2 years.

Both staff and RVK are both in support of the fee reduction and have no real concerns over the personnel changes at UBS. We'll continue to monitor the situation going forward.

Upcoming Investment Manager Meetings

The following meetings with investment managers are planned to discuss strategy, compliance, and performance. They will be held in the Department's conference room.

5/1/2018	10:30 AM	JP Morgan - Income and Growth Fund	Review portfolio performance and discuss changes to portfolio guidelines	\$125.2 million 2.8% of assets
		Jim Sakelaris, Nancy Brown (PM) and Melissa Anezinis		
5/2/2018	2:00 PM	Prologis US Logistics Fund	Review portfolio performance and discuss the recently restructured USLF fund	\$100.9 million 2.3% of assets
		Nathan Paine		
5/4/2018	9:00 AM	Brandywine - Global Opportunistic FI	Firm updated and review of portfolio performance	\$105.5 million 2.4% of assets
		Lisa Welch and Richard Lawrence		
5/16/2018	9:00 AM	PIMCO - All Asset All Authority Fund	Review of fund performance (here to see SIB)	\$297.87million 6.7% of assets
		Matt Clark & Yinyin Wu		

Board members are welcome to attend any manager meetings.

Spring Surface Lease Auction Summary

The 2018 spring lease auctions were completed in April of 2018. Including tracts leased subsequent to being offered at the spring auctions, following is the summary for this spring as compared to spring 2017.

	2017	2018
Number of counties	29	26
Total leases offered	103	84
Number of leases bid	78 (76%)	51 (61%)
Number of leases bid-up	10 (13%)	15 (18%)
Total amount of minimum advertised bids (leased tracts)	\$170,172	\$143,203
Total amount received	\$181,903	\$160,286
Competition factor (bid-up revenue)	\$11,731 (6%)	\$17,083 (12%)

Report of Easements Issued by Land Commissioner (3/26/18 to 4/4/18)

Granted to: FOXTAIL WIND LLC, JUNO BEACH-FL

For the Purpose of: Easement: Wind tower site
 Right-of-Way Number: RW0008057
 Trust: A – Common Schools
 Legal Description: DIC-131-66-36-NE4, NW4

Granted to: ONEOK ROCKIES MIDSTREAM LLC, SIDNEY-MT

For the Purpose of: Easement: Easement Release
 Right-of-Way Number: RW0008208
 Trust: A – Common Schools
 Legal Description: MCK-150-97-36-SE4

Granted to: CONTINENTAL RESOURCES INC, OKLAHOMA CITY-OK

For the Purpose of: Easement: Subsurface Well Bore
 Right-of-Way Number: RW0008229
 Trust: A – Common Schools
 Legal Description: MCK-151-97-36-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:	WEST DAKOTA WATER LLC, WILLISTON-ND
For the Purpose of:	Letter of Permission: Temporary Water Layflat Line
Right-of-Way Number:	RW0008228
Trust:	A – Common Schools
Legal Description:	MCK-151-99-36-SE4
Granted to:	SELECT ENERGY SERVICES LLC, WILLISTON-ND
For the Purpose of:	Letter of Permission: Temporary Water Layflat Line
Right-of-Way Number:	RW0008233
Trust:	A – Common Schools
Legal Description:	MCK-153-95-16-NW4, SW4 LESS PATENTED ACRES
Granted to:	SELECT ENERGY SERVICES LLC, WILLISTON-ND
For the Purpose of:	Letter of Permission: Temporary Water Layflat Line
Right-of-Way Number:	RW0008247
Trust:	A – Common Schools
Legal Description:	MCK-150-96-36-NE4, SE4

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:	ND DEPT OF HEALTH, DIV OF WATER QUALITY, BISMARCK-ND
For the Purpose of:	Letter of Permission: Access to School Land
Right-of-Way Number:	RW0008221
Trust:	A – Common Schools
Legal Description:	HET-135-96-16-NE4, NW4, SE4, SW4
Granted to:	NORTH DAKOTA GEOLOGICAL SURVEY, BISMARCK-ND
For the Purpose of:	Letter of Permission: Access to School Land
Right-of-Way Number:	RW0008243
Trust:	E - Ellendale
Legal Description:	BIL-137-100-8-E2NW4, E2SW4
Granted to:	NORTH DAKOTA GEOLOGICAL SURVEY, BISMARCK-ND
For the Purpose of:	Letter of Permission: Access to School Land
Right-of-Way Number:	RW0008243
Trust:	A – Common Schools
Legal Description:	BIL-139-101-36-NE4, SE4 BIL-142-101-36-NE4, NW4, SE4, SW4 BIL-144-101-16-SE4, SW4 BIL-144-101-36-NE4, NW4, SE4, SW4 BIL-144-102-36-NE4, NW4, SE4, SW4 GOL-137-103-24-NE4, SE4, SW4 MCK-145-101-6-SE4 MCK-146-101-36-NE4, NW4 MCK-148-99-6-E2SW4, LOTS 6, 7, SE4 MCK-148-99-7-E2NW4, LOTS 1, 2, E2SW4, LOTS 3, 4, NE4, SE4 MCK-148-99-18-E2SW4 LOTS 3, 4, N2NE4, NE4NW4 LOT 1, S2NE4, SE4, SE4NW4, LOT 2 MCK-148-100-12-SE4, SW4 MCK-148-100-13-N2NE4, N2NW4, S2NE4, S2NW4, SE4, SW4 MCK-148-101-16-E2SE4

MCK-148-101-36-NE4, SE4
 MCK-149-100-16-NW4, SW4
 MCK-150-100-36-SW4
 MCK-152-100-36-NE4, NW4, SE4, SW4
 MCK-152-101-36-SE4, SW4
 MCK-153-98-36-NW4, SW4
 SLO-136-102-16-NE4, SE4

Wenck Review Update

At the time of statehood, the federal government conveyed ownership of the beds of navigable lakes and streams to North Dakota under the Equal Footing Doctrine. The Board leases the rights to produce oil and gas from minerals associated with sovereign lands, which N.D.C.C. § 61-33-01 defines as “those areas, including beds and islands, lying within the ordinary high water mark of navigable lakes and streams.” The Office of the State Engineer has responsibility for defining the ordinary high water mark (OHWM) and management responsibility for the bed of navigable waters and any other minerals therein.

In 2009, Bartlett and West was contracted to complete four task orders or phases of a study of the Yellowstone and Missouri Rivers’ OHWM for areas with potential oil and gas development. It should be noted the purpose of the studies was to determine the location of the OHWM. This was the largest study of the OHWM ever completed in North Dakota. Phase I of the study focused on the area west of Williston. Bartlett and West used the State Engineer’s OHWM delineation guidelines and conducted an on-the-ground analysis of the vegetation, soils and hydraulic characteristics for a determination of the OHWM of the river. The study was conducted jointly with the State Engineer and is referred to as Phase I.

The Phase II and IV studies focused on the areas east of Williston. Bartlett and West used a combination of pre-reservoir maps and photos, and high resolution scanning equipment to gather information on the historic OHWM of the Missouri River prior to the formation of Lake Sakakawea.

These studies have been used to manage mineral acres underlying navigable waterways and are used as the initial steps in the process of determining eligible acreages for state-issued oil and gas leases on sovereign lands.

During the 2017 legislative session, SB 2134 was adopted which directed the Department of Mineral Resources to select a qualified engineering and surveying firm to conduct a review of the Corps survey segments from the northern boundary of the Fort Berthold Indian reservation to the southern border of sections 33 and 34, township 153 north, range 102 west. Wenck Associates Inc. (Wenck) were contracted to review the delineation of the OHWM of the Corps survey segments. The review was to determine whether clear and convincing evidence establishes that a portion of the Corps survey does not reasonably reflect the OHWM of the historical Missouri riverbed channel under state law.

On April 17, 2018, Wenck presented to the Industrial Commission the scope of work which included the results of their review. The full report was posted to the Department of Minerals website on April 18, 2018. The Department of Trust Lands (Department) is in the process of reviewing the report and will begin comparing the Wenck review to the Phase II study.

The Department will prepare and present a report to the Board of University and School Lands concerning its review prior to the end of the sixty day comment period.

A D J O U R N

There being no further business, the meeting was adjourned at 9:37 AM.

Doug Burgum, Chairman
Board of University and School Lands

Jodi Smith, Secretary
Board of University and School Lands

**Minutes of the Meeting of the
Board of University and School Lands
May 31, 2018**

The May 31, 2018 meeting of the Board of University and School Lands was called to order at 8:03 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 (via telephone)
Kelly Schmidt	State Treasurer
Kirsten Baesler	Superintendent of Public Instruction

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Drew Combs	Minerals Division Manager
Susan Dollinger	Unclaimed Property Administrator
Jeff Engleson	Investment Division Manager
Levi Erdmann	Investment Analyst
Michael Humann	Surface Division Manager
Kristie McCusker	Legal Assistant
Rick Owings	Administrative Officer
Gerard Schwan	Grants and Claims Division Manager

Guests in Attendance:

Troy Seibel	Office of the Attorney General
Dave Garner	Office of the Attorney General
Matt Sagsveen	Office of the Attorney General
Leslie Bakken Oliver	Governor's Legal Counsel
Bryan Cortes	Governor's Office
Donald LaFleur	State Auditor's Office
Ed Nagel	State Auditor's Office
Geoff Simon	Western Dakota Energy Association
Brady Pelton	NDPC
Jack Nathe	NDPC
Amy Dalrymple	Bismarck Tribune

APPROVAL OF MINUTES

A motion to approve the minutes of the April 24, 2018 meeting was made by Secretary of State Al Jaeger and seconded by State Treasurer Kelly Schmidt and the motion carried unanimously on a voice vote.

OPERATIONS

Operations- Administrative Rules

In House Bill 1300, the 65th Legislative Assembly directed the Board of University and School Lands no longer be exempt from the Administrative Agencies Practice Act. With passage of this legislation, the Department began preparing rules to be considered by the Board, reviewed by the Office of Attorney General, and heard by the Legislative Rules Committee. The intent is to adopt these rules with an effective date of October 1, 2018.

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

Rules concerning General Administration, Energy Infrastructure and Impact Grants, Unclaimed Property, Surface Land Management, and Loan Programs have been posted to the Department's website, publications of a notice of intent have been completed, and copies of these rules have been sent to sponsoring legislators. A public hearing on those rules was conducted on April 18, 2018 with no one from the public attended the hearing, thus the hearing officer (Hope Hogan) opened and closed the hearing. A recording of the hearing has been posted on the Department's website. The Department considered the one written comment received and a copy of the memorandum and the Department's considerations has been attached for the Board's review.

Motion: The Board approves the Commissioner providing the North Dakota Attorney General Office with the General Administration, Energy Infrastructure and Impact Grants, Unclaimed Property, Surface Land Management, and Loan Programs Administrative Rules for legal review.

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		

Performance Audit Follow-Up

In January 2015 the State Auditor initiated a performance audit of the Department as directed by the Legislative Audit and Fiscal Review Committee with objectives that included:

- the effectiveness of Unclaimed Property administration,
- the effectiveness of Energy Infrastructure and Impact Office grants administration, and
- the effectiveness and efficiency of the Department of Trust Lands in obtaining, accounting for, and use of resources.

In January 2018 the State Auditor initiated the process of coordinating the follow-up to two of the three reports. The Energy Infrastructure and Impact Office grants has not received a follow-up as the office is being discontinued and the Oil and Gas Impact grants are earmarked funds.

As requested by the Legislative Audit and fiscal Review Committee, the State Auditor conducted follow-up work on findings to determine whether appropriate corrective actions have been taken on the following areas:

Unclaimed Property

1. Finding Property Owners

- 1-1 On-line Search Results
- 1-2 Locate Owners of Property
- 1-7 Property Information Correct
- 1-10 Aggregate Reporting
- 1-13 Processing Claims
- 1-14 Claim Fees

- 1-15 State Agencies Claiming
- 2. Accepting and Maintaining Property
 - 1-6 Early Acceptance of Property
 - 1-8 Safe Deposit Boxes
 - 1-9 Timeliness Safe Deposit Boxes
 - 1-11 Protecting Property
 - 1-12 Sensitive Information
 - 1-16 Property Sales
- 3. Compliance with Unclaimed Property Laws
 - 1-3 Audits of Property Holders
 - 1-4 Training and Information
 - 1-5 Annual Reporting

Trust Assets and Department Resources

- 1. State Land Records
 - 1-1 Trust Assignment
 - 1-2 Correct Interest in Wells
 - 1-7 Monitor Acreage Changes
 - 4-1 IT Systems
- 2. Management of State Land and Royalty Collections
 - 1-3 Royalty Allocation
 - 1-4 Royalty Reporting
 - 1-5 Interest on Late Payments
 - 1-6 Assessing Penalties
 - 1-8 FMV Lease of Land
 - 1-9 On-line Auctions
 - 1-10 Surface Tract Inspections
 - 2-4 Allocating Expenses
- 3. Management of Department of Trust Lands
 - 3-1 Hiring
 - 3-2 HRMS Best Practices
 - 3-3 Veterans Preference
 - 3-6 Performance Evaluations
 - 3-7 Improve Performance Evaluations
 - 4-2 & 4-3 Policies and Procedures
 - 4-4 Management Monitoring
 - 4-5 State Archives

A report of the performance audit follow-up will be presented to Legislative Audit and Fiscal Review Committee in June 2018. A draft of the report has been prepared by the State Auditor's Office is deemed confidential while in draft form according to N.D.C.C. § 54-10-26. To review and consider the draft report, the Board may need enter executive session as permitted under N.D.C.C. § 44-04-19.2, which provides the authority of a governing board to review confidential documents.

At this time the Commissioner recommended the Board consider entering executive session to review confidential documents including the draft report prepared by the State Auditor's Office.

EXECUTIVE SESSION

Motion: Under the authority of North Dakota Century Code Sections §§54-10-26 and 44-04-19.2, the Board close the meeting to the public and go into executive session for purposes to review confidential documents including the draft report prepared by the State Auditor's Office.

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		

At 8:08 AM the Board entered executive session for the purposes outlined in its adopted motion.

EXECUTIVE SESSION

Members Present:

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Kelly Schmidt	State Treasurer
Kirsten Baesler	Superintendent of Public Instruction

Members Absent:

Wayne Stenehjem	Attorney General
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Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Susan Dollinger	Unclaimed Property Administrator
Jeff Engleson	Investment Division Manager
Michael Humann	Surface Division Manager
Kristie McCusker	Legal Assistant
Rick Owings	Administrative Officer
Gerard Schwan	Grants and Claims Division Manager

Guests in Attendance:

Troy Seibel	Office of the Attorney General
Dave Garner	Office of the Attorney General
Leslie Bakken Oliver	Governor's Legal Counsel
Donald LaFleur	State Auditor's Office
Ed Nagel	State Auditor's Office

The executive session adjourned at 8:30 AM and the Board returned to open session and the public was invited to return to the meeting. During the executive session, the Board was provided information from the State Auditor's Office.

Information Technology Project Status Update

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

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

In planning for replacement of the IT system, a business process modeling contractor, Major Oak, was hired in 2016 to identify and document processes and to recommend efficiencies for most operations. Major Oak helped document current state processes for all functional areas of the Department. This was followed by preparation of a model of future-state suggestions to further enhance controls, increase efficiencies, and boost productivity.

In Major Oak's final presentation to the Department, they stated:

The State of North Dakota Department of Trust Lands has multiple customized systems and manual processes to handle its asset management, leasing processes, royalty and rent compliancy, unclaimed property management, and grant & loan management. Department core systems were developed in the late 1980s and early 1990s, using tools that are antiquated and no longer being supported by their producers. The Department also has many outlying manual and paper processes in need of improved systems, data integrations, and reporting. The current database structures have also restricted many process and system improvements due to the need for continual support of the legacy systems.

There are several key IT systems related themes throughout the Department. They include:

Systems Limitations

- Accounting and financial systems do not have internal controls and standard reporting
- Paper-centric processes
- Document creation tools require manual editing
- Systems are not integrated with each other (e.g., Accounting and Minerals)
- Lack of up-to-date GIS capabilities

Automation and Efficiency

- Lack of computer systems to support and enforce process consistency
- Manual tasks require keying and re-keying inputs
- Lack of automated workflows and workflow tracking

Reporting

- Lack of automated reports and dashboards
- Inability to provide timely financial reports and analysis
- Limited visibility into performance information

The Department is in the final stages of the procurement process for the Unclaimed Property replacement software and a contract is expected to be executed by July 2018. Items still under review include:

- Retainage (amount withheld from deliverable payments, then paid upon Final Acceptance)
- Liquidated Damages
- Representations and Warranties
- Secondary Third-Party Licenses
- Personnel
- Product Conformity
- Subscription Fee Cap

Upon Unclaimed Property contract execution, costs associated with project management through the procurement process will be allocated.

The Department created a Request for Proposals (RFP) for their Land Management and Accounting functions, however, the number of responses were limited, and those proposals did not meet the Department's requirements. Accordingly, the Department has not yet issued an award. The Department is looking for assistance in creating additional artifacts and defining a go-forward strategy for the Land Management and Accounting system-related RFPs. In order to prepare for the future system transition and develop an RFP for an appropriate systems provider, the Department is contracting the following services from Major Oak Consulting (Verint) who worked with the Department on the Business Process Modeling project:

1. Create a fully integrated process map with both Land Management and Accounting functions.
2. Refine, clarify and prioritize core system requirements.
3. Complete a refresh of peer and vendor research.
4. Define an RFP go-forward process.

A final report from Major Oak will be available end of August 2018. The Information Technology System Replacement Steering Committee will base the new RFP off of the final report. It is anticipated the new RFP will be released in October 2018.

Budget and Strategic Review

The Department of Trust Lands (Department) has been working internally to align with the Governor's Office and the Office of Management and Budget through the strategic planning and budgeting process.

Historically, the Department has operated without a strategic plan. Over the past month, the Commissioner has worked internally to develop a strategic plan that will set priorities, focus energy and resources, strengthen operations, ensure that employees and other stakeholders are working toward common goals, establish agreement around intended outcomes/results, and assess and adjust the organization's direction in response to a changing environment. It is a disciplined effort that produces fundamental decisions and actions that shape and guide what the Department is, who it serves, what it does, and why it does it, with a focus on the future.

The strategic plan will serve as a document to communicate with the Department the goals, the actions needed to achieve these goals and critical elements. The Department will align with the strategic plan with a comprehensive collection of ongoing activities and processes to systematically coordinate and align resources and actions with mission, vision and strategy throughout the Department. These activities will transform the static plan into a system that provides strategic performance feedback to decision making and enables the plan to evolve and grow as requirements and other circumstances change.

A copy of the Strategic Plan for the next biennium was provided to the Board and is available at the Department upon request.

Six-month performance review and will serve as the Commissioner's annual review for the year 2018.

As Commissioner, I am fully committed to improving the Department of Trust Lands by making things right for our stakeholders and rebuilding trust. This is a long-term effort that requires commitment, patience and resolve. A focus has been placed for the first six months on five primary areas of improvement within the Department: (1) Performance Audit Review, (2) Information Technology, (3) Administrative Rules, (4) Culture, and (5) Managing Litigation. Additionally, an emphasis has been placed on working with other state agencies and industry leaders to ensure

that the Department's endeavors are of value and contribute to strengthening competences and performances across the State.

I want to thank the staff for their generous support, willingness to collaborate, and flexibility in promoting value and growth within the Department. Their skills and dedication are recognized as they are fundamental to all successes.

As the Commissioner, I am taking a direct role in working with the divisions within the Department to capitalize on our capabilities and resources; thus, improving the effectiveness of the Department. Specifically, I am committed to cultivating talent management, leadership and performance culture within the Department. While continuing to deliver our core services, the Department has made significant progress in fulfilling a wide-range of responsibilities:

(1) Performance Audit Review

- Reviewed policies for: Human Resources, Accounting, Information Technology, Investments and Unclaimed Property. Continuing to evaluate policies for Minerals, Surface and Revenue Compliance.
- Implementing effective human resources management through transitioning the primary functionality to HRMS and adoption of necessary policies.

(2) Information Technology

- Conducting a business analysis for divisions – in progress.
- In procurement process of Unclaimed Property software that will go-live by end of biennium. In procurement process of Land Management and Accounting Software.

(3) Administrative Rules

- Writing and development of Administrative Rules for General, Energy Infrastructure and Impact Office, Surface and Loans. Developing Administrative Rules for Minerals and Revenue Compliance.

(4) Culture

- Participating in employee survey which identified numerous areas of opportunity for growth and subsequently implemented necessary changes throughout the Department.
- Evaluating staff functions with compensation review and realignment of several divisions.
- Devoting resources to leadership programs for supervisors.
- Developed an internal strategic plan.
- Conducted SWOT analysis with staff, internal and external partners seeking fresh insights into addressing difficult issues.

(5) Managing Litigation

- Working with attorneys on new and previously existing lawsuits that have significant impact on the Department.

I will continue to provide insights about the Department and identify systemic issues. Over time, I hope these findings generate a broader awareness of significant trends and inspire targeted and innovative approaches to address prevalent areas of growth in the Department. The role of senior leadership remains key to responding to current and emerging challenges. I have a long-term commitment to providing relevant strategic and practical support. I will continue to focus on building and strengthening relationships with community assets to ensure the continued prosperity of the Department.

Over the course of the next six months, my focus will be to reevaluate the organizational structure and outline strengths and weaknesses of the current organizational structure including the origin of current strengths or weaknesses that could influence capacity to achieve future innovation.

Motion: **The Board approve a salary increase to \$130,000 per year for the completion of a six-month review as recommended during the November 22, 2017 Board meeting.**

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		

Unclaimed Property Audit of Sony Electronics

In April of 2016, North Dakota authorized a rebate only audit of Sony Electronics by a third party auditor. The auditor identified approximately \$13,000 in unreported Sony rebate checks owing to consumers with last known addresses in North Dakota.

Sony argues they cannot be compelled to report and deliver these rebates to the State because the records were obtained outside of the 7-year lookback period provided for by NDCC 47-30.1-30. North Dakota argues Sony is liable for 100% of the findings.

North Dakota has not previously settled with any holder for less than 100% of what is owed. If the State settles for a lesser percentage, it would then become responsible to pay 100% of the property upon receiving proper claims by the rightful owners.

Motion: **The Board approve the Commissioner the authority to negotiate to reach a resolution with Sony.**

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		

ENERGY INFRASTRUCTURE AND IMPACT OFFICE

Energy Infrastructure and Impact Office (EIIO) Contingency Grants

In June 2017, the Board approved the establishment of a contingency grant to utilize undistributed funds from the 2013-2015 and 2015-2017 biennia. Section 10 of Senate Bill 2013 allowed the use of unexpended funds to provide for grants and administrative costs during the 2017-2019 biennium:

SECTION 10. EXEMPTION - OIL AND GAS IMPACT GRANT FUND. The amount appropriated from the oil and gas impact grant fund for the energy infrastructure and impact office line item in section 1 of chapter 13 of the 2015 Session Laws and for oil and gas impact grants in section 5 of chapter 463 of the 2015 Session Laws is not subject to section 54-44.1-11. Any money deposited in the fund for taxable events occurring through June 30, 2017, and any unexpended funds from the appropriation are available for grants and administrative costs associated with the

fund during the biennium beginning July 1, 2017, and ending June 30, 2019.
(Emphasis added).

The Energy Infrastructure and Impact Office nominated members to serve on the Contingency Grant Advisory Committee (Committee), which the Board approved at the December 6, 2017 meeting:

Dan Kalil (township chair), Jay Elkin (county commissioner), Justin Voll (mayor), Marcia Lamb (county auditor), Mark Spooner (township chair), John Bruce (school superintendent), Dave Mahon (school superintendent), Gary Weisenberger (Mayor), and Reinhard Hauck (county commissioner)

The Committee met on December 19, 2017 to establish grant criteria and application requirements. The Board adopted the recommendations by the advisory committee during the January 2018 meeting:

- 1) Eligibility to any political subdivision within an oil producing county in order to offset costs incurred for an emergency or unanticipated need and address how current oil and gas development activities has impacted the applicant since December 6, 2017;
- 2) Grant funds will be through reimbursement of expenditures by the grantee, up to the maximum amount identified in the grant award letter;
- 3) Applicants were allowed to supplement the application after an application deadline;
- 4) The grant announcement commenced February 1, 2018 through 1:00 pm on April 30, 2018, with an advance authorization by the board to allow for repetitive announcements if there are no applicants or are remaining funds left in the grant fund;
- 5) Applications were directed to:
 - a) Be signed by two appointed/elected officials, one being a primary fiscal official;
 - b) Show phases, or time lines, of how the project will be completed within a 24-month window, upon approval of the project;
 - c) Identify how local funds, or other sources of financial support will combine with grant funding, or if there is no other sources of funding available;
 - d) Address factors of health, welfare, and/or safety of the citizens; and
 - e) Provide supporting bids from contractors, with estimates not allowed.

As per the Board approved grant requirements, the grant announcement was released on February 1, 2018 and closed on April 30, 2018. EIIO received and scored 18 applications. The Committee reviewed EIIO's scoresheet and discussed each application thoroughly before finalizing its recommendations during a public meeting on May 11, 2018.

The Committee recommends three of the 18 applications be approved by the Board of University and School Lands.

CONTINGENCY GRANT RECOMMENDATIONS						
POLITICAL SUB NAME	COUNTY	APPLICATION NUMBER	SHORT DESCRIPTION	PROJECT TOTAL	AMOUNT REQUESTED	AMOUNT RECOMMENDED
CITY OF TIOGA	WILLIAMS	A180112	ROAD RECONSTRUCTION AND WATER/SEWER/STORM MAINS	\$2,894,918.00	\$2,000,000.00	\$0
CITY OF TIOGA	WILLIAMS	A180113	ROAD RECONSTRUCTION	\$3,085,420.00	\$2,314,065.00	\$0
CITY OF TIOGA	WILLIAMS	A180114	105TH AVE ROAD RECONSTRUCTION	\$1,362,335.00	\$1,021,750.00	\$0
RENVILLE COUNTY	RENVILLE	A180115	WEST ACRES ACCESS ROAD TO MOUSE RIVER PARK	\$520,000.00	\$300,000.00	\$0
RENVILLE COUNTY	RENVILLE	A180116	MOTORIZED ROAD GRADER	\$286,000.00	\$100,000.00	\$0
RENVILLE COUNTY	RENVILLE	A180117	NORMA ROAD NORTH	\$420,000.00	\$84,000.00	\$0
WARD COUNTY	WARD	A180118	BACKUP GENERATOR FOR SHELTERING	\$119,785.00	\$119,785.00	\$0
CITY OF TIOGA	WILLIAMS	A180119	POLICE PATROL VEHICLES	\$145,000.00	\$108,750.00	\$0
BOWBELLS PSD #14	BURKE	A180120	BUS BARN	\$271,240.00	\$180,850.00	\$0
WILLIAMS COUNTY	WILLIAMS	A180121	DISASTER EVACUATION SHELTER RESOURCE TRAILER SUPPLIES	\$26,916.00	\$19,900.00	\$19,900
MOUNTRAIL COUNTY	MOUNTRAIL	A180122	CTY RD 17 CULVERTS, SUBGRADE REPAIR, AND HBP	\$583,531.00	\$450,000.00	\$0
ZAP RURAL FIRE PROTECTION DISTRICT	MERCER	A180123	TRUCK TAKEOFF MONITOR	\$69,270.00	\$69,270.00	\$11,270
CITY OF RAY	WILLIAMS	A180124	EASY STREET/CTY RD 17 RECONSTRUCTION	\$306,108.00	\$180,527.00	\$0
CITY OF RAY	WILLIAMS	A180125	208 RAILROAD AVE WATER/SEWER REPAIR	\$52,108.00	\$52,108.00	\$0
STARK COUNTY	STARK	A180126	COUNTY FAIRGROUNDS OUTDOOR WARNING SYSTEM	\$22,015.00	\$16,511.00	\$16,511
CITY OF MINOT	WARD	A180127	IN-CAR VIDEO SYSTEM AND BODY-WORN CAMERAS	\$195,000.00	\$195,000.00	\$0
CITY OF UNDERWOOD	MCLEAN	A180128	STORM SEWER MAINTENANCE	\$14,925.00	\$14,925.00	\$0
CITY OF TIOGA	WILLIAMS	A180129	EMERGENCY GENERATORS FOR WASTEWATER SYSTEM	\$201,840.00	\$151,380.00	\$0
				\$10,576,411	\$7,378,821	\$47,681

The Committee recommends the Williams County Emergency Management grant has a funding stipulation that includes a mutual aid agreement as a mobile asset with the surrounding counties of Divide, Burke, Mountrail, and McKenzie Counties.

EIO will have a remaining balance of \$1,952,319 upon approval of the three recommended grants. EIO will advertise the grant June 11, 2018 – August 30, 2018.

Mr. Dave Mahon Superintendent of Schools for Bowman County Public School District is on administrative leave from his position with Bowman County Public School District and will no longer be able to serve as a member for the Committee. EIO has requested a replacement and Mr. David Wagner, Superintendent of Schools for Beach Public School District #3, is able to serve on the Committee.

Motion:

- (1) **The Board awards three grants under the Contingency Grant:**
 - a. **Williams County - \$19,900 for Disaster Evacuation Shelter Resource Trailer Supplies**
 - b. **Zap Rural Fire Protection District - \$11,270 for Truck Takeoff Monitor**
 - c. **Stark County - \$16,511 for County Fairgrounds Outdoor Warning System**
- (2) **Replace Mr. Dave Mahon with Mr. David Wagner on the Contingency Grant Advisory Committee.**

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

INVESTMENT MANAGEMENT DIVISION

RVK Contract Renewal

The Board's relationship with RVK began in 2013 when the firm was chosen through a competitive hiring process by the Board to submit a written report addressing the following issues:

1. Recommendations for a comprehensive evaluation and rewrite of the Board's investment policies and procedures for the permanent trust funds (PTF) that will help state and ensure long-term goals and objectives for the PTFs.
2. A recommendation of an asset allocation policy for the PTFs that, while recognizing the Board's risk tolerance and return expectations, balances the Board's responsibilities under North Dakota law to
 - a. Support the trust beneficiaries;
 - b. Maintain the permanent strength of the fund;
 - c. follow the prudent investor rule
3. A recommendation as to the most appropriate way to transition the PTFs from the current asset allocation plan to the recommended asset allocation plan.
4. An analysis of the costs associated with the recommended asset allocation plan, including performance monitoring and measurement services. This analysis will include an evaluation of various implementation scenarios, including
 - a. an ultra low cost investment approach,
 - b. a more traditional plan sponsor/investment /consultant approach
 - c. an outsourced CIO (including State Investment Board) approach.
5. An analysis of the management of cash and cash-like funds that are not part of the PTF responsibilities of the Board, in particular, the Strategic Investment and Improvements Fund.

In January 2014, the Board entered into another agreement with RVK to implement the recommendations that came out of RVK's 2013 investment study and to provide performance monitoring services to the Board. This agreement was extended six months to provide for the completion of all searches and the adoption of an Investment Policy Statement by the Board

In July 2015, after reviewing the pros and cons of a potential partnership with the State Investment Board the Land Board voted unanimously to continue to actively manage the permanent trusts' investment program through Department staff with the assistance of a retained investment consultant; while also working with the SIB to minimize costs and fees, and to improve efficiencies. In July 2015 the Board also directed the Commissioner to enter into an agreement with RVK for the following services:

- Advice in setting investment objectives; assisting with the preparation and/or 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 recommending changes as necessary; and assisting with the transition to new investment options.

- Quarterly investment performance monitoring; reviewing the selection of investment funds according to the Board's investment policy and other appropriate standards; analyzing both portfolio wide and investment manager performance compared to appropriate indices and peer groups; providing quarterly performance reports to the Board that outline and summarize the performance of the portfolio(s) as compared to the appropriate 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 will be quoted on a case-by-case basis.
- Due diligence monitoring/reviewing of investment managers; conducting on-site visits of managers as needed; providing periodic review of investment manager fees with recommendations for action to be taken 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, as requested or deemed necessary.

The initial two-year contract with RVK was for the above noted services for a fee of \$145,000 per year and concluded in August 2017. During the August 2017 Board meeting, a one-year extension of the contract was awarded to RVK with an annual fee increase of 3% for a total of \$149,350. This fee included 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 the Board with educational presentations and summaries. Additionally, RVK has been a key provider of information and guidance in three manager searches staff has performed during fiscal year 2018. RVK's current contract will expire in August 2018.

Investment consultant relationships should be reviewed periodically to ensure they are still working for all parties. This may entail a more formal procurement effort to determine if other firms can provide better service, or possibly similar services at a lower price; or alternatively a less formal process can be undertaken to evaluate the current relationship to ensure that the Board's objectives are accomplished at a fair price.

Department staff has conducted an internal assessment of similar sized permanent trust investment consulting practices throughout the western U.S. That review involved discussions with permanent trust investment officers in New Mexico and Oklahoma, as well as gathering data about other permanent trust investment programs. During that research it was found that many investment programs maintain consultant relationships for extended periods of time as long as the consultant continues to provide the desired services in an efficient and effective manner at a reasonable price. Consultants are trusted partners and they help shape programs over time. This philosophy is followed by the Oklahoma and New Mexico permanent trusts investment offices, and it is also followed by North Dakota's SIB.

Research into other state permanent trust investment programs indicates that RVK is the consultant of choice for four of the seven largest permanent trust investment programs. The states that currently work with RVK are New Mexico, North Dakota, Oklahoma and Wyoming. The fees paid by each of those states is measurably more than North Dakota has paid historically; if fees are dollar weighted to consider the amount of asset under consultation, the fee being proposed by RVK is less than half what other states pay.

Additionally, RVK was recently named as one of the three investment consulting firms awarded the 2017 large US consultant Greenwich Quality Leader. Greenwich Associates, a trusted independent investment research firm, conducted interviews with over 1,000 senior professionals of large plan sponsors and ranked opinions of their investment consulting relationships on a series of key metrics, including, but not limited to:

- Understanding Clients' Goals and Objectives
- Advice on Long-term Asset Allocation
- Proactive Advice and Innovative Ideas
- Credibility with the Board and/or Investment Committee
- Knowledge of Investment Managers
- Advice on DC Plan Structure and Design
- Satisfaction with Manager Recommendations
- Responsiveness to Client Requests and Needs
- Competitive Fees

Based upon staff's review of other state programs and satisfaction with the services provided by RVK over the past five years, the Commissioner and staff recommend the Board continue contracting with RVK for investment consulting services.

Motion: The Board directs the Commissioner to enter into a 2 year contract negotiations with RVK for comprehensive investment advisory services, including investment performance monitoring, assistance with investment manager searches, ongoing due diligence, investment advice and educational efforts, such contract to be subject to final approval by the Attorney General.

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		

Quarterly Investment Reports- 1st Quarter 2018

All investment material presented to the Board is available at the Department upon request.

Fixed Income Search Update

In March 2018, the Board adopted a new structure for the trusts' 21% allocation to fixed income, specifically to adjust the non-core fixed income exposure away from high yield domestic bonds and developed market international bonds, and to add new mandates for structured credit and direct lending. Of the fixed income portfolio, structured credit will be 10% (\$95 million) and direct lending will make up 15% (\$143 million).

The goal of the proposed changes is to reduce the risk and improve the expected returns of the permanent trusts' fixed income portfolio. The recommended changes should result in higher yields, lower interest rate risk, and improved downside protection, while also maintaining the high credit quality of the trusts' fixed income portfolio. The changes will also allow the fixed income portfolio to retain its role in the overall portfolio, which is to provide safety, liquidity, and protection in a deflationary environment.

During April 2018 and May 2018, the Investments Division has worked closely with RVK on these two searches and expects to bring recommendations to the Board in June. Finalists will meet with staff in Bismarck on June 12th and 13th.

April 16	RVK to provide structured credit search book	Completed
April 23	Conference call between RVK and staff to review structured credit products and determine semi-finalists (3-4) to interview via phone	Completed
April 26	RVK to provide direct lending search book	Completed
April 27	Conference call between RVK and staff to review direct lending products and determine semi-finalist (3-4) to interview via phone	Completed
April 30 - May 18	Conference calls with semi-finalists to determine which finalists (2-3 in each category) to bring to Bismarck for in person interviews	Completed
June 12 - 13	Finalist interviews in Bismarck	
June 28	Recommend managers to hire for both the direct lending and structured credit mandates and have those managers present to Land Board	

Direct Lending

Direct Lending investments generally take the form of funds that have distinct fundraising, investment, and harvest periods. Since the funds are not open-ended, the search is limited to funds that are currently raising capital. RVK began the direct lending manager search by compiling a list of all managers that are currently raising funds and have a primary focus on US middle-market loans and loans that are senior in the capital structure. The initial list included 12 funds; one European fund was included in case staff wanted to split the direct lending portfolio between domestic and Europe.

After reviewing product details and holding discussions with RVK, the list of 12 managers was reduced down to six for various reasons, including quality focus, leverage, track record, etc. During mid-May, RVK and staff interviewed six different direct lending managers via phone; after follow-up discussions with RVK, three managers, Angelo Gordon, Ares (SIB manager), and TCW were invited to interview with RVK and staff in person on June 12, 2018 in Bismarck.

Structured Credit

Structured credit investments are a liquid form of credit exposure, including such securities as residential mortgage-backed securities (RMBS), agency mortgage backed securities (MBS), commercial mortgage-backed securities (CMBS) and asset backed securities (ABS). They have the potential to offer diversification from typical stocks and bonds due to the variety of underlying economic sectors that drive the cash flows of these investments. For example, exposures to real estate, consumer credit, and housing provide meaningfully different performance from that of the broad stock and bond markets, and from corporate debt.

RVK began the process using eVestment's structured credit universe; a broad and diverse universe of both quality and opportunistic (riskier) strategies. RVK screened the database to include only managers of quality liquid products with over one billion under investment that had exposure to a variety of structured credit sectors. All of the products reviewed had an average credit quality of A or better except Voya whose product has an average quality of BB, just below investment grade. Voya was included in the search due to its long history and ability to customize a portfolio as needed. The initial screening identified six fund managers to be further reviewed.

After reviewing product details and holding discussions with RVK, four products were deemed suitable for the next phase of review. The remaining four managers were interviewed via phone in early-May. These interviews identified two fund manager finalists, Schroders and Voya, who will be interviewed by RVK and staff on June 13, 2018 in Bismarck.

The interview schedule for June 12th and 13th is as follows:

JUNE 12th – DIRECT LENDING INTERVIEWS

8:00 am - 9:30 am	Angelo Gordon
10:30 am - 12:00 pm	Ares
1:30 pm - 3:00 pm	TCW
3:30 pm	Discuss Interviews

JUNE 13th – STRUCTURED CREDIT INTERVIEWS

8:00 am - 9:30 am	Schroders
10:30 am - 12:00 pm	Voya
1:30 pm	Discuss Interviews

The Commissioner will present a recommendation to the Board in June to hire one structured credit manager and one direct lending manager for the permanent trusts' investment portfolio.

M I N E R A L S

Merricourt Wind Project

EDF Renewable Development, Inc. (EDF) is developing the Merricourt Wind Power Project (the "Project") in McIntosh and Dickey Counties. Permitting is nearly complete and construction is scheduled to begin during the 2nd quarter of 2019. The Department has received the following information relating to the Project:

- The Project involves approximately 13,156 gross acres, primarily in McIntosh County with a small portion in Dickey County;
- The Project will result in approximately 64 total acres of disturbance (less than 1% of the Project boundary);
- The Project includes approximately 75 turbines with an estimated nameplate capacity of 150MW;
- Net capacity factor is ~46-49% or between ~600-650 GWh annually;
- EDF's estimated cost for the Project is approximately \$200 - \$300 Million. It will require approximately 200 temporary jobs positions and 8 -10 full time O&M job positions; and
- The Project is expected to generate over \$675,000 in annual tax revenues

The Project does not include any surface interests controlled by the Board. The Project does, however, include 347.34 mineral acres controlled by the Board that are located in McIntosh County. See Exhibits 1 and 2.

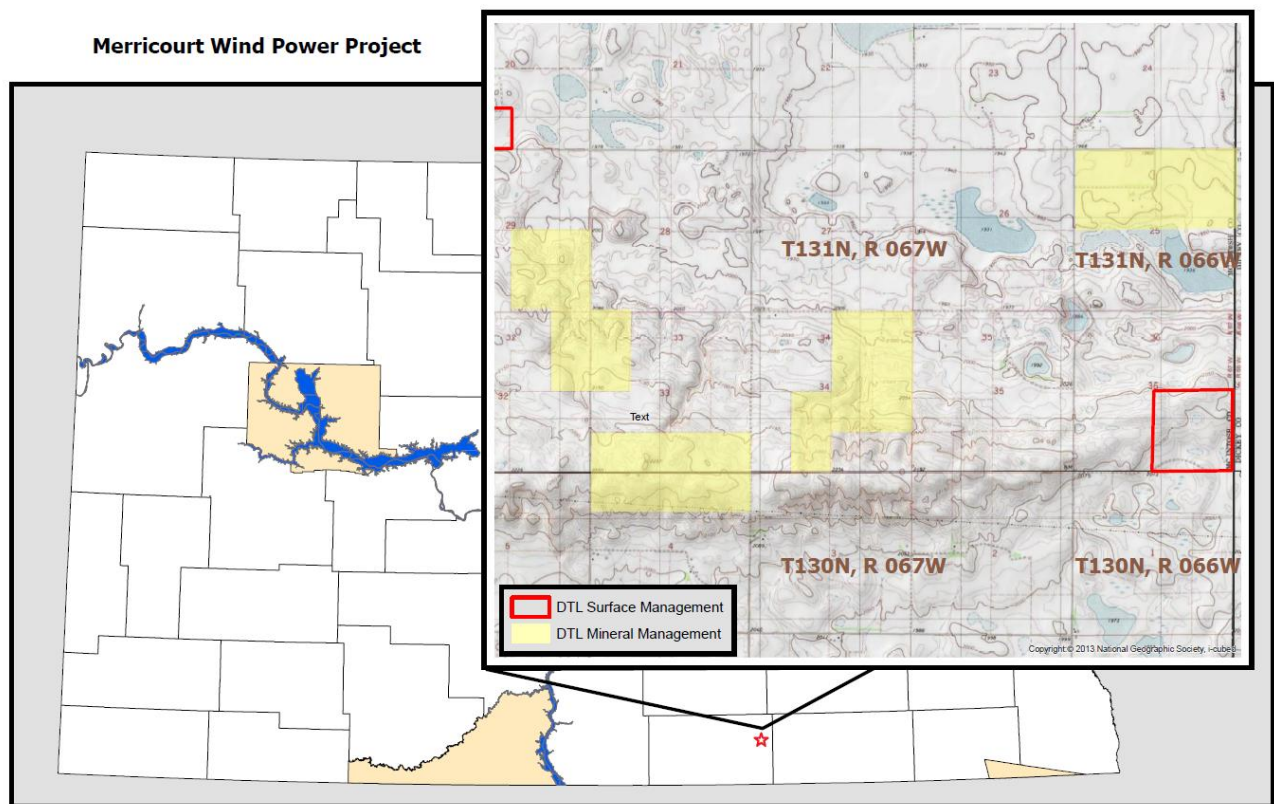


Exhibit 1

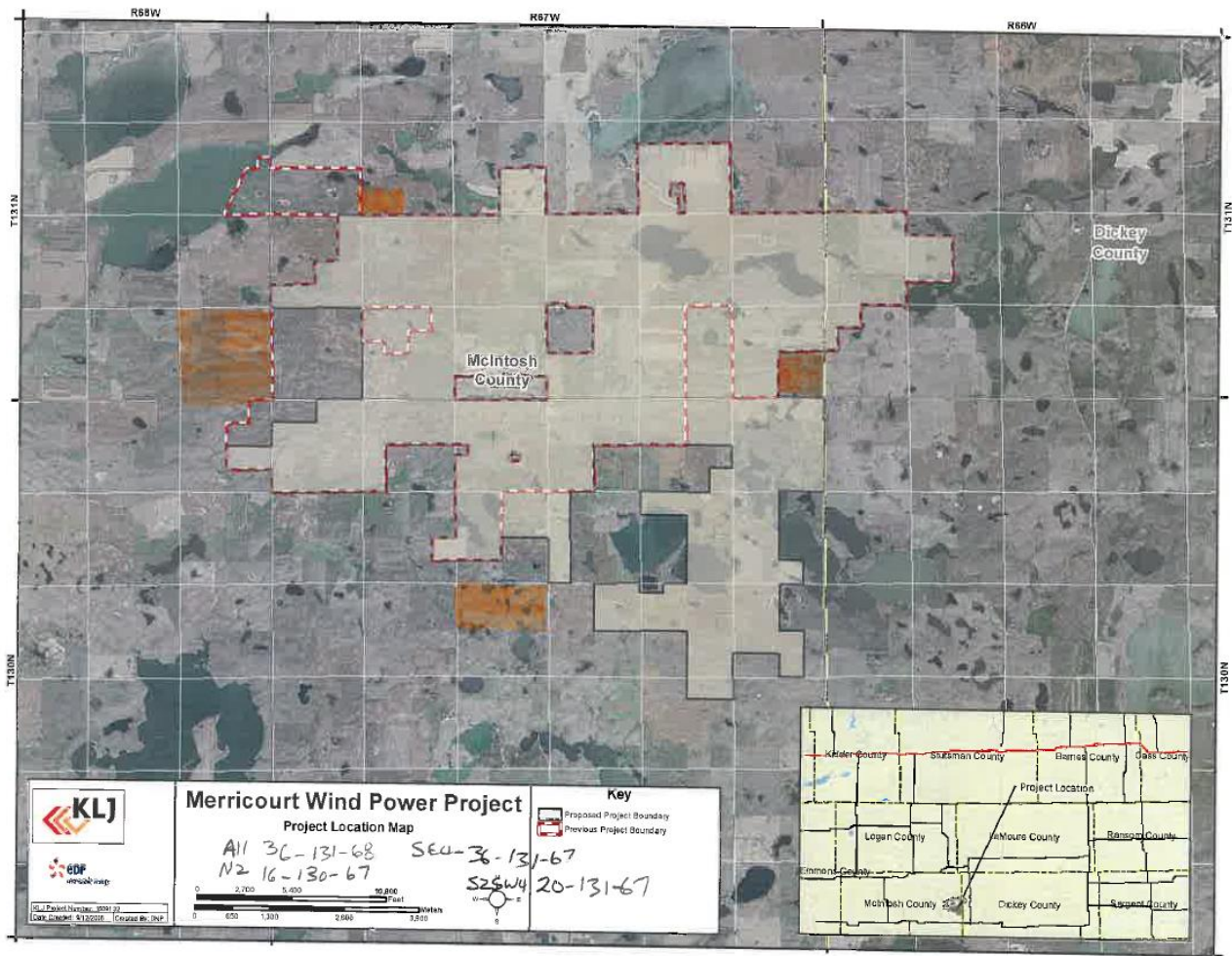


Exhibit 2

State Geologist, Ed Murphy, provided the Department with information regarding the mineral development in the Project area. Murphy advised that although there is the possibility of mineral development, he is “not aware of any element/mineral that would be in the subsurface in that area that would have much of a chance for development in the foreseeable future.”

EDF is requesting a written agreement from the Department whereby the Department subordinates its mineral interests in the Project area to the interests EDF acquires as part of the Project.

To the best of the Department’s knowledge, the Board has never agreed to subordinate its mineral interests in connection with surface operations such as this. Past Subordination requests made to the Board, however, typically have involved Board mineral interests in the oil patch or in coal country.

Legal Description	% owned	Gross Acres	Net Acres
T130-R67 Sec. 4: Lots 1 - 4	50%	150.68	75.34
T131-R67 Sec. 25: N2	5%	320	16
T131-R67 Sec. 29: SE4	50%	160	80
T131-R67 Sec. 32: E2NE4	50%	80	40
T131-R67 Sec. 33: W2NW4	50%	80	40
T131-R67 Sec. 33: S2S2	50%	160	80
T131-R67 Sec. 34: NE4, N2SE4, E2SW4	5%	320	16
Exhibit 3			347.34

EDF informed the Department that its creditors will not fund portions of the Project unless the Board grants it an agreement that subordinates the Board's mineral interests to the surface interests EDF acquires as part of the Project. EDF is also concerned that without a subordination agreement, it may be required to remove or relocate wind towers to accommodate future mineral development.

EDF provided the Department with a proposed Consent and Cooperation Agreement (Exhibit 4) detailing the terms of the subordination of the Board's mineral interests. The Department requests that the Board authorize it to negotiate acceptable terms and work on a proposed agreement regarding the subordination of the Board's mineral interests.

The Board directed the Commissioner to confirm with PSC and Game and Fish the approval stage of the project, confirmation Mericourt is aware of PSC's new indirect mitigation program, obtain a map of proposed wind towers, identify potential economic impairment surrounding surface owners may incur if the Board does not approve the project, and create an internal policy regarding the subordination of the Board's mineral interests.

Wenck Review Update

At the time of statehood, the federal government conveyed ownership of the beds of navigable lakes and streams to North Dakota under the Equal Footing Doctrine. The Board leases the rights to produce oil and gas from minerals associated with sovereign lands, which N.D.C.C. § 61-33-01 defines as "those areas, including beds and islands, lying within the ordinary high water mark of navigable lakes and streams." The Office of the State Engineer has responsibility for defining the ordinary high water mark (OHWM) and management responsibility for the bed of navigable waters and any other minerals therein.

In 2009, Bartlett and West was contracted to complete four task orders or phases of a study of the Yellowstone and Missouri Rivers' OHWM for areas with potential oil and gas development. It should be noted the purpose of the studies was to determine the location of the OHWM. This was the largest study of the OHWM ever completed in North Dakota. Phase I of the study focused on the area west of Williston. Bartlett and West used the State Engineer's OHWM delineation guidelines and conducted an on-the-ground analysis of the vegetation, soils and hydraulic characteristics for a determination of the OHWM of the river. The study was conducted jointly with the State Engineer and is referred to as Phase I.

The Phase II and IV studies focused on the areas east of Williston. Bartlett and West used a combination of pre-reservoir maps and photos, and high resolution scanning equipment to gather information on the historic OHWM of the Missouri River prior to the formation of Lake Sakakawea.

These studies have been used to manage mineral acres underlying navigable waterways and are used as the initial steps in the process of determining eligible acreages for state-issued oil and gas leases on sovereign lands.

During the 2017 legislative session, SB 2134 was adopted which directed the Department of Mineral Resources to select a qualified engineering and surveying firm to conduct a review of the Corps survey segments from the northern boundary of the Fort Berthold Indian reservation to the southern border of sections 33 and 34, township 153 north, range 102 west. Wenck Associates Inc. (Wenck) were contracted to review the delineation of the OHWM of the Corps survey segments. The review was to determine whether clear and convincing evidence establishes that a portion of the Corps survey does not reasonably reflect the OHWM of the historical Missouri riverbed channel under state law.

On April 17, 2018, Wenck presented to the Industrial Commission the scope of work which included the results of their review. The full report was posted to the Department of Minerals website on April 18, 2018. The Department of Trust Lands (Department) is in the process of reviewing the report and will begin comparing the Wenck review to the Phase II study.

The Commissioner recommends the Board consider entering executive session for consultation with legal counsel regarding pending and potential litigation.

EXECUTIVE SESSION

Motion: Under the authority of North Dakota Century Code Sections §§44-04-19.1 and 44-04-19.2, the Board close the meeting to the public and go into executive session for purposes to discuss the Wenck Review and Paul Sorum et al. v. The State of North Dakota, et al.

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		

At 9:56 AM the Board entered executive session for the purposes outlined in its adopted motion.

EXECUTIVE SESSION

Members Present:

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Kelly Schmidt	State Treasurer
Kirsten Baesler	Superintendent of Public Instruction

Members Absent:

Wayne Stenehjem	Attorney General
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Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Drew Combs	Minerals Division Manager
Kristie McCusker	Legal Assistant
Rick Owings	Administrative Officer

Guests in Attendance:

Troy Seibel	Office of the Attorney General
Matt Sagsveen	Office of the Attorney General
Leslie Bakken Oliver	Governor's Legal Counsel
Bryan Cortes	Governor's Office

The executive session adjourned at 11:01 AM and the Board returned to open session and the public was invited to return to the meeting. During the executive session, the Board was provided information regarding the Wenck Review and updates for the Paul Sorum et al. v. The State of North Dakota, et al.

Motion: After considerable discussion about the lawsuit entitled Paul Sorum et al. v. the Board of University of School Lands, Industrial Commission, Governor Burgum and Attorney General Stenehjem as well as concerns about conflicts of interests arising from the Governor and Attorney General's seats on the Land Board and the Industrial Commission. The Industrial Commission is represented by outside counsel, it would be in the Land Board's interest to seek representation by outside counsel. So I move to direct Commissioner Smith to work with the Attorney General's office to retain outside counsel at specifically special assistant Attorney General Mark Hanson at the Nilles Law Firm.

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		

R E P O R T S

The Financial Statement (Unaudited) for Period Ended February 28, 2018 was provided to the Board

Results of Online May Oil and Gas Mineral Lease Auction

On behalf of the Board, the Department conducted an oil and gas mineral lease auction which concluded on May 1, 2018 on <https://www.energy.net.com/>.

There were 59 tracts offered and all but one received competitive bids. The highest bid per acre was \$1001.00 for 17.39 net mineral acres in Mountrail County.

There were 32 bidders registered, 21 of which submitted bids in the seven-day auction. Bidders were from 6 states (CO, MT, ND, TX, WA and WY).

A total \$279,510.95 of bonus was collected from the auction.

Report of Easements Issued by Land Commissioner from 4/17/18 to 5/16/18

Granted to: **BURKE-DIVIDE ELECTRIC COOPERATIVE, COLUMBUS-ND**
 For the Purpose of: Easement: Electric Distribution Line - Above Ground
 Right-of-Way Number: RW0008009
 Date Issued: 4/17/2018
 Application Fee: \$100.00
 Right-of-way Income: N/A
 Damage Payment to Lessee: N/A
 Trust: A – COMMON SCHOOLS
 Length (Rods): 160.0
 Area (Acres): 1.81
 Legal Description: DIV-160-101-36-NW4

Granted to: **LIME ROCK RESOURCES III-A LP, HOUSTON-TX**
 For the Purpose of: Easement-Amend: Drop Line-Pipeline
 Right-of-Way Number: RW0008201
 Date Issued: 5/16/2018
 Application Fee: \$100.00
 Right-of-way Income: \$1120.00
 Damage Payment to Lessee: N/A
 Trust: A – COMMON SCHOOLS
 Length (Rods): 13.49
 Area (Acres): 0.17
 Legal Description: BRK-160-90-16-NW4

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: **USDA-NRCS, BISMARCK-ND**
 For the Purpose of: Letter of Permission: Access to School Land
 Right-of-Way Number: RW0008241
 Date Issued: 4/24/2018
 Application Fee: N/A
 Right-of-way Income: N/A
 Damage Payment to Lessee: N/A
 Trust: A – COMMON SCHOOLS
 W – ND SCHOOL OF SCIENCE
 I – ND INDUSTRIAL SCHOOL
 Length (Rods): 0
 Area (Acres): 157.5
 Legal Description: BEN-152-71-33-SW4 - Trust W
 BOW-130-105-16-NW4 - Trust A
 BOW-130-106-36-NW4 - Trust A
 EMM-135-75-27-NW4 - Trust A
 GOL-144-104-36-SE4 - Trust A
 MCH-153-77-36-SE4 - Trust A
 MCH-157-75-34-NW4 - Trust I
 MCK-148-104-36-NW4 - Trust A
 MOU-155-94-16-NE4, SW4 - Trust A
 RIC-136-52-36-NE4 - Trust A
 SIO-130-90-36-NE4 - Trust A
 STA-137-93-16-SE4 - Trust A

WIL-157-98-16-SE4 - Trust A
WIL-158-95-36-NW4 - Trust A

Granted to:
ND

NUVERRA ENVIRONMENTAL SOLUTIONS, WATFORD CITY-

For the Purpose of: Letter of Permission: Temporary Water Layflat Line
Right-of-Way Number: RW0008254
Date Issued: 5/1/2018
Application Fee: \$100.00
Right-of-way Income: \$5400.00
Damage Payment to Lessee: N/A
Trust: A – COMMON SCHOOLS
Length (Rods): 327.26
Area (Acres): 0
Legal Description: MCK-152-99-36-NE4, SE4

Granted to:

HESS BAKKEN INVESTMENTS II, LLC, MINOT-ND

For the Purpose of: Permit: Temporary Construction
Right-of-Way Number: RW0008257
Date Issued: 5/7/2018
Application Fee: \$100.00
Right-of-way Income: \$11,375.00
Damage Payment to Lessee: N/A
Trust: A – COMMON SCHOOLS
Length (Rods): 0
Area (Acres): 4.55
Legal Description: BIL-139-101-16-NE4, NW4

Granted to:

WINDRIDGE OIL & GAS LP, BOERNE-TX

For the Purpose of: Letter of Permission: Temporary Water Layflat Line
Right-of-Way Number: RW0008261
Date Issued: 5/3/2018
Application Fee: \$100.00
Right-of-way Income: \$1650.00
Damage Payment to Lessee: N/A
Trust: A – COMMON SCHOOLS
Length (Rods): 33.0
Area (Acres): 0
Legal Description: BRK-164-93-36-SE4

Granted to:

ALLIANCE CONSULTING, WILLISTON-ND

For the Purpose of: Permit: Planning & Preconstruction Survey
Right-of-Way Number: RW0008266
Date Issued: 4/24/2018
Application Fee: \$100.00
Right-of-way Income: \$500.00
Damage Payment to Lessee: N/A
Trust: A – COMMON SCHOOLS
Length (Rods): N/A
Area (Acres): N/A
Legal Description: WAR-155-84-1-SW4NW4

Granted to:

USDA-NRCS, JAMESTOWN-ND

For the Purpose of: Letter of Permission: Access to School Land
 Right-of-Way Number: RW0008267
 Date Issued: 5/3/2018
 Application Fee: N/A
 Right-of-way Income: N/A
 Damage Payment to Lessee: N/A
 Trust: A – COMMON SCHOOLS
 Length (Rods): 0
 Area (Acres): 0
 Legal Description: GOL-137-104-36-SW4

Granted to: SELECT ENERGY SERVICES LLC, WILLISTON-ND

For the Purpose of: Letter of Permission: Temporary Water Layflat Line
 Right-of-Way Number: RW0008268
 Date Issued: 5/4/2018
 Application Fee: \$100.00
 Right-of-way Income: \$3621.00
 Damage Payment to Lessee: N/A
 Trust: A – COMMON SCHOOLS
 Length (Rods): 219.5
 Area (Acres): 0
 Legal Description: MCK-153-98-36-SW4

Granted to: US FISH & WILDLIFE SERVICE, BISMARCK-ND

For the Purpose of: Letter of Permission: Access to School Land
 Right-of-Way Number: RW0008269
 Date Issued: 5/3/2018
 Application Fee: N/A
 Right-of-way Income: N/A
 Damage Payment to Lessee: N/A
 Trust: A – COMMON SCHOOLS
 Z – VALLEY CITY/MAYVILLE
 Length (Rods): 0
 Area (Acres): 0
 Legal Description: EDD-150-63-16-N2SE4, SW4SE4, LOTS 1,2 - Trust A
 EDD-150-67-9-SE4 - Trust Z
 FOS-147-62-26-SE4 - Trust A
 SHE-148-74-16-S2SW4 - Trust A

Granted to: SAVAGE WATER SOLUTIONS LLC, WILLISTON-ND

For the Purpose of: Letter of Permission: Temporary Water Layflat Line
 Right-of-Way Number: RW0008271
 Date Issued: 5/7/2018
 Application Fee: \$100.00
 Right-of-way Income: \$99.99 – Trust A
 \$2650.01 – Trust C
 Damage Payment to Lessee: N/A
 Trust: C – CAPITOL BUILDING
 A – COMMON SCHOOLS
 Length (Rods): 166.67 (160.61 rods-Trust C; 6.06 rods-Trust A)
 Area (Acres): 0
 Legal Description: MOU-155-94-32-NE4 - Trust C
 MOU-155-94-36-SW4 - Trust A

Investment Updates

Asset Allocation

The status of the permanent trusts' asset allocation as of April 30, 2018:

Asset Class	Long-Term Asset Allocation	4/30/18 Actual Allocation \$	4/30/18 Actual Allocation %
Large Cap US Equity	13.2%	595,613,731	13.3%
Mid/Small Cap US Equity	3.8%	169,342,523	3.8%
International Equity	13.3%	584,705,666	13.1%
Emerging Market Equity	3.7%	166,277,100	3.7%
Total Equities	34.0%	1,515,939,021	33.9%
Domestic Investment Grade	13.0%	578,169,705	12.9%
High Yield FI	2.7%	114,639,534	2.6%
International/Global FI	5.3%	246,074,214	5.5%
Total Fixed Income	21.0%	938,883,453	21.0%
Total Absolute Return	20.0%	893,095,159	20.0%
Commodities	3.0%	136,282,762	3.0%
MLPs	3.0%	140,097,257	3.1%
TIPS	2.0%	88,704,635	2.0%
Natural Resource Equities	2.0%	93,690,889	2.1%
Total Inflation Strategies	10.0%	458,775,544	10.3%
Core Real Estate	8.0%	369,028,361	8.2%
Core Plus Real Estate	7.0%	298,685,375	6.7%
Total Real Estate	15.0%	667,713,736	14.9%
Total Asset	100.0%	4,474,406,913	100.0%

Upcoming Investment Manager Meetings

The following meetings with investment managers are planned to discuss strategy, compliance, and performance. They will be held in the Department's conference room.

June 14, 2018 2:30 PM **Northern Trust Asset Management**

Ultra Short Fixed Income (\$295 million, SIIF/Coal/Capitol)

Small Cap US Equity (\$95 million, PTF Pool)

Robert Gyorgy, Patrick Quinn, and Tamara Doi Beck

Board members are welcome to attend any manager meetings. Please make sure to inform the Commissioner's office if you plan to attend so that enough materials are available.

A D J O U R N

There being no further business, the meeting was adjourned at 11:04 AM.

Doug Burgum, Chairman
Board of University and School Lands

Jodi Smith, Secretary
Board of University and School Lands

**Minutes of the Meeting of the
Board of University and School Lands
June 28, 2018**

The June 28, 2018 meeting of the Board of University and School Lands was called to order at 9:02 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:

Jodi Smith	Commissioner
Drew Combs	Minerals Division Manager
Jeff Engleson	Investment Division Manager
Levi Erdmann	Investment Analyst
Kristie McCusker	Legal Assistant
Rick Owings	Administrative Officer

Guests in Attendance:

Brent Sanford	Lt. Governor
Leslie Bakken Oliver	Governor's Legal Counsel
Josh Kevan	RVK
Geoff Simon	Western Dakota Energy Association
Drew Guyette	Angelo Gordon and Company
William Cullinan	Angelo Gordon and Company
Michelle Russell-Dowe	Schroders
Cathie Mazza	Schroders
Mark Hanson	Nilles Law Firm
Peter Hvidston	Nilles Law Firm
Joel Gilbertson	GA Group PC
Levi Andrist	GA Group PC
Gary Hagen	Self

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 May 31, 2018 meeting was made by Attorney General Stenehjem and seconded by State Treasurer Kelly Schmidt and the motion carried unanimously on a voice vote.

O P E R A T I O N S

Delegation of Authority to Land Commissioner

The Board of University and School Lands (the "Board") has a range of responsibilities and broad authority under Title 15 of the North Dakota Century Code titled "Board of University and School Lands." One of those responsibilities is to appoint a Commissioner of University and School Lands. "All of the official acts of the commissioner are subject to the approval and supervision of the Board." N.D.C.C. § 15-02-01. Additionally, the Board has the authority under N.D.C.C. § 15-01-02 to exercise control over public lands and permanent funds managed by the commissioner.

Pursuant to N.D.C.C. § 15-02-05, the Commissioner of the Board of University and School Lands serves as the general agent of the Board in the performance of its duties. For purposes of efficiency and expediency, the Board may delegate to the Commissioner, as its agent, certain defined duties, including the authority to settle disputes involving monies owed to the Board. N.D. Admin. Code § 85-06-06-10

The Commissioner seeks the authority to resolve disputes involving monetary amounts due and owing to the Board in amounts no greater than \$25,000 without Board approval, as long as such dispute is not subject to ongoing litigation.

Motion: The Board delegates to the Commissioner the authority to resolve any matter involving monetary amounts in dispute of \$25,000 or less without the requirement of seeking board approval. This authority shall not include the right to initiate or settle litigation in the courts.

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

INVESTMENT MANAGEMENT DIVISION

RVK Contract Renewal

On May 31, 2018 the Board directed the Commissioner to enter into negotiations with RVK to continue to provide comprehensive investment consulting services to the Board for an additional two years beyond the current contract which RVK expires August 31, 2018.

The contract renewal with RVK will cover all of the services provided to the Board over the past three years including:

- Advice in setting policies, goals and objectives;
- Quarterly investment performance monitoring;
- Manager searches;
- Ongoing due-diligence, and;
- Providing client education.

The annual fee for the current agreement with RVK is \$149,350 per year. Discussions with RVK resulted in the Commissioner negotiating a fee increase of 3% for each year of the new agreement. After reviewing the scope of services of other state land trust consultant agreements, the Commissioner is satisfied that the fee negotiated is very reasonable for the services provided.

Motion: The Board authorize the Commissioner to enter into an agreement with RVK for comprehensive investment advisory services, including investment performance monitoring, assistance with investment manager searches, ongoing due diligence, investment advice and educational efforts, such agreement to be subject to final approval by the Attorney General.

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		

Recommendation to Approve Direct Lending Manager – Angelo, Gordon & Company

On March 29, 2018 the Board adopted a new structure for the permanent trusts' fixed income portfolio and authorized the Commissioner to begin searches for investment firms to manage the new direct lending and structured credit allocations approved by the Board.

Direct lending involves hiring an investment firm that specializes in providing senior, secured loans directly to companies to meet their ongoing business needs. Direct lending involves making loans to healthy companies with between \$10 million and \$1 billion in annual revenues, an area of financing that has been underserved since the financial crises. Direct lending generally provides higher yields than traditional fixed income securities, while maintaining strong asset protection. Direct lending also provides low volatility and limited correlations to liquid fixed income markets. Middle market direct lending, the focus of the search, is a large active market that is attractively priced and capital structure sensitive; it currently has a lower risk profile than high yield securities, with better covenants, lower default rates, and higher recovery rates.

In order to gain the benefits of direct lending an investor must be willing to take illiquidity risk. Direct lending funds generally have fund terms of 6-8 years, during which principal is locked-up in the fund. Although the income generated by direct lending funds is paid out to investors on a regular basis, the principal remains in the fund until after the initial investment period ends (typically 3-4 years). Once the investment period ends, principal is returned to owners as loans are paid off and the life of the fund runs its course.

Direct lending investments generally take the form of funds that have distinct fundraising, investment, and harvest periods. Since the funds are not open-ended, the search is limited to funds that are currently raising capital. RVK began the direct lending manager search by compiling a list of all managers that are currently raising funds and have a primary focus on US middle-market loans and loans that are senior in the capital structure. The initial list included 12 funds; one European fund was included in case staff wanted to split the direct lending portfolio between domestic and Europe.

After reviewing product details and holding discussions with RVK, the list of 12 managers was reduced down to six for various reasons, including quality focus, leverage, track record, etc. During mid-May, RVK and staff interviewed six different direct lending managers via phone; after follow-up discussions with RVK, three managers, Angelo Gordon, Ares (SIB manager), and TCW were invited to interview with RVK, the Commissioner, and staff.

Interviews were held on June 12, 2018 in Bismarck and included Commissioner Smith, Investment Director Jeff Engleson, Investment Analyst Levi Erdmann, and Marcia Beard and Amy Hsiang from RVK. In addition, Treasurer Schmidt sat in on one interview and listened to the discussion that interviewers had as they determined which firm to recommend. The recommendation you are receiving today represents a unanimous decision of those who fully participated in the interview process.

RVK's Josh Kevan is here today to introduce Angelo Gordon, the firm being recommended to manage the new direct lending mandate for the permanent trusts.

Angelo Gordon – Direct Lending Fund III

Drew Guyette, Chief Credit Officer and William Cullinan, Client Service

Angelo, Gordon & Co. is a privately-held registered investment advisor dedicated to alternative investing. The firm was founded in 1988 and currently manages approximately \$28 billion. Angelo Gordon seeks to generate absolute returns with low volatility by exploiting inefficiencies in selected markets and capitalizing on situations that are not in the mainstream of investment opportunities. The primary focus of the firm is credit and real estate strategies. Angelo Gordon has over 400 employees and is based in New York City; the direct lending team is based out of Chicago.

The direct lending team, which is headed by Trevor Clark, joined Angelo Gordon in 2014 from Madison Capital. Trevor was a key player in starting Madison Capital's direct lending program in 2001. The depth and length of experience of the direct lending team is a key factor in this recommendation, as is Angelo Gordon's continued focus on lower-middle market direct lending. When it comes to direct lending, Angelo Gordon does one thing and they do it well; they don't try to be all things to all borrowers. That focus leads to long-term relationships between the firm and its clients, which results in future financing opportunities as clients grow and prosper.

Although not the primary focus of hiring any manager, fees are always an important part of the return equation. The fee proposed by Angelo Gordon includes a discount for clients that meet the first close of the fund, which is July 17, 2018. The exact amount of the fee discount will not be known until after all initial commitments to the fund are made; however, at the present time it is expected that the base fee for this investment will be between 65 and 70 basis points. Angelo Gordon is also eligible for an incentive fee of 15%, subject to a preferred return of 7%. Although not the deciding factor, the fee proposed by Angelo Gordon was the lowest of the three managers interviewed.

Motion: That the Board authorize the Commissioner to enter an agreement with Angelo Gordon to invest in the AG Direct Lending Fund III, L.P., subject to final review and approval of all legal documents by the Office of the Attorney General.

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

Recommendation to Hire Structured Credit Manager – Schroders

On March 29, 2018 the Board adopted a new structure for the permanent trusts' fixed income portfolio and authorized the Commissioner to begin searches for investment firms to manage the new direct lending and structured credit allocations approved by the Board.

Structured credit is an area within the fixed income universe that RVK and staff believe has the potential to offer attractive risk/return benefits to the trusts' overall fixed income portfolio at this time. Structured credit refers to credit or debt obligations that are pooled and converted into packages (or tranches) of credit related securities. Types of structured credit include residential mortgage-backed securities (RMBS), Agency mortgage-backed securities (MBS), commercial mortgage backed securities (CMBS) and asset backed securities (ABS).

Structured credit managers invest across an array of different structured products to offer investors a diversified portfolio of low or uncorrelated risk. Except for agency MBS, all other forms of structured credit products involve credit risk; illiquidity risk can also be a factor, depending on the

product and market environment. However, adding structured credit to the trusts' fixed income portfolio will provide exposure to attractive yielding fixed income sub-sectors, and provide diversification benefits to reduce the volatility of the overall fixed income portfolio.

RVK began the process by using eVestment's structured credit universe; a broad and diverse universe. RVK screened the database to include only managers of quality, liquid products with over one billion under investment that had exposure to a variety of structured credit sectors. Many structured credit products are opportunistic in nature or focused on only one or two aspect of the structured credit universe.

All of the products reviewed had an average credit quality of A or better except Voya whose product has an average quality of BB, just below investment grade. Voya was included in the search due to its long history in this sector and ability to customize a portfolio as needed. The initial screening for quality, liquidity, and diversification identified six fund managers to be further reviewed.

After reviewing product details and holding discussions with RVK, four products were deemed suitable for the next phase of review. The remaining four managers were interviewed via phone in early-May. These interviews identified two fund manager finalists, Schrodgers and Voya, to be interviewed by RVK and staff.

Interviews were held on June 13, 2018 in Bismarck and included Commissioner Smith, Investment Director Jeff Engleson, Investment Analyst Levi Erdmann, Marcia Beard and Amy Hsiang from RVK, and Treasurer Schmidt. The recommendation you are receiving today represents a unanimous decision of those who participated in the interview process.

RVK's Josh Kevan is here today to introduce Schodgers Investment Management, the firm being recommended to manage the new structured credit mandate for the permanent trusts.

Schrodgers Investment Management Michelle Russell-Dowe, Head of Securitized Credit and Cathie Mazza, Institutional Director

Schrodgers is a public traded company based in the UK that has existed for over 200 years; the Schroder family and related trusts control over 47% of existing voting shares. The firm has more than \$600 billion of assets under management, 700 investment professionals worldwide and more than 4,600 employees in 29 countries. Although based out of the London, the Department works directly with Schrodgers' New York office.

Schrodgers' structured credit team is led by Michelle Russell-Dowe. Michelle has 24 years of experience with structured credit; she and her seasoned team of investment professionals moved from Brookfield to Schrodgers in 2016. Only one member of the team has less than 10 years of industry experience. In an asset class that was hit hard by the financial crisis, that experience, and what fund managers learned from their mistakes is crucial. The structured credit team gets the benefits of Schrodgers' back office and strong and diverse global capabilities, but the corporate office does not tell them how to run the business.

Schrodgers' understands that structured credit is a diverse and large asset class; the fundamentals of the various subsectors are not all synchronized. This provides investors the opportunity to perform well during various points in the cycle. Schrodgers has built many proprietary databases, as well as forecasting and modeling tools that allow them to understand how each security may react to various economic stresses. These tools allow Schrodgers to tactically address changing economic circumstances. Schrodgers works closely with clients to understand investment wants and needs, and then builds a portfolio for the client that meets those wants and needs.

Schrodgers offered two different strategies to choose from, one that seeks to add 100-150 basis points over the benchmark, and one that offers 150-300 basis points over the benchmark. The fee

is based on the desired “enhancement” over the benchmark. The Commissioner, RVK and staff will be working with Schroders over the next few weeks to finalize the desired benchmark and “enhancement” goals. For the amount of money being invested (\$95 million), the fee will be 35 basis points for the moderate enhancement strategy and 40 basis points for the 150-300 basis point enhancement strategy. Proposed fees are either less than or equal to the fee schedule provided by Voya.

Motion: The Board authorize the Commissioner to enter into an investment management agreement with Schroders Investment Management to invest a separately managed private credit portfolio for the permanent trusts, subject to final review and approval of the contract by the Office of the Attorney General.

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

M I N E R A L S

Merricourt Wind Project (Update from May 31, 2018)

At the May 31, 2018 meeting of the Board of University and School Lands (the “Board”), the Board was presented with a request by EDF Renewable Development, Inc. (EDF) to subordinate certain minerals in connection with the Merricourt Wind Power Project (the “Project”) in McIntosh and Dickey Counties. (Exhibit 1) The Project includes 347.34 mineral acres and no surface acres managed by the Department of Trust Lands (the “Department”).

During the May 31 meeting, the Board requested additional information about the Project. The Board asked the following questions related to the Project:

1. At what stage is EDF in the process?
2. What is there plan following startup?
3. What are the towers located relative to the Department managed minerals?

EDF’s ten year plan (Exhibit 2), as filed on March 30, 2017 with the ND Public Service Commission (PSC), gives the status of the Project and an overview of future expectations. Studying this document and reviewing the other filings, such as wildlife studies and surveys, will reveal that EDF has completed all requirements and was granted a Certificate of Site Compatibility by the PSC in 2011 and a subsequent amendment in 2015. The Project’s next phase is construction of the turbines and associated support units.

As per EDF’s ten year plan, they report: “In general, Merricourt will generate and deliver renewable energy into the MISO system to help meet North Dakota’s objectives and MISO’s needs. MISO’s regional transmission planning process, for example, continues to show a need for significant additional nameplate capacity in the region over the ensuing ten to fifteen year period even under the most conservative projections. Wind generation from Merricourt is also well positioned to meet future standards, regulations or objectives set by state or federal law with respect to carbon emissions or renewable energy generation. More specifically, Otter Tail Power Company has identified Merricourt, via the Asset Purchase Agreement, as an appropriate resource to meet

customer needs identified in resource plans it has submitted in Minnesota, North Dakota, and South Dakota.”

The map depicted in Exhibit 3 is the latest layout of the projects towers. Highlighted in yellow are tracts that the Board manages some of the minerals. 5 turbines are located above the Board minerals, as well as a temporary Met tower.

Exhibit 1: May 31, 2018 Board Memo

Exhibit 2: EDF Ten Year Plan: 2017 Through 2027

Exhibit 3: Merricourt Wind Power Project Maps

Exhibits are available upon request from the Department.

Recommendation: To continue discussions with Merricourt as the Land Board is supportive of the project, but some of the terms of the contract are not acceptable.

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

The Commissioner recommends the Board consider entering executive session for consultation with legal counsel regarding pending and potential litigation.

EXECUTIVE SESSION

Motion: Under the authority of North Dakota Century Code Sections §§44-04-19.1 and 44-04-19.2, the Board close the meeting to the public and go into executive session for purposes to discuss Paul Sorum et al. v. The State of North Dakota, et al.

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

At 10:32 AM the Board entered executive session for the purposes outlined in its adopted motion.

EXECUTIVE SESSION

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:

Jodi Smith	Commissioner
Drew Combs	Minerals Division Manager

Kristie McCusker
Rick Owings

Legal Assistant
Administrative Officer

Guests in Attendance:

Brent Sanford
Leslie Bakken Oliver
Mark Hanson
Peter Hvidston

Lt. Governor
Governor's Legal Counsel
Nilles Law Firm
Nilles Law Firm

The executive session adjourned at 11:14 AM and the Board returned to open session and the public was invited to return to the meeting. During the executive session, the Board was provided information regarding the Paul Sorum et al. v. The State of North Dakota, et al.

R E P O R T S

The Financial Statement (Unaudited) for Period Ended March 31, 2018 was provided to the Board

Report of Easements Issued by Land Commissioner from 5/15/18 to 6/15/18

Granted to:	WESTERN AREA WATER SUPPLY AUTH, WILLISTON-ND
For the Purpose of:	Easement-Amend: Potable Water Pipeline
Right-of-Way Number:	RW0008172
Date Issued:	6/12/2018
Application Fee:	\$100.00
Right-of-way Income:	\$358.36
Damage Payment to Lessee:	N/A
Trust:	A
Length (Rods):	16.0
Area (Acres):	0.31
Legal Description:	WIL-156-100-16-NE4

Granted to:	LIME ROCK RESOURCES III-A LP, HOUSTON-TX
For the Purpose of:	Easement-Amend: Drop Line-Pipeline
Right-of-Way Number:	RW0008201
Date Issued:	5/16/2018
Application Fee:	\$100.00
Right-of-way Income:	\$1,120.00
Damage Payment to Lessee:	N/A
Trust:	A
Length (Rods):	13.49
Area (Acres):	0.17
Legal Description:	BRK-160-90-16-NW4

Granted to:	DUNN COUNTY, MANNING-ND
For the Purpose of:	Easement: Road Right-of-Way
Right-of-Way Number:	RW0008222
Date Issued:	6/10/2018
Application Fee:	\$100.00
Right-of-way Income:	\$4,330.00

Damage Payment to Lessee: N/A
 Trust: A
 Length (Rods): 346.24
 Area (Acres): 4.33
 Legal Description: DUN-146-94-16-NE4, NW4

Granted to: NORTH DAKOTA TELEPHONE CO, DEVILS LAKE-ND

For the Purpose of: Easement: Communication Cable - Buried
 Right-of-Way Number: RW0008225
 Date Issued: 5/27/2018
 Application Fee: \$100.00
 Right-of-way Income: N/A
 Damage Payment to Lessee: N/A
 Trust: A
 Length (Rods): 446.29
 Area (Acres): 3.38
 Legal Description: EDD-150-63-16-N2SE4, SW4SE4, LOTS 1,2, S2NE4,
 NW4NE4
 EDD-150-63-28-E2SE4, N2NE4

Granted to: WESTERN AREA WTR SUPPLY AUTHORITY, WILLISTON-ND

For the Purpose of: Easement: Potable Water Pipeline
 Right-of-Way Number: RW0008235
 Date Issued: 6/12/2018
 Application Fee: \$100.00
 Right-of-way Income: N/A
 Damage Payment to Lessee: N/A
 Trust: A
 Length (Rods): 135.60
 Area (Acres): 1.70
 Legal Description: MOU-154-91-16-SW4

Granted to: WESTERN AREA WTR SUPPLY AUTHORITY, WILLISTON-ND

For the Purpose of: Easement-Amend: Potable Water Pipeline
 Right-of-Way Number: RW0008249
 Date Issued: 6/10/2018
 Application Fee: \$100.00
 Right-of-way Income: \$2,000.00
 Damage Payment to Lessee: N/A
 Trust: A
 Length (Rods): 0.0
 Area (Acres): 0.0
 Legal Description: WIL-154-99-16-SE4, SW4

Granted to: ANDEAVOR FIELD SERVICES LLC, SAN ANTONIO-TX

For the Purpose of: Easement: Salt Water Disposal Well - Extension
 Right-of-Way Number: RW0008251
 Date Issued: 5/30/2018
 Application Fee: \$100.00
 Right-of-way Income: N/A
 Damage Payment to Lessee: N/A
 Trust: A
 Length (Rods): 0.0
 Area (Acres): 0.0
 Legal Description: BIL-140-100-16-NW4

Granted to: MCKENZIE ELECTRIC COOPERATIVE INC, WATFORD CITY-ND
ND
For the Purpose of: Easement: Drop Line-Buried Electric Distribution Line
Right-of-Way Number: RW0008258
Date Issued: 6/10/2018
Application Fee: \$100.00
Right-of-way Income: \$826.00
Damage Payment to Lessee: N/A
Trust: A
Length (Rods): 58.99
Area (Acres): 0.74
Legal Description: MCK-150-98-36-SW4

Granted to: RESERVATION TELEPHONE COOPERATIVE, PARSHALL-ND
ND
For the Purpose of: Easement: Communication Cable - Buried
Right-of-Way Number: RW0008281
Date Issued: 6/10/2018
Application Fee: \$100.00
Right-of-way Income: N/A
Damage Payment to Lessee: N/A
Trust: A
Length (Rods): 243.90
Area (Acres): 3.05
Legal Description: MCK-149-103-36-SE4, SW4

Granted to: ND DEPT OF TRANSPORTATION, BISMARCK-ND
ND
For the Purpose of: Permit: Aggregate Prospecting
Right-of-Way Number: RW0008282
Date Issued: 5/21/2018
Application Fee: \$100.00
Right-of-way Income: N/A
Damage Payment to Lessee: N/A
Trust: A
Length (Rods): 2.0
Area (Acres): 2.0
Legal Description: MCL-144-81-16-NW4, SW4

Granted to: PETRO-HUNT LLC, BISMARCK-ND
ND
For the Purpose of: Easement: Subsurface Well Bore
Right-of-Way Number: RW0008285
Date Issued: 5/27/2018
Application Fee: \$100.00
Right-of-way Income: \$4,000.00
Damage Payment to Lessee: N/A
Trust: A
Length (Rods): 0.0
Area (Acres): 0.0
Legal Description: MCK-154-95-36-SE4

Granted to: OASIS PETROLEUM NORTH AMERICA LLC, HOUSTON-TX
TX
For the Purpose of: On-lease Act. Amend: Horizontal Oil Well

Right-of-Way Number: RW0008289
 Date Issued: 6/12/2018
 Application Fee: N/A
 Right-of-way Income: \$11,795.00
 Damage Payment to Lessee: \$320.28
 Trust: A
 Length (Rods): 0.0
 Area (Acres): 3.37
 Legal Description: WIL-153-100-36-NE4

Granted to: **WESTERN AREA WTR SUPPLY AUTHORITY, WILLISTON-ND**
 For the Purpose of: Easement: Potable Water Pipeline
 Right-of-Way Number: RW0008290
 Date Issued: 6/10/2018
 Application Fee: \$100.00
 Right-of-way Income: N/A
 Damage Payment to Lessee: N/A
 Trust: A
 Length (Rods): 167.35
 Area (Acres): 2.09
 Legal Description: MOU-154-94-16-SW4

Granted to: **BRIDGER PIPELINE LLC, CASPER-WY**
 For the Purpose of: Easement: Oil Gathering Pipeline
 Right-of-Way Number: RW0008292
 Date Issued: 6/10/2018
 Application Fee: \$100.00
 Right-of-way Income: \$114,705.50
 Damage Payment to Lessee: \$327.73
 Trust: A
 Length (Rods): 327.73
 Area (Acres): 4.09
 Legal Description: MCK-150-97-36-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: **SELECT ENERGY SERVICES LLC, WILLISTON-ND**
 For the Purpose of: Letter of Permission: Temporary Water Layflat Line
 Right-of-Way Number: RW0008274
 Date Issued: 5/21/2018
 Application Fee: \$100.00
 Right-of-way Income: \$1,652.00
 Damage Payment to Lessee: N/A
 Trust: A
 Length (Rods): 100.12
 Area (Acres): 0.0
 Legal Description: MCK-152-98-16-NE4, NW4

Granted to: **ANDEAVOR FIELD SERVICES LLC, SAN ANTONIO-TX**
 For the Purpose of: Assignment: Salt Water Disposal Well-Assignment
 Right-of-Way Number: RW0008278
 Date Issued: 5/30/2018
 Application Fee: \$100.00
 Right-of-way Income: N/A

Damage Payment to Lessee: N/A
 Trust: A
 Length (Rods): 0.0
 Area (Acres): 0.0
 Legal Description: BIL-140-100-16-NW4

Granted to: **ND GEOLOGICAL SURVEY, BISMARCK-ND**
 For the Purpose of: Letter of Permission: Access to School Land
 Right-of-Way Number: RW0008283
 Date Issued: 6/10/2018
 Application Fee: N/A
 Right-of-way Income: N/A
 Damage Payment to Lessee: N/A
 Trust: A
 Length (Rods): 0.0
 Area (Acres): 0.0
 Legal Description: WAR-155-84-1-SW4NW4 LYING N & E OF RIVER CENTERLINE

Granted to: **WEST DAKOTA WATER LLC, WILLISTON-ND**
 For the Purpose of: Letter of Permission: Temporary Water Layflat Line
 Right-of-Way Number: RW0008287
 Date Issued: 5/21/2018
 Application Fee: \$100.00
 Right-of-way Income: \$4,000.00
 Damage Payment to Lessee: N/A
 Trust: A
 Length (Rods): 242.43
 Area (Acres): 0.0
 Legal Description: MCK-150-97-36-SE4, SW4

Granted to: **DEEP CREEK ADVENTURES, WATFORD CITY-ND**
 For the Purpose of: Letter of Permission: Temporary Water Layflat Line
 Right-of-Way Number: RW0008296
 Date Issued: 6/4/2018
 Application Fee: \$200.00
 Right-of-way Income: \$5,280.00
 Damage Payment to Lessee: N/A
 Trust: A
 Length (Rods): 319.98
 Area (Acres): 0.0
 Legal Description: MCK-149-96-36-NE4, NW4, SE4, SW4

Granted to: **LEWIS OIL COMPANY LLC, BISMARCK-ND**
 For the Purpose of: Letter of Permission: Temporary Water Layflat Line
 Right-of-Way Number: RW0008298
 Date Issued: 6/7/2018
 Application Fee: \$100.00
 Right-of-way Income: \$2,640.00
 Damage Payment to Lessee: N/A
 Trust: A
 Length (Rods): 160.0
 Area (Acres): 0.0
 Legal Description: MOU-151-92-36-W2NE4SW4, NW4SW4, S2SW4

Granted to: WESTERN AREA WATER SUPPLY AUTHORITY, WILLISTON-ND
For the Purpose of: Easement: Easement Release
Right-of-Way Number: RW0008299
Date Issued: 6/10/2018
Application Fee: N/A
Right-of-way Income: N/A
Damage Payment to Lessee: N/A
Trust: A
Length (Rods): 0.0
Area (Acres): 0.0
Legal Description: MOU-154-94-16-SW4

Investment Updates

ASSET ALLOCATION

The status of the permanent trusts' asset allocation as of May 31, 2018:

Account/Asset Class	Long-Term Asset Allocation	5/31/18 Actual Allocation \$	5/31/18 Actual Allocation %
Large Cap US Equity	13.2%	\$ 610,831,889	13.5%
Mid/Small Cap US Equity	3.8%	\$ 175,553,532	3.9%
International Equity	13.3%	\$ 578,703,596	12.8%
Emerging Market Equity	3.7%	\$ 162,209,856	3.6%
Total Equities	34.0%	\$ 1,527,298,873	33.8%
Domestic Investment Grade	13.0%	\$ 579,937,360	12.8%
High Yield FI	2.7%	\$ 112,835,726	2.5%
International/Global FI	5.3%	\$ 254,788,499	5.6%
Total Fixed Income	21.0%	\$ 947,561,585	21.0%
Total Absolute Return	20.0%	\$ 903,731,014	20.0%
Commodities	3.0%	\$ 139,033,777	3.1%
MLPs	3.0%	\$ 149,403,099	3.3%
TIPS	2.0%	\$ 89,046,182	2.0%
Natural Resource Equities	2.0%	\$ 94,082,282	2.1%
Total Inflation Strategies	10.0%	\$ 471,565,340	10.4%
Core Real Estate	8.0%	\$ 369,028,361	8.2%
Core Plus Real Estate	7.0%	\$ 298,685,375	6.6%
Total Real Estate	15.0%	\$ 667,713,736	14.8%
Total Asset	100.0%	\$ 4,517,870,548	100.0%

PIMCO All Assets All Authority Fund

Absolute Return Strategy (\$297.3 million, 6.5% of PTF Pool)

Research Affiliates and PIMCO recently announced planned organizational changes at Research Affiliates, the firm that sub-advises for the PIMCO All Assets All Authority strategy in which the permanent trusts invest. Those changes include the following:

- Promotion of President and Chief Operating Officer Kay Shepard to Chief Executive Officer, replacing Rob Arnott.
- Addition of four members to the Research Affiliates Board of Directors alongside Rob Arnott, who will remain Chairman of the Board; Mr. Arnott was the previously the sole member of the Board of Directors.
- Formation of a management Committee that reports to CEO Shepard.

Mr. Arnott, who is 63, will retain all of his existing portfolio management responsibilities and will continue to be involved in research activities at the firm. Research Affiliates states that he has no

(06/28/18)

plans to retire and that the announced changes and promotion of Ms. Shepard to CEO reflect the over-sight of operations, business development and other management functions that Ms. Shepard has already been fulfilling.

RVK believes there is no cause to take immediate action as a result of these changes; the Commissioner and staff agree. In fact, the changes should reduce key person risk, strengthen governance at the firm and help set up the firm for Mr. Arnott's ultimate retirement sometime in the future.

RVK and the Commissioner will continue to monitor the situation at Research Affiliates and will come back to the Board with any concerns that arise going forward. See the attached memo from RVK relating to the transition at Research Affiliates.

Upcoming Investment Manager Meetings

The following meetings with investment managers are planned to discuss strategy, compliance, and performance. They will be held in the Department's conference room.

July 18, 2018, 9:00 AM

UBS – Trumbull Property Fund

Core Real Estate (\$176.6 million, 3.9% of PTF Pool)

David Lawson

Board members are welcome to attend any manager meetings. Please make sure to inform the Commissioner's office if you plan to attend so that enough materials are available.

A D J O U R N

There being no further business, the meeting was adjourned at 11:17 AM.

Doug Burgum, Chairman
Board of University and School Lands

Jodi Smith, Secretary
Board of University and School Lands

**Minutes of the Meeting of the
Board of University and School Lands
July 25, 2018**

The July 25, 2018 meeting of the Board of University and School Lands was called to order at 9:01 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 (via telephone)
Kelly Schmidt	State Treasurer
Kirsten Baesler	Superintendent of Public Instruction

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Kristie McCusker	Legal Assistant
Rick Owings	Administrative Officer

Guests in Attendance:

Leslie Bakken Oliver	Governor's Legal Counsel
Reice Haase	Governor's Policy Advisor
Jen Verleger	Attorney General's Office
Dave Garner	Attorney General's Office
Charles Carvell	Attorney General's Office
Mark Hanson	Nilles Law Firm
Amy Dalrymple	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, 2018 meeting was made by State Treasurer Kelly Schmidt and seconded by Superintendent of Public Instruction Kirsten Baesler and the motion carried unanimously on a voice vote.

O P E R A T I O N S

Operations- Administrative Rules

In House Bill 1300, the 65th Legislative Assembly directed the Board of University and School Lands (Board) no longer be exempt from the Administrative Agencies Practice Act. With passage of this legislation, the Department of Trust Lands (Department) began preparing rules to be considered by the Board, reviewed by the Office of Attorney General, and heard by the Legislative Rules Committee. The intent was to adopt these rules with an effective date of October 1, 2018.

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

Rules concerning General Administration, Energy Infrastructure and Impact Grants, Unclaimed Property, Surface Land Management, and Loan Programs have been posted to the Department's website and the State Secretary's website, publications of a notice of intent have been completed in all 53 county seat newspapers, and copies of these rules have been sent to sponsoring legislators. A public hearing on those rules was conducted on April 18, 2018 with no one from the

(07/25/18)

public attending the hearing, thus the hearing officer (Hope Hogan) opened and closed the hearing. A recording of the hearing has been posted on the Department's website. The Attorney General Office has reviewed the Administrative Rules and had no comments or suggestions on the content of the rules have been made.

However, due to the lack of publication on the Legislative Council's website, the Attorney General's office is requiring the Department conduct another public hearing. The Department will schedule the public hearing. This delay in the process will not allow the Department to adopt the rules by October 1, 2018.

Board of University and School Lands Major Case Summary as of July 25, 2018

The following is a summary of active litigation. Detailed case specific memorandums will be presented to the Board upon changes in case status or as new events requiring Board consideration occur.

UNCLAIMED PROPERTY

Case: State of Arkansas, et al. v. State of Delaware
Date Filed: June 9, 2016
Court: United States Supreme Court
Judge: Pierre N. Leval, *Special Master*
Attorney: David Garner
Opposing Counsel: Delaware Attorney General's Office

Issues: The United States Supreme Court assumed original jurisdiction over this lawsuit involving unclaimed property brought by 30 states, including the state of North Dakota, against the state of Delaware. The substantive issue involved is whether sums payable on unclaimed and abandoned checks sold by MoneyGram Payments Systems, Inc. should be remitted to the Plaintiff States, as the states of purchase, or to Defendant Delaware, as MoneyGram's state of incorporation. Texas and Arkansas are the lead states on behalf of the other Plaintiff states.

Current Status: A Complaint and Answer have been filed. A Special Master has been appointed to preside over the case. The Special Master has accepted the Case Management Order agreed to by the parties. The parties issued discovery requests and responses in November/December 2017. The parties have exchanged discovery and are in the process of resolving issues regarding depositions of certain states. The parties have agreed to stipulate as to the authenticity of the documents produced in discovery rather than undertake depositions.

REVENUE COMPLIANCE

Case: Continental Resources, Inc. v. North Dakota Board of University & School Lands and North Dakota Department of Trust Lands, Civ. No. 27-2017-CV-00661
Date Filed: December 20, 2017
Court: District Court/McKenzie County

Attorneys: David Garner
Opposing Counsel: Mark S. Barron/Baker & Hostetler LLP
Judge: Robin Schmidt

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

Current Status: A Complaint and Answer with Counterclaims have been filed. Continental filed an Answer to Counterclaims. Continental served discovery and responses are due July 30, 2018.

Case: Newfield Exploration Company, Newfield Production Company, and Newfield RMI LLC v. State of North Dakota, ex rel. the North Dakota Board of University and School Lands and the Office of the Commissioner of University and School Lands, a/k/a the North Dakota Department of Trust Lands, Civ. No. 27-2018-CV-00143

Date Filed: March 7, 2018
Court: District Court/McKenzie County
Attorneys: David Garner
Opposing Counsel: Lawrence Bender and Spencer Ptacek/Fredrikson & Byron, P.A.
Judge: Robin Schmidt

Issues: Plaintiff is seeking a Declaratory Judgment that it is currently paying gas royalties properly under the Board's lease. Specifically, Plaintiff is asking the Court to order that gas royalty payments made by the Plaintiff be based on the gross amount received by the Plaintiff from an unaffiliated third-party purchaser, not upon the gross amount paid to a third party by a downstream purchaser, and that Plaintiff does not owe the Defendants any additional gas royalty payments based on previous payments.

Current Status: A Complaint and Answer with Counterclaims have been filed. Newfield filed an Answer to Counterclaims. A Scheduling conference is set for July 27, 2018.

Minerals

Case: EOG Resources, Inc. v. Soo Line Railroad Co., et. al., Civ. No. 31-10-CV-00010

Date Filed: Jan. 20, 2010
Court: Mountrail County District Court
Judge: Todd Cresap
Attorney: Hope Hogan/Matthew Sagsveen
Opposing

Counsel: Multiple parties.

Issue: At issue is the ownership of mineral rights underlying the railroad in 8 sections of land in Mountrail County. The disputed property is land that the railroad acquired by condemnation and through right-of-way deeds. The railroad's lessee filed a crossclaim against the State and a number of other parties that claim an ownership interest adverse to the railroad.

Current Status: A settlement agreement has been signed by all parties and will be filed with the court once proceeds are distributed in accordance with the agreement.

Case: **Whiting Oil and Gas Corporation v. Arlen A. Dean, et. al., Civ. No. 27-2016-CV-00040**

Date Filed: January 25, 2016

Court: McKenzie County District Court

Judge: Robin Schmidt

Attorney: Hope Hogan/Jennifer Verleger

Opposing Counsel: Paul Forster, Shane Hanson (Whiting Oil and Gas Corp.), Kevin Chapman (multiple defendants)

Issues: Whiting Oil and Gas Corporation ("Whiting") operates the Kuykendall 34-31-1H well located in McKenzie County near the Montana border. The Yellowstone River flows through the Kuykendall well spacing unit. Over time, the river has shifted westward. There are also islands within the Kuykendall spacing unit. On January 25, 2016, Whiting filed this interpleader action to resolve alleged title questions that have arisen due to the movement of the Yellowstone River. Because of these title questions, Whiting is withholding royalty payments. In its lawsuit, Whiting 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, Whiting will know who to pay.

The Board claims a mineral interest under the Yellowstone River, including the islands, and the Board also claims a 5% mineral interest in some of the riparian tracts in this spacing unit.

The Board and the State Engineer filed a joint response to the Complaint and several cross claims that have been made against the State.

Current Status: The court trial (no jury) scheduled for August 6-10, 2018 was postponed to April 22 - 26, 2019. The initial scheduling order was amended for the State to conduct field work that could not be completed in the winter. Due to property flooding from high flows on the Yellowstone River, the State has been unable to conduct field work. Therefore, a telephonic scheduling conference was scheduled for August 16, 2018 to discuss the Court's wishes for resetting deadlines. The parties agreed to extend the pending deadlines by two months, until after the scheduling conference.

Case: Fisketjon v. State of North Dakota, Civ. No. 08-2017-CV-03208
Date Filed: November 7, 2017
Court: Burleigh County District Court
Judge: David Reich
Attorney: Jennifer Verleger/Hope Hogan
Opposing Counsel: Malcolm Brown/Christopher LeCates

Issues: The Plaintiffs filed this quiet title action to clear title to property located adjacent to the Missouri River near Bismarck, North Dakota. An OHWM study was previously prepared on the tract by the State Engineer's Office. The State claims less property than Plaintiffs believe State to claim.

Current Status: Parties discussed settlement. The Settlement was signed and the Board and State Engineer were dismissed from case.

Case: ND Office of State Engineer, Board of University and School Lands v. BLM - Case No. IBLA 2016-170
Tribunal: US Dept. of Interior Office of Hearings and Appeals – Board of Land Appeals
Attorney: Charles Carvell, Hope Hogan, and Jennifer Verleger
Opposing Counsel: Karan Dunnigan

Issues: In 2014, the Bureau of Land Management (BLM) resurveyed land along the Missouri River to locate the boundary, OHWM, between the public domain land owned by the United States and the riverbed owned by the state of North Dakota. In identifying the OHWM, the BLM applied federal law rather than state law. Specifically, the BLM adopted the survey conducted by the Corps of Engineers as part of the Garrison Dam project. In certain areas, the survey overlaps with the state's claim to sovereign lands.

After the survey work was complete, the BLM published a "Notice of Filing Plats of Survey; North Dakota" in which BLM intends to formally file the survey plats as Official Plats. After the Federal Register Notice appeared, the State Engineer and the Board jointly filed a protest challenging the filing of the survey plats. The BLM rejected the State's protest and the State appealed the BLM's decision to the Interior Board of Land Appeals.

Current Status: The State is waiting for a decision from the Interior Board of Land Appeals.

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

Issues: In December 2016, Continental Resources, Inc. (Continental) brought an interpleader action against the Board of University and School Lands and the United

States regarding certain lands underlying Continental operated wells located in McKenzie, Mountrail, and Williams Counties. This case addresses overlapping ownership claims by the State and the United States of minerals underlying the Missouri River. Continental is requesting the Court determine the property interests for the disputed lands so that Continental can correctly distribute the proceeds from the affected wells. Continental has claimed that there is “great doubt as to which Defendant is entitled to be paid royalties related to the Disputed Lands.” Currently, Continental is paying the United States its full royalty based on the acreage it claims. The remaining royalty, over and above what is due the United States, is being escrowed with the Bank of North Dakota pursuant to the Board’s rules.

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

**Current
Status:**

The Board filed a response on December 20, 2017 opposing the motion to dismiss. Continental filed a response and the United States filed its reply. The United States filed a Motion to Dismiss on March 16, 2018. The Board filed a Surreply to the Motion to Dismiss on April, 16, 2018. Awaiting decision from the Court on the United States’ Motion to Dismiss.

Case: **William S. Wilkinson, et. al. v. Board of University & School Lands, Brigham Oil & Gas, LLP; EOG Resources, Inc.**
Date Filed: January, 2012
Court: Williams County District Court
Judge: Paul Jacobson
Attorney: Hope Hogan/Jennifer Verleger/Matthew Sagsveen
Opposing Counsel: Josh Swanson/Rob Stock, Lawrence Bender, Lyle Kirmis

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

On July 1, 2014, the Plaintiffs filed an amended complaint in the case and added claims of unconstitutional takings, conversion, constructive trust and unjust enrichment, civil conspiracy and deprivation of rights under 42 U.S.C. § 1983. Plaintiffs assert in their amended complaint that the Board should be issuing leases on the west side of the Highway 85 bridge pursuant to the Phase II Investigation – the estimated location of the ordinary high watermark (OHWM) prior to inundation of Lake Sakakawea – rather than the Phase I Delineation – current location of the OHWM. Plaintiffs argue that the subject property is located under Lake Sakakawea, which did not exist at statehood, and thus the state did not acquire title to it as sovereign lands. Therefore, the State’s title to the Missouri River is limited to the channel as it existed prior to inundation of Lake Sakakawea as determined by the Phase II investigation.

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

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

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

**Current
Status:**

Due to the passage of S.B. 2134, the Court ordered the case stayed and all deadlines be held in abeyance until the final review findings under S.B. 2134 are issued by the Industrial Commission. When the review findings are issued, the parties must request a status conference with the Court to set a new trial date and other deadlines.

Case: **Whitetail Wave LLC v. XTO Energy, Inc.; the Board of University and School Lands; and the State of North Dakota – 27-2015-CV-00164**
Date Filed: **June 4, 2015**
Court: **McKenzie County District Court**
Judge: **Robin Schmidt**
Attorney: **Hope Hogan/Jennifer Verleger**
Opposing Counsel: **Whitetail Wave – Christopher Sweeney; XTO Energy – Lawrence Bender, Michael D. Schoepf**

Issues: On August 1, 2015, the Attorney General's Office was served with a complaint in the above referenced case. This case is challenging the State's determination of the OHWM east of the Highway 85 Bridge, near the northern border of the Fort Berthold Indian Reservation. The Board has currently leased minerals pursuant to the Phase II Investigation for this tract. The Plaintiff is requesting that title to the minerals be quieted and has alleged claims of Unconstitutional takings, trespass, slander of title, and constructive trust/unjust enrichment against the State. The complaint also makes a number of claims specific to XTO Energy Inc., the operator of the wells on the tracts in dispute. Specifically, the Plaintiff is requesting that the State's claim to sovereign

lands' mineral interest be restricted to those minerals located below the OHWM of the Missouri River prior to inundation of the Lake Sakakawea.

An answer was filed on behalf of the Board on July 21, 2015. In January 2016, the State Engineer intervened in the case.

Current

Status: Due to the passage of S.B. 2134, the Court ordered the case stayed and all deadlines be held in abeyance until the final review findings under S.B. 2134 are issued by the Industrial Commission. When the review findings are issued, the parties must request a status conference with the Court to set a new trial date and other deadlines.

Case: Mary K. Starin, as Personal Representative of the Estate of Bruno Herman Weyrauch v. Kelly Schmidt, et. al., Civ. No. 53-2015-CV-00986

Date Filed: August 17, 2015

Court: Williams County District Court

Judge: David Nelson

Attorney: Hope Hogan/Jennifer Verleger

Opposing

Counsel: Dennis Johnson

Issues: Plaintiff initiated this quiet title action to determine title to property located under Lake Sakakawea. In 1939, the State acquired the disputed property through a foreclosure of a Bank of North Dakota loan. In 1945, the State re-sold the property through a contract for deed to the Plaintiff's predecessors in interest. Pursuant to state law, the state reserved 50% of the minerals. The Special Warranty Deed issued after satisfaction of the contract for deed was not recorded and no one has a copy of the fully executed deed. The surface estate was later condemned as part of the Garrison Dam reservoir project. Plaintiffs have brought this action to clear title to the 50% of the minerals that they claim. The Board has leased the 50% mineral interest it reserved in this conveyance.

In January 2016, the State Engineer intervened in this case.

Current

Status: Due to the passage of S.B. 2134, the Court ordered the case stayed and all deadlines be held in abeyance until the final review findings under S.B. 2134 are issued by the Industrial Commission. When the review findings are issued, the parties must request a status conference with the Court to set a new trial date and other deadlines.

Case: Paul Sorum, et. al. v. State of North Dakota, et. al. – Civ. No. 09-2018-CV 00089
Tribunal: Cass County District Court
Judge: John C. Irby
Attorney: Mark Hanson & Peter Hvidston, Nilles Law Firm
Opposing Counsel: Terrance W. Moore, Fintan L. Dooley

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

Current Status: An Answer was filed. Defendants filed a Motion to Dismiss, which was denied in April 2018. Petition for Supervisory Writ and Exercise of Original Jurisdiction was filed by Defendants and denied in May 2018. A Motion for Preliminary Injunction was brought by Plaintiffs and a hearing was held on May 21, 2018. An Order for Preliminary Injunction was filed June 26, 2018. The Court set a July 23, 2018 deadline for the parties to confer and file a statement of undisputed material facts and other facts for which all parties cannot agree. The Court also set August 1, 2018 as its anticipated deadline for review of the undisputed facts and any submitted Claimed Supplemental Undisputed Facts to determine if cross motions for summary judgment are appropriate – if appropriate, briefing schedule will be issued. A Scheduling Conference is set for September 6, 2018.

Information Technology Project Status Update

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

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

The Department has signed a contract with Kelmar, a software company providing specialized services and solutions to assist governments with the management and administration of

unclaimed property programs. With substantial knowledge of state governments, system tools, and process workflows, Kelmar has been helping unclaimed property departments across the United States since 2001. By dedicating their organization exclusively to matters of unclaimed property, they maintain the necessary subject matter expertise and reliability to serve as a partner in unclaimed property resources, and offer the next step in unclaimed property management. Not only will the Department partner with them on software, we will draw on their unclaimed property experience to; increase the amount of unclaimed property returned and reunited with rightful owners; reduce risk associated with administering unclaimed property program operations; implement efficiencies and best practices to manage unclaimed property in safekeeping, and; achieve program goals using dedicated and cost effective unclaimed property resources. The go-live date for Kelmar has not been set but is anticipated in the first quarter of 2019.

For the Land Management and Accounting software, the Department is currently working with Major Oak Consulting (Verint) to:

1. Create a fully integrated process map with both Land Management and Accounting functions.
2. Refine, clarify and prioritize core system requirements.
3. Complete a refresh of peer and vendor research.
4. Define an RFP go-forward process.

A final report from Major Oak will be available end of August 2018. The Information Technology System Replacement Steering Committee will base the new RFP off of the final report. It is anticipated the new RFP will be released in October 2018.

M I N E R A L S

The Commissioner recommends the Board consider entering executive session for consultation with legal counsel regarding pending and potential litigation.

EXECUTIVE SESSION

Motion: Under the authority of North Dakota Century Code Sections §§44-04-19.1 and 44-04-19.2, the Board close the meeting to the public and go into executive session for purposes to discuss Paul Sorum et al. v. The State of North Dakota, et al.

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		

At 9:34 AM the Board entered executive session for the purposes outlined in its adopted motion.

EXECUTIVE SESSION

Members Present:

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Wayne Stenehjem	Attorney General (via telephone)

Kelly Schmidt
Kirsten Baesler

State Treasurer
Superintendent of Public Instruction

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Kristie McCusker	Legal Assistant
Rick Owings	Administrative Officer

Guests in Attendance:

Leslie Bakken Oliver	Governor's Legal Counsel
Reice Haase	Governor's Policy Advisor
Mark Hanson	Nilles Law Firm

The executive session adjourned at 10:02 AM and the Board returned to open session and the public was invited to return to the meeting. During the executive session, the Board was provided information regarding the Paul Sorum et al. v. The State of North Dakota, et al.

R E P O R T S

The Financial Statement (Unaudited) for Period Ended April 30, 2018 was provided to the Board

Report of Easements Issued by Land Commissioner from 6/19/18 to 7/3/2018

Granted to:	WILLIAMS COUNTY HWY DEPT, WILLISTON-ND
For the Purpose of:	Easement: Road Right-of-Way
Right-of-Way Number:	RW0008252
Date Issued:	6/19/2018
Application Fee:	\$100.00
Right-of-way Income:	\$1,334.50
Damage Payment to Lessee:	N/A
Trust:	A
Length (Rods):	0.0
Area (Acres):	1.57
Legal Description:	WIL-155-96-16-RW0008252

Granted to:	XTO ENERGY INC, SPRING-TX
For the Purpose of:	On-lease Act. Amend: Horizontal Oil Well
Right-of-Way Number:	RW0008300
Date Issued:	6/26/2018
Application Fee:	N/A
Right-of-way Income:	N/A
Damage Payment to Lessee:	N/A
Trust:	A
Length (Rods):	0.0
Area (Acres):	0.0
Legal Description:	MCK-149-96-36-RW0008300

Granted to:	EQUINOR PIPELINES LLC, AUSTIN-TX
For the Purpose of:	Easement: Salt Water Pipeline
Right-of-Way Number:	RW0008259

Date Issued: 6/27/2018
 Application Fee: \$100.00
 Right-of-way Income: \$6,000.00
 Damage Payment to Lessee: \$26.55
 Trust: A
 Length (Rods): 29.5
 Area (Acres): 0.37
 Legal Description: WIL-154-100-16-RW0008259

Granted to: **BNN NORTH DAKOTA LLC, LAKEWOOD-CO**
 For the Purpose of: Easement: Drop Line-Pipeline & Communication Cable
 Right-of-Way Number: RW0008238
 Date Issued: 6/28/2018
 Application Fee: \$150.00
 Right-of-way Income: \$19,440.00
 Damage Payment to Lessee: N/A
 Trust: A
 Length (Rods): 64.80
 Area (Acres): 0.74
 Legal Description: MCK-150-98-36-RW0008238

Granted to: **ONEOK ROCKIES MIDSTREAM LLC, SIDNEY-MT**
 For the Purpose of: Easement-Amend: Gas Gathering Pipeline
 Right-of-Way Number: RW0008232
 Date Issued: 7/3/2018
 Application Fee: \$100.00
 Right-of-way Income: \$3,000.00
 Damage Payment to Lessee: \$9.90
 Trust: A
 Length (Rods): 9.90
 Area (Acres): 0.01
 Legal Description: MCK-153-98-36-RW0008232

Granted to: **ONEOK ROCKIES MIDSTREAM LLC, SIDNEY-MT**
 For the Purpose of: Easement: Easement Release
 Right-of-Way Number: RW0008240
 Date Issued: 7/3/2018
 Application Fee: N/A
 Right-of-way Income: N/A
 Damage Payment to Lessee: N/A
 Trust: A
 Length (Rods): N/A
 Area (Acres): N/A
 Legal Description: MCK-153-98-36-RW0008240

Granted to: **WHITING OIL AND GAS CORPORATION, DENVER-CO**
 For the Purpose of: Easement: Easement Release
 Right-of-Way Number: RW0008312
 Date Issued: 6/29/2018
 Application Fee: N/A
 Right-of-way Income: N/A
 Damage Payment to Lessee: N/A

Trust:	A
Length (Rods):	N/A
Area (Acres):	N/A
Legal Description:	BIL-140-100-16-RW0008312

Granted to:	BOE MIDSTREAM, DENVER-CO
For the Purpose of:	Easement: Easement Release
Right-of-Way Number:	RW0008314
Date Issued:	6/20/2018
Application Fee:	N/A
Right-of-way Income:	N/A
Damage Payment to Lessee:	N/A
Trust:	A
Length (Rods):	N/A
Area (Acres):	N/A
Legal Description:	DUN-148-96-16-RW0008314

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:	SELECT ENERGY SERVICES LLC, WILLISTON-ND
For the Purpose of:	Letter of Permission: Temporary Water Layflat Line
Right-of-Way Number:	RW0008310
Date Issued:	6/21/2018
Application Fee:	\$100.00
Right-of-way Income:	\$4,390.00
Damage Payment to Lessee:	N/A
Trust:	A
Length (Rods):	266.05
Area (Acres):	0.0
Legal Description:	WIL-153-100-36-RW0008310

Granted to:	USDA-NRCS, DICKINSON-ND
For the Purpose of:	Letter of Permission: Access to School Land
Right-of-Way Number:	RW0008315
Date Issued:	7/2/2018
Application Fee:	N/A
Right-of-way Income:	N/A
Damage Payment to Lessee:	N/A
Trust:	A
Length (Rods):	N/A
Area (Acres):	N/A
Legal Description:	BIL-138-102-16-RW0008315

Investment Updates

ASSET ALLOCATION

The status of the permanent trusts' asset allocation as of May 31, 2018:

Account/Asset Class	Long-Term Asset Allocation	5/31/18 Actual Allocation \$	5/31/18 Actual Allocation %
Large Cap US Equity	13.2%	\$ 610,831,889	13.5%
Mid/Small Cap US Equity	3.8%	\$ 175,553,532	3.9%
International Equity	13.3%	\$ 578,703,596	12.8%
Emerging Market Equity	3.7%	\$ 162,209,856	3.6%
Total Equities	34.0%	\$ 1,527,298,873	33.8%
Domestic Investment Grade	13.0%	\$ 579,937,360	12.8%
High Yield FI	2.7%	\$ 112,835,726	2.5%
International/Global FI	5.3%	\$ 254,788,499	5.6%
Total Fixed Income	21.0%	\$ 947,561,585	21.0%
Total Absolute Return	20.0%	\$ 903,731,014	20.0%
Commodities	3.0%	\$ 139,033,777	3.1%
MLPs	3.0%	\$ 149,403,099	3.3%
TIPS	2.0%	\$ 89,046,182	2.0%
Natural Resource Equities	2.0%	\$ 94,082,282	2.1%
Total Inflation Strategies	10.0%	\$ 471,565,340	10.4%
Core Real Estate	8.0%	\$ 369,028,361	8.2%
Core Plus Real Estate	7.0%	\$ 298,685,375	6.6%
Total Real Estate	15.0%	\$ 667,713,736	14.8%
Total Asset	100.0%	\$ 4,517,870,548	100.0%

Harding Loevner (\$76.0 million, 1.7% of PTF assets)
Emerging Market Equities

Harding Loevner recently announced that portfolio manager Rusty Johnson will be stepping down from his current co-lead PM role in the EM equity strategy due to a pressing health issue. Mr. Johnson is expected to return to his co-lead PM role in the future, though it is uncertain when this will occur.

The strategy's other co-lead PM, Craig Shaw, will continue to serve in this role. Additionally, Scott Crawshaw, one of the strategy's three Paper Portfolio Managers will be replacing Mr. Johnson as co-lead PM. Under Harding Loevner's team structure, strategies are managed by co-lead PMs which are responsible for all buy and sell decisions. Each co-lead PM manages their own sub-portfolios selecting stocks from the analyst-rated stock pool. The sub-portfolios are then merged to create one portfolio which is the portfolio clients are invested in.

All Strategies also have Paper Portfolio Managers ("Paper PMs") which independently build their own portfolios. Client assets are not invested in these portfolios, however they are treated just like actual portfolios, for risk and performance purposes. Mr. Johnson will continue to perform research and manage a paper port while he steps away from his co-lead PM duties.

Both RVK and the Commissioner recommend that no action be taken at this time due to the strength of the team, firm, and process at Harding Loevner. The firm's Paper PM program makes succession planning much easier and less risky, as the co-CIOs see how candidates would run a portfolio prior to implementation. This is not a symptom of deeper issues. The firm and team

have been very stable over the years. RVK and staff will continue to monitor the situation and will report back to the Board if any concerns arise.

Westwood Holdings Group, Inc. (\$305.1 million, 6.7% of PTF pool)
Westwood Income Opportunities Fund (Absolute Return)

Westwood recently informed the Commissioner and RVK that Mark Freeman, CIO and co-PM of Westwood Income Opportunities strategy, will be retiring on March 8, 2019. Todd Williams remains co-PM of the strategy. Additionally, Dan Barnes, PM of another multi-asset strategy, Westwood Worldwide Opportunities, was recently named co-PM of the Income Opportunities portfolio. Although the co-PMs are supported by a team of 20 individuals, including a strong team of research analysts, Mr. Freeman is a key individual for the strategy.

It is important to note that Mr. Freeman will continue to manage the strategy for the rest of his time at the firm, which is approximately nine months. Although this development is significant, the Commissioner and RVK recommend not making any changes at this time, as there is sufficient time to make an informed decision and evaluate the firm, strategy, and remaining team that will be in place after Mr. Freeman retires.

Both staff and RVK's manager research team will be reevaluating this investment firm and strategy in more detail over the coming months. We will report back to the Board with more information and a recommendation once the reevaluation is completed.

Upcoming Investment Manager Meetings

The following meetings with investment managers are planned to discuss strategy, compliance, and performance. They will be held in the Department's conference room.

August 16, 2018, 2:30 PM GMO – Benchmark Free Allocation Fund
 Absolute Return (\$303.2 million, 6.7% of PTF pool)
Lydia Cottrell and Peter Chiappinelli

A D J O U R N

There being no further business, the meeting was adjourned at 10:06 AM.

Doug Burgum, Chairman
 Board of University and School Lands

Jodi Smith, Secretary
 Board of University and School Lands

**Minutes of the Meeting of the
Board of University and School Lands
August 30, 2018**

The August 30, 2018 meeting of the Board of University and School Lands was called to order at 8:02 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:

Jodi Smith	Commissioner
Drew Combs	Minerals Division Manager
Jeff Engleson	Investments Director
Mike Humann	Surface Division Manager
Kristie McCusker	Legal Assistant
Catelin Newell	Office Manager
Kate Schirado	Administrative Assistant
Gerard Schwan	Grants and Claims Manager

Guests in Attendance:

Brent Sanford	Lt. Governor
Angie Scherbenske	OMB – SPO
Amy Cannon	OMB – SPO
Brady Pelton	North Dakota Petroleum Council (NDPC)
Ron Ness	NDPC
Leslie Bakken Oliver	Governor's Legal Counsel
Reice Haase	Governor's Policy Advisor
Peter Crosswell	Major Oak Consulting
Harry Marsteller	Major Oak Consulting
Dave Garner	Attorney General's Office
John Menard	Financial Recovery Services (FRT)
Marcia Beard	RVK
Amy Dalrymple	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 July 25, 2018 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

Retirement of Grants

Specific grants awarded during the 2015, 2016, 2017 and 2018 Fiscal Years were completed under budget or are no longer in need of funding. The recommended grants to retire are:

Grant Retirement					
Grant	Political Sub	Awarded	Paid	Balance	Reason
G150078	SIOUX YELLOWSTONE FIRE DISTRICT	\$27,500.00	\$26,031.33	\$1,468.67	Completed
G150129	MINOT INTERNATIONAL AIRPORT	\$22,744.00	\$0.00	\$22,744.00	Not Needed
G150139	MOHALL AIRPORT AUTHORITY	\$9,000.00	\$0.00	\$9,000.00	Not Needed
G150216	BATTLEVIEW TOWNSHIP	\$12,000.00	\$11,802.62	\$197.38	Completed
G150221	BOTTINEAU COUNTY	\$36,000.00	\$31,699.33	\$4,300.67	Completed
G160106	CITY OF WILLISTON	\$596,935.00	\$596,934.91	\$0.09	Completed
G160109	DUNN COUNTY	\$325,566.00	\$324,473.93	\$1,092.07	Completed
G160110	GOLDEN VALLEY COUNTY	\$73,350.00	\$72,102.94	\$1,247.06	Completed
G160111	BURKE COUNTY	\$71,428.00	\$42,113.25	\$29,314.75	Completed
G160122	WILLIAMS COUNTY	\$646,460.00	\$294,171.23	\$352,288.77	Completed
G160123	SHERIDAN COUNTY	\$1,400.00	\$1,053.98	\$346.02	Completed
G160124	ADAMS COUNTY	\$154,044.00	\$152,866.62	\$1,177.38	Completed
G160144	CITY OF WATFORD CITY	\$443,057.00	\$259,232.40	\$183,824.60	Completed
G160152	CITY OF TIOGA	\$257,592.00	\$257,186.69	\$405.31	Completed
G160154	CITY OF KENMARE	\$112,055.00	\$73,741.94	\$38,313.06	Completed
G160157	WILLIAMS COUNTY	\$200,000.00	\$104,453.60	\$95,546.40	Completed
G160158	CITY OF MINOT	\$200,000.00	\$179,959.53	\$20,040.47	Completed
G170030	PORTAL RURAL AMBULANCE DISTRICT	\$10,000.00	\$8,692.25	\$1,307.75	Completed
G170033	CITY OF WILLISTON	\$164,250.00	\$147,643.82	\$16,606.18	Completed
G170042	MERCER COUNTY RURAL AMBULANCE	\$36,000.00	\$35,978.91	\$21.09	Completed
G180019	EARL PSD #18	\$11,135.00	\$0.00	\$11,135.00	Refused Grant
				\$790,376.72	

With the retirement of these grants, the contingency fund will have a new balance of \$3,073,447 for future distribution.

Retiring grants with remaining balances are anticipated to continue through calendar year 2020.

Motion: **The Board approves the actions of:**

1. **The retirement of 21 grants identified above for a total of \$790,376.72.**
2. **These funds will be allocated to the contingency grant fund.**

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		

Contingency Grant Committee

In June 2017, the Board approved the establishment of a contingency grant to utilize undistributed funds from the 2013-2015 and 2015-2017 biennia. Section 10 of Senate Bill 2013 allowed the use of unexpended funds to provide for grants and administrative costs during the 2017-2019 biennium:

SECTION 10. EXEMPTION - OIL AND GAS IMPACT GRANT FUND. The amount appropriated from the oil and gas impact grant fund for the energy infrastructure and impact office line item in section 1 of chapter 13 of the 2015 Session Laws and for oil and gas impact grants in section 5 of chapter 463 of the 2015 Session Laws is not subject to section 54-44.1-11. Any money deposited in the fund for taxable events occurring through June 30, 2017, and any unexpended funds from the appropriation are available for grants and administrative costs associated with the fund during the biennium beginning July 1, 2017, and ending June 30, 2019. (Emphasis added).

The Board approved the motion to establish a contingency grant in October 2017.

The Energy Infrastructure and Impact Office Contingency Grant Advisory Committee (Committee), is comprised of:

- Dan Kalil (Township Chair)
- Jay Elkin (County Commissioner)
- Justin Voll (Mayor)
- Marcia Lamb (County Auditor)
- Mark Spooner (Township Chair)
- John Bruce (School Superintendent)
- David Wegner (School Superintendent)
- Gary Weisenberger (Mayor)
- Reinhard Hauck (County Commissioner)

Recently, Mr. John Bruce, Superintendent of Burke Central PSD, accepted employment in Alaska. Allen Ryberg, County Commissioner for Burke County, has offered to serve on the Committee as his replacement.

Motion: The Board approves the replacement of Mr. John Bruce with Mr. Allen Ryberg on the Contingency Grant Advisory Committee.

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

Initiation of Consideration of Grants to Airports

Within Senate Bill 2013 as enacted by the 2017 Legislative Assembly, a new Energy Impact Grant Fund was created to supplement the Oil and Gas Impact Grant Fund for the 2017-2019 biennium. Sections 13 and 14 of SB 2013 authorize expenditure of grant funds for airports from the two separate grant funds:

SECTION 13. OIL AND GAS IMPACT GRANT FUND - AIRPORT GRANTS. The grants line item and the total special funds line item in section 1 of this Act include the sum of \$25,000,000 from the oil and gas impact grant fund for grants to airports, for the biennium beginning July 1, 2017, and ending June 30, 2019. Of the \$25,000,000, the board of university and school lands shall award a grant of \$20,000,000 to the Williston airport and a grant of \$5,000,000 to the Dickinson airport. A grant may be awarded to the Williston airport only when any related federal funding is committed and available to be spent on the new airport construction project. Grants awarded but not yet paid under this section are not subject to section 54-44.1-11.

SECTION 14. ENERGY IMPACT FUND - WILLISTON AIRPORT GRANT. The grants line item and the total special funds line item in section 1 of this Act include the sum of \$15,000,000 from the energy impact fund for a grant to the Williston airport, for the biennium beginning July 1, 2017, and ending June 30, 2019. A grant may be awarded to the Williston airport only when any related federal funding is committed and available to be spent on the new airport construction project. Grants awarded but not yet paid under this section are not subject to section 54-44.1-11.

In October 2017, the Board authorized possible grants to Williston and Dickinson airports of up to \$20 million during fiscal year 2018. In December 2017, the Board awarded seventeen grants to Dickinson and Williston airports in the amount of \$19,902,065 based upon the State Aeronautics Commission recommendations.

The EIO Director recommends initiating a grant announcement for the remaining \$20,097,935 and to accept applications through October 5, 2018 for the Williston and Dickinson airports where:

1. \$3,597,935 designated for the Dickinson Airport out of the Oil and Gas Impact Fund; and
2. \$16,500,000 designated for the Williston Airport, which includes:
 - a. \$14,356,826 from the Oil and Gas Impact Fund; and
 - b. \$2,143,174 from the Energy Impact Fund.

2017-2019 Biennium Breakdown																									
Grant Round	# Applications	Amount of Projects	Amount Requested	# Awards	Amount Awarded																				
O&G Williston Airport - 2018	10	\$8,758,442	\$7,860,548	6	\$5,643,174																				
O&G Dickinson Airport - 2018	6	\$3,965,326	\$1,402,065	6	\$1,402,065																				
EI Williston Airport - 2018	5	\$71,279,603	\$12,856,826	5	\$12,856,826																				
Contingency Grant - 1st Round	18	\$10,576,411	\$7,378,821	3	\$47,681																				
Totals	39	\$94,579,782	\$29,498,260	20	\$19,949,746.00																				
			Minus Adjustments		\$0.00																				
			Net Awards		\$19,949,746.00																				
As of: August 23, 2018																									
<table border="0"> <tr> <td>Available O&G today for granting</td><td>\$25,000,000</td><td rowspan="4">}</td><td colspan="3" rowspan="4"> Remaining Allocations O&G Williston Airport \$14,356,826 O&G Dickinson Airport \$3,597,935 EI Williston Airport \$2,143,174 \$20,097,935 Contingency Grant \$3,073,447 </td></tr> <tr> <td>Available EI today for granting</td><td>\$13,000,000</td></tr> <tr> <td></td><td>\$38,000,000</td></tr> <tr> <td></td><td></td></tr> <tr> <td>Remaining O&G collections</td><td>\$0</td><td rowspan="2">}</td><td colspan="3" rowspan="2"></td></tr> <tr> <td>Remaining EI collections</td><td>\$2,000,000</td></tr> </table>						Available O&G today for granting	\$25,000,000	}	Remaining Allocations O&G Williston Airport \$14,356,826 O&G Dickinson Airport \$3,597,935 EI Williston Airport \$2,143,174 \$20,097,935 Contingency Grant \$3,073,447			Available EI today for granting	\$13,000,000		\$38,000,000			Remaining O&G collections	\$0	}				Remaining EI collections	\$2,000,000
Available O&G today for granting	\$25,000,000	}	Remaining Allocations O&G Williston Airport \$14,356,826 O&G Dickinson Airport \$3,597,935 EI Williston Airport \$2,143,174 \$20,097,935 Contingency Grant \$3,073,447																						
Available EI today for granting	\$13,000,000																								
	\$38,000,000																								
Remaining O&G collections	\$0	}																							
Remaining EI collections	\$2,000,000																								

The Board would consider grant recommendations from the Aeronautics Commission no earlier than the December 2018 meeting. Award considerations will be based on whether combined federal and local funds are available and committed for construction, as well as revenues for funding are available by October 2018.

Motion: **The Board approves:**

1. **Advertising the grant rounds for the Williston and Dickinson Airports, appropriated by SB 2013 of the 65th Legislative Assembly.**
2. **The Aeronautics Commission accepting applications through October 5, 2018.**
3. **Considering awarding up to \$20,097,935 in grant funds based upon recommendations made by the Aeronautics Commission and the EIO Director.**

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

S U R F A C E

Surface policy status and reorganization

Since January 2018, the Department of Trust Lands (Department) has been reviewing the policies of each of its Divisions. As a result of this review, the Department has determined that some Department policies will be incorporated into administrative rules subject to Board approval, some will remain a Board policy, some will become Department policies and some will be repealed. The following is a brief explanation of the various categories of rules/policies.

Administrative rules are adopted by the Board pursuant to N.D.C.C. ch. 28-32, Administrative Agencies Practice Act, and have the force and effect of law.

Board policies instruct the Department on carrying out Department duties and functions. Any changes to these policies will be reviewed by the Board and are not subject to legislative approval.

Department policies are adopted by the Commissioner to clarify operations within the Department and each of its Divisions.

The chart below lists the policies of the Department's Surface Division that were previously approved by the Board and which are scheduled for repeal as of September 28, 2018. The chart indicates whether, based on the Department's review, those policies were incorporated into administrative rules or department policy, or whether the Department recommends they be repealed.

EXISTING POLICIES	ADMIN RULE	DEPARTMENT POLICY	REPEAL NO LONGER APPLY
Agricultural Lease Cancellation	X	X	
Approval of Agricultural Leases	X	X	
Assignments	X		
Construction Aggregate Rules	X	X	
Failure to Pay at Auction	X		
Fees		X	
Indian Cultural Education Trust		X	
Minimum Rent Calculations and Lease Terms of Dropped Leases at Spring Auctions		X	
Non-Commercial Roads	X	X	
Non-Vehicular Public Access	X		
Noxious and Invasive Weed Control	X	X	
Organized Events On State Lands (Board)	X		
Payment Schedule (fair compensation)		X	
Prairie Dog Control Cost Share (Board Policy)	X	X	
Railroad Rights-of-Way Ownership		X	
Ramsey County Cropland And Hayland Flood Mitigation		X	
Rental Payments	X		
Surface Damage Payments For Agricultural Lessees		X	
Surface Easements & Permits Issuance	X	X	
Land Management Agreement			X
Commissioner Authority to Accept or Reject Bids			X

The following are Board approved policies which will be reviewed at a later date:

- Fair Market Value Method for Establishing Minimum Bids on Trust Lands,
- Land Retention and Sales Policy
- Sales of State Land for Landfills
- 15-09 Sales Policy
- Criteria for Retaining Foreclosed Property
- Acquired Properties Management.

Motion: The Board repeals the policies and delegates to the Commissioner the authority to adopt and amend, as necessary, the Department Policies noted above.

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		

O P E R A T I O N S

Administrative Rules Update

In House Bill 1300, the 65th Legislative Assembly directed the Board no longer be exempt from the Administrative Agencies Practice Act. With passage of this legislation, the Department began preparing rules to be considered by the Board, reviewed by the Office of Attorney General, and heard by the Legislative Rules Committee. The intent was to adopt these rules with an effective date of October 1, 2018.

The Department considered existing rules, together with policies and procedures, to incorporate necessary wording from those into rules which comply with the Administrative Agencies Practices Act. 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.”

Rules concerning General Administration, Energy Infrastructure and Impact Grants, Unclaimed Property, Surface Land Management, and Loan Programs were drafted and proceeded through the initial steps as required by Legislative Council (including posted to the Department’s website and the State Secretary’s website, publication of a notice of intent completed in all 53 county seat newspapers, and copies of these rules were sent to sponsoring legislators.) A public hearing on these rules was conducted on April 18, 2018 with no one from the public attending the hearing, thus the hearing officer (Hope Hogan) opened and closed the hearing. A recording of the hearing was posted on the Department’s website. The Attorney General’s Office reviewed the Administrative Rules and no comments or suggestions on the content of the rules was made. However, due to the lack of publication on Legislative Council’s website, it is necessary to conduct another public hearing.

The Department concluded it is most efficient to withdraw the previously submitted General Administration, Energy Infrastructure and Impact Grants, Unclaimed Property, Surface Land Management, and Loan Programs rules from the process and submit these rules with the rules for the entire Department, including Minerals.

The Department has completed an initial draft of the rules for all Divisions. As they are currently drafted, it is anticipated the rules will create unintended consequences such as: (1) the potential for significant delays for the agricultural and energy sector, and; (2) significant budget implications for the Department. The potential delay and added expenses will have a direct economic impact to the Department, the agricultural industry, and the energy sector.

In the upcoming month, the Commissioner is seeking additional guidance on the drafted rules to minimize the effects of the anticipated unintended consequences.

Board of University and School Lands Capital Repairs

The Department of Trust Lands (Department) has been working over the past eight months to develop a long-term facility management plan that aims to reduce the Department's operating costs, while strategically addressing aging infrastructure and improving the indoor environment. The goal of the Department is to find efficient, effective and economical solutions that address many of the challenges facing the facility.

In May 2018, the Department partnered with Unesco to develop a Preliminary Facility Analysis report that identified several opportunities for enhancements to the building. Unesco found the facility's energy usage based on data provided by Department staff to be \$1.86 per square foot. The analysis completed an asset condition summary, which identified systems within the Department that are beyond their life expectancy and are in need of repair:

- Condensing Units, Residential Furnaces, Electric Controls, Fire Alarm System

The Analysis noted the Department possesses significant potential for energy and operations savings improvements and is in need of some non-saving upgrades and enhancements.

Energy Management System – Electrical Controls Recommissioning

It is recommended to recommission the existing electronic controls used on room-level and central heating, ventilating and air conditioning (HVAC) equipment. Energy management strategies will be recommissioned for each system, including programmed optimal start/stop of HVAC systems, improved sequencing of heating, cooling, building day/night setback control, recalibrate thermostats to optimize occupied and unoccupied space temperature set-points etc.

Lighting Retrofit & Replacement

Most of the lighting systems in the facility are fluorescent fixtures utilizing electronic ballasts and standard 32-watt T-8 lamps. There are many 3-4 lamp, fluorescent fixtures throughout the building. Many of the areas within the facility are over lit, resulting in wasted energy. There is an opportunity to both improve the quality of lighting as well as significantly reduce the energy and maintenance costs associated with the lighting systems. The Department is seeking to install a new high-performance lighting system and reengineer light levels to recommended levels, to provide the appropriate light levels for each space, in the most energy efficient manner.

Seal Building Envelope to Minimize Air Leaks

There are building envelope issues that need to be addressed, including deteriorated caulking and sealing around windows, missing or ineffective weather-stripping around exterior doors, and gaps or openings at well/roof junctions, which allows cold air to infiltrate into the building.

Plumbing Efficiency Improvements

Many of the existing restroom toilets, urinals and sinks in the facilities are older and are of high water consumption design. Many of the existing urinal flushometer valves have exceeded their useful life.

In addition to the Analysis, the Department has identified several building improvement projects that necessitate attention. The roof needs to be replaced as records indicate this has not been done since 1993. In 1997, the new roof addition was completed. According to records, the ten-year warranty expired in 2003 and 2007. The average lifespan of membrane roof systems is 18-25 years; thus, the Department's roof systems are at the end of their useful life cycle. Over the years, dirt and debris has accumulated where the barreled roof adjoins the new addition. Vegetation has begun to grow and will cause roof failure. Additional repairs are needed throughout the building, such as; replacement of glass wall in Commissioners office due to wall failure, rock and landscaping to protect employees whose office face State Street, repair of cracked sidewalk, refurbishing of outdoor railing.

The Department is also in need of painting the internal and external railings and caulking. The Department does not have record of the last time the internal and external railings were painted and caulking was redone. This would indicate it has not been attended to since at least 1997, when the Department purchased the building.

Estimated costs for immediate repairs is \$152,895, breakout of expenses is as follows:

- | | | |
|---|-----------|-----------|
| • Boulders to be placed at Department on Divide | Exhibit A | \$5,100 |
| • Painting of internal and external railings & Caulking | Exhibit B | \$19,795 |
| • Roof Replacement | Exhibit C | \$128,000 |

Per N.D.C.C. § 15-03-16. Continuing appropriation for investments. There is appropriated annually the amounts necessary to pay costs related to investments controlled by the board of university and school lands, including investment management fees, trustee fees, consulting fees, custodial fees, and the cost of capitalized building repairs and renovations as approved by the board. Each payment must be made from the trust fund for which the investment is made.

Motion: The Board approves utilizing continuing appropriation, per N.D.C.C. § 15-03-16, in the amount not to exceed \$152,895, to support the costs for repairs of the landscape, paint and caulking, and roof replacement.

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		

Strategic Investment and Improvements Fund - Assigned Fund Balance

Mineral revenues from sovereign lands are deposited into the Strategic Investment and Improvements Fund (SIIF). In July 2017, the Board classified \$229,325,049 of this fund as an “Assigned Fund Balance” as a potential liability that should not be transferred out of the fund until title claims to riverbed leases are resolved. The amount was derived based upon the bonus and royalties collected from the leasing and production of sovereign lands’ oil and gas interests and in consideration of associated litigation in these areas.

Since the Supreme Court affirmed State ownership of land and minerals within the high water marks of navigable waters in *Reep v. State* (decided in 2013), the Department has worked to collect royalties on Board issued sovereign land leases. Some operators have paid royalties based upon the State’s delineation; others have paid royalties into escrow.

The Board’s oil and gas lease do not warrant title to the interest leased but states that bonus and rent, or any portion thereof, will be refunded if it is later determined the Board does not have a lawful right to lease the mineral interests. In 2015, the Board adopted a formal resolution affirming that it would repay royalties received on production if it were determined to have been collected on an interest the Board did not have a lawful right to lease.

Basis for the Assigned Fund Balance

The adoption by the 2017 Legislature of Senate Bill 2134, established a definition of sovereign minerals for certain stretches of the Missouri River. The bill directs the State Industrial Commission to review these stretches of the river to determine the location of the ordinary high watermark pursuant to certain criteria established by the Legislature. The bill further directs the adjustment of State leased mineral interests and authorizes refunds of mineral proceeds accordingly.

Current revenue projections indicate that there will be sufficient funds within the SIIF to meet obligations and transfers implemented by the 2017 Legislature, including the total amount estimated for refunds under SB 2134. The method the Board had used to lease mineral acres on behalf of the State may differ from the survey being completed by the Industrial Commission. Since the Industrial Commission has not yet adopted the survey, the Department recommends that the Board affirms the existing Assigned Fund Balance. This should be done for both financial statement purposes, to accurately reflect known potential obligations; and to stipulate that these funds should not be transferred from the SIIF but instead should be reserved until adjustments related to sovereign lands are resolved.

Motion: For purposes of its financial reporting and to reflect the actions within Senate Bill 2134 as adopted by the 2017 Legislature, the Board affirms that the “Assigned Fund Balance” of the Strategic Investment and Improvements fund is \$229,325,049. These funds are reserved to make adjustments related sovereign lands mineral ownership.

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

Verint Business Consulting (Major Oak)

Verint, also known as Major Oak Consulting, is a customer engagement company that helps clients achieve performance excellence, optimize their customer’s experience, increase employee engagement and realize ROI with innovative management consulting services. Verint has worked with multiple organizations in the state for Business Process Modeling, System Strategy and Continuous Improvement initiatives. Previous clients include Workforce Safety and Insurance (WSI), Department of Transportation (DOT) and Secretary of State (SOS).

The North Dakota Department of Trust Lands has multiple customized systems and manual processes to handle its Land Management and Financial Management/Accounting functions. State core systems were developed in the late 1980s and early 1990s, using tools that lack desired functionality and are no longer being supported by their producers. In October of 2016, Verint completed a consulting engagement with NDDTL to define current and future state processes, identify improvement opportunities, define core business requirements and outline a future system strategy. The previous activities were completed in order to prepare for the transition to a future system and develop an RFP for an appropriate systems provider.

NDDTL created a Request for Proposal (RFP) for their Land Management and Financial Management/Accounting functions, however, the number of responses were limited, and those proposals did not meet the State’s requirements. Accordingly, the State has not yet issued an award. NDDTL was looking for assistance in creating additional artifacts and defining a go-forward strategy for the Land Management and Financial Management/Accounting system-related RFPs. In order to prepare for the future system transition and develop an RFP for an appropriate systems provider, the State engaged Verint for the following services:

1. Define an integrated process map with both Land Management and Financial Management/Accounting functions.
2. Refine, clarify and prioritize core system requirements.
3. Complete a refresh of peer and vendor research.
4. Define an RFP go-forward process.

The presentation provided to the Board is a high-level final report on the final recommendations and next steps resulting from the previous engagement. This presentation is available upon request from the Department.

The Department, through the Information Technology Executive Steering Committee, has contracted with Verint for continued services for the Financial Management/Accounting solution to:

1. Prepare an RFP.
2. Assist with vendor questions and prepare RFP amendments.
3. Assist with Proposal Evaluations and Vendor Selection.

It is anticipated a Financial Management RFP will be released in October 2018 with vendor selection occurring in early 2019. Currently, the Department's goal is to begin implementation by the end of the biennium.

Board of University and School Lands Case Summary as of July 25, 2018

The following provides an update of those cases with recent activity. Detailed case specific memorandums will be presented to the Board upon changes in case status or as new events requiring Board consideration occur.

REVENUE COMPLIANCE

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

Date Filed: **December 20, 2017**

Court: **District Court/McKenzie County**

Attorneys: **David Garner**

Opposing

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

Judge: **Robin Schmidt**

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

Current

Status: A Complaint and Answer with Counterclaims have been filed. Continental filed an Answer to Counterclaims. Answers to Continental Resources, Inc.'s First Set of Written Discovery and Defendants Interrogatories, Requests for Production of Documents, and Requests for Admissions to Continental were served July 30, 2018. Continental's responses to the discovery are due on September 12, 2018.

December 20, 2017

Plaintiff filed the Summons and Complaint

December 21, 2017

Motion for Admission Pro Hac Vice of Rosario C. Doriott Dominguez

December 22, 2017

Order for Pro Hac Vice Admission - Rosario C. Doriott Dominguez

January 2, 2019

Notice of Appearance - Mark S. Barron

February 2, 2018

Defendants filed Answer and Counterclaims

February 20, 2018

Continental's Unopposed Motion for Extension of Time to Respond to Counterclaims

February 21, 2018	Order Granting Continental's Unopposed Motion for Extension of Time to Respond to Counterclaims
March 9, 2018	Certificate of Service of Continental's Answer to Defendants' Counterclaims
March 14, 2018	Continental's Answer to Defendants' Counterclaims
March 26, 2019	Notice of Hearing - Scheduling Conference
April 25, 2018	Scheduling Conference
May 29, 2018	Joint Status Report
February 1, 2019	Court Trial

Case: **Newfield Exploration Company, Newfield Production Company, and Newfield RMI LLC v. State of North Dakota, ex rel. the North Dakota Board of University and School Lands and the Office of the Commissioner of University and School Lands, a/k/a the North Dakota Department of Trust Lands, Civ. No. 27-2018-CV-00143**

Date Filed: March 7, 2018

Court: District Court/McKenzie County

Attorneys: David Garner

Opposing

Counsel: Lawrence Bender and Spencer Ptacek/Fredrikson & Byron, P.A.

Judge: Robin Schmidt

Issues: Plaintiff is seeking a Declaratory Judgment that it is currently paying gas royalties properly under the Board's lease. Specifically, Plaintiff is asking the Court to order that gas royalty payments made by the Plaintiff be based on the gross amount received by the Plaintiff from an unaffiliated third-party purchaser, not upon the gross amount paid to a third party by a downstream purchaser, and that Plaintiff does not owe the Defendants any additional gas royalty payments based on previous payments.

Current

Status: A Complaint and Answer with Counterclaims have been filed. Newfield filed an Answer to Counterclaims. A Scheduling conference was held July 27, 2018 and a trial was scheduled for September 10 & 11, 2019 at the McKenzie County Courthouse. Newfield filed a Motion for Summary Judgment and supporting documents on August 13, 2018. Defendants' response is due September 12, 2018.

March 9, 2018	Plaintiff's filed Summons, Complaint, & Exhibits
March 9, 2018	Notice of Assignment & Case Number
March 13, 2018	Notice of Appearance – David Garner
April 11, 2018	Answer and Counterclaims
May 2, 2018	Answer to Counterclaims
June 12, 2018	Notice of Scheduling Conference
July 19, 2018	Amended Notice of Telephonic Scheduling Conference
July 27, 2019	Scheduling Conference
August 1, 2018	Notice of Court Trial – September 10-11, 2019
August 13, 2018	Plaintiff's Notice of Motion for Summary Judgment, Motion for Summary Judgment, Brief in Support of Motion for Summary Judgment, Affidavit of Jay Williams
September 10-11, 2019	Court Trial

M I N E R A L S

Case: Whiting Oil and Gas Corporation v. Arlen A. Dean, et. al., Civ. No. 27-2016-CV-00040
Date Filed: January 25, 2016
Court: McKenzie County District Court
Judge: Robin Schmidt
Attorney: Hope Hogan/Jennifer Verleger
Opposing Counsel: Paul Forster, Shane Hanson (Whiting Oil and Gas Corp.), Kevin Chapman (multiple defendants)

Issues: Whiting Oil and Gas Corporation (“Whiting”) operates the Kuykendall 34-31-1H well located in McKenzie County near the Montana border. The Yellowstone River flows through the Kuykendall well spacing unit. Over time, the river has shifted westward. There are also islands within the Kuykendall spacing unit. On January 25, 2016, Whiting filed this interpleader action to resolve alleged title questions that have arisen due to the movement of the Yellowstone River. Because of these title questions, Whiting is withholding royalty payments. In its lawsuit, Whiting 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, Whiting will know who to pay.

The Board claims a mineral interest under the Yellowstone River, including the islands, and the Board also claims a 5% mineral interest in some of the riparian tracts in this spacing unit.

The Board and the State Engineer filed a joint response to the Complaint and several cross claims that have been made against the State.

Current Status: Due to property flooding from high flows on the Yellowstone River, the State Engineer had been unable to conduct field work until the past couple weeks. A telephonic scheduling conference was held on August 16, 2018 and the parties agreed to suspend the scheduling order, cancel the trial dates, and have a follow up scheduling conference on January 3, 2019, to review the status of the case. The State Engineer will proceed with its field work. The discovery that was served was put on indefinite hold.

January 25, 2016	Plaintiff's filed Summons and Complaint.
January 26, 2016	Notice of Assignment and Case Number
January 26, 2016	Randall Johnson's Answer to Complaint
January 26, 2016	Admissions of Service -Summons and Complaint for various defendants.
January 26, 2016	Return Receipt Cards – for various defendants.
January 28, 2016	Notice of Filing and Description of Lands; Affidavit in Support of Service by Publication
January 28, 2016	Defendants Arlen Dean, Debbie Whittemore, Richard Dean and Miles Dean's Answer and Counterclaim and Crossclaims
February 1, 2016	Joint Answer of the ND Board of University and School Lands and the North Dakota State Engineer
February 1, 2016	Demand for Change of Judge
February 1, 2016	Answer - Counterclaim, and Crossclaim of Defendant Murex Petroleum Corporation

February 1, 2016	Answer - Counterclaim, and Crossclaim of Defendant Northern Oil and Gas, Inc.
February 2, 2016	Notice of Appearance
February 2, 2016	Notice of Assignment and Case Number
February 8, 2016	Order Reassigning Judge
February 10, 2016	Notice of Appearance
February 18, 2016	Response to Counterclaim of Northern Oil and Gas, Inc.; Response to Counterclaim of Murex Petroleum Corporation; Response to Counterclaim of Arlen Dean, Debbie Whittemore, Richard Dean, and Miles Dean
February 22, 2016	Letter to Honorable Robin A. Schmidt on Behalf of Dorothy Peete
February 22, 2016	Exhibit A-Defendant Dorothy Peete's Mineral Deed
February 22, 2016	Admission of Service - Mary Carol Melland
February 22, 2016	Admission of Service - RTM Minerals, LLC
February 22, 2016	Return Receipt Card - Tanjia Melland 502 5th St SE
February 22, 2016	Admission of Service - Martin E. Long
February 22, 2016	Admission of Service - Summit Royalty Company
February 22, 2016	Return Receipt Card - Summit Royalty Company
February 22, 2016	Affidavit of Service by Mail on Unrepresented Parties
February 23, 2016	Affidavit of Publication
February 24, 2016	Answer and Crossclaim
February 26, 2016	Defendant Kuykendall Trust Answer and Counterclaim and Crossclaim
February 26, 2016	Defendant Melland, Et. Al. Answer and Counterclaim and Crossclaims
February 29, 2016	Answer to Complaint - Scott B. Muir
February 29, 2016	Answer and Cross Claim of Defendant Nathan L Andersohn; Exhibit A-Mineral Deed of Defendant Nathan L Andersohn
March 2, 2016	Defendants Arlen Dean, Debbie Whittemore, Richard Dean and Miles Dean's Answer to Crossclaim of Nathan L. Andersohn
March 8, 2016	Answer of Defendant Northern Oil and Gas, Inc. to Crossclaim of Defendant Nathan L. Andersohn
March 8, 2016	Answer of Defendant Murex Petroleum Corporation to Crossclaim of Defendant Nathan L. Andersohn
March 10, 2016	Admission of Service - Summons & Complaint - Jan Hagen
March 10, 2016	Admission of Service - Summons & Complaint - Jorjiann Benn
March 10, 2016	Joint Answer of the ND Board of University and School Lands and the North Dakota State Engineer to the Crossclaim of Defendant Nathan L. Andersohn; Joint Answer of the ND Board of University and School Lands and The North Dakota State Engineer to the Crossclaim of Derendant Kuykendall Family Mineral Trust; Joint Answer of the ND Board of University and School Lands and the North Dakota State Engineer to the Crossclaim of Defendant Martin E. Long; Joint Answer of the ND Board of University and school Lands and the North Dakota State Engineer to the Crossclaim of Defendant Mellands, Et. Al; Joint Answer of the ND Board of University and School Lands and the North Dakota State Engineer to the Crossclaim of Defendant Murex Petroleum Corporation; Joint Answer of the ND Board of University and School Lands and the North Dakota State Engineer to the Crossclaim of Defendant Northern Oil and Gas, Inc.
March 16, 2016	Answer of Defendant Northern Oil and Gas, Inc. to Crossclaim of Defendant Martin E. Long; Answer of Defendant Northern Oil and Gas, Inc. to Crossclaim of Defendant Mellands et al.

March 16, 2016	Answer of Defendant Murex Petroleum Corporation to Crossclaim of Defendant Martin E. Long
March 21, 2016	Response to Counterclaim of Melland, et al; Response to Counterclaim of Kuykendall Trust
April 22, 2016	Notice of Motion to Deposit Funds; Motion to Deposit Funds; Brief in Support of Motion to Deposit Funds; Proposed Order Designating Depository for Disputed Royalty Proceeds
May 23, 2016	Order Designating Depository for Disputed Royalty Proceeds
June 10, 2016	Notice of Entry of Order
January 17, 2017	Consent to Plaintiff's Mineral Acreage Calculations- Stanley A. Dean and Linda K. Sullivan; Exhibit A to Consent to Plaintiff's Mineral Acreage Calculations- Stanley A. Dean and Linda K. Sullivan
January 20, 2017	Notice - Change of Address of Defendant Martin E. Long
January 31, 2017	Consent to Plaintiff's Mineral Acreage Calculations - Darlene Dellabovie, Robert & Lola Dean, Lorlys & Charlene Dean, Eleanor "Carol Adams, Desmond D. Dean, Joseph Dean, and Kevin & Sheila Filler
July 26, 2017	Answer - Defendant Celsius Energy, LLC's Answer To Complaint
August 3, 2017	Notice of Hearing – Scheduling Conference
August 4, 2017	Notice of Appearance by Peter D. Morowski, Attorney for Defendants Arlen Dean, Debbie Whittemore, Richard Dean, and Miles Dean
August 17, 2017	Scheduling Conference
August 17, 2017	Notice of Hearing – Court Trial
September 7, 2017	Letter to Judge Schmidt from Paul Forster regarding proposed Scheduling Order; Stipulation/Agreement for Entry of Scheduling Order; Proposed Order - Scheduling Order
September 10, 2017	Order – Scheduling Order
October 10, 2017	Notice of Motion for Substitution of Deceased Party Defendant
October 24, 2017	Whiting's Response to Miles Dean's Motion for Substitution of Deceased Defendant
January 23, 2018	North Dakota Board of University and School Lands and the North Dakota State Engineer's Notice of Motion to Reset Scheduling Order; North Dakota Board of University and School Lands and the North Dakota State Engineer's Motion to Reset Scheduling Order; Proposed Order - First Amended Scheduling Order
February 9, 2018	First Amended Scheduling Order
February 14, 2018	Notice of Hearing - Scheduling Conference
March 28, 2018	Scheduling Conference
March 28, 2018	Notice of Court Trial
April 10, 2018	Notice of Hearing - Amended - Service of Pro Se Defendants
July 3, 2018	Letter requesting scheduling conference
July 3, 2018	Notice of Motion to Withdraw Counsel (for Defendants Murex Petroleum Corporation Inc. and Northern Oil and Gas Inc. – Danielle M. Krause
July 9, 2018	Notice of Hearing – Telephonic Status Conference
July 10, 2018	Order Granting Motion to Withdraw Counsel
July 23, 2018	Defendant James Miles Dean's First Set of Interrogatories to State of North Dakota and First Set of Requests for Production to State of North Dakota served
August 16, 2018	Telephonic Status Conference – and the parties agreed to suspend the scheduling order, cancel the trial dates, and have a follow up scheduling conference on January 3, 2019, to review the status of the case
January 3, 2019	Telephonic Status Conference – 11:00 a.m.

I N V E S T M E N T S

Securities Litigation Monitoring and Financial Recovery Services

John Menard from Financial Recovery Technologies (FRT) will present information on securities litigation monitoring and claims filing services. FRT is a leader in the use of technology to better provide both domestic and global securities litigation monitoring and claims services; FRT also provides investors with global antitrust monitoring and claims filing services.

Historically, the securities litigation monitoring and claims filing business has been a relatively passive endeavor performed by custodian banks, such as Northern Trust. Custodian banks monitor domestic class action lawsuits, and once a settlement is made, they file claims on behalf of the Board based on custodial records. Custodians of commingled funds and mutual funds in which the Board invests provide similar services for those funds.

There are also numerous law firms that provide securities litigation monitoring services for free. However, the primary goal for most of these law firms is typically to use the established relationship to find clients willing to be lead plaintiffs in lawsuits against corporations. Although there are times it is appropriate to be a lead plaintiff, in most cases the administrative and opportunity costs can be substantial.

In August 2015, the Board adopted a securities litigation policy (enclosed for reference.) The Board's current policy is considered passive and it relies on Northern Trust to file claims on the Board's behalf unless certain thresholds are met. With a significant portion of the permanent trusts' investments being comingled and mutual fund products at the time of policy adoption it made sense to adopt a passive policy. However as the securities litigation monitoring and claims filing business continues to evolve, the Commissioner would like to update the Board's approach to more actively monitor securities and antitrust litigation and improve the claims filing process.

After nearly two years of diligence work, the North Dakota State Investment Board (SIB) hired FRT to perform litigation monitoring and claims filing services for the funds under its control in November 2017. As part of the hiring process, FRT reviewed over 8 years of data related to past claims filed by Northern and potential global claims that were not filed by anyone. That review found more than \$400,000 of missed, disputed or potentially recoverable claims. Although the Commissioner does not expect that large of a recovery for past claims, if the Board agrees to engage FRT, the Commissioner will seek a review of past claims as well.

Over the past year, FRT expertise in the area of securities and antitrust litigation policies has been invaluable as SIB revised its policies to meet current fiduciary standards. The Commissioner also expects to use FRT to advise the Board on possible updates to the current securities and antitrust litigation and monitoring policy.

As the securities litigation and antitrust monitoring and claims filing process business has evolved, it is not just pensions and trust funds that are seeking the services of FRT. Many custodian banks, including JP Morgan Chase, are now using FRT to either replace or supplement their securities litigation and antitrust monitoring and claims filing services. In addition, the top three asset managers in the world, and two of the top five sovereign wealth funds use FRT's services.

The Commissioner, staff and FRT have been in discussions for some time. Those discussions were delayed with the transition to a new Commissioner in late 2017. The Commissioner and staff are now ready to proceed engaging FRT on behalf of the trusts. Recently, the Commissioner authorized FRT to file a place holder on the Board's behalf related to a recent antitrust case related to the manipulation of LIBOR by certain large banks. If that place holder had not been filed, the Board could have lost out on any compensation that may be due under the terms of the LIBOR antitrust settlement.

FRT has informed the Commissioner that FRT's relationship with the SIB will be taken into consideration in contract negotiations.

Motion: The Board directs the Commissioner to enter negotiations with Financial Recovery Technologies to engage their services to provide comprehensive securities litigation and antitrust monitoring and claims filing services on behalf of the Board, subject to final approval of the Attorney General.

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

Quarterly Investment Reports – 2nd Quarter 2018

Marcia Beard from RVK reviewed the performance of the Board's investment program for the period ending June 30, 2018.

The first report Ms. Beard reviewed is prepared by RVK to enable the Board to monitor and evaluate the collective performance of the permanent trusts' investments and the performance of individual managers within the program. In order to provide an overview of the program and highlight critical information, an executive summary has been incorporated into the Board report. A more comprehensive, detailed report is also available.

After Ms. Beard's presentation, Jeff Engleson reviewed the report which details the activities of the Strategic Investment and Improvements Fund, the Coal Development Trust Fund and the Capitol Building Fund, as well as the performance of Northern Trust separate investment pool that holds the assets of these three funds.

The following items were presented to the Board and are available at the Department upon request: RVK Permanent Trust Fund Performance Analysis Report, Other Funds Managed by the Board Report and RVK Ultra-short Performance Report.

R E P O R T S

The Summary of Total Assets (Unaudited) for Period Ended May 31, 2018 was provided to the Board

Results of Online August Oil and Gas Mineral Lease Auction

On behalf of the Board, the Department conducted an oil and gas mineral lease auction which concluded on August 7, 2018 on <https://www.energynet.com/>.

There were 29 tracts offered and all received competitive bids. The highest bid per acre was \$507.00 for 8.00 net mineral acres in Dunn County.

There were 31 bidders registered, 20 of which submitted bids in the seven-day auction. Bidders were from 8 states (CO, MT, ND, OR, TX, UT, WA and WY).

A total \$341,547.93 of bonus was collected from the auction.

Report of Easements Issued by Land Commissioner from 7/12/18 to 8/16/2018

Granted to: **CONTINENTAL RESOURCES INC, OKLAHOMA CITY-OK**
 For the Purpose of: Easement: Drop Line-Saltwater Pipeline
 Right-of-Way Number: RW0007574
 Trust: A - Common Schools
 Legal Description: DUN-147-96-36-NE4

Granted to: **GOODNIGHT MIDSTREAM BAKKEN LLC, DALLAS-TX**
 For the Purpose of: Easement: Salt Water Pipeline
 Right-of-Way Number: RW0008220
 Trust: A - Common Schools
 Legal Description: MCK-151-96-16-SE4

Granted to: **HESS NORTH DAKOTA PIPELINES LLC, MINOT-ND**
 For the Purpose of: Easement: Gas Gathering Pipeline
 Right-of-Way Number: RW0008230
 Trust: A - Common Schools
 Legal Description: MCK-151-96-36-S2

Granted to: **HILAND CRUDE LLC, HOUSTON-TX**
 For the Purpose of: Easement: Drop Line-Oil Gathering Pipeline
 Right-of-Way Number: RW0008244
 Trust: A - Common Schools
 Legal Description: WIL-153-100-36-SE4

Granted to: **HILAND PARTNERS HOLDINGS LLC, HOUSTON-TX**
 For the Purpose of: Easement: Drop Line-Gas Gathering Pipeline
 Right-of-Way Number: RW0008245
 Trust: A - Common Schools
 Legal Description: WIL-153-100-36-S2

Granted to: **CONTINENTAL RESOURCES INC, OKLAHOMA CITY-OK**
 For the Purpose of: Easement: Salt Water Pipeline
 Right-of-Way Number: RW0008255
 Trust: A - Common Schools
 Legal Description: DUN-147-96-36-N2, E2SE4

Granted to: **EQUINOR PIPELINES LLC, AUSTIN-TX**
 For the Purpose of: Easement: Salt Water Pipeline
 Right-of-Way Number: RW0008259
 Trust: A - Common Schools
 Legal Description: WIL-154-100-16-SE4

Granted to: **HILAND CRUDE LLC, HOUSTON-TX**
 For the Purpose of: Easement: Oil Gathering Pipeline
 Right-of-Way Number: RW0008265
 Trust: A - Common Schools
 Legal Description: MCK-152-98-16-N2, SW4

Granted to: **TARGA BADLANDS LLC, HOUSTON-TX**
 For the Purpose of: Permit: Section Line Access Road
 Right-of-Way Number: RW0008270
 Trust: A - Common Schools
 Legal Description: MCK-150-97-36-SE4

Granted to:

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

OASIS MIDSTREAM SERVICES LLC, HOUSTON-TX

Easement: Multiple Pipelines & Communication Cable
 RW0008280
 A - Common Schools
 WIL-153-100-36-NE4, S2

Granted to:

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

XTO ENERGY INC, SPRING-TX

On-lease Act. Amend: Horizontal Oil Well
 RW0008284
 A - Common Schools
 WIL-154-96-16-NE4

Granted to:

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

MISSOURI BASIN WELL SERVICE INC, BELFIELD-ND

Easement: Salt Water Disposal Well - Extension
 RW0008286
 A - Common Schools
 MOU-155-90-16-SE4

Granted to:

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

HESS BAKKEN INVESTMENTS II, LLC, MINOT-ND

Permit: Section Line Access Road
 RW0008288
 A - Common Schools
 MCK-150-95-16-N2

Granted to:

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

BRIDGER PIPELINE LLC, CASPER-WY

Easement: Drop Line-Oil Gathering Pipeline
 RW0008293
 A - Common Schools
 MCK-150-96-36-SE4

Granted to:

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

MUREX PETROLEUM CORP, HOUSTON-TX

Easement: Salt Water Disposal Well - Extension
 RW0008301
 A - Common Schools
 DIV-162-101-16-SE4

Granted to:

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

MCLEAN ELECTRIC COOPERATIVE, GARRISON-ND

Easement: Electric Distribution Line - Buried
 RW0008304
 A - Common Schools
 MCL-144-81-36-SE4 E of RR

Granted to:

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

BOE MIDSTREAM, DENVER-CO

Easement-Amend: Oil Gathering Pipeline
 RW0008305
 A - Common Schools
 DUN-148-96-16-N2SE4, SW4SE4

Granted to:

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

HILAND CRUDE LLC, HOUSTON-TX

Easement: Drop Line-Oil Gathering Pipeline
 RW0008311
 A - Common Schools
 MCK-150-98-36-SW4

Granted to:

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

OASIS MIDSTREAM SERVICES LLC, HOUSTON-TX

Easement: Drop Line-Pipeline & Communication Cable
 RW0008313
 A - Common Schools
 WIL-153-100-36-S2

Granted to: **WHITE ROCK OIL&GAS LLC, PLANO-TX**
 For the Purpose of: Permit: Access Road
 Right-of-Way Number: RW0008316
 Trust: A - Common Schools
 Legal Description: MCK-146-102-36-N2

The following letters of permission were issued to companies and groups wishing to use school trust lands under the Board's access policy. Fees may be charged for this use.

Granted to: **SELECT ENERGY SERVICES LLC, WILLISTON-ND**
 For the Purpose of: Letter of Permission: Temporary Water Layflat Line
 Right-of-Way Number: RW0008317
 Trust: A - Common Schools
 Legal Description: MOU-155-94-36-S2

Granted to: **ND ENERGY SERVICES INC, DICKINSON-ND**
 For the Purpose of: Letter of Permission: Temporary Water Layflat Line
 Right-of-Way Number: RW0008321
 Trust: A - Common Schools
 Legal Description: DUN-146-93-16-NE4

Granted to: **SELECT ENERGY SERVICES LLC, WILLISTON-ND**
 For the Purpose of: Letter of Permission: Temporary Water Layflat Line
 Right-of-Way Number: RW0008322
 Trust: A - Common Schools
 Legal Description: WIL-154-98-16-NE4

Granted to: **SELECT ENERGY SERVICES LLC, WILLISTON-ND**
 For the Purpose of: Letter of Permission: Temporary Water Layflat Line
 Right-of-Way Number: RW0008323
 Trust: A - Common Schools
 Legal Description: WIL-153-100-36-NE4, S2

Granted to: **B O B ENTERPRISES LLC, KILLDEER-ND**
 For the Purpose of: Letter of Permission: Temporary Water Layflat Line
 Right-of-Way Number: RW0008326
 Trust: A - Common Schools
 Legal Description: DUN-148-96-36- LOTS 1,2,6,7, NW4SE4, S2SE4, LOT 8, SW4

Granted to: **SELECT ENERGY SERVICES LLC, WILLISTON-ND**
 For the Purpose of: Letter of Permission: Temporary Water Layflat Line
 Right-of-Way Number: RW0008328
 Trust: A - Common Schools
 Legal Description: WIL-154-100-36-SE4

Granted to: **WEST DAKOTA WATER LLC, WILLISTON-ND**
 For the Purpose of: Letter of Permission: Temporary Water Layflat Line
 Right-of-Way Number: RW0008343
 Trust: A - Common Schools
 Legal Description: WIL-156-101-36-S2

Granted to: **BARR ENGINEERING CO, BISMARCK-ND**
 For the Purpose of: Letter of Permission: Access to School Land
 Right-of-Way Number: RW0008324
 Trust: W -
 Legal Description: BEN-151-68-7- SE4, N2SE4, SW4SE4, LOTS 1,2

Granted to: ANDEAVOR LOGISTICS, SIDNEY-MT
 For the Purpose of: Letter of Permission: Access to School Land
 Right-of-Way Number: RW0008327
 Trust: A - Common Schools
 Legal Description: BIL-144-102-16- N2SE4, SW4SE4, LOTS 1,2

Granted to: HILAND CRUDE LLC, HOUSTON-TX
 For the Purpose of: Letter of Permission: Access to School Land
 Right-of-Way Number: RW0008330
 Trust: A - Common Schools
 Legal Description: MCK-152-99-36-NW4, SW4

Granted to: ND GAME & FISH DEPT, RIVERDALE-ND
 For the Purpose of: Letter of Permission: Access to School Land
 Right-of-Way Number: RW0008341
 Trust: A - Common Schools
 Legal Description: MCL-148-79-36- LOTS 6,9,10,11

Investment Updates

Asset Allocation

The status of the permanent trusts' asset allocation as of June 30, 2018:

Account/Asset Class	Long-Term Asset Allocation	6/30/18 Actual Allocation \$	6/30/18 Actual Allocation %
Large Cap US Equity	13.2%	\$ 614,751,977	13.6%
Mid/Small Cap US Equity	3.8%	\$ 177,949,737	3.9%
International Equity	13.3%	\$ 591,576,514	13.1%
Emerging Market Equity	3.7%	\$ 155,170,953	3.4%
Total Equities	34.0%	\$ 1,539,449,182	34.0%
Domestic Investment Grade	13.0%	\$ 579,623,670	12.8%
High Yield FI	2.7%	\$ 111,915,416	2.5%
International/Global FI	5.3%	\$ 253,433,299	5.6%
Total Fixed Income	21.0%	\$ 944,972,385	20.9%
Total Absolute Return	20.0%	\$ 904,919,180	20.0%
Commodities	3.0%	\$ 134,297,150	3.0%
MLPs	3.0%	\$ 139,868,959	3.1%
TIPS	2.0%	\$ 89,457,982	2.0%
Natural Resource Equities	2.0%	\$ 93,178,561	2.1%
Total Inflation Strategies	10.0%	\$ 456,802,653	10.1%
Core Real Estate	8.0%	\$ 375,284,161	8.3%
Core Plus Real Estate	7.0%	\$ 305,146,223	6.7%
Total Real Estate	15.0%	\$ 680,430,385	15.0%
Total Asset	100.0%	\$ 4,526,573,785	100.0%

QMA (114.6 million, 2.5% of PTF assets) International Small Cap Equities

The Commissioner and staff were informed in late-July that Jacob Pozharny, head of research and portfolio management for non-US core equity at QMA, was leaving the firm at the end of the July. Although his departure wasn't expected, it also wasn't a complete surprise. Last year QMA restructured their investment platform to more effectively leverage resources. An intentional consequence of the restructuring was taking management duties out of the hands of senior members so they could focus on research.

Mr. Pozharny responsibilities will be absorbed by George Patterson who joined the firm in October 2017 as a part of the restructuring. At that time, Mr. Patterson along with Peter Xu were named co-heads of the firm's quantitative equity platform, new roles that were created due to the new structure. Mr. Xu has been with QMA for over 20 years and prior to the restructuring served as head of U.S. core equity.

RVK and the Commissioner have no major concerns about this departure due to the quantitative nature of the process and the robust QMA team, and thus do not recommend any changes at this time. QMA will continue to be monitored closely and RVK will provide updates on any significant developments. Jeff Engleson will be visiting QMA in September, when he is in the New York area for a Morgan Stanley Advisory Committee meeting

Upcoming Investment Manager Meetings

The following meeting with investment managers is planned to discuss strategy, compliance, and performance. The meeting will be held in the Department's conference room.

September 19, 2018, 10:00 AM Harding Loevner – Emerging Markets Core Equity

EM Equity (\$72.09 million, 1.6% of PTF pool) *with Portfolio Specialist Clarke Moody*

A D J O U R N

There being no further business, the meeting was adjourned at 10:45 AM.

Doug Burgum, Chairman
Board of University and School Lands

Jodi Smith, Secretary
Board of University and School Lands

**Minutes of the Meeting of the
Board of University and School Lands
September 27, 2018**

The September 27, 2018 meeting of the Board of University and School Lands was called to order at 9:02 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 (Via Telephone)

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Susan Dollinger	Unclaimed Property Administrator
Jeff Engleson	Investments Director
Mike Humann	Surface Division Manager
Kristie McCusker	Legal Assistant
Catelin Newell	Office Manager
Gerard Schwan	Grants and Claims Manager

Guests in Attendance:

Brent Sanford	Lt. Governor
Brady Pelton	North Dakota Petroleum Council (NDPC)
Leslie Bakken Oliver	Governor's Legal Counsel
Reice Haase	Governor's Policy Advisor
Dave Garner	Attorney General's Office
Amy Dalrymple	Bismarck Tribune
Mark Hanson	Nilles Law Firm

APPROVAL OF MINUTES

A motion to approve the minutes of the August 30, 2018 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.

INVESTMENTS

Revised Farm Loan Pool Terms and Conditions

The Farm Loan Pool (FLP) was created in 1977 with the passage of Senate Bill 2106 (SB 2106). SB 2106 was one of two bills passed during the legislative session that restructured responsibilities of the Bank of North Dakota (BND) and the Board of University and School Lands (Board) to better fit each agencies core competencies. Senate Bill 2110 (SB 2110) gave control of the state's sovereign minerals to the Board, while SB 2106 turned farm lending functions previously performed by the Board over to the BND, to administer on behalf of the Board.

Over the years, the 1st lien farm loans issued through this program have been a great investment for the permanent trusts. The FLP yielded approximately 8.6% in the mid-1990s; since then the average yield has slowly dropped to the current rate of 6.8%. These loans have very low delinquencies rates and even lower default rates. However, on the rare occasion a default does occur, a maximum loan to value ratio of 75% helps protect the trusts from loss. In addition, if a property is foreclosed upon or deeded back to the Board, the Department of Trust Lands' (Department) land management experts can effectively manage the land while it is prepared for resale. Small losses have occurred in this portfolio over time, primarily in the 1980s when land prices fell steeply. The last default in the portfolio was in 2009; which resulted in a gain of over to \$500,000 for the trusts when the land was ultimately resold.

The FLP is managed by BND as part of the Established Farmer Program. Historically, BND would finance adjustable rate loans with adjustment periods of less than 10 years while the Land Board would finance 25 year fixed rate loans and loans that adjust every 10 years. The splitting up of the market helped both entities meet their investment objectives for many years. However, as long-term interest rates fell and remained low after the financial crises, interest rate floors that were first established by the Board in the late-1990s, and that were last updated in 2007, have resulted in no farm loans being made since 2012.

Since the early 1990s, the FLP has ranged in value from a high of almost \$60 million in late 2001 to its current balance of approximately \$7.6 million. At times the FLP represented more than 10% of total permanent trust financial assets; it now stands at 0.2%. The primary reason in the decline in FLP assets is rate floors that were adjusted by the Board in 2007, and last adjusted by the Commissioner in 2010. These floors were established in 2010 per a letter agreement between BND and the Commissioner, and are 0.5% below the policy floors established by the Board in 2007. Current floors for Level 1 (high quality) borrowers are 6.0% for a 10-year adjustable rate loan and 6.5% for a 25 year fixed rate loan.

At the time, both the Board and the Commissioner believed it was not prudent to loan money at fixed rates for long periods of time at historically low interest rates. Although the Board has not formally addressed FLP rates/floors over the past 10 years, the Board periodically discussed that loans were not being made due to rate floors. Now that interest rates are rising, it is appropriate for the Board to review the policy and realign it with BND Established Farmer Program.

The revised policy tracts the recommended changes to the current FLP Board policy. The changes shown in the Term and Conditions portion of the document are the substantive changes the Commissioner and BND are asking the Board to make today.

A brief description of each substantive change follows:

Loan Limit: BND is requesting the Board align the FPL program with BND loan limits.

20 Year Loans: BND is requesting the Board align the FPL program with BND repayment terms. This will provide BND with the flexibility necessary to better meet client expectations and needs.

Updated Title for BND Lending Officer: During a recent reorganization, BND eliminated the title, "senior vice president of lending". The Commissioner and BND are recommending more generalized language as to the BND official involved in decisions to adjust FLP spreads and rate floors around the Board's policy spreads and rate floors.

Change in Base Rate: Historically, Board policy has directed BND to use 10-year Treasury rates as the base rate to determine loans from the FLP. A premium is added over and above the base rate, depending on the credit quality of a buyer and the loan type a borrower chooses.

The Board has used 10-year Treasury rates to price loans for over 20 years, however, in 2000, BND changed the base rate it used to fund Established Farmer Loans to the Federal Home Loan Bank of Des Moines (FHLB) Fixed-Rate Advances rate. This is the rate at which BND borrows to lock in the spread on the farm loans they fund. The table below compares the average, median and Standard deviation of each rate since 2000.

	10 Year Treasury	10-Year FHLB rate	Difference
Average rate	3.47%	4.34%	0.87%
Stand Deviation	1.24%	1.32%	0.28%
Median rate	3.47%	4.57%	0.79%

The table shows that two-thirds of the time, the FHLB 10-year rate has been between 60 and 115 basis points above the 10-year Treasury rate. Over the past 18 years it has never been less the 45 basis points above the 10-year Treasury rate. The vast majority of the time the FHLB rate was between 50 and 100 basis points above the Treasury rate. Based on this analysis, and discussions with long-term Board money manager Payden and Rygel, the Commissioner is recommending aligning Board and BND policies.

The base rate change brings the Board in line with how BND has been pricing loans for a number of years. As of mid-September, the Board's rate would be 6.0% for a 10 year adjustable rate loan and 6.5% for a fixed rate loan; in both cases, current rates are exactly equal to rate floors. Adopting the proposed changes could result in the trusts investing in new farm loans as early as October.

As the Fed continues to put pressure on short-term rates, the Board will once again be in a position to make these loans that are good both for the permanent trusts, and the farmers and ranchers of North Dakota.

Motion: The Board adopts the proposed changes to the Board Farm Loan Rules and Regulations.

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		

The following items were presented the Board and are available at the Department upon request: Redline version of proposed changes to Farm Loan Rules and Regulations and the Board Policy Statement on Subordination of Mortgages to Oil and Gas Leases.

ENERGY INFRASTRUCTURE AND IMPACT OFFICE

Contingency Grant

Section 10 of Senate Bill 2013 allows the use of unexpended funds to provide for grants and administrative costs during the 2017-2019 biennium:

SECTION 10. EXEMPTION - OIL AND GAS IMPACT GRANT FUND. The amount appropriated from the oil and gas impact grant fund for the energy infrastructure and impact office line item in section 1 of chapter 13 of the 2015 Session Laws and for oil and gas impact grants in section 5 of chapter 463 of the 2015 Session Laws is not subject to section 54-44.1-11. Any money deposited in the fund for taxable events occurring through June 30, 2017, and any unexpended funds from the appropriation are available for grants and administrative costs associated with the fund during the biennium beginning July 1, 2017, and ending June 30, 2019. (Emphasis added).

The current members serving on the Contingency Grant Advisory Committee (Committee):

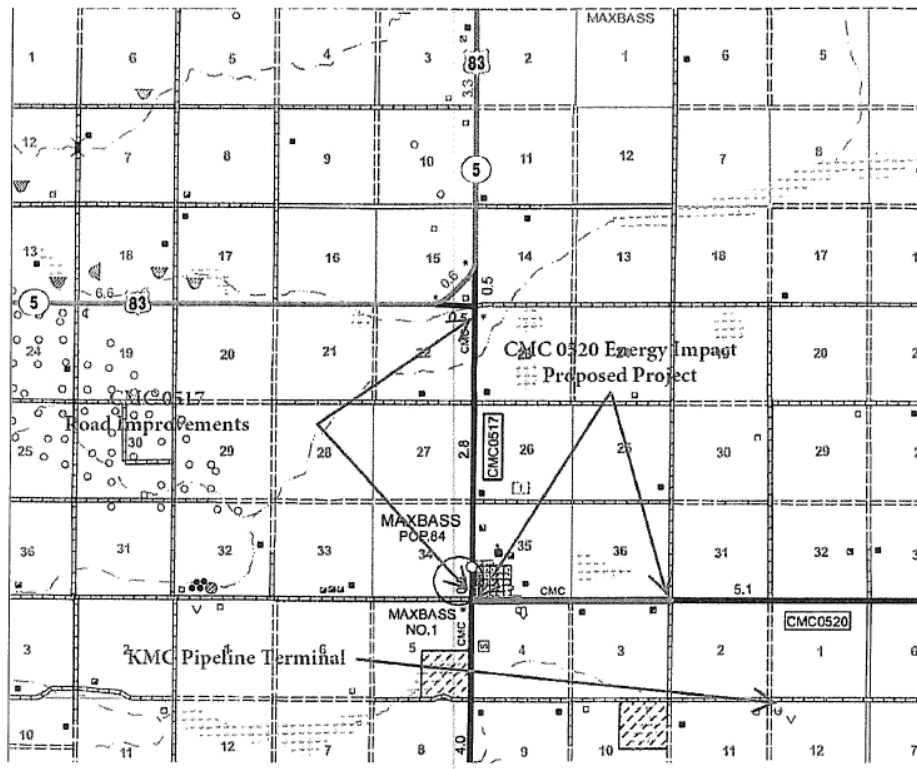
Dan Kalil (Williston Township Chair), Jay Elkin (Stark County Commissioner), Justin Voll (former mayor of Watford City), Marcia Lamb (Billings County Auditor), Mark Spooner (Border Township Chair), Allen Ryberg (Burke County Commissioner), David Wegner (Beach PSD Superintendent), Gary Weisenberger (mayor of Stanley), and Reinhard Hauck (Dunn County Commissioner)

Per the Board's approved grant requirements, the grant announcement closed on August 30, 2018. EIO received and scored four applications. The Committee reviewed and discussed each application thoroughly before finalizing its recommendations during a public meeting on September 13, 2018. The Committee recommends one of the four applications be approved by the Board:

CONTINGENCY GRANT RECOMMENDATIONS						
Political Sub Name	County	Application Number	Short Description	Project Total	Amount Requested	Amount Recommended
VELVA PSD #1	MCHENRY	A190001	CARPETING, LOCKERS, AND PARKING LOT	\$19,929	\$6,160	\$0
BENTINCK TOWNSHIP	BOTTINEAU	A190002	MAINTAIN ROADWAYS	\$30,000	\$30,000	\$0
CITY OF PORTAL	BURKE	A190003	FIRE HALL REPLACEMENT	\$840,000	\$750,000	\$0
BOTTINEAU COUNTY	BOTTINEAU	A190004	UPGRADE LOAD CAPABILITY TO CMC 0520	\$820,438	\$570,438	\$250,000
				\$1,710,367	\$1,356,598	\$250,000

If the grant is approved the remaining balance of approximately \$2,870,000 will be available for further consideration. EIO will re-advertise the next round for October 1, 2018 – December 31, 2018.

A map of the depicted area is shown on the following page:



Motion: The Board awards a grant under the Contingency Grant to Bottineau County of \$250,000 for road improvements to CMC 0520.

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

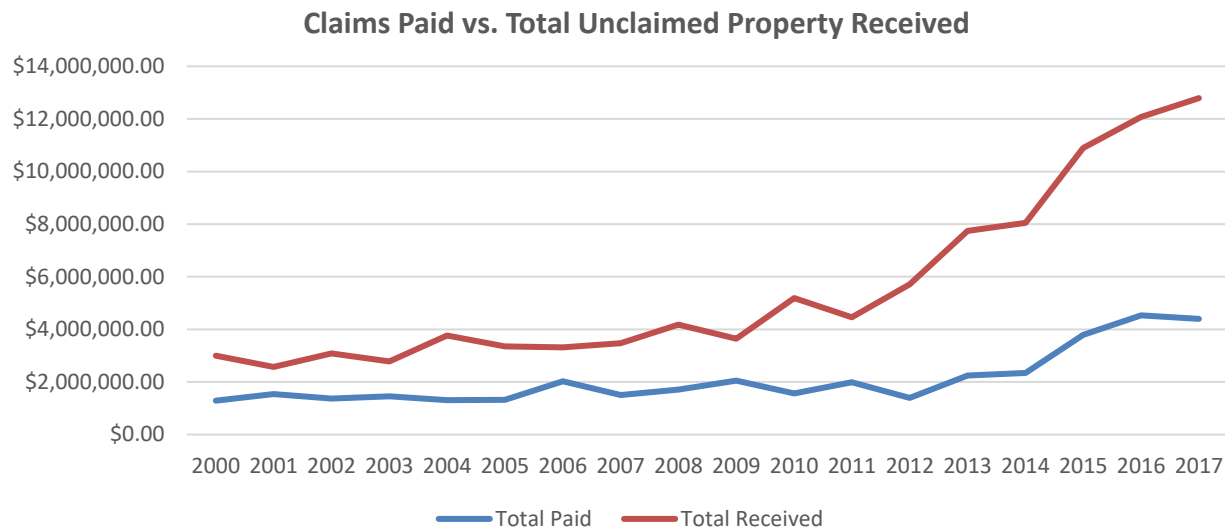
OPERATIONS

Operations - Unclaimed Property Claims and Collections

The Unclaimed Property Division (Division) administers and enforces the Uniform Unclaimed Property Act (N.D.C.C. ch. 47-30.1) which has been in effect since 1975. The Division's objectives are to reunite lost and abandoned property with its rightful owner and to safeguard this property from being used for personal gain by non-owners. The property is maintained to the credit of the Common Schools Trust Fund with revenue earned on the investment of properties benefiting school funding.

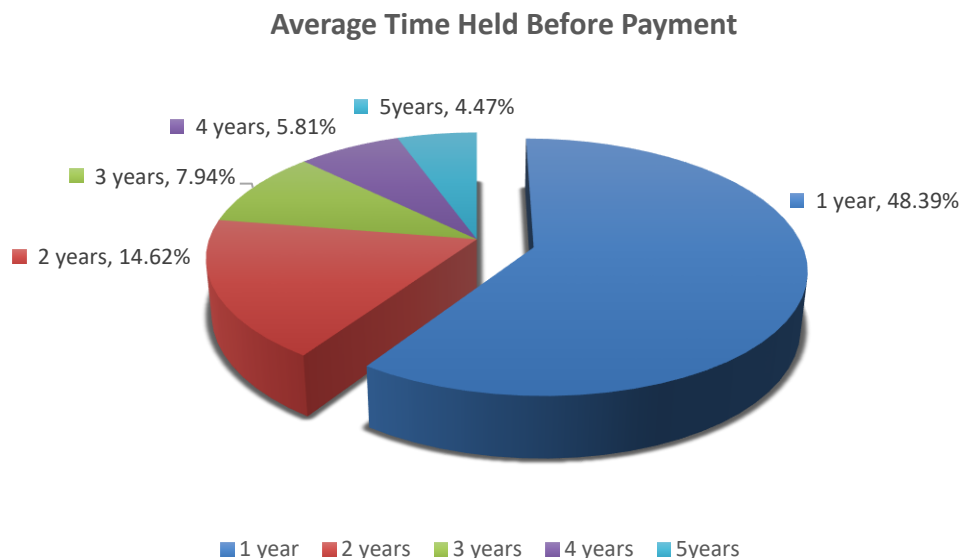
There is a consistent upswing in the total amount of claims being paid well as the total value of unclaimed property received by the Division. Since 1985, the total amount received is \$115 Million with a total amount paid of \$44 Million. This results in over \$70 Million of Unclaimed Property currently being held in the Common Schools Trust.

(09/27/18)



The most significant percentage of claims are paid within one year of the Division receiving the claim. As illustrated in the chart, there is an exponential decline in claims paid after the second year. After being held for 10 years, the number of claims paid is less than 4% equaling.

There are currently over 39,000 claims worth \$32 million being held that are more than 10 years old.



Administrative Rules Update

In House Bill 1300, the 65th Legislative Assembly directed the Board of University and School Lands (Board) no longer be exempt from the Administrative Agencies Practice Act. With passage of this legislation, the Department of Trust Lands (Department) began preparing rules to be considered by the Board, reviewed by the Office of Attorney General, and heard by the Legislative Rules Committee. The intent was to adopt these rules with an effective date of October 1, 2018.

The Department considered existing rules, together with policies and procedures, to incorporate necessary wording from those into rules which comply with the Administrative Agencies Practices Act. 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."

Rules concerning General Administration, Energy Infrastructure and Impact Grants, Unclaimed Property, Surface Land Management, and Loan Programs were drafted and proceeded through the initial steps as required by Legislative Council (including posted to the Department's website and the State Secretary's website, publication of a notice of intent completed in all 53 county seat newspapers, and copies of these rules were sent to sponsoring legislators.) A public hearing on these rules was conducted on April 18, 2018 with no one from the public attending the hearing, thus the hearing officer (Hope Hogan) opened and closed the hearing. A recording of the hearing was posted on the Department's website. The Attorney General's Office reviewed the Administrative Rules and no comments or suggestions on the content of the rules was made. However, due to the lack of publication on Legislative Council's website, it is necessary to conduct another public hearing.

The Department concluded it is most efficient to withdraw the previously submitted General Administration, Energy Infrastructure and Impact Grants, Unclaimed Property, Surface Land Management, and Loan Programs rules from the process.

The Department will move forward with Administrative Rules for Energy Infrastructure and Impact Grants and Unclaimed Property. Per advisement from the Attorney General's office, the Department will provide Legislative Council with notice of an additional public hearing. Since no substantial changes have been made to the drafted Administrative Rules notice will not be publicized in the 53 county seat newspapers.

Board Policy Introduction/Amendment/Passage

The Board of University and School Lands (Board) has statutory authority for, among other things, the:

- Full control of the selection, appraisalment, rental, sale, disposal, and management of:
 - Lands donated or granted for the support and maintenance of the common schools;
 - Lands which fall to the state by escheat;
 - Lands donated or granted for the maintenance of other state institutions;
 - Lands acquired through the investment of permanent funds as a result of mortgage foreclosure or otherwise.
- Responsibility for the investment of the permanent funds derived from the sale of any of lands over which we have full control;
- Full control of percent of proceeds of any sale of public lands as the United States may grant upon sale;
- Full control of property that falls to the state by escheat and of the proceeds of all gifts and donations to the state for the support or maintenance of the common schools, and all other property acquired for the maintenance of common schools;
- Ability to provide refunds in the event of an error;
- Authority to award and distribute energy infrastructure and impact grants;
- Authority to lease lands for the production of oil, gas, coal, aggregate, chemical substances, metallic ores, and other minerals; and
- Authority to manage lands acquired or conveyed to the State via the Bank of North Dakota (BND) or State Treasurer.

Under N.D.C.C. § 15-02-01, the Board appoints a Commissioner who acts subject to the approval and supervision of the Board. Under the direction of the Board, the Commissioner shall, among other things:

- Act as the general agent for the Board;
- Supervise all aspects and activities of the Department of Trust Lands (Department);
- Have general charge and supervision of all lands and associated records, maps, books and papers; and
- Appoint an administrator and oversee the State's abandoned property office.

In January 2018, the Board appointed the new Commissioner to also serve as the Director of the Energy Infrastructure and Impact Office.

Furthermore, the Board has adopted policies in connection with its duty to manage and lands and funds under its control.

The adoption of new Board policies, the revision of an existing Board policy, or the repeal of a Board policy, is solely the responsibility of the Board. The Department is proposing a new Board policy that governs the introduction, amendment and passage of Board policies and will provide that no Board policy will be adopted, revised, or repealed without having been reviewed and considered at two duly called meetings of the Board that include a reading of the policy at each meeting.

During the second reading, the Board may take action to adopt, revise, or repeal the policy. If the Board determines it is in the best interest of the trusts to take immediate action, the second reading may be waived in order to adopt, revise, or repeal the proposed Board policy.

Once a policy is adopted, it becomes Board policy and supersedes any previous policy on that issue.

The Board will review all Board policies on a biennial basis, and revise them as needed. It shall be the duty of the Commissioner to guide the Board in such effort, and to advise the Board from time to time of the need for policy revision so that all Board policies are in conformance with state and federal laws and regulations.

Complete, current copies of the Board's Policy Manual are available on the Department of Trust Lands' website.

Motion: The Board adopts the Policy Introduction/Amendment/Passage Policy.

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

Introduction/Amendment/Passage Policy

The Commissioner may propose new policies or policy amendments to existing policies to the Board. Upon request of the Commissioner, a proposal for a new policy or policy amendment shall be placed on the Board's agenda for action as follows:

1. Introduction and first reading. A brief explanation or summary of the proposed new policy or amendment (Measure) shall be presented to the Board. If the Measure is approved by the Board following the introduction and first reading, the Measure shall be placed on the agenda of the next scheduled meeting of the Board for second reading and adoption. When appropriate, the Measure shall be made available to the public.
2. Second reading and adoption. Prior to the second reading, the public shall be allowed an opportunity to comment on the Measure. The opportunity to comment will consist of written comments to the Commissioner which will be submitted to the Board during the second reading. The second reading will consist of a brief explanation or summary of the Measure. If the Board adopts the Measure following the second reading, the Measure shall take effect immediately, unless a different effective date is stated.
3. Amendments. Amendments to the Measure may be proposed at any time before final adoption of the Measure. Upon determination by the Board that adoption of an amendment constitutes a substantive change that significantly changes the meaning or effect of the Measure, the Board shall continue consideration of the second reading and adoption to the next meeting to permit further review and comment.

Emergency measures. The Board may, upon determination that an emergency or other circumstance requiring expeditious action exists, waive the requirement of a second reading and immediately approve the Measure following the introduction and first reading.

S U R F A C E M A N A G E M E N T

Board Surface Land Management Policy Manual

Since January 2018, the Department of Trust Lands (Department) has been reviewing the policies of each of its Divisions. As a result of this review, the Department determined the Board's Surface policies need updating. Board policies instruct the Department on carrying out Department duties and functions. Any changes to these policies will be reviewed by the Board and are not subject to legislative approval.

Recommended revisions to Board policies are included in the attached proposed North Dakota Board of University and School Lands Surface Land Management Policy Manual.

The following Board approved policies will be reviewed at a later date:

- Fair Market Value Method for Establishing Minimum Bids on Trust Lands
- Land Retention and Sales Policy
- Sales of State Land for Landfills
- 15-09 Sales Policy
- Criteria for Retaining Foreclosed Property
- Acquired Properties Management

The Commissioner is requesting the Board provide input on the proposed North Dakota Board of University and School Lands Surface Land Management Policy Manual. This is the “first reading” of proposed policies, with suggestions being taken into consideration and a “second reading” to occur on October 25, 2018.

LITIGATION

Newfield Exploration Company, Newfield Production Company, and Newfield RMI LLC v. State of North Dakota, ex rel. the North Dakota Board of University and School Lands and the Office of the Commissioner of University and School Lands, a/k/a the North Dakota Department of Trust Lands, Civ. No. 27-2018-CV-00143

Date Filed: March 7, 2018
Court: District Court/McKenzie County
Attorneys: David Garner
Opposing Counsel: Lawrence Bender and Spencer Ptacek/Fredrikson & Byron, P.A.
Judge: Robin Schmidt

Plaintiff is seeking a Declaratory Judgment that it is currently paying gas royalties properly under the Board’s lease. Specifically, Plaintiff is asking the Court to order that gas royalty payments made by the Plaintiff be based on the gross amount received by the Plaintiff from an unaffiliated third-party purchaser, not upon the gross amount paid to a third party by a downstream purchaser, and that Plaintiff does not owe the Defendants any additional gas royalty payments based on previous payments.

A Complaint and Answer with Counterclaims have been filed. Newfield filed an Answer to Counterclaims. Newfield filed its Motion for Summary Judgment and Defendants filed a Response to Newfield’s Motion and a Cross-Motion for Summary Judgment. Newfield’s Response to the Cross-Motion for Summary Judgment is due on October 12, 2018.

March 9, 2018	<u>Plaintiff’s filed Summons, Complaint, & Exhibits</u>
March 9, 2018	<u>Notice of Assignment & Case Number</u>
March 13, 2018	<u>Notice of Appearance – David Garner</u>
April 11, 2018	<u>Answer and Counterclaims</u>
May 2, 2018	<u>Answer to Counterclaims</u>
June 12, 2018	<u>Notice of Scheduling Conference</u>
July 19, 2018	<u>Amended Notice of Telephonic Scheduling Conference</u>
July 27, 2019	<u>Scheduling Conference</u>
August 1, 2018	<u>Notice of Court Trial – September 10-11, 2019</u>
August 13, 2018	<u>Plaintiff’s Notice of Motion for Summary Judgment, Motion for Summary Judgment, Brief in Support of Motion for Summary Judgment, Affidavit of Jay Williams</u>
September 12, 2018	<u>Notice of Cross-Motion for Summary Judgment; Cross-Motion for Summary Judgment; Brief in Support of Defendants’ Response to Plaintiffs’ Motion for Summary Judgment and in Support of Defendants’ Cross-Motion for Summary Judgment; Affidavit of Adam Otteson, with Exhibits</u>
September 10-11, 2019	<u>Trial</u>

Paul Sorum, et al. v. The State of North Dakota, et al., Cass County District Court, Civil No. 09-2018-CV-00089

Date Filed:	January 10, 2018
Date Served:	January 10, 2018
Tribunal:	Cass County District Court
Judge:	John C. Irby
Attorney:	Mark R. Hanson, Special Assistant Attorney General
Opposing Counsel:	Terrance W. Moore, Fintan L. Dooley

Plaintiffs brought this action against the State of North Dakota, the Board of University and School Lands, the North Dakota Industrial Commission, Governor Burgum and Attorney General Stenehjem (Defendants) seeking to declare N.D.C.C. ch. 61-33.1 unconstitutional, and to enjoin Defendants from implementation or enforcement of N.D.C.C. ch. 61-33.1.

Plaintiffs argue that the Legislature, by passing Senate Bill 2134, codified at N.D.C.C. ch. 61-33.1, has violated the public trust doctrine and the anti-gift (see N.D. Const. art. X, § 18), “equal protection” (see N.D. Const. art. I, § 21), and special laws (see N.D. Const. art. IV, § 13) clauses of the North Dakota Constitution. Plaintiffs are claiming that the legislation results in the unlawful transfer of “approximately \$1.96 billion in cash and State-owned sovereign lands from the citizens of the State . . . to a small group of private parties in western North Dakota.” Plaintiffs allege N.D.C.C. ch. 61-33.1 “disclaims [the State’s] perpetual rights to all minerals under Lake Sakakawea, a total of about 108,000 mineral acres.”

February 28, 2018	<u>Defendants moved to dismiss Plaintiffs’ Complaint as Plaintiffs failed to join indispensable parties.</u>
March 5, 2018	<u>Plaintiffs brought a Motion for Preliminary Injunction. A hearing was previously scheduled for March 27, 2018.</u>
March 7, 2018	<u>Defendants brought an Expedited Motion to Stay or Extend Time to Respond to Plaintiffs’ Motion for Preliminary Injunction and to Postpone the March 27, 2018 Hearing on Such Motion (Motion to Stay).</u>
March 8, 2018	<u>The Court granted Defendants’ Motion to Stay pending a decision on Defendants’ Motion to Dismiss currently pending before the court, and cancelled the March 27, 2018 hearing.</u>
March 9, 2018	<u>Plaintiffs opposed the Motion to Stay and requested reconsideration of the Order.</u>
March 14, 2018	<u>Plaintiffs’ request for reconsideration was denied.</u>
March 19, 2018	<u>Rule 16 Conference held.</u>
March 21, 2018	<u>Defendants filed a joint Reply Brief in Support of Motion to Dismiss.</u>
March 27, 2018	<u>North Dakota Petroleum Council filed a Motion for Leave to File an Amicus Curiae Brief in Opposition of Plaintiff’s Motion for Preliminary Injunction (Motion to File Amicus Brief).</u>
April 2, 2018	<u>Defendants filed a Response of No Objection to North Dakota Petroleum Council’s Motion to File Amicus Brief.</u>
April 4, 2018	<u>Plaintiffs’ filed a Brief in Opposition to North Dakota Petroleum Council’s Motion to File Amicus Brief.</u>
April 5, 2018	<u>North Dakota Petroleum Council filed a Reply Brief in Support of Motion to File Amicus Brief.</u>

April 9, 2018	<u>Defendant North Dakota Industrial Commission filed a Second Amended Notice of Hearing on Defendants' Motion to Dismiss changing the time of the hearing on April 11 from 1:30 p.m. to 2:30 p.m.</u>
April 11, 2018	Request by Media to Attend Hearing Via Telephone Conference Call, proposed Order, Certificate of Service (RE: April 1, 2018 hearing)
April 11, 2018	<u>Hearing on Defendants' Motion to Dismiss. Motion to Dismiss was denied.</u>
April 11, 2018	<u>Order Allowing Media Coverage Via Telephone Conference Call denied as untimely.</u>
April 18, 2018	State Defendants filed a Response to Plaintiffs Motion for Preliminary Injunction, with supporting documents.
April 25, 2018	Defendants filed a Petition for Supervisory Writ and Exercise of Original Jurisdiction with the North Dakota Supreme Court.
April 30, 2018	<u>Scheduled hearing on the Plaintiffs' Motion for Preliminary Injunction.</u>
May 2, 2018	<u>Third Amended Notice of Hearing on Motion for Preliminary Injunction – scheduling hearing for May 21, 2018</u>
May 9, 2018	Order of Denial issued by the North Dakota Supreme Court – denying Defendants' request for supervisory writ.
May 14, 2018	Order Denying Motion to Stay Pending Order on Petition for Supervisory Writ and Exercise of Original Jurisdiction
May 18, 2018	Defendants filed Supplemental Affidavit of Lynn D. Helms in Support of the State Defendants['] Response to Plaintiffs' Motion for Preliminary Injunction
May 21, 2018	Hearing on Motion for Preliminary Injunction – Judge Irby ordered from the Bench – Judge ordered royalties totaling more than \$200 million be kept by the State, prohibiting the State from forfeiting oil royalties, rents and bonus payments
May 23, 2018	Notice of Hearing on Motion for Summary Judgment
May 29, 2018	Plaintiffs' Request for Production of Documents to Defendant (Set 1), Plaintiffs' Requests for Admissions to Defendants, Affidavit of Electronic Service (Discovery not filed)
May 30, 2018	Motion, Affidavit and proposed Order for Pro Hac Vice of Anne T. Regan,
May 30, 2018	Motion, Affidavit and proposed Order for Pro Hac Vice Gregory S. Otsuka
May 31, 2018	Proposed Findings of Fact, Conclusions of Law and Order for Preliminary Injunction, Ex. 1 – Fiscal Note to Findings of Fact, Conclusions of Law and Order for Preliminary Injunction
June 1, 2018	Letter to Judge Irby re: Plaintiff's proposed Findings
June 1, 2018	Letter to Judge Irby re: undisputed facts, discovery, etc.; Ex. A – Plaintiffs' Requests for Admissions to Defendants; Ex. B – Plaintiffs' Request for Production of Documents to Defendants (Set No. 1); Ex. C – Email Exchange between attorneys May 30, 2018;
June 5, 2018	Letter to Judge Irby responding to Gaustad's letter

June 8, 2018	Notice of Appearance of Mark R. Hanson, Special Assistant Attorney General Representing the Board of University and School Lands of the State of North Dakota
June 8, 2018	Notice of Hearing (Telephonic Conference) (RE: Discovery Issues)
June 11, 2018	Transcript (of Hearing on Motion for Preliminary Injunction)
June 12, 2018	Substitution of Counsel Representing the Board of University and School Lands of the State of North Dakota
June 12, 2018	State Defendants' Objection to Plaintiffs' Proposed Order for Preliminary Injunction; Exhibit A – Proposed Order for Preliminary Injunction
June 12, 2018	Notice of Demand for Production or Inspection of Documents to ND Petroleum Council; Subpoena Duces Tecum
June 14, 2018	Proposed Scheduling Order (RE: Stipulated Facts)
June 14, 2018	Notice of Expedited Motion for a Discovery Protection Order by Defendants; Expedited Motion for a Discovery Protection Order by Defendants; Memo in Support of Expedited Motion for a Discovery Protection Order by Defendants; Exhibit A – Notice of Demand for Production or Inspection of Documents to ND Petroleum Council with Subpoena
June 14, 2018	Defendant Board of University and School Lands of the State of North Dakota Joinder in the State Defendants' Objection to Plaintiffs' Proposed Preliminary Injunction
June 20, 2018	Memorandum in Opposition to Expedited Motion for Protective Order, Exhibit 1 -Plaintiff's Request for Production of Documents to Defendants; Exhibit 2 -Plaintiffs Request for Production of Documents to Defendants; Exhibit 3 – May 30, 2018 email
June 22, 2018	Plaintiffs' Objections to Defendants' Proposed Order and Memorandum in Opposition to Defendants' Objections; Exhibit 1 – Transcript Excerpt
June 25, 2018	Reply Memorandum in Support of Expedited Motion for a Discovery Protection Order by Defendants
June 25, 2018	Hearing on Expedited Motion for Discovery Protection Order to be held during telephonic scheduling conference
June 28, 2018	Proposed Order – from Court's June 25, 2018 ruling that (1) on July 23, 2018 the parties submit to the Court a statement of undisputed facts and additional facts a party believes are material undisputed facts, but for which the parties cannot agree, (2) the Court will review the submitted facts and make a determination by August 1 if cross motions for summary judgment are appropriate, (3) if cross motions for summary judgment are appropriate the Court will provide a briefing schedule, (4) discovery is stayed, and (5) if the Court determines that cross-motions for summary judgment are not appropriate, then responses to currently served discovery are due 30 days from the date of such determination by the Court.
July 3, 2018	Order for Pro Hac Vice Admission of Anne T. Regan
July 3, 2018	Order for Pro Hac Vice Admission of Gregory S. Otsuka
July 6, 2018	Order (Scheduling Deadlines) as set out in the June 28 proposed order was signed by the Court.
July 9, 2018	Notice of Hearing – Pretrial Conference – September 6, 2018
July 9, 2018	Amended Notice of Hearing – Scheduling Conference – September 6, 2018

July 13, 2018	Transcript (June 25, 2018 hearing)
July 23, 2018	Deadline for parties to confer & file statement of undisputed material facts and other material facts for which all parties cannot agree
August 1, 2018	Court's anticipated deadline to review undisputed facts and any submitted Claimed Supplemental Undisputed Facts to determine if cross motions for summary judgment are appropriate – if appropriate, briefing schedule will be issued. If not appropriate, then (1) the currently served discovery must be answered within 30 days and (2) the parties can engage in further discovery.
August 27, 2018	Hearing Scheduled by Plaintiffs on Motion for Summary Judgment CANCELLED BY THE COURT
August 30, 2018	Letter to Judge Irby – RE: appearance at scheduling conference
September 6, 2018	Notice of Hearing - Scheduling Conference and Pretrial Conference– 9:30 a.m. Cass County Courthouse
September 10, 2018	Proposed Order for Briefing Schedule and Order for Oral Argument Hearing –due dates: -Summary Judgments Motions and Briefs – on or before October 22, 2018; -Answer Briefs – on or before December 6, 2018 -Reply Briefs - on or before December 21, 2018. -Hearing on Motions for Summary Judgment – January 4, 2019, 9:00 a.m. – Cass County Courthouse
January 4, 2019	Hearing on Motions for Summary Judgment – scheduled for January 4, 2019, 9:00 a.m. – Cass County Courthouse

The Commissioner recommended the Board consider entering executive session for consultation with legal counsel regarding pending or potential litigation.

Motion: **Under the authority of N.D.C.C. §§ 44-04-19.1 and 44-04-19.2, the Board enter into executive session for attorney consultation related to:**

- **Paul Sorum, et al. v. The State of North Dakota, et al.**

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

EXECUTIVE SESSION

At 9:52 AM the Board entered executive session for the purposes outlined in its adopted motion.

EXECUTIVE SESSION

Members Present:

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Wayne Stenehjem	Attorney General

Kelly Schmidt
Kirsten Baesler

State Treasurer
Superintendent of Public Instruction (Via Telephone)

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Kristie McCusker	Legal Assistant
Catelin Newell	Office Manager

Guests in Attendance:

Brent Sanford	Lt. Governor
Leslie Bakken Oliver	Governor's Legal Counsel
Riece Haase	Governor's Policy Advisor
Mark Hanson	Nilles Law Firm

The executive session adjourned at 10:37 AM and the Board returned to open session and the public was invited to return to the meeting. During the executive session, the Board was provided information regarding the Paul Sorum et al. v. The State of North Dakota, et al.

R E P O R T S

Report of Easements Issued by Land Commissioner (8/22/2018 to 9/14/2018)

Granted to:	HESS NORTH DAKOTA PIPELINES LLC, MINOT-ND
For the Purpose of:	Easement-Amend: Gas Gathering Pipeline
Right-of-Way Number:	RW0008340
Trust:	A - COMMON SCHOOLS
Legal Description:	MCK-151-96-36

Granted to:	MOUNTRAIL-WILLIAMS ELECTRIC COOP, WILLISTON-ND
For the Purpose of:	Easement-Amend: Electric Distribution Line - Above Ground
Right-of-Way Number:	RW0008309
Trust:	A - COMMON SCHOOLS
Legal Description:	MOU-155-94-36

Granted to:	CONTINENTAL RESOURCES INC, OKLAHOMA CITY-OK
For the Purpose of:	Easement: Drop Line-Saltwater Pipeline
Right-of-Way Number:	RW0007574
Trust:	A - COMMON SCHOOLS
Legal Description:	DUN-147-96-36

Granted to:	WHITING OIL AND GAS CORPORATION, DENVER-CO
For the Purpose of:	On-lease Act. Amend: Horizontal Oil Well
Right-of-Way Number:	RW0008210
Trust:	A - COMMON SCHOOLS
Legal Description:	WIL-155-99-16

Granted to:	WHITING OIL AND GAS CORPORATION, DENVER-CO
For the Purpose of:	Easement-Amend: Directional Wellsite Location
Right-of-Way Number:	RW0008213
Trust:	A - COMMON SCHOOLS
Legal Description:	WIL-155-99-16

Granted to: CONTINENTAL RESOURCES INC, OKLAHOMA CITY-OK
 For the Purpose of: Easement: Salt Water Pipeline
 Right-of-Way Number: RW0008255
 Trust: A - COMMON SCHOOLS
 Legal Description: DUN-147-96-36

Granted to: MCKENZIE ELECTRIC COOP INC, WATFORD CITY-ND
 For the Purpose of: Easement: Drop Line-Buried Electric Distribution Line
 Right-of-Way Number: RW0008319
 Trust: A - COMMON SCHOOLS
 Legal Description: MCK-151-99-36

Granted to: MCKENZIE ELECTRIC COOP INC, WATFORD CITY-ND
 For the Purpose of: Easement: Drop Line-Buried Electric Distribution Line
 Right-of-Way Number: RW0008337
 Trust: A - COMMON SCHOOLS
 Legal Description: DUN-147-96-36

Granted to: OASIS PETROLEUM NORTH AMERICA LLC, HOUSTON-TX
 For the Purpose of: On-lease Act. Amend: Horizontal Oil Well
 Right-of-Way Number: RW0008289
 Trust: A - COMMON SCHOOLS
 Legal Description: WIL-153-100-36

Granted to: WHITE ROCK OIL&GAS LLC, PLANO-TX
 For the Purpose of: Easement: Salt Water Disposal Well - Extension
 Right-of-Way Number: RW0008353
 Trust: A - COMMON SCHOOLS
 Legal Description: BIL-143-101-16

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: AMES SAVAGE WATER SOLUTIONS LLC, WILLISTON-ND
 For the Purpose of: Letter of Permission: Temporary Water Layflat Line
 Right-of-Way Number: RW0008366
 Trust: A - COMMON SCHOOLS
 Legal Description: MOU-155-94-36

Investment Updates

Asset Allocation

The status of the permanent trusts' asset allocation as of August 31, 2018:

Account/Asset Class	Long-Term Asset Allocation	8/31/18 Actual Allocation \$	8/31/18 Actual Allocation %	8/31/18 % Diff.
Large Cap US Equity	13.3%	\$ 642,405,759	13.9%	0.6%
Mid/Small Cap US Equity	3.7%	\$ 179,661,310	3.9%	0.2%
International Equity	13.3%	\$ 592,129,733	12.8%	-0.5%
Emerging Market Equity	3.7%	\$ 162,677,662	3.5%	-0.2%
Total Equities	34.0%	\$ 1,576,874,465	34.2%	0.2%
Core Fixed Income	12.6%	\$ 599,224,397	13.0%	0.4%
Non-Core Fixed Income	8.4%	\$ 363,724,816	7.9%	-0.5%
Total Fixed Income	21.0%	\$ 962,949,213	20.9%	-0.1%
Total Absolute Return	20.0%	\$ 925,452,577	20.1%	0.1%
Commodities	3.0%	\$ 138,369,133	3.0%	0.0%
MLPs	3.0%	\$ 151,214,174	3.3%	0.3%
TIPS	2.0%	\$ 89,689,810	1.9%	-0.1%
Natural Resource Equities	2.0%	\$ 85,327,734	1.9%	-0.1%
Total Inflation Strategies	10.0%	\$ 464,600,852	10.1%	0.1%
Core Real Estate	8.0%	\$ 375,284,161	8.1%	0.1%
Core Plus Real Estate	7.0%	\$ 305,146,223	6.6%	-0.4%
Total Real Estate	15.0%	\$ 680,430,384	14.8%	-0.2%
Total Asset	100.0%	\$ 4,610,307,491	100.0%	

QMA (114.6 million, 2.5% of PTF assets)

International Small Cap Equities

At the August 30, 2018, Board meeting the Commissioner informed the Board about the departure of Jacob Pozharny, the head of research and portfolio management for non-US core equities at QMA. Although his departure wasn't expected, it also wasn't a complete surprise. Last year QMA restructured their investment platform to more effectively leverage resources; Mr. Pozharny was not a fan of the changes.

Mr. Pozharny responsibilities have been absorbed by George Patterson who joined the firm in October 2017 as a part of the restructuring. At that time, Mr. Patterson along with Peter Xu were named co-heads of the firm's quantitative equity platform, new roles that were created due to the new structure. Mr. Xu has been with QMA for over 20 years and prior to the restructuring served as head of U.S. core equity.

After visits to QMA's Newark, New Jersey offices by both representatives of RVK and Jeff Engleson in recent weeks, the Commissioner and RVK continue to have no major concerns about this departure. Staff and RVK will continue to monitor QMA closely, and will provide updates on any significant developments.

Angelo Gordon (\$17.25 million, 0.4% of PTF assets)

Direct Lending Fund

The new Angelo Gordon Direct Lending portfolio was funded on August 20, 2018, with an initial call of \$6 million. In mid-September, the Commissioner received a second call notice from Angelo Gordon for \$11.25 million, the money was transferred to the fund on September 24, 2018. 11.5% of the total commitment of \$150 million will be funded by the end of September, with the balance of the commitment will be funded over the 18 to 24 months.

(09/27/18)

Schroders (\$35.0 million, 0.8% of PTF assets)**Securitized Credit**

The initial funding of the Schroder's securitized credit portfolio was completed on September 17, 2018, with a deposit of \$35 million. The money used to fund Schroders came from the First International Advisor's international bond portfolio, which will be eliminated as a part of the Board's restructuring of the permanent trusts' fixed income portfolio.

The balance of the \$95 total commitment to this strategy will be fully invested by the end of October, and measuring of the portfolio performance effective November 1, 2018.

A D J O U R N

There being no further business, the meeting was adjourned at 10:45 AM.

Doug Burgum, Chairman
Board of University and School Lands

Jodi Smith, Secretary
Board of University and School Lands

**Minutes of the Meeting of the
Board of University and School Lands
October 25, 2018**

The October 25, 2018 meeting of the Board of University and School Lands was called to order at 8:00 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:

Jodi Smith	Commissioner
Drew Combs	Minerals Director
Jeff Engleson	Investments Director
Peggy Gudvangen	Accounting Director
Mike Humann	Surface Director
Kristie McCusker	Legal Assistant
Catelin Newell	Office Manager
Kate Schirado	Administrative Assistant

Guests in Attendance:

Leslie Bakken Oliver	Governor's Legal Counsel
Reice Haase	Governor's Policy Advisor
Dave Garner	Attorney General's Office
Charles Carvell	Attorney General's Office
Mark Hanson	Nilles Law Firm
Amy Dalrymple	Bismarck Tribune
Ryan Monson	Brady Martz
Mindy Piatz	Brady Martz
Geoff Simon	Western Dakota Energy Association
Chris Friez	North American Coal
David Straley	North American Coal
Ashley Jones	Continental Resources
Ryan Baker	Continental Resources
Lawrence Bender	Fredrickson & Byron P.A.
J. Roger Kelley	Continental Resources
Don Key	Continental Resources
Ryan Nelson	Continental Resources
Tony Moss	Continental Resources
Brady Pelton	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 July 20, 2017 meeting amended to include the omitted Energy Impact and Infrastructure cancelation of grants and September 27, 2018 meeting was made by Secretary of State Jaeger and seconded by Attorney General Wayne Stenehjem and the motion carried unanimously on a voice vote.

O P E R A T I O N S

Audited Financial Statements for the Year Ended June 30, 2018

Brady Martz Certified Public Accountants and Consultants completed its review of the financial statements of the Department of Trust Lands for the year ended June 30, 2018 and provided an opinion on the fair presentation of the financial statements.

The draft report identified no audit findings or recommendations.

The electronic version of the audited financial statement had not been posted, but when it finalized it will be available on the State Auditor's website at: <https://www.nd.gov/auditor/trust-lands-nd-department>

Department of Trust Lands Audited Financial Statement Fiscal Year 2018 was presented to the Board and is available at the Department upon request.

Administrative Rules Update

In House Bill 1300, the 65th Legislative Assembly directed the Board of University and School Lands (Board) no longer be exempt from the Administrative Agencies Practice Act. With passage of this legislation, the Department of Trust Lands (Department) began preparing rules to be considered by the Board, reviewed by the Office of Attorney General, and heard by the Legislative Rules Committee. The intent was to adopt these rules with an effective date of October 1, 2018.

The Department considered existing rules, together with policies and procedures, to incorporate necessary wording from those into rules which comply with the Administrative Agencies Practices Act. 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."

Rules concerning General Administration, Energy Infrastructure and Impact Grants, Unclaimed Property, Surface Land Management, and Loan Programs were drafted and proceeded through the initial steps as required by Legislative Council (including posted to the Department's website and the State Secretary's website, publication of a notice of intent completed in all 53 county seat newspapers, and copies of these rules were sent to sponsoring legislators.) A public hearing on these rules was conducted on April 18, 2018. The Attorney General's Office reviewed the Administrative Rules and no comments or suggestions on the content of the rules was made. However, due to the lack of publication on Legislative Council's website, it is necessary to conduct another public hearing.

The Department concluded it is most efficient to withdraw the previously submitted General Administration, Energy Infrastructure and Impact Grants, Unclaimed Property, Surface Land Management, and Loan Programs rules from the process.

The Department will move forward with Administrative Rules for Energy Infrastructure and Impact Grants and Unclaimed Property. Per advisement from the Attorney General's office, the Department provided Legislative Council with notice of an additional public hearing. Since no substantial changes have been made to the drafted Administrative Rules notice will not be publicized in the 53 county seat newspapers.

A public hearing was conducted on October 19, 2018. Comments from the public have been taken into consideration. Administrative Rules for Energy Infrastructure and Impact Grants and Unclaimed Property will be presented to the Administrative Rules Committee on December 12, 2018.

Wenck Study

The 65th Legislative Assembly's adoption of Senate Bill 2134 (SB 2134), codified as N.D.C.C. ch. 61-33.1, provided for the determination of the ordinary high water mark (OHWM) for certain stretches of the Missouri River. The bill directs the North Dakota Industrial Commission (NDIC) to determine the delineation of the OHWM of the US Army Corp of Engineers (USACE) survey segments from the northern boundary of the Fort Berthold Indian reservation to the southern border of Sections 33 and 34, Township 153 North, Range 102 West, McKenzie, Mountrail, and Williams Counties, North Dakota.

On June 26, 2018, the North Dakota Department of Trust Lands (Department) submitted oral and written comments reflecting the Department's review of the Ordinary High Water Mark of the Missouri River Bed study dated April 2018 (Wenck Study). The Department did not comment as to the Wenck Study's OHWM definition, data compilation methods, methodology, legal research, or other technical matters but did spell out its need for identification of the following:

1. Acreage for specific quarter-quarter sections to fully allocate acreages below the OHWM, including the riverbed;
2. Identification of accretion acreages attributable to riparian or upland landowners by quarter-quarter section;
3. Identification of acreage to two decimal places.

NDIC's September 27, 2018 Order of the Commission, Order No. 29129, found among other things that:

1. "[T]he Wenck Study was not intended to provide accurate acreage allocations for property transfer which is outside the scope of the legislation; the data sets provided to Wenck for use in calculating acreages represent the most efficient method for determination of areas necessary for decisions by the [NDIC]; no land surveying was done nor contracted to be done in the course of [the Wenck] study." Order at 4.
2. "[T]he cost to complete the necessary research and surveys to apportion property significantly exceeds the appropriated funds." Id.
3. "[A]dequate documentation and data for parties to determine how interests might be impacted were provided in the Wenck Study and subsequent communications." Id.

NDIC ordered, among other things, that:

1. The Wenck contract be amended "to provide the NAD83 North Dakota North Zone State Plane Coordinates for the OHWM line and the presumptive OHWM (USACE) in an appendix format in order to perpetuate the line for use by affected parties in future land and mineral surveys and land rights transfers." Id. at 12.
2. "The amended Wenck Study as indicated in [the September 27, 2018] order shall be the determination of the OHWM for USACE segments V, W, X, Y, Z, AA, BB, DD, EE, GG, HH, and KK."

N.D.C.C. § 61-33.1-04(2) provides that upon the adoption of the final review findings by the NDIC: The board of university and school lands shall begin to implement any acreage adjustments, lease bonus and royalty refunds, and payment demands as may be necessary relating to state-issued oil and gas leases. The board shall complete the adjustments, refunds, and payment demands within two years after the date of adoption of the final review findings.

At this time, the Department does not have the information to determine the exact acreage adjustments required to release any royalty proceeds held by the Board of University and School Lands (Board) attributable to oil and gas mineral tracts lying entirely above the OHWM of the historical Missouri riverbed channel on both the corps survey and the state phase two survey. The Department leases these acres by quarter-sections, utilizing the Bureau of Land Management's Public Land Survey System (PLSS). In order for the Department to fully satisfy its requirements under SB 2134, codified at N.D.C.C. ch. 61-33.1, the Department will need to contract with an engineering firm to analyze the Wenck Study and the PLSS maps. Utilizing GIS, the Wenck Study's shapefile can be imported and overlaid with the PLSS maps to break down acreage above and below the Wenck Study's coordinates on a quarter-quarter or government lot basis. However, because the State issued its oil and gas leases on a quarter section basis, if the OHWM of the river runs through any part of a particular quarter section, the Department needs to identify:

1. The amount of acreage in that quarter section that would be sovereign lands below the OHWM and subject to State lease (based on a quarter section);
2. Acreage above the OHWM in each quarter-quarter section or government lot owned by upland owners to allow for more finite calculations; and
3. Acreage allocations for accretions (where accretions are present) lying above the OHWM attributable to riparian tracts within each section.

The Commissioner is seeking approval from the Board for the additional work that needs to be completed to allow the Department to comply with N.D.C.C. ch. 61-33.1. Options include authorization to:

1. Contract with an engineering firm to provide the Department with the necessary data to "implement any acreage adjustments, lease bonus and royalty refunds, and payment demands as may be necessary relating to state-issued oil and gas leases." N.D.C.C. § 61-33.1-04(2)(a); or
2. Contract with an engineering firm to verify and validate operators' well location maps.

Motion: The Board authorizes the Commissioner to contract with an engineering firm to provide the Department with the necessary data to implement any acreage adjustments, lease bonus and royalty refunds, and payment demands as may be necessary relating to state-issued oil and gas leases.

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

S U R F A C E M A N A G E M E N T

Board Surface Land Management Policy Manual – Second Reading

Since January 2018, the Department of Trust Lands (Department) has been reviewing the policies of each of its Divisions. As a result of this review, the Department determined the Board's Surface policies need updating. Board policies instruct the Department on carrying out Department duties and functions. Any changes to these policies will be reviewed by the Board and are not subject to legislative approval.

The Board had a first reading of the proposed Board Surface Land Management Policy Manual on September 27, 2018. A red-lined version that includes suggested revisions has been included in the Board packet for consideration by the Board.

The following Board approved policies will be reviewed at a later date:

Fair Market Value Method for Establishing Minimum Bids on Trust Lands
Land Retention and Sales Policy
Sales of State Land for Landfills
15-09 Sales Policy
Criteria for Retaining Foreclosed Property
Acquired Properties Management

Listen to audio – who made the motion?

Motion: The Board adopts the proposed Surface Land Management Policy Manual.

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

The redline version of proposed changes to Board Surface Land Management Policy Manual was presented to the Board and is available at the Department upon request.

Fair Market Value Minimum Rent Policy – First Reading

Since January 2018, the Department of Trust Lands (Department) has been reviewing the policies of each of its Divisions. As a result of this review, the Department determined the Board's Surface policies need updating. Board policies instruct the Department on carrying out Department duties and functions. Any changes to these policies will be reviewed by the Board and are not subject to legislative approval.

Recommended revisions to Board policies were included in the proposed North Dakota Board of University and School Lands Surface Land Management Policy Manual. As stated at the September 27, 2018 Board meeting, certain policies were being reviewed and would be provided to the Board at a later date, including the Board's Fair Market Value Method for Establishing Minimum Bids on Trust Lands.

That policy has now been reviewed and revised, with recommendations obtained during the Performance Audit of the Department being considered. A copy of the proposed Fair Market Value Minimum Rent Policy (FMV) is attached for the Board's review. Revisions include:

- The five year moving average reduced to a three year moving average.
- The rental regions were revised.
 - The Land Resource Area vegetation zones replaced the outdated Natural Resources Conservation Service vegetation zones. The vegetation zones are now larger Land Resource Areas, which allow for an increased number of tracts contributing to the average potential grassland productivity value calculation for trust land.

- Rental regions were previously large regions across the state. Rental regions in the proposed FMV policy are now based primarily on one county being a region, with the exception of certain counties, or portions of counties, being grouped together due to:
 - The low number of trust grassland tracts in the area;
 - The low number of survey samples; and
 - The influences of surrounding national grasslands and the management of those lands, *i.e.*, the Badlands.
- Eliminated provisions that were included in other chapters of the Board Surface Land Management Policy Manual and the Department's Surface Policy Manual, including Permanent Improvements.
- Increased the following adjustments:
 - Fence - from \$1.50 per acre to \$1.60 per acre.
 - Badlands Water – from \$.65 per grassland acre to \$.85 per grassland acre. This increase reflects the change in the most common type of water development from a stock water pond to a livestock water pipeline.
- Eliminated tract specific adjustments for:
 - Noxious weeds; and
 - Administrative cost allowance for Grazing Association Management.
- Eliminated tame grass pasture classification due to few trust land tracts to which this would apply.
- Language and formatting changed for better readability, with the cropland and hayland formulas remaining unchanged.

The Commissioner is requesting the Board provide input on the proposed North Dakota Board of University and School Lands Fair Market Value Minimum Rent Policy. This is the “first reading” of proposed policy, with suggestions being taken into consideration and a “second reading” to occur on November 20, 2018.

The Fair Market Value Minimum Rent Policy was presented with the following addendums:

- Addendum A – Grassland Leasing Regions
- Addendum B – Fence Adjustment Determination for Fair Market Value Minimum Rent Policy
- Addendum C – Grassland Productivity Worksheet
- Addendum D – Grassland Resource Areas
- Addendum E – Land Resource Area Productivity Chart
- Addendum F – Badlands Water Adjustment Determination for Fair Market Value Minimum Rent Policy
- Addendum G – Badlands Water Adjustment Tracts
- Addendum H – Cropland Productivity Worksheet
- Addendum I – Region Cropland Productivity Index
- Addendum J – Region Hayland Productivity Index
- Addendum K – Hayland Productivity Worksheet

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

Investment Policy Statement Review and Update – First Reading

The Board's Investment Policy Statement (IPS) is to be formally reviewed at least every four years. However, the Commissioner has chosen to review the IPS on an annual basis to ensure that it is up to date and relevant at all times.

For historical knowledge, RVK was selected by the North Dakota Board of University and School Lands (Board) in March 2013 to provide strategic investment consulting advice focused on asset allocation, investment policy development, and implementation options for the Permanent Trust Funds (PTFs) and the Strategic Investment and Improvements Fund (SIIF). Over the course of

seven months, RVK worked closely with the Department of Trust Lands' (Department) staff and the Board to define the objectives and policy guidelines under the Board's long-term strategic investment plan.

The initial project included the following tasks completed by RVK:

1. A recommendation of an asset allocation for the PTFs that balances the Board's dual responsibilities under North Dakota law, and also recognizes the Board's risk tolerance and the current market conditions.

Throughout the course of the project, several asset allocation scenarios and the associated risks were provided to assist the Board in making decisions concerning the investment of the assets of the PTFs. The Board reviewed asset allocation models that projected the financial condition of the PTFs, and the effect on distributions under various economic and market conditions. All scenarios were developed recognizing the Board's responsibility to follow the Prudent Investor Rule.

2. Recommendations for a complete update of the Board's investment policies and procedures for the PTFs to help ensure the Board meets its long-term PTF goals and objectives.

The IPS was redrafted to reflect the decisions made by the Board, input received from Department staff, and to incorporate best practices for investment policy construction. As drafted, the IPS includes an investment management framework for the PTFs, Capital Building Fund, SIIF, Coal Development Trust Fund, and the Indian Cultural Education Trust (collectively, Funds).

3. An analysis and recommendation as to the most appropriate way to transition from the Board's 2015 asset allocation and policies to RVK's recommended investment plan. The analysis and recommendation included a timetable for implementing the recommendations, the resources and staffing needed to implement, an analysis and discussion of possible options for implementing, and the projected cost of implementing, managing, and monitoring the program going forward.
4. A recommendation was made to establish specific goals, objectives, and investment policies for the SIIF. Such recommendations took into consideration the differences between the nature and the investment timeframe of the SIIF as compared to the PTFs, including liquidity and expendability.

Based on an analysis of the cash flow needs of the SIIF, the Board determined that the SIIF should continue to invest fully in cash and cash-like instruments. The recommendations took into consideration the differences between the objective and the investment timeframe of the SIIF as compared to the PTFs. The unique objectives and asset allocation for the SIIF are reflected in the IPS.

This year, most of the proposed changes to the IPS are cosmetic in nature, cleaning up outdated language or fixing minor errors found in the current version of the document. Substantive changes include the following:

- **Securities Litigation (page 10):** In August of 2018, the Board directed the Commissioner to contract with Financial Recovery Technologies (FRT), a securities litigation monitoring and claims filing services firm. The Commissioner and staff are in the process of finalizing a contract with FRT. Over the next year FRT will work with the Commissioner and staff to update the Board's current securities litigation program and policies to more actively engage in securities litigation monitoring.

- **Distribution Policy (page 12-13):** By law, distributions from the Common Schools Trust Fund occur from August through April of each school year. In the past lower amounts were paid out early in the year and higher amounts were paid out later in the year; this was an attempt to match distributions with income as it was earned. Starting in fiscal year 2018, at OMB's request, distributions are being made in approximately equal amounts each month.
- **Capitol Building Fund Strategic Asset Allocation (page 22):** When the first IPS was adopted, in August 2015 the Board adopted investment guidelines for the Capitol Building Fund. At that time the Commissioner was of the belief that the Capitol Grounds Planning Commission (CGPC) had also adopted those guidelines, when in fact, the guidelines had been presented to the Commission, but were never formally adopted. This change corrects the policy to state that the Board, not the Commission, has adopted the guidelines.

During the August 2018 Board meeting the Board requested additional information pertaining to the investments of the SIIF. The SIIF is a fund financed by the revenues earned from approximately 800,000 sovereign mineral acres including those formerly owned by the Bank of North Dakota and State Treasurer and minerals located under navigable rivers and lakes (N.D.C.C. ch. 15-08.1 and § 61-33-07). The SIIF also receives a substantial portion of the oil and gas production and extraction taxes collected by the State (N.D.C.C. § 57-51.1-07.5).

In 2011, Legislature approved the merger of the Lands and Minerals Trust Fund and the Permanent Oil Tax Trust Fund (N.D.C.C. § 15-08.1-04 and § 61-33-07). The intent of the fund is for one-time expenditures relating to improving state infrastructure or for initiatives to improve the efficiency and effectiveness of State government.

In August 2015 the Board adopted the current asset allocation and investment guidelines for the SIIF. The Department Staff and RVK reviewed current projected cash flows from the SIIF. As the SIIF is subject to legislative appropriation, the projected expenditures of the SIIF are not controlled by the Board, but rather mandated by North Dakota legislature. Based upon the analysis, RVK recommended that the SIIF maintain its allocation to cash or enhanced cash like exposures. The current investment portfolio would be considered "enhanced cash like".

The primary goal of the SIIF investment portfolio is to preserve capital and maintain liquidity to meet spending needs. Historically this fund has been treated as the equivalent of General Fund II. Due to the expendable nature of the SIIF, the strategic allocation for the fund is 100% low duration investment grade fixed income investments. The Commissioner believes this asset allocation remains appropriate given the unknown amounts and timing of projected cash flows. If the Board would like to pursue an investment strategy to enhance returns further, RVK will gladly work with the Board to reassess the risk tolerance and reward expectations that were used to arrive at the current strategic allocation.

The Commissioner requested the Board provide input on the proposed Investment Policy Statement. This was the "first reading" of proposed policy, with suggestions being taken into consideration and a "second reading" to occur on November 20, 2018.

The Investment Policy Statement presented to the Board is available at the Department upon request.

Loan Pool Account Policy

At the September 27, 2018 Board Meeting, the Board adopted proposed substantive changes to the Board Farm Loan Rules and Regulations. As part of the ongoing process of policy review and with a goal of consistency in format and wording, there were revisions that could be made to the Farm Loan Rules and Regulations that would help to promote that goal.

The Farm Loan Rules and Regulations document is better defined as a Board policy, rather than rules and regulations. No substantive changes were made from the September 27, 2018 meeting;

however, the Board policy was modified to reflect the format of the other Board policies: the name was changed to the Loan Pool Account Policy, section numbers were removed, additional definitions were added, the subordination section was made part of the body of the policy, and the terms and conditions were added as an addendum. Language and capitalization were revised to reflect consistency in the Board policies going forward.

Motion: The Board adopts the proposed changes to the Board Loan Pool Account Policy, effective today.

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		

The Proposed Loan Pool Account Policy & Terms & Conditions Addendum was presented to the Board and is available at the Department upon request.

Securities Lending Annual Report

The ND Land Board Securities Lending report describing the performance and status of the Board's securities lending program for the fiscal year ended June 30, 2018 was presented to the Board and is available at the Department upon request.

Securities lending is a way to generate incremental income by temporarily loaning out otherwise idle securities (stocks and bonds) to other investors for a fee. The Board participates in securities lending programs through both Northern Trust and State Street Global Advisors.

The Board's investment policy statement specifies that any securities lending program in which the Board engages should utilize a high-quality and conservative collateral reinvestment approach that safeguards the return of principal and maintains adequate daily liquidity to support trade settlement activity and portfolio restructuring activities. Both Northern Trust and State Street maintain such programs.

A review of the Board's Northern Trust securities lending program by RVK concluded that it is broadly delivering value to the investment program, with no recommended changes. The Board's participation in State Street's program is also providing significant revenue to the trusts without adding significant risk.

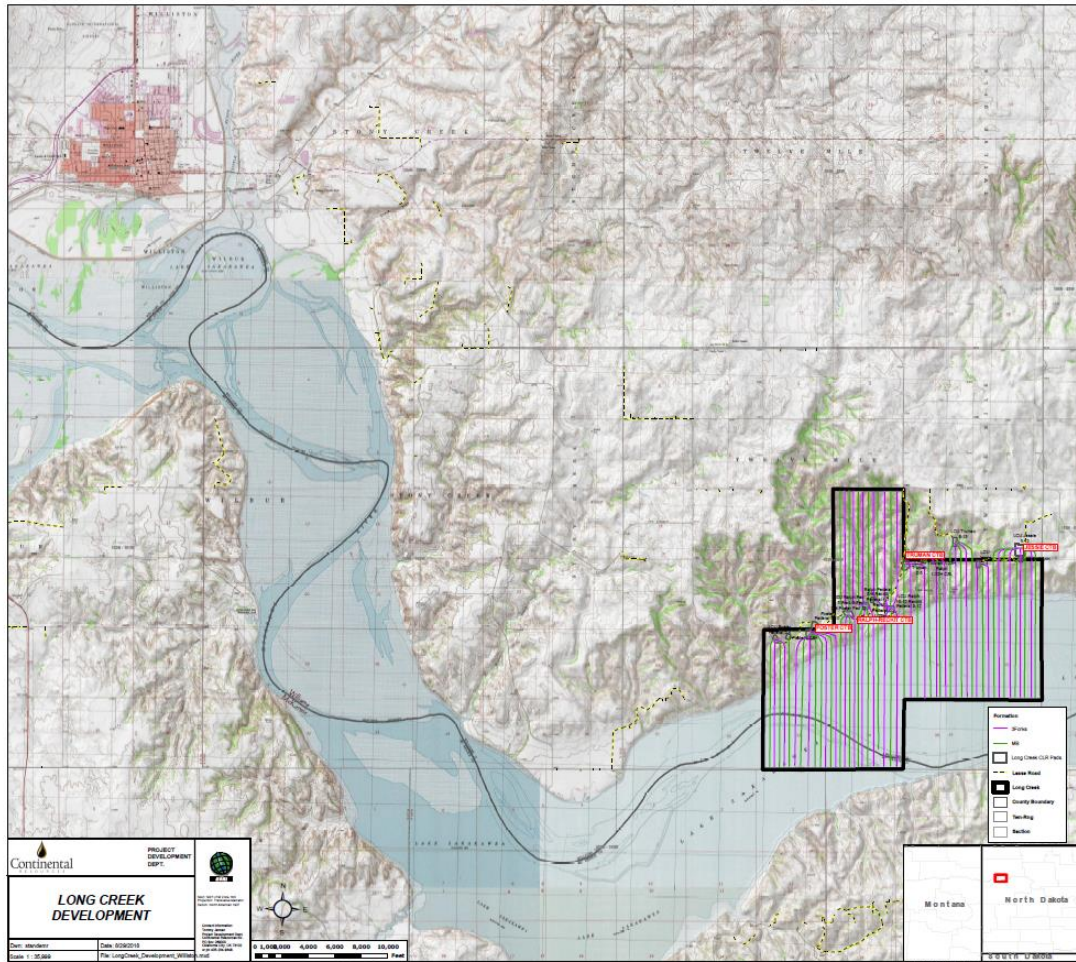
The Commissioner believes that the risks taken in the securities lending programs in which the Board participates are prudent, and recommends that the Board continue to participate in both programs going forward.

MINERALS MANAGEMENT

Continental Resources, Inc. Proposed Long Creek Unit

Continental Resources Inc. (Continental) is seeking support from the Board of University and School Lands (Board) and the Department of Trust Lands (Department) in its effort to create a Primary Unit in Williams County, North Dakota, to safely and efficiently develop ten sections of land on the north side of Lake Sakakawea in Long Creek Field, Sections 15, 22, 23, 24, 25, 26, 27, 28, 33 & 34 – T153N, R99W (6398.71 gross acres). Continental operates all of the current

spacing units within the proposed boundary. If approved, they would control approximately 87% working interest.



The area of the proposed unit is in extremely rough terrain with steep coulees, bluffs, and hills that create unique development issues. These features restrict where locations, roads, and pipelines can be built, limiting where specific wells can be connected to a central tank battery. Additionally, over 50% of the proposed Unit boundary is within Lake Sakakawea, which further complicates the development of the area. The approval of a unitization will allow Continental to reduce surface disturbance by fourteen acres by creating four central tank battery locations versus a minimum of thirteen separate locations. A reduction in central tank batteries will also reduce spill point risk near Lake Sakakawea. Within the boundary of the proposed unit, all of the current spacing units are being held by one well (4 wells total). Section 15 does not have a producing well.

The Board manages approximately 2,728.41 net mineral acres (42.64%) within the proposed Unit boundary. The net royalty interest in the proposed Unit is 7.34%. The Department and Continental have discussed the ownership of sovereign minerals lying within the boundary of Lake Sakakawea.

County	Legal	Subdivision	Trust	Net Acres
MCK	153-99-23	River in S2	R	202.82
MCK	153-99-24	River in S2	R	149.72
MCK	153-99-25	All River	R	622.75
MCK	153-99-26	River in E2, S2SW4, and River in NW4	A, R	356.94
MCK	153-99-33	All	A, R	582.69

MCK	153-99-34	E2NE4, River in SE4, River in SW4, and River in NW	A, R	377.53
WIL	153-99-22	W2SE4 and SW4	A	240.00
WIL	153-99-27	Lot 2 SW4NE4, NW4SE4, and NE4SW4, SW4SW4	A	196.70
			Total	2,729.15

*R – Sovereign Minerals (river). A – Common Schools

Additionally, the State owns surface acreage in the area of potential locations for well pad sites. Currently, Continental has a well pad on Section 21.

Without the development of a unitized wellsite, two developable well locations will need to be eliminated from the development plan at a combined value of \$30 million due to the unavailable surface footprint for separate line well pads. Additionally, the inability to direct production to the nearest centralized tank battery may eliminate the opportunity to drill additional wellbore slots. The project timeline would extend well beyond the unitization schedule due to the magnitude of infrastructure installation for a committed 56 new well project, delaying revenue to all parties of interest.

It is worth noting, there are disadvantages the Board should consider, such as:

- Complex drilling and scheduling requirements set by the NDIC to insure protection of correlative rights. If established, the NDIC will need to monitor the activity of the unit to insure that Continental is in compliance with the order.
- Some fee owners (private mineral owners) will object to their interests being pooled into a larger unit. If so ordered, some owners will be forced to join. Continental has reported that there are 205 individual royalty owners and 15 overriding royalty owners. To date, all owners have been notified of the proposal. There have been approximately a dozen inquiries for additional information. Thus far, Continental has received no negative feedback.
- It removes some negotiating rights from landowners for the establishment of surface infrastructure, i.e., roads, tank batteries, and electrical lines.
- It is unknown how the Ordinary High Water Mark (OHWM) survey will effect ownership of the proposed unit. It is estimated, within the proposed unit, 12 parcels that are unaffected, 11 that are completely affected and 4 that are partially affected by the recent survey conducted by the NDIC. Continental has historically escrowed disputed tracts in the proposed unit with the Bank of North Dakota. The Department is currently showing that Continental has approximately \$2.4 million in escrow for the current operating wells.
- Revenues may decrease over the short term.

Continental believes that this unitization would account for an additional 46 million barrels of oil equivalent to be produced from the area. Continental would utilize two rigs, with development avoiding excessive and costly well bore shut ins and isolations. There would be a maximization of reserves recovered by creating access to fully develop minerals within the boundary that would otherwise be partially stranded. The formula ordered by the NDIC would allocate production in a manner that is equitable to all interest owners.

Motion: The Board conditionally endorses the proposed unit, dependent upon approval from North Dakota Industrial Commission and subject to all laws, rules, and regulations of the State.

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		

Nomination of Coal Acres – McLean County, The Falkirk Mining Company.

The Commissioner has received a nomination for the right to lease 320 surface acres and 480 coal acres within two Board-managed mineral and surface tracts. The nomination was submitted by The Falkirk Mining Company, a subsidiary of North American Coal Corporation and includes the following lands:

Township 147 North, Range 82 West

Section 36: S½

Township 146 North, Range 82 West

Section 4: S½

The sequence of events leading to the issuance of a coal lease is as follows:

1. Nominations are submitted, with initial offer of lease terms.
2. Due diligence is done on the title: verify ownership, lease status, legal, and various tasks needed to prepare the tracts to be leased.
3. Date of auction is established.
4. Required advertising is scheduled and submitted to the appropriate newspapers.
5. The Commissioner gathers information, usually at company's local office, to determine the fair market for the lease terms, including bonus and royalty rate.
6. Board of University and School Lands is notified of auction.
7. Per statute, a public comment period and hearing is held prior to the auction.
8. Auction is held.
9. Proposed leases are presented to the Board for final approval.
 - I. If approved, leases are issued to the winning bidder.
 - II. If not approved, deficiencies are corrected to meet the expectations of the Board. In some cases, it is expected that the process would start over, beginning with step 3.

The nominated tracts will be offered for lease at auction, subsequent to a public hearing to take place in the Department of Trust Lands' conference room at a date yet to be determined.

The Company nominated 320 surface acres and 480 coal acres and offered \$100 bonus/net surface acre or a total of \$32,000.00 and \$100 bonus per net coal acre or a total of \$48,000.00 for the right to a 15-year renewable lease. The company also offered annual rental payments of \$5.00 per net acre of surface and \$5.00 per net acre of coal. The company offered \$0.16 per ton of coal mined and removed and a surface royalty of \$0.12 surface royalty per ton of coal mined, both coupled with a 3% annual increase.

With the 2013 legislative change removing the minimum royalties from law, the board's rules now outline a provision whereby the records of the mining company's lease with private owners are inspected to arrive at a fair 'market rate' of royalties. The market rate then serves as the basis for the lease auction opening bid.

Examinations of the terms for private mineral leases within The Falkirk Mining Company indicate that the company's offer for bonus and annual rent of trust minerals is consistent with the prevailing local terms.

Motion: The Board authorizes the Commissioner to offer these two tracts with the terms and mineral and surface royalty rate at \$0.16 per ton of coal mined and removed and a surface royalty of \$0.12 surface royalty per ton of coal mined and \$100 per acre per year term in a 15 year renewable lease; and to auction the leases with an opening bid \$100 at the next auction.

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

LITIGATION

Newfield Exploration Company, Newfield Production Company, and Newfield RMI LLC v.State of North Dakota, ex rel. the North Dakota Board of University and School Lands and the Office of the Commissioner of University and School Lands, a/k/a the North Dakota Department of Trust Lands, Civ. No. 27-2018-CV-00143

Date Filed: March 7, 2018
Court: District Court/McKenzie County
Attorneys: David Garner
Opposing
Counsel: Lawrence Bender and Spencer Ptacek/Fredrikson & Byron, P.A.
Judge: Robin Schmidt

Plaintiff is seeking a Declaratory Judgment that it is currently paying gas royalties properly under the Board's lease. Specifically, Plaintiff is asking the Court to order that gas royalty payments made by the Plaintiff be based on the gross amount received by the Plaintiff from an unaffiliated third-party purchaser, not upon the gross amount paid to a third party by a downstream purchaser, and that Plaintiff does not owe the Defendants any additional gas royalty payments based on previous payments.

A Complaint and Answer with Counterclaims have been filed. Newfield filed an Answer to Counterclaims. Newfield filed its Motion for Summary Judgment and Defendants filed a Response to Newfield's Motion and a Cross-Motion for Summary Judgment. Newfield's Response to the Cross-Motion for Summary Judgment was due on October 19, 2018 (Attached).

March 9, 2018	Plaintiff's filed Summons, Complaint, & Exhibits
March 9, 2018	Notice of Assignment & Case Number
March 13, 2018	Notice of Appearance – David Garner
April 11, 2018	Answer and Counterclaims
May 2, 2018	Answer to Counterclaims
June 12, 2018	Notice of Scheduling Conference
July 19, 2018	Amended Notice of Telephonic Scheduling Conference
July 27, 2019	Scheduling Conference

August 1, 2018	Notice of Court Trial – September 10-11, 2019
August 13, 2018	Plaintiff's Notice of Motion for Summary Judgment, Motion for Summary Judgment, Brief in Support of Motion for Summary Judgment, Affidavit of Jay Williams
September 12, 2018	Notice of Cross-Motion for Summary Judgment; Cross-Motion for Summary Judgment; Brief in Support of Defendants' Response to Plaintiffs' Motion for Summary Judgment and in Support of Defendants' Cross-Motion for Summary Judgment; Affidavit of Adam Otteson, with Exhibits
October 19, 2018	Plaintiffs' Response to Defendants' Cross-Motion for Summary Judgment due
November 9, 2018	Defendants' Reply to Plaintiffs' Cross-Motion for Summary Judgment due
September 10-11, 2019	Trial

Assistant Attorney General Resignation

The Department of Trust Lands (Department) has been notified that Assistant Attorney General Hope Hogan tendered her resignation to the Attorney General and will no longer be available to represent the Board of University and School Lands in the following cases:

- *EOG Resources, Inc. v. Soo Line Railroad Co., et. al.*, Civ. No. 31-10-CV-00010, Mountrail County District Court
- *Whiting Oil and Gas Corporation v. Arlen A. Dean, et. al.*, Civ. No. 27-2016-CV-00040, McKenzie County District Court
- *ND Office of State Engineer, Board of University and School Lands v. BLM*, Case No. IBLA 2016-170, US Dept. of Interior Office of Hearings and Appeals – Board of Land Appeals
- *Continental Resources, Inc. v. North Dakota Board of University and School Lands, et al.*, Case No. 1:17-cv-00014, Federal District Court, 8th Circuit
- *William S. Wilkinson, et. al. v. Board of University & School Lands, Brigham Oil & Gas, LLP; EOG Resources, Inc.*; Case No. 53-2012-CV-00038, Williams County District Court
- *Whitetail Wave LLC v. XTO Energy, Inc.; the Board of University and School Lands; and the State of North Dakota* – 27-2015-CV-00164, McKenzie County District Court
- *Mary K. Starin, as Personal Representative of the Estate of Bruno Herman Weyrauch v. Kelly Schmidt, et. al.*, Civ. No. 53-2015-CV-00986, Williams County District Court

The Commissioner is working with the Attorney General's office on a case-by-case basis to identify the best approach for representation of the Board of University and School Lands.

Board of University and School Lands Major Case Summary as of October 24, 2018

The following is a summary of active litigation. Detailed case specific memorandums will be presented to the Board upon changes in case status or as new events requiring Board consideration occur.

UNCLAIMED PROPERTY

Case: State of Arkansas, et al. v. State of Delaware
Date Filed: June 9, 2016
Court: United States Supreme Court
Judge: Pierre N. Leval, *Special Master*
Attorney: David Garner
Opposing Counsel: Delaware Attorney General's Office

Issues: The United States Supreme Court assumed original jurisdiction over this lawsuit involving unclaimed property brought by 30 states, including the state of North Dakota, against the state of Delaware. The substantive issue involved is whether sums payable on unclaimed and abandoned checks sold by MoneyGram Payments Systems, Inc. should be remitted to the Plaintiff States, as the states of purchase, or to Defendant Delaware, as MoneyGram's state of incorporation. Texas and Arkansas are the lead states on behalf of the other Plaintiff states.

Current Status: A Complaint and Answer have been filed. A Special Master has been appointed to preside over the case. The Special Master has accepted the Case Management Order agreed to by the parties. The parties issued discovery requests and responses in November/December 2017. The parties have exchanged discovery and are in the process of resolving issues regarding depositions of certain states. The parties have agreed to stipulate as to the authenticity of the documents produced in discovery rather than undertake depositions.

REVENUE COMPLIANCE

Case: Continental Resources, Inc. v. North Dakota Board of University & School Lands and North Dakota Department of Trust Lands, Civ. No. 27-2017-CV-00661
Date Filed: December 20, 2017
Court: District Court/McKenzie County
Attorneys: David Garner
Opposing Counsel: Mark S. Barron/Baker & Hostetler LLP
Judge: Robin Schmidt

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

Current Status: A Complaint and Answer with Counterclaims have been filed. Continental filed an Answer to Counterclaims. Continental served discovery and responses were due July 30, 2018. Defendant served discovery and Continental replied on September 17, 2018. Trial scheduled for February 1, 2019.

Case: **Newfield Exploration Company, Newfield Production Company, and Newfield RMI LLC v. State of North Dakota, ex rel. the North Dakota Board of University and School Lands and the Office of the Commissioner of University and School Lands, a/k/a the North Dakota Department of Trust Lands, Civ. No. 27-2018-CV-00143**

Date Filed: March 7, 2018

Court: District Court/McKenzie County

Attorneys: David Garner

Opposing Counsel: Lawrence Bender and Spencer Ptacek/Fredrikson & Byron, P.A.

Judge: Robin Schmidt

Issues: Plaintiff is seeking a Declaratory Judgment that it is currently paying gas royalties properly under the Board's lease. Specifically, Plaintiff is asking the Court to order that gas royalty payments made by the Plaintiff be based on the gross amount received by the Plaintiff from an unaffiliated third-party purchaser, not upon the gross amount paid to a third party by a downstream purchaser, and that Plaintiff does not owe the Defendants any additional gas royalty payments based on previous payments.

Current Status: A Complaint and Answer with Counterclaims have been filed. Newfield filed an Answer to Counterclaims. A Scheduling conference was held July 27, 2018. Plaintiffs' filed a Motion for Summary Judgment on August 13, 2018 and Defendants filed a Cross-Motion for Summary Judgment. Plaintiffs' Response is due on October 19, 2018 and Defendants' Reply is due November 9, 2018. Trial is scheduled for September 10 and 11, 2019.

Minerals

Case: **EOG Resources, Inc. v. Soo Line Railroad Co., et. al., Civ. No. 31-10-CV-00010**

Date Filed: Jan. 20, 2010

Court: Mountrail County District Court

Judge: Todd Cresap

Attorney: Hope Hogan/Matthew Sagsveen

Opposing Counsel: Multiple parties.

Issue: At issue is the ownership of mineral rights underlying the railroad in 8 sections of land in Mountrail County. The disputed property is land that the railroad acquired by condemnation and through right-of-way deeds. The railroad's lessee filed a crossclaim against the State and a number of other parties that claim an ownership interest adverse to the railroad.

Current Status: A settlement agreement has been signed by all parties and will be filed with the court once proceeds are distributed in accordance with the agreement.

Case: Whiting Oil and Gas Corporation v. Arlen A. Dean, et. al., Civ. No. 27-2016-CV-00040
Date Filed: January 25, 2016
Court: McKenzie County District Court
Judge: Robin Schmidt
Attorney: Hope Hogan/Jennifer Verleger
Opposing Counsel: Paul Forster, Shane Hanson (Whiting Oil and Gas Corp.), Kevin Chapman (multiple defendants)

Issues: Whiting Oil and Gas Corporation (“Whiting”) operates the Kuykendall 34-31-1H well located in McKenzie County near the Montana border. The Yellowstone River flows through the Kuykendall well spacing unit. Over time, the river has shifted westward. There are also islands within the Kuykendall spacing unit. On January 25, 2016, Whiting filed this interpleader action to resolve alleged title questions that have arisen due to the movement of the Yellowstone River. Because of these title questions, Whiting is withholding royalty payments. In its lawsuit, Whiting 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, Whiting will know who to pay.

The Board claims a mineral interest under the Yellowstone River, including the islands, and the Board also claims a 5% mineral interest in some of the riparian tracts in this spacing unit.

The Board and the State Engineer filed a joint response to the Complaint and several cross claims that have been made against the State.

Current Status: The court trial (no jury) scheduled for August 6-10, 2018 was postponed to April 22 - 26, 2019. The initial scheduling order was amended for the State to conduct field work that could not be completed in the winter. Due to property flooding from high flows on the Yellowstone River, the State has been unable to conduct field work. Therefore, a telephonic scheduling conference was held August 16, 2018 to discuss the Court’s wishes for resetting deadlines. All deadlines and the April 2019 trial were cancelled. A January 3, 2019 telephonic status conference was scheduled.

Case: ND Office of State Engineer, Board of University and School Lands v. BLM - Case No. IBLA 2016-170
Tribunal: US Dept. of Interior Office of Hearings and Appeals – Board of Land Appeals
Attorney: Charles Carvell, Hope Hogan, and Jennifer Verleger
Opposing Counsel: Karan Dunnigan

Issues: In 2014, the Bureau of Land Management (BLM) resurveyed land along the Missouri River to locate the boundary, OHWM, between the public domain land owned by the United States and the riverbed owned by the state of North Dakota. In identifying the OHWM, the BLM applied federal law rather than state law. Specifically, the BLM adopted the survey conducted by the Corps of Engineers as part of the Garrison Dam project. In certain areas, the survey overlaps with the state’s claim to sovereign lands.

After the survey work was complete, the BLM published a “Notice of Filing Plats of Survey; North Dakota” in which BLM intends to formally file the survey plats as Official Plats. After the Federal Register Notice appeared, the State Engineer and the Board jointly filed a protest challenging the filing of the survey plats. The BLM rejected the State’s protest and the State appealed the BLM’s decision to the Interior Board of Land Appeals.

**Current
Status:**

The State is waiting for a decision from the Interior Board of Land Appeals.

Case: **Continental Resources, Inc. v. North Dakota Board of University and School Lands, et al., Case No. 1:17-cv-00014**

Date Filed: **December 23, 2016**

Court: **Federal District Court, 8th Circuit**

Judge: **Honorable David Hovland**

Attorney: **Charles Carvell, David Garner, Hope Hogan, and Jen Verleger**

Opposing

Counsel: **Lawrence Bender, David Ogden, Paul Wolfson, Shaun Pettigrew**

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

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

**Current
Status:**

The Board filed a response on December 20, 2017 opposing the motion to dismiss. Continental filed a response and the United States filed its reply. The United States filed a Motion to Dismiss on March 16, 2018. The Board filed a Surreply to the Motion to Dismiss on April, 16, 2018. Awaiting decision from the Court on the United States’ Motion to Dismiss.

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

Date Filed: **January, 2012**

Court: **Williams County District Court**

Judge: Paul Jacobson
Attorney: Hope Hogan/Jennifer Verleger/Matthew Sagsveen
Opposing Counsel: Josh Swanson/Rob Stock, Lawrence Bender, Lyle Kirmis

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

On July 1, 2014, the Plaintiffs filed an amended complaint in the case and added claims of unconstitutional takings, conversion, constructive trust and unjust enrichment, civil conspiracy and deprivation of rights under 42 U.S.C. § 1983. Plaintiffs assert in their amended complaint that the Board should be issuing leases on the west side of the Highway 85 bridge pursuant to the Phase II Investigation – the estimated location of the ordinary high watermark (OHWM) prior to inundation of Lake Sakakawea – rather than the Phase I Delineation – current location of the OHWM. Plaintiffs argue that the subject property is located under Lake Sakakawea, which did not exist at statehood, and thus the state did not acquire title to it as sovereign lands. Therefore, the State's title to the Missouri River is limited to the channel as it existed prior to inundation of Lake Sakakawea as determined by the Phase II investigation.

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

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

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

Current Status: Due to the passage of S.B. 2134, the Court ordered the case stayed and all deadlines be held in abeyance until the final review findings under S.B. 2134 are issued by the Industrial Commission. Plaintiff, after NDIC issued the review findings, requested a status conference with the Court to set a new trial date and

other deadlines. The Board and State Engineer filed a Motion for Continued Stay of Proceedings on October 11, 2018. A telephonic status conference is scheduled for November 2, 2018.

Case: **Whitetail Wave LLC v. XTO Energy, Inc.; the Board of University and School Lands; and the State of North Dakota – 27-2015-CV-00164**

Date Filed: June 4, 2015

Court: McKenzie County District Court

Judge: Robin Schmidt

Attorney: Hope Hogan/Jennifer Verleger

Opposing

Counsel: Whitetail Wave – Christopher Sweeney; XTO Energy – Lawrence Bender, Michael D. Schoepf

Issues: On August 1, 2015, the Attorney General's Office was served with a complaint in the above referenced case. This case is challenging the State's determination of the OHWM east of the Highway 85 Bridge, near the northern border of the Fort Berthold Indian Reservation. The Board has currently leased minerals pursuant to the Phase II Investigation for this tract. The Plaintiff is requesting that title to the minerals be quieted and has alleged claims of Unconstitutional takings, trespass, slander of title, and constructive trust/unjust enrichment against the State. The complaint also makes a number of claims specific to XTO Energy Inc., the operator of the wells on the tracts in dispute. Specifically, the Plaintiff is requesting that the State's claim to sovereign lands' mineral interest be restricted to those minerals located below the OHWM of the Missouri River prior to inundation of the Lake Sakakawea.

An answer was filed on behalf of the Board on July 21, 2015. In January 2016, the State Engineer intervened in the case.

Current

Status: Due to the passage of S.B. 2134, the Court ordered the case stayed and all deadlines be held in abeyance until the final review findings under S.B. 2134 are issued by the Industrial Commission. The Board and State Engineer filed a Motion for Continued Stay of Proceedings on October 19, 2018.

Case: **Mary K. Starin, as Personal Representative of the Estate of Bruno Herman Weyrauch v. Kelly Schmidt, et. al., Civ. No. 53-2015-CV-00986**

Date Filed: August 17, 2015

Court: Williams County District Court

Judge: David Nelson

Attorney: Hope Hogan/Jennifer Verleger

Opposing

Counsel: Dennis Johnson

Issues: Plaintiff initiated this quiet title action to determine title to property located under Lake Sakakawea. In 1939, the State acquired the disputed property through a foreclosure of a Bank of North Dakota loan. In 1945, the State re-sold the property through a contract for deed to the Plaintiff's predecessors in interest. Pursuant to state law, the state reserved 50% of the minerals. The Special Warranty Deed issued after satisfaction of the contract for deed was not recorded and no one has a copy of the fully executed deed. The surface estate was later condemned as part of the Garrison

Dam reservoir project. Plaintiffs have brought this action to clear title to the 50% of the minerals that they claim. The Board has leased the 50% mineral interest it reserved in this conveyance.

In January 2016, the State Engineer intervened in this case.

**Current
Status:**

Due to the passage of S.B. 2134, the Court ordered the case stayed and all deadlines be held in abeyance until the final review findings under S.B. 2134 are issued by the Industrial Commission. When the review findings are issued, the parties must request a status conference with the Court to set a new trial date and other deadlines. The Board and State Engineer filed a Motion for Continued Stay of Proceedings on October 12, 2018. Plaintiffs filed a Response to Defendants' Motion to Stay Proceedings on October 23, 2018.

Case: **Paul Sorum, et. al. v. State of North Dakota, et. al. – Civ. No. 09-2018-CV 00089**
Tribunal: **Cass County District Court**
Judge: **John C. Irby**
Attorney: **Mark Hanson & Peter Hvidston, Nilles Law Firm**
**Opposing
Counsel:** **Terrance W. Moore, Fintan L. Dooley**

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

**Current
Status:**

An Answer was filed. Defendants filed a Motion to Dismiss, which was denied in April 2018. Petition for Supervisory Writ and Exercise of Original Jurisdiction was filed by Defendants and denied in May 2018. A Motion for Preliminary Injunction was brought by Plaintiffs and a hearing was held on May 21, 2018. An Order for Preliminary Injunction was filed June 26, 2018. A Scheduling Conference was held on September 6, 2018 and the following briefing deadlines were set: Summary Judgment Motions due October 22, 2018; Response Briefs due December 6, 2018; and the Reply briefs are due December 21, 2018. A hearing on the Motions for Summary Judgment is scheduled for 9:00 a.m. January 4, 2019, Fargo.

Mineral Title Dispute of Historic Riverbed within the Fort Berthold Indian Reservation

Since June 2008, the Board has visited a number of times about identifying state ownership boundaries associated with the original Missouri riverbed within the Fort Berthold reservation.

There is a competing claim to around 30,000 acres of land within the historic boundaries of the Fort Berthold Indian Reservation. The land is the bed of the Missouri River as the river existed prior to closing Garrison Dam. Development of minerals under the riverbed triggered the dispute.

State title to the riverbed, and underlying minerals, is based on the equal footing doctrine, which provides, with some exceptions, that at statehood all states take title to the beds of navigable rivers and lakes within their borders. The State has consistently claimed title to the bed of the Missouri River up to the ordinary high watermark (OHWM), and in doing so it has never excluded from that claim any part of the river bordered by the reservation. Historically, the State's all-encompassing claim has often been made in briefs defending the State's ownership in legal disputes.

The dispute involves the Three Affiliated Tribes of the Fort Berthold Reservation (MHA Nation), the federal government through the Department of the Interior (DOI) and its Bureau of Indian Affairs (BIA), some allottees (individual tribal members), and the State of North Dakota.

The mineral acres within the historic river channel are leased in most cases by both the State and the MHA Nation or the BIA. Some operators took leases from both the state and the tribe/BIA. It is unknown if the MHA Nation or the BIA receive royalties from their lessees.

In early 2015 leaders of the MHA Nation requested collaboration with the State to discuss the disputed mineral claim. Two meetings were organized by Indian Affairs Commissioner Scott Davis to review options to resolve the overlapping claims. Though no resolution was reached.

In October of 2015, letters were sent to operators under the Board's lease requesting payment of delinquent royalties to the State. In response, the DOI Assistant Secretary—Indian Affairs sent a letter to the Department of Trust Lands (DTL) asserting that the United States holds in trust the title of the Fort Berthold Reservation on behalf of the MHA Nation; and requested the State not collect royalties, but to instead place them into escrow.

At the suggestion of BIA officials, who wished to meet to discuss the dispute in the hope of resolving it by agreement, a meeting was held in Bismarck in June of 2016 involving tribal, regional and national BIA, and State officials. The general result of that discussion was a consensus to jointly request production and royalty payment information from the operators producing on disputed acres and to request that royalties be placed into 3rd-party escrow, rather than held in operators' suspense accounts. At the meeting, state representatives expressed a willingness to discuss a compromise to the title dispute, but MHA Nation Chairman Mark Fox said the tribe had little interest in resolving the dispute through a negotiated settlement.

On January 19, 2017 a joint letter signed by BIA Director Loudermilk and including Commissioner Gaebe's name (without signature) was sent to six oil and gas operators requesting the status of leases within each spacing unit; number of acres within each lease; copies of title opinions; production statistics; royalties generated, etc.

The responses from oil and gas operators indicate that most of the royalty generated has not been paid to the MHA Nation, the BIA, or the State, but because of the title dispute, remain in suspense with companies or in escrow accounts.

Most of the Board's leases require disputed royalties to be escrowed with the Bank of North Dakota.

On January 18, 2017 the Solicitor of the U.S. Department of the Interior issued an opinion regarding ownership of the disputed minerals. The opinion concludes that Congress intended that

the bed of the Missouri River did not pass to North Dakota upon statehood and that under the 1984 Mineral Restoration Act the riverbed minerals are to be held in trust by the United States for the benefit of the MHA Nation. On October 23, 2017, the Board submitted to the Department of the Interior its critique of and response to the Solicitor's opinion.

In June of 2018, the Solicitor's Office temporarily suspended the 2017 Solicitor's Opinion insofar as it addresses title to the riverbed.

Paul Sorum, et al. v. The State of North Dakota, et al., Cass County District Court, Civil No. 09-2018-CV-00089

Date Filed:	January 10, 2018
Date Served:	January 10, 2018
Tribunal:	Cass County District Court
Judge:	John C. Irby
Attorney:	Mark R. Hanson, Special Assistant Attorney General
Opposing Counsel:	Terrance W. Moore, Fintan L. Dooley

Plaintiffs brought this action against the State of North Dakota, the Board of University and School Lands, the North Dakota Industrial Commission, Governor Burgum and Attorney General Stenehjem (Defendants) seeking to declare N.D.C.C. ch. 61-33.1 unconstitutional, and to enjoin Defendants from implementation or enforcement of N.D.C.C. ch. 61-33.1.

Plaintiffs argue that the Legislature, by passing Senate Bill 2134, codified at N.D.C.C. ch. 61-33.1, has violated the public trust doctrine and the anti-gift (see N.D. Const. art. X, § 18), "equal protection" (see N.D. Const. art. I, § 21), and special laws (see N.D. Const. art. IV, § 13) clauses of the North Dakota Constitution. Plaintiffs are claiming that the legislation results in the unlawful transfer of "approximately \$1.96 billion in cash and State-owned sovereign lands from the citizens of the State . . . to a small group of private parties in western North Dakota." Plaintiffs allege N.D.C.C. ch. 61-33.1 "disclaims [the State's] perpetual rights to all minerals under Lake Sakakawea, a total of about 108,000 mineral acres."

February 28, 2018	Defendants moved to dismiss Plaintiffs' Complaint as Plaintiffs failed to join indispensable parties.
March 5, 2018	Plaintiffs brought a Motion for Preliminary Injunction. A hearing was previously scheduled for March 27, 2018.
March 7, 2018	Defendants brought an Expedited Motion to Stay or Extend Time to Respond to Plaintiffs' Motion for Preliminary Injunction and to Postpone the March 27, 2018 Hearing on Such Motion (Motion to Stay).
March 8, 2018	The Court granted Defendants' Motion to Stay pending a decision on Defendants' Motion to Dismiss currently pending before the court, and cancelled the March 27, 2018 hearing.
March 9, 2018	Plaintiffs opposed the Motion to Stay and requested reconsideration of the Order.
March 14, 2018	Plaintiffs' request for reconsideration was denied.
March 19, 2018	Rule 16 Conference held.
March 21, 2018	Defendants filed a joint Reply Brief in Support of Motion to Dismiss.
March 27, 2018	North Dakota Petroleum Council filed a Motion for Leave to File an Amicus Curiae Brief in Opposition of Plaintiff's Motion for Preliminary Injunction (Motion to File Amicus Brief).

April 2, 2018	Defendants filed a Response of No Objection to North Dakota Petroleum Council's Motion to File Amicus Brief.
April 4, 2018	Plaintiffs' filed a Brief in Opposition to North Dakota Petroleum Council's Motion to File Amicus Brief.
April 5, 2018	North Dakota Petroleum Council filed a Reply Brief in Support of Motion to File Amicus Brief.
April 9, 2018	Defendant North Dakota Industrial Commission filed a Second Amended Notice of Hearing on Defendants' Motion to Dismiss changing the time of the hearing on April 11 from 1:30 p.m. to 2:30 p.m.
April 11, 2018	Request by Media to Attend Hearing Via Telephone Conference Call, proposed Order, Certificate of Service (RE: April 1, 2018 hearing)
April 11, 2018	Hearing on Defendants' Motion to Dismiss. Motion to Dismiss was denied.
April 11, 2018	Order Allowing Media Coverage Via Telephone Conference Call denied as untimely.
April 18, 2018	State Defendants filed a Response to Plaintiffs Motion for Preliminary Injunction, with supporting documents.
April 25, 2018	Defendants filed a Petition for Supervisory Writ and Exercise of Original Jurisdiction with the North Dakota Supreme Court.
April 30, 2018	Scheduled hearing on the Plaintiffs' Motion for Preliminary Injunction.
May 2, 2018	Third Amended Notice of Hearing on Motion for Preliminary Injunction – scheduling hearing for May 21, 2018
May 9, 2018	Order of Denial issued by the North Dakota Supreme Court – denying Defendants' request for supervisory writ.
May 14, 2018	Order Denying Motion to Stay Pending Order on Petition for Supervisory Writ and Exercise of Original Jurisdiction
May 18, 2018	Defendants filed Supplemental Affidavit of Lynn D. Helms in Support of the State Defendants' Response to Plaintiffs' Motion for Preliminary Injunction
May 21, 2018	Hearing on Motion for Preliminary Injunction – Judge Irby ordered from the Bench – Judge ordered royalties totaling more than \$200 million be kept by the State, prohibiting the State from forfeiting oil royalties, rents and bonus payments
May 23, 2018	Notice of Hearing on Motion for Summary Judgment
May 29, 2018	Plaintiffs' Request for Production of Documents to Defendant (Set 1), Plaintiffs' Requests for Admissions to Defendants, Affidavit of Electronic Service (Discovery not filed)
May 30, 2018	Motion, Affidavit and proposed Order for Pro Hac Vice of Anne T. Regan,
May 30, 2018	Motion, Affidavit and proposed Order for Pro Hac Vice Gregory S. Otsuka
May 31, 2018	Proposed Findings of Fact, Conclusions of Law and Order for Preliminary Injunction, Ex. 1 – Fiscal Note to Findings of Fact, Conclusions of Law and Order for Preliminary Injunction
June 1, 2018	Letter to Judge Irby re: Plaintiff's proposed Findings
June 1, 2018	Letter to Judge Irby re: undisputed facts, discovery, etc.; Ex. A – Plaintiffs' Requests for Admissions to Defendants; Ex. B – Plaintiffs' Request for Production of Documents to Defendants (Set No. 1); Ex. C – Email Exchange between attorneys May 30, 2018;

June 5, 2018	Letter to Judge Irby responding to Gaustad's letter
June 8, 2018	Notice of Appearance of Mark R. Hanson, Special Assistant Attorney General Representing the Board of University and School Lands of the State of North Dakota
June 8, 2018	Notice of Hearing (Telephonic Conference) (RE: Discovery Issues)
June 11, 2018	Transcript (of Hearing on Motion for Preliminary Injunction)
June 12, 2018	Substitution of Counsel Representing the Board of University and School Lands of the State of North Dakota
June 12, 2018	State Defendants' Objection to Plaintiffs' Proposed Order for Preliminary Injunction; Exhibit A – Proposed Order for Preliminary Injunction
June 12, 2018	Notice of Demand for Production or Inspection of Documents to ND Petroleum Council; Subpoena Duces Tecum
June 14, 2018	Proposed Scheduling Order (RE: Stipulated Facts)
June 14, 2018	Notice of Expedited Motion for a Discovery Protection Order by Defendants; Expedited Motion for a Discovery Protection Order by Defendants; Memo in Support of Expedited Motion for a Discovery Protection Order by Defendants; Exhibit A – Notice of Demand for Production or Inspection of Documents to ND Petroleum Council with Subpoena
June 14, 2018	Defendant Board of University and School Lands of the State of North Dakota Joinder in the State Defendants' Objection to Plaintiffs' Proposed Preliminary Injunction
June 20, 2018	Memorandum in Opposition to Expedited Motion for Protective Order, Exhibit 1 -Plaintiff's Request for Production of Documents to Defendants; Exhibit 2 -Plaintiffs Request for Production of Documents to Defendants; Exhibit 3 – May 30, 2018 email
June 22, 2018	Plaintiffs' Objections to Defendants' Proposed Order and Memorandum in Opposition to Defendants' Objections; Exhibit 1 – Transcript Excerpt
June 25, 2018	Reply Memorandum in Support of Expedited Motion for a Discovery Protection Order by Defendants
June 25, 2018	Hearing on Expedited Motion for Discovery Protection Order to be held during telephonic scheduling conference
June 28, 2018	Proposed Order – from Court's June 25, 2018 ruling that (1) on July 23, 2018 the parties submit to the Court a statement of undisputed facts and additional facts a party believes are material undisputed facts, but for which the parties cannot agree, (2) the Court will review the submitted facts and make a determination by August 1 if cross motions for summary judgment are appropriate, (3) if cross motions for summary judgment are appropriate the Court will provide a briefing schedule, (4) discovery is stayed, and (5) if the Court determines that cross-motions for summary judgment are not appropriate, then responses to currently served discovery are due 30 days from the date of such determination by the Court.
July 3, 2018	Order for Pro Hac Vice Admission of Anne T. Regan
July 3, 2018	Order for Pro Hac Vice Admission of Gregory S. Otsuka
July 6, 2018	Order (Scheduling Deadlines) as set out in the June 28 proposed order was signed by the Court.
July 9, 2018	Notice of Hearing – Pretrial Conference – September 6, 2018
July 9, 2018	Amended Notice of Hearing – Scheduling Conference – September 6, 2018

July 13, 2018	Transcript (June 25, 2018 hearing)
July 23, 2018	Deadline for parties to confer & file statement of undisputed material facts and other material facts for which all parties cannot agree
August 1, 2018	Court's anticipated deadline to review undisputed facts and any submitted Claimed Supplemental Undisputed Facts to determine if cross motions for summary judgment are appropriate – if appropriate, briefing schedule will be issued. If not appropriate, then (1) the currently served discovery must be answered within 30 days and (2) the parties can engage in further discovery.
August 27, 2018	Hearing Scheduled by Plaintiffs on Motion for Summary Judgment CANCELLED BY THE COURT
August 30, 2018	Letter to Judge Irby – RE: appearance at scheduling conference
September 6, 2018	Notice of Hearing - Scheduling Conference and Pretrial Conference– 9:30 a.m. Cass County Courthouse
September 10, 2018	Proposed Order for Briefing Schedule and Order for Oral Argument Hearing –due dates: Summary Judgments Motions and Briefs – on or before October 22, 2018; Answer Briefs – on or before December 6, 2018 Reply Briefs - on or before December 21, 2018. Hearing on Motions for Summary Judgment – January 4, 2019, 9:00 a.m. – Cass County Courthouse
October 22, 2018	Motion for Summary Judgment, Memorandum of Law in Support of Motion for Summary Judgment, Affidavit of Terrance W. Moore, proposed Order
October 22, 2018	State Defendants' Notice Motion for Summary Judgment, Motion for Summary Judgment, Brief in Support of Motion for Summary Judgment, Affidavit of Lynn Helms, Affidavit of Jodi Smith
January 4, 2019	Hearing on Motions for Summary Judgment – scheduled for January 4, 2019, 9:00 a.m. – Cass County Courthouse

The Plaintiffs' Memorandum of Law in Support of Motion for Summary Judgment and State Defendants' Brief in Support of Motion for Summary Judgment were presented to the Board and are available at the Department upon request.

The Commissioner recommends the Board consider entering executive session for consultation with legal counsel regarding pending and potential litigation.

EXECUTIVE SESSION

Motion: **Under the authority of N.D.C.C. §§ 44-04-19.1 and 44-04-19.2, the Board enter into executive session for attorney consultation related to:**

- **Paul Sorum, et al. v. The State of North Dakota, et al.**
- **Mineral Title Dispute of Historic Riverbed within the Fort Berthold Indian Reservation**

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		

At 9:25 AM the Board entered executive session for the purposes outlined in its adopted motion.

EXECUTIVE SESSION

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:

Jodi Smith	Commissioner
Kristie McCusker	Legal Assistant
Catelin Newell	Office Manager
Kate Schirado	Administrative Assistant

Guests in Attendance:

Leslie Bakken Oliver	Governor's Legal Counsel
Reice Haase	Governor's Policy Advisor
Charles Carvell	Attorney General's Office – Mineral Title Dispute Case Only
Mark Hanson	Nilles Law Firm – Paul Sorum Case Only
Brent Sanford	Lt. Governor

The executive session adjourned at 11:04 AM and the Board returned to open session and the public was invited to return to the meeting. During the executive session, the Board was provided information regarding the Paul Sorum et al. v. The State of North Dakota, et al.

R E P O R T S

Report of Easements Issued by Land Commissioner 9/14/2018 to 10/15/2018

Granted to: CENEX PIPELINE LLC, LAUREL-MT

For the Purpose of:	Easement: Oil Transmission Pipeline
Right-of-Way Number:	RW0007873
Trust:	A – Common Schools
Legal Description:	MOU-155-91-36-NW4 MOU-155-92-36-NE4,NW4 MOU-155-93-36-NE4, NW4 MOU-155-94-36-NE4, NW4

Granted to: ROUGHRIDER ELECTRIC COOPERATIVE, INC., DICKINSON ND

For the Purpose of:	Easement: Electric Distribution Line - Above Ground
Right-of-Way Number:	RW0008062
Trust:	A – Common Schools
Legal Description:	DUN-143-92-16-SE4

Granted to: CENEX PIPELINE LLC, LAUREL-MT

For the Purpose of:	Easement: Oil Transmission Pipeline
Right-of-Way Number:	RW0008206
Trust:	A – Common Schools
Legal Description:	WIL-156-97-36-SE4, SW4 WIL-156-99-36-NW4

Granted to:	OASIS MIDSTREAM SERVICES LLC, HOUSTON-TX
For the Purpose of:	Easement-Amend: Multiple Pipelines
Right-of-Way Number:	RW0008277
Trust:	A – Common Schools
Legal Description:	WIL-156-101-16-NE4, NW4
Granted to:	ANDEAVOR FIELD SERVICES LLC, SAN ANTONIO-TX
For the Purpose of:	Easement-Amend: Oil Transmission Pipeline
Right-of-Way Number:	RW0008325
Trust:	A – Common Schools
Legal Description:	MCK-149-95-16-NW4
Granted to:	CONTINENTAL RESOURCES INC, OKLAHOMA CITY-OK
For the Purpose of:	On-lease Act. Amend: Horizontal Oil Well
Right-of-Way Number:	RW0008356
Trust:	A – Common Schools
Legal Description:	DUN-147-96-36-NE4, NW4
Granted to:	CONTINENTAL RESOURCES INC, OKLAHOMA CITY-OK
For the Purpose of:	On-lease Act. Amend: Horizontal Oil Well
Right-of-Way Number:	RW0008357
Trust:	A – Common Schools
Legal Description:	DUN-147-96-36-NE4, NW4
Granted to:	FALKIRK MINING COMPANY, BISMARCK-ND
For the Purpose of:	Permit: Coal Exploration
Right-of-Way Number:	RW0008363
Trust:	A – Common Schools
Legal Description:	MCL-147-82-36-SE4, SW4
Granted to:	BNN NORTH DAKOTA LLC, LAKEWOOD-CO
For the Purpose of:	Easement: Salt Water Pipeline
Right-of-Way Number:	RW0008365
Trust:	A – Common Schools
Legal Description:	MOU-155-93-36-NW4, 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:	AMES SAVAGE WATER SOLUTIONS LLC, WILLISTON-ND
For the Purpose of:	Letter of Permission: Temporary Water Layflat Line
Right-of-Way Number:	RW0008366
Damage Payment to Lessee:	N/A
Trust:	A – Common Schools
Legal Description:	MOU-155-94-36-NW4
Granted to:	NORTHWEST WATER TRANSFER, WILLISTON-ND
For the Purpose of:	Letter of Permission: Temporary Water Layflat Line
Right-of-Way Number:	RW0008367
Trust:	A – Common Schools
Legal Description:	WIL-158-95-36-NE4, NW4, SW4
Granted to:	SELECT ENERGY SERVICES LLC, WILLISTON-ND
For the Purpose of:	Letter of Permission: Temporary Water Layflat Line
Right-of-Way Number:	RW0008368

Trust: A – Common Schools
 Legal Description: MCK-150-98-36-NW4, SW4

Granted to: **CHIPPEWA RESOURCES INC, MINOT-ND**
 For the Purpose of: Permit: Planning & Preconstruction Survey
 Right-of-Way Number: RW0008369
 Damage Payment to Lessee: N/A
 Trust: A – Common Schools
 Legal Description: N/A

Granted to: **MAGNUS SERVICES LLC, WATFORD CITY-ND**
 For the Purpose of: Letter of Permission: Temporary Water Layflat Line
 Right-of-Way Number: RW0008377
 Trust: A – Common Schools
 Legal Description: WIL-153-100-36-NE4, SE4

Granted to: **STREAMLINE WATER SERVICES LLC, WILLISTON-ND**
 For the Purpose of: Letter of Permission: Temporary Water Layflat Line
 Right-of-Way Number: RW0008384
 Trust: A – Common Schools
 Legal Description: MCK-150-98-36-SE4, SW4

Investment Updates

Asset Allocation

The status of the permanent trusts' asset allocation as of September 30, 2018:

Account/Asset Class	Long-Term Asset Allocation	9/30/18 Actual Allocation \$	9/30/18 Actual Allocation %	9/30/18 %Diff.
Large Cap US Equity	13.3%	\$ 629,778,585	13.6%	0.3%
Mid/Small Cap US Equity	3.7%	\$ 176,777,651	3.8%	0.1%
International Equity	13.3%	\$ 599,732,144	12.9%	-0.4%
Emerging Market Equity	3.7%	\$ 169,758,056	3.7%	0.0%
Total Equities	34.0%	\$ 1,576,046,436	34.0%	0.0%
Core Fixed Income	12.6%	\$ 596,794,595	12.9%	0.3%
Non-Core Fixed Income	8.4%	\$ 375,301,978	8.1%	-0.3%
Total Fixed Income	21.0%	\$ 972,096,574	21.0%	0.0%
Total Absolute Return	20.0%	\$ 927,878,796	20.0%	0.0%
Commodities	3.0%	\$ 142,229,164	3.1%	0.1%
MLPs	3.0%	\$ 143,605,225	3.1%	0.1%
TIPS	2.0%	\$ 88,719,636	1.9%	-0.1%
Natural Resource Equities	2.0%	\$ 92,640,225	2.0%	0.0%
Total Inflation Strategies	10.0%	\$ 467,194,249	10.1%	0.1%
Core Real Estate	8.0%	\$ 381,318,550	8.2%	0.2%
Core Plus Real Estate	7.0%	\$ 307,589,033	6.6%	-0.4%
Total Real Estate	15.0%	\$ 688,907,582	14.9%	-0.1%
Total Asset	100.0%	\$ 4,632,123,637	100.0%	

Angelo Gordon (\$36.00 million, 0.8% of PTF assets)

Direct Lending Fund

The new Angelo Gordon Direct Lending portfolio was funded in late-August, with an initial call of \$6 million. Since then there have been three additional calls; two for \$11.25 million and an

additional call for \$7.5 million that will fund on October 29, 2018. By the end of October 2018, 24% of the total \$150 million commitment will be funded.

Schroders (\$70.0 million, 1.6% of PTF assets)

Securitized Credit

The initial funding of the Schroder's securitized credit portfolio was completed on September 17, 2018, with a deposit of \$35 million. A second transaction of \$35 million was transferred to Schroders on October 11, 2018. The Commissioner expects to complete funding of this portfolio at the beginning of November, with the transfer of an additional \$25 million.

Lazard (high yield bonds) and First International (international fixed income)

During mid-October, the Commissioner worked with Northern Trust to liquidate the Lazard and First International portfolios. A portion of the cash generated was used to fund October transfers to both Schroders and Angelo Gordon. An additional \$25 million will be held in cash pending the final transfer to Schroders in late-October. The balance of the liquidation proceeds will be held in the Payden & Rygel Low Duration Fund, to be used to fund Angelo Gordon calls over the next 18 to 24 months.

BND Farm Loan Pool (\$7.4. million, 0.2% of PTF assets)

Direct Farm Lending

During October, BND was in contact with the Department of Trust Lands to prepare to fund a farm loan by the end of October; this will be the first transfer of funds to the farm loan pool since late-2009. According to BND there is a solid market for these loans at the present time, so the Board can expect to fund as much as \$5-10 million of loans before the end of 2018.

Although BND met the needs of North Dakota farmers and ranchers over the past 9 years, the Commissioner is excited to once again be using permanent trust dollars to invest in North Dakota farm real estate loans. With rates now yielding over 6.25%, these high quality loans will meet the trusts' investment needs for years to come, while also providing affordable financing options to farmers and ranchers in North Dakota.

Westwood Holdings Group, (\$302.91 million, 6.7% of PTF pool)

Westwood Income Opportunities Fund (Absolute Return)

In July, Westwood announced that Mark Freeman, CIO and co-PM of Westwood Income Opportunities strategy, will be retiring on March 8, 2019. Todd Williams remains co-PM of the strategy. Additionally, Dan Barnes, PM of another multi-asset strategy, Westwood Worldwide Opportunities, was recently named co-PM of the Income Opportunities portfolio. Although the co-PMs are supported by a team of 20 individuals, including a strong team of research analysts, Mr. Freeman is a key individual for the strategy.

Since the announcement, RVK and has done extensive due diligence on Westwood, including spending time in Westwood's office meeting with key personnel for both the product and the company. The results of that diligence is that RVK currently recommends the Board of University and School Lands not replace Westwood. A copy of RVK's due diligence memo is available for review upon request.

RVK will continue to monitor and evaluate the situation at Westwood closely, to see if this change will result in a loss of assets, reduced stability at the firm, negative performance or other issues. RVK will report back to the Board if they believe there is cause for concern going forward.

Upcoming Investment Manager Meetings

The following meetings with investment managers are planned to discuss strategy, compliance, and performance. They will be held in the Department's conference room.

October 25, 2018, 10:00 AM PIMCO – All Assets All Authority Fund

Absolute Return (\$305.0 million, 6.8% of PTF pool)
Matt Clark and Yinyin Wu

A D J O U R N

There being no further business, the meeting was adjourned at 11:07 AM.

Doug Burgum, Chairman
Board of University and School Lands

Jodi Smith, Secretary
Board of University and School Lands

**Minutes of the Meeting of the
Board of University and School Lands
November 20, 2018**

The November 20, 2018 meeting of the Board of University and School Lands was called to order at 1:38 PM 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:

Jodi Smith	Commissioner
Drew Combs	Minerals Director
Susan Dollinger	Unclaimed Property Administrator
Jeff Engleson	Investments Director
Kristie McCusker	Paralegal
Catelin Newell	Office Manager
Gerard Schwan	Grants Administrator
Joseph Stegmiller	Natural Resource Professional

Guests in Attendance:

Brent Sanford	Lt. Governor
Leslie Bakken Oliver	Governor's Legal Counsel
Reice Haase	Governor's Policy Advisor
Dave Garner	Attorney General's Office
Mark Hanson	Nilles Law Firm
Geoff Simon	Western Dakota Energy Association
Chris Friez	North American Coal
David Straley	North American Coal
Brady Pelton	North Dakota Petroleum Council
Kyle Wanner	ND Aeronautics Commission

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, 2018 meeting was made by Treasurer Kelly Schmidt and seconded by Attorney General Wayne Stenehjem and the motion carried unanimously on a voice vote.

O P E R A T I O N S

Delegation of Authority

The delegation of authority from the Board of University and School Lands (Board) to the Commissioner of University and School Lands (Commissioner) has been granted through specific Board action. The functions exercised by the Board and those delegated to the Commissioner are subject to ongoing review to ensure appropriate division of functions.

Under N.D.C.C. § 15-02-05, the Board appoints a Commissioner to act as its general agent in the performance of its duties. Specific responsibilities of the Board and the Commissioner are set out in N.D.C.C. chs. 15-01 through 15-08.1. Additionally, various statutes authorize the Commissioner to conduct numerous activities.

Other than as expressly provided by the Board, all matters not specifically reserved for the Board and necessary for the day-to-day management of the Department of Trust Lands (Department) are conducted by the Commissioner. The Commissioner may delegate duties to staff where appropriate. The Department's policies and procedures provide guidance on the execution of specific roles and responsibilities.

The Commissioner shall be responsible for:

- Ensuring that the Department's day-to-day operations are carried out in accordance with all legal and regulatory requirements
- Ensuring that the Department's policies, practices, and decisions are undertaken in a manner that is prudent, equitable, and consistent with commonly accepted business practices and professional ethics
- Ensuring that the Department's assets are protected, adequately maintained, and not placed at unnecessary risk
- Ensuring that Board approved priorities are reflected in the allocation of resources
- Ensuring that budgeting is based on generally accepted accounting principles and that budgets are balanced
- Promoting a healthy work environment for staff
- Representing the organization externally to the community, government, media, and other stakeholders in ways that enhance the public image and credibility of the organization.

The document outlining authority that the Board has delegated to the Commissioner was provided to the Board and is available at the Department upon request. This document will be updated as new authority is delegated and will be maintained in the Department. Documentation will be provided to the Board as requested.

Proposed Legislation for 2019

The Department of Trust Lands (Department) intends to propose legislation, including but not limited to the following:

Continuing Authority for Building Repairs and Investments Due Diligence

The Department is seeking continuing authority for building repairs to align the Department with other agencies who own buildings. Additionally, the Department is seeking to add due diligence trips to current continuing authority. N.D.C.C. § 15-03-16.

Confidentiality of Audit Information Provided by Operators

The Department is requesting legislation to protect proprietary information provided to the Department by operators during Department audits. N.D.C.C. ch. 15-02.

Penalties

The Department is seeking authority for the Board of University and School Lands (Board) to set a penalty for any person who violates any provision of N.D.C.C. chapter 15-02, or any laws, rules, or policies of the Board.

Repeal Outdated Surface Statutes

The Department is seeking to repeal outdated Surface Division statutory language, specifically N.D.C.C. §§ 15-04-02, *Lease of Cultivated Lands for Summer Fallow*, and 15-04-04, *Failure to Summer-Fallow Cultivated Lands Cause for Cancellation of Lease*.

Uniform Unclaimed Property Act

The Department is proposing N.D.C.C. ch. 47-30.1, based on the Uniform Unclaimed Property Act of 1981, be repealed and replaced with language modeled after the Uniform Unclaimed Property Act of 2016.

Administrative Rules

The Department is recommending changes to the N.D.C.C. § 28-32-01 to remove the Board as an administrative agency, except for activities under N.D.C.C. chs. 47-30.1 and 57-62. The Department will propose language be added to N.D.C.C. § 15-01-03 creating a Board requirement of a first and second reading on all Board policy amendments.

Modify Senate Bill 2134

The Department is seeking minor adjustments to N.D.C.C. ch. 61-33.1 authorizing the Department to engage a licensed engineering or land surveying firm to analyze the final review findings by the industrial commission and determine acreage on a quarter-quarter or government lot basis above and below the ordinary high water mark as delineated by the final review findings of the industrial commission. Additionally, upon completion of the acreage adjustment data and adoption by the Board of the final review findings issued by the engineering or land surveying firm providing the acreage adjustment data, the Board shall complete the adjustments, refunds, and payment demands within two years after the date of adoption of the final review findings.

Engineer Request for Proposal Update

On October 25, 2018, the Board of University and School Lands (Board) authorized the Commissioner to contract with an engineering firm to provide the Department of Trust Lands (Department) with the necessary data to implement any acreage adjustments, lease bonus and royalty refunds, and payment demands as may be necessary relating to state-issued oil and gas leases per N.D.C.C. § 61-33.1-04(2).

As the Department does not have the information to determine the exact acreage adjustments required to release any royalty proceeds held by the Board and in order for the Department to fully satisfy its requirements under SB 2134, codified at N.D.C.C. ch. 61-33.1, the Department will need to contract with an engineering firm to analyze the Wenck Study and the PLSS maps. Utilizing GIS, the Wenck Study's shapefile can be imported and overlaid with the Bureau of Land Management's Public Land Survey System (PLSS) maps to break down acreage above and below the Wenck Study's coordinates on a quarter-quarter or government lot basis. However, because the State issued its oil and gas leases on a quarter section basis, if the OHWM of the river runs through any part of a particular quarter section, the Department needs the contracted engineer to identify:

1. The amount of acreage in each quarter section that would be sovereign lands below the OHWM and subject to State lease (based on a quarter section);
2. Acreage above the OHWM in each quarter-quarter section or government lot owned by upland owners to allow for more finite calculations; and
3. Acreage allocations for accretions (where accretions are present) lying above the OHWM attributable to riparian tracts within each section.

The Department is working with Verint, also known as Major Oak Consulting, on drafting a Request for Proposal (RFP) to seek the expertise of an engineering firm to identify the above information.

That RFP will be presented to the Board at the December 17, 2018 Board meeting.

Common Schools Trust Fund Revenue and Distribution History

Educational and institutional trust distributions are based upon the growth in value of the trusts' financial assets over time, rather than on the amount of interest and income earned by each trust during the year. Biennial distributions from the permanent trust funds must be 10 percent of the five-year average value of trust assets, excluding the value of lands and minerals. Equal amounts are distributed during each year of the biennium. With the substantial growth in trust assets over the past 10 years, distributions to beneficiaries have significantly increased.

The key to a successful endowment type investment program is to maintain spending levels at sustainable rates. That was the objective of the constitutional spending formula implemented in 2009. It was advanced with the specific purpose of balancing the Board of University and School Lands' (Board) dual mandates to preserve the purchasing power of the trusts and maintain stable distributions to beneficiaries.

In reviewing the historical annual distributions from the Common Schools Trust Fund (CSTF) and the amount of income and assets available to make those distributions, there are two distinct time periods that should be considered:

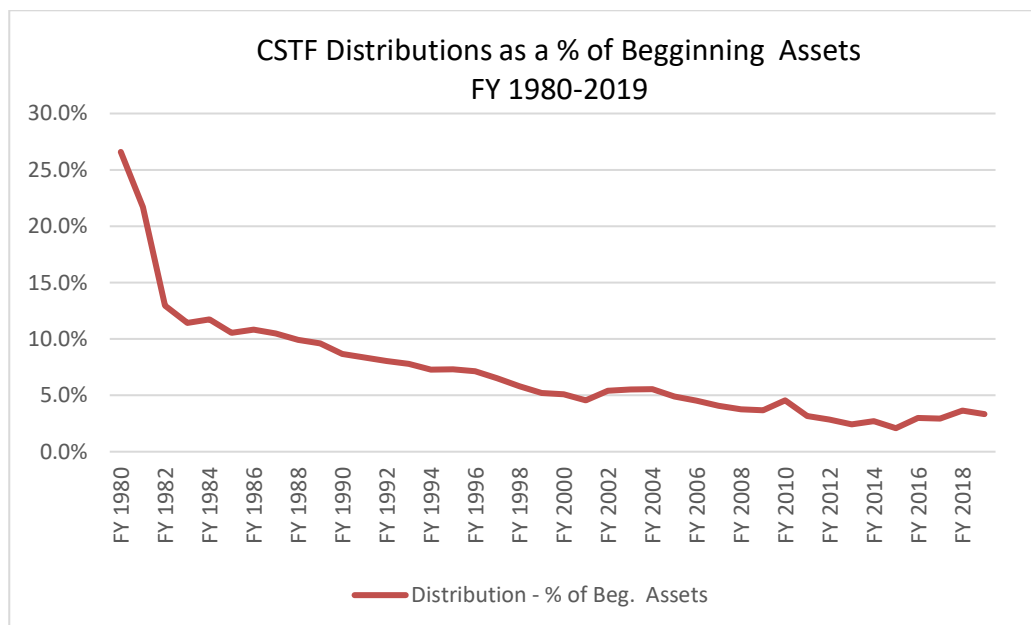
- Statehood through FY 2009: In the majority of the years leading up to 2009, "interest and income" including investment income and dividends, surface rentals, and mineral rentals were distributed to the common schools. Revenues from mineral royalties and bonuses, easements, unclaimed property, etc., were deposited into the corpus, and could not be distributed.

The exception was through a constitutional measure during 1980 through 1984 when a portion of the mineral lease bonuses collected were distributed resulting in higher payout rates.

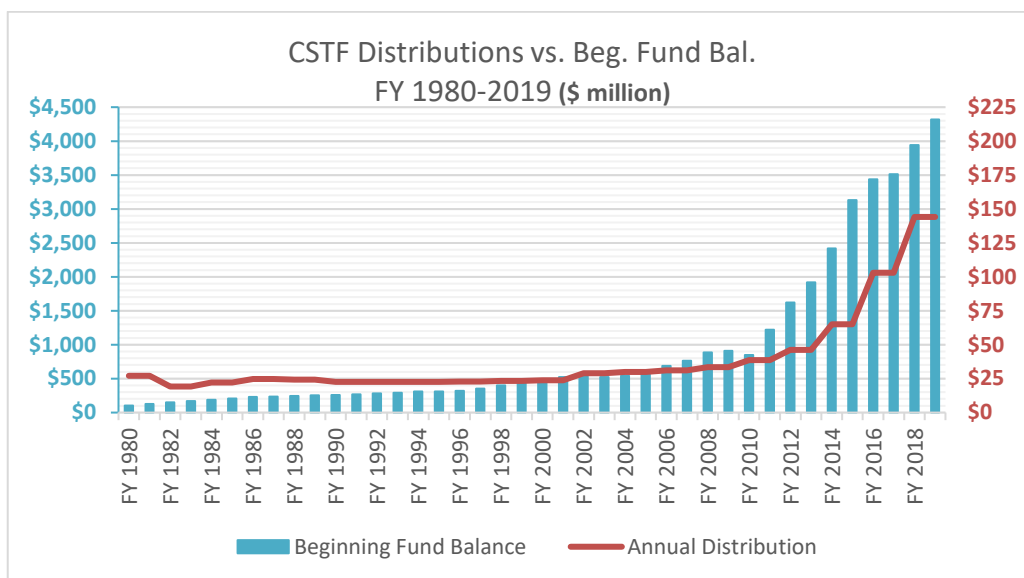
- FY 2010 to present: Since Fiscal Year 2010, distributions have been based on the growth in value of the trust fund over time as determined under the formula found in Article IX, Section 2 of the North Dakota Constitution. Revenues from all sources are deposited into the fund and the total financial value determines distributions. See attachment which contains Article IX, Section 2 language and an example of how the distribution formula.

The following charts show the annual distribution of the CSTF compared to the trust's beginning financial assets for each of the previous two decades. While the spending rate starts above 20% in Fiscal Year 1980, it has been under 5% since 2004.

Over time the formula will generate a yearly distribution rate of between 4.0-4.5%, although the exact rate for each year depends on the amount of new money flowing into the fund and investment returns over the past five years.



The chart below shows CSTF distributions compared to the fund's beginning financial assets from 1980 through 2019:



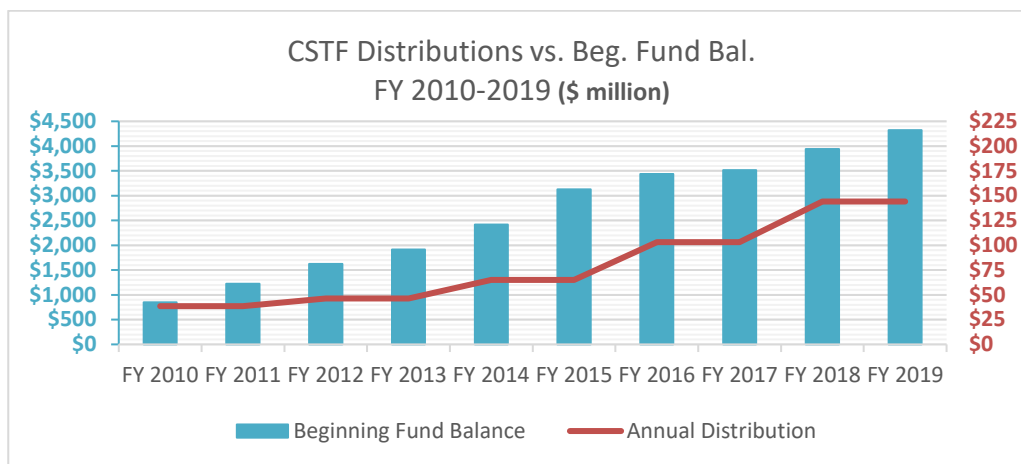
A ratio scale is used in the preceding chart and the chart below, with the orange scale depicted on the right being 5% of the blue scale on the left. When the orange line is above the blue bar for any given year, distributions for that year were greater than 5% of the beginning assets.

For many of the previous 40 years, distributions were made at unsustainable rates. The combination of constitutional language, legislative appropriation of distributions, and an objective to increase distributions made it difficult to manage the spending rate. In 1995, the Board adopted an asset allocation leading toward a total return investing and the percentage of assets approach to distributions. At that time, the Board adopted a 20-year forward looking asset allocation plan to decrease the distribution rate to below 5% and increase exposure to equities to more than 50% to balance the dual mandates to preserve the purchasing power of the trust and maintain stable distributions to beneficiaries.

Legislative action in 2001 resulted in an unanticipated bump to the permanent trust funds' distributions of 20%, undoing the Board's plan to reduce the distribution rate. The disruptive distribution led the Board to further investigate a total return and percent of assets approach to investing and distributions.

In 2003, the Board accepted investment consultant DiMeo-Schneider's asset allocation study, leading to its 2005 legislative resolution and 2006 ballot measure amending Article IX distributions. That law became effective July 1, 2009.

The following is a yearly comparison of CSTF distributions to the beginning financial assets from July 1, 2009, when the ballot measure went into effect, through fiscal year 2019:



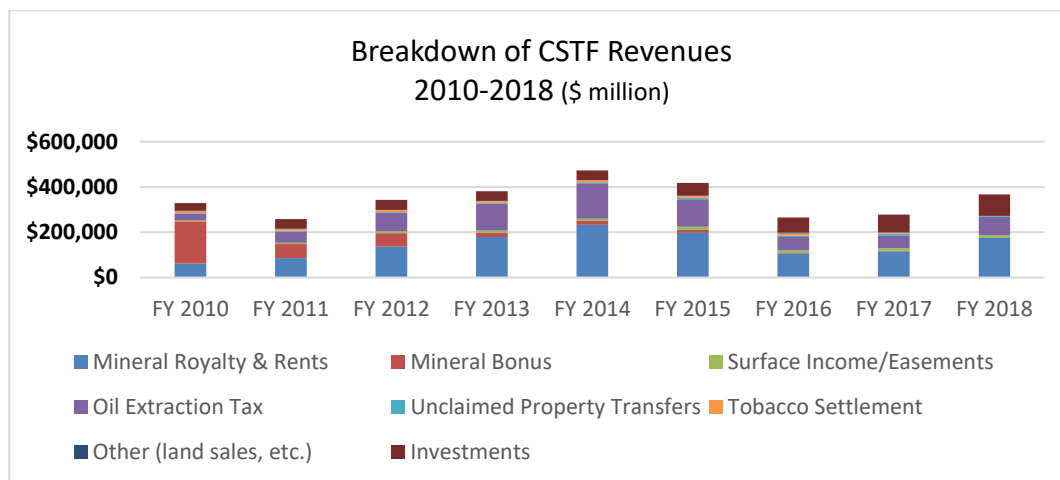
Oil and gas lease bonus and royalty revenues resulted in substantial growth in the CSTF, increasing by 300% over eight years. Strong investment markets have also driven growth since the 2008-2009 recession.

Because the distribution formula is based on asset values over the previous five years and the trust has experienced substantial trust growth over the past ten years, the effective distribution rate has averaged 3.1%. The growth in trust assets resulted in trust distributions growing by 331% from the 2008-2009 biennium to the 2017-2019 biennium.

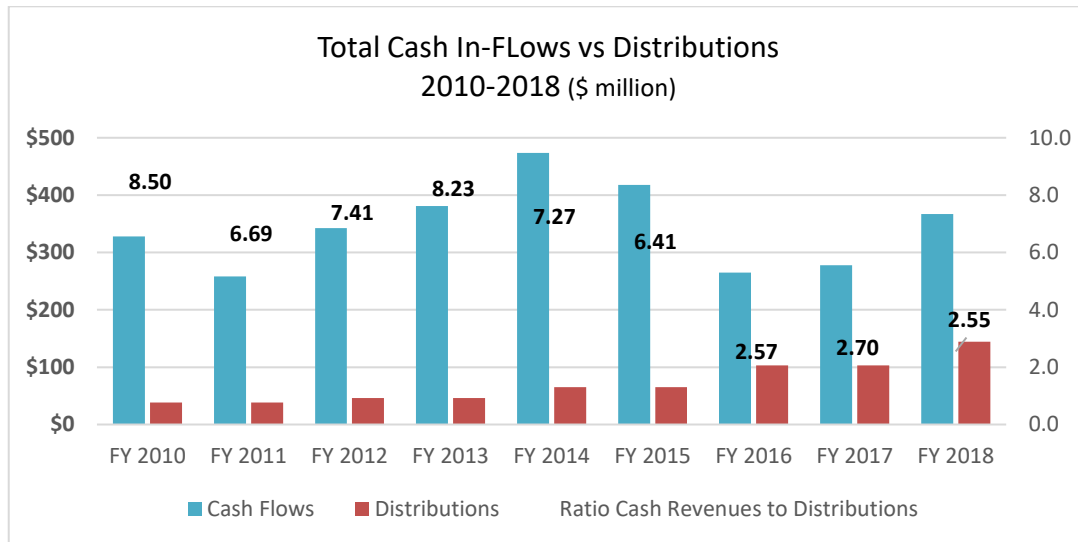
The distribution rate has increased slightly over the past four years as trust growth has slowed. However, the effective distribution rate was 3.7% for FY 2018 and will be 3.3% for FY 2019.

Trust Revenues from Fiscal Year 2010 through Fiscal Year 2018

The following chart provides a breakdown of a cash revenues received by the CTSE.



Trust growth during the illustrated time-frame was driven by an increase in oil and gas lease bonuses in 2010, 2011, and 2012. Bonuses are one-time income items and the trust will most likely not receive similar bonuses in the future. During the period of FY 2012-2015, the greatest sources of trust growth were from oil royalties and oil tax revenues, partly attributable to oil priced at \$100 per barrel. Over the past three years, trust revenues have stabilized as the price of oil has remained consistent.



In conclusion, revenues over the past three years are lower than they were during FY 2013-2015; however, they have stabilized and continue to provide increased distributions from the trusts. In the 2019-2021 biennium distributions by the trusts will increase by \$82,647,297 which is a 27% increase. The distributions per trust can be seen in the chart below:

<u>Trust</u>	<u>2019-21 Biennium</u>	<u>2017-19 Biennium</u>	<u>Percentage of Change</u>	<u>Change in Distribution</u>
Common School	\$ 366,756,000	\$ 288,264,000	27.2%	\$ 78,492,000
<i><u>Permanent Funds:</u></i>				
ND State University	\$ 5,916,000	\$ 4,738,000	24.9%	\$ 1,178,000
ND School for the Blind	\$ 880,000	\$ 654,000	34.6%	\$ 226,000
ND School of the Deaf	\$ 1,898,000	\$ 1,598,000	18.8%	\$ 300,000
ND State Hospital	\$ 1,328,000	\$ 1,184,000	12.2%	\$ 144,000
Ellendale *	\$ 1,694,000	\$ 1,931,889	(12.3%)	(\$ 237,889)
Valley City State University	\$ 1,034,000	\$ 808,000	28.0%	\$ 226,000
Mayville State University	\$ 668,000	\$ 542,000	23.2%	\$ 126,000
Youth Correctional Center	\$ 1,864,000	\$ 800,814	132.8%	\$ 1,063,186
ND State College of Science	\$ 1,494,000	\$ 1,260,000	18.6%	\$ 234,000
School of Mines **	\$ 1,746,000	\$ 1,444,000	20.9%	\$ 302,000
ND Veterans Home	\$ 490,000	\$ 436,000	12.4%	\$ 54,000
University of ND	\$ 2,758,000	\$ 2,218,000	24.3%	\$ 540,000
Total Permanent Funds	\$ 21,770,000	\$ 17,614,703	23.6%	\$ 4,155,297
Total Distributions	\$ 388,526,000	\$ 305,878,703	27.0%	\$ 82,647,297

* The following entities are equal beneficiaries of the Ellendale Trust:

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

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

Board of University and School Lands Capital Repairs

The Department of Trust Lands (the “Department”) has been working over the past eight months to develop a long-term facility management plan that aims to reduce the Department’s operating costs, while strategically addressing aging infrastructure and improving the indoor environment. The goal of the Department is to find efficient, effective and economical solutions that address many of the challenges facing the facility.

In November 2018, the Department experienced severe a sewer line clog resulting in raw sewage backup coming out of all the drains. A plumber was required to work on the pipes for two days to clear roots and other blockages to ensure the building remains in compliance with numerous health codes. The work that was done is a temporary solution and additional work will need to be completed to resolve the issue. Two options are currently being reviewed.

Motion: The Board approves utilizing continuing appropriation, per N.D.C.C. § 15-03-16, to support the costs for necessary repairs of the Departments sewer system.

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		

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

Contingency Grant

In June 2017, the Board of University and School Lands (Board) approved the establishment of a contingency grant to utilize undistributed funds from the 2013-2015 and 2015-2017 biennia. Section 10 of Senate Bill 2013 allowed the use of unexpended funds to provide for grants and administrative costs during the 2017-2019 biennium:

SECTION 10. EXEMPTION - OIL AND GAS IMPACT GRANT FUND. The amount appropriated from the oil and gas impact grant fund for the energy infrastructure and impact office line item in section 1 of chapter 13 of the 2015 Session Laws and for oil and gas impact grants in section 5 of chapter 463 of the 2015 Session Laws is not subject to section 54-44.1-11. Any money deposited in the fund for taxable events occurring through June 30, 2017, and any unexpended funds from the appropriation are available for grants and administrative costs associated with the fund during the biennium beginning July 1, 2017, and ending June 30, 2019. (Emphasis added).

The Energy Infrastructure and Impact Office then nominated nine members to serve on the Contingency Grant Advisory Committee (Committee), which the Board approved at the December 6, 2017 meeting:

Dan Kalil (Township Chair), Jay Elkin (County Commissioner), Justin Voll (Mayor), Marcia Lamb (County Auditor), Mark Spooner (Township Chair), John Bruce (School

Superintendent), Dave Mahon (School Superintendent), Gary Weisenberger (Mayor), and Reinhard Hauck (County Commissioner)

During the May 31, 2018 meeting the Board also replaced Mr. Dave Mahon Superintendent of Schools for Bowman County Public School District with Mr. David Wegner, Superintendent of Schools for Beach Public School District #3, to serve on the Committee.

In August 2018 the Board nominated and approved Mr. Allen Ryberg, County Commissioner for Burke County, to the Committee. Mr. Ryberg replaced Mr. John Bruce, Superintendent of Burke Central PSD, who accepted employment in Alaska.

Now the EIO nominates Mr. Philip Riely, the newly elected mayor of Watford City, to replace Mr. Justin Voll. Mr. Riely will continue the good stewardship for the advisory committee.

Motion: The Board approves the actions of replacing Mr. Justin Voll with Mr. Philip Riely on the Contingency Grant Advisory Committee.

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

Energy Infrastructure and Impact Office (EIO) Williston and Dickinson Airport Grants

Senate Bill 2013 was approved and enacted by the 2017 Legislative Assembly. The Legislature also created a new Energy Impact Fund to coexist with the Oil & Gas Impact Grant Fund for the 2017-2019 biennium. Sections 13 and 14 of Senate Bill 2013 authorizes expenditure of grant funds for airports from two separate grant funds:

SECTION 13. OIL AND GAS IMPACT GRANT FUND - AIRPORT GRANTS. The grants line item and the total special funds line item in section 1 of this Act include the sum of \$25,000,000 from the oil and gas impact grant fund for grants to airports, for the biennium beginning July 1, 2017, and ending June 30, 2019. Of the \$25,000,000, the board of university and school lands shall award a grant of \$20,000,000 to the Williston airport and a grant of \$5,000,000 to the Dickinson airport. A grant may be awarded to the Williston airport only when any related federal funding is committed and available to be spent on the new airport construction project. Grants awarded but not yet paid under this section are not subject to section 54-44.1-11.

SECTION 14. ENERGY IMPACT FUND - WILLISTON AIRPORT GRANT. The grants line item and the total special funds line item in section 1 of this Act include the sum of \$15,000,000 from the energy impact fund for a grant to the Williston airport, for the biennium beginning July 1, 2017, and ending June 30, 2019. A grant may be awarded to the Williston airport only when any related federal funding is S. B. NO. 2013 - PAGE 4 committed and available to be spent on the new airport construction project. Grants awarded but not yet paid under this section are not subject to section 54-44.1-11.

Stipulated in the legislation above is that no project can be awarded to Williston Airport (Sloulin Field) unless related federal funding is committed and available for the new airport construction project. The

North Dakota Aeronautics Commission is the Board of University and School Lands' advisory committee working on this grant sector and confirms that the Federal Aviation Authority has committed \$25 million for the fiscal year and satisfies the stipulation.

The ND Aeronautics Commission recommends funding 6 grants to Dickinson and 11 grants to Williston airports, respectively:

OIL & GAS - DICKINSON AND WILLISTON AIRPORTS				
APPLICANT	APP #	PROJECT	PROJECT TOTAL	AMOUNT REQUESTED
DICKINSON MUNICIPAL AIRPORT AUTHORITY	A190005	RUNWAY 15-33 CONSTRUCTION AND LAND ACQUISITION	\$12,438,900	\$1,568,900
DICKINSON MUNICIPAL AIRPORT AUTHORITY	A190006	RUNWAY 15-33 CONSTRUCTION	\$12,113,250	\$921,135
DICKINSON MUNICIPAL AIRPORT AUTHORITY	A190007	GENERAL AVIATION TAXILANE	\$294,000	\$264,600
DICKINSON MUNICIPAL AIRPORT AUTHORITY	A190008	UTILITY POWER SUPPLY RELOCATION	\$270,000	\$243,000
DICKINSON MUNICIPAL AIRPORT AUTHORITY	A190009	RUNWAY 14-32 DESIGN AND COORDINATION	\$620,000	\$558,000
DICKINSON MUNICIPAL AIRPORT AUTHORITY	A190010	MINERAL APPRAISAL RESERVES	\$47,000	\$42,300
SLOULIN INTERNATIONAL AIRPORT	A190011	CONSTRUCT GENERAL AVIATION TAXIWAY*	\$2,108,133	\$36,271
SLOULIN INTERNATIONAL AIRPORT	A190012	CONSTRUCT GEN AVIATION APRON & RUNWAY MARKINGS	\$13,929,537	\$1,364,953
SLOULIN INTERNATIONAL AIRPORT	A190013	AIRCRAFT RESCUE & FIREFIGHTING BUILDING	\$7,119,556	\$1,200,285
SLOULIN INTERNATIONAL AIRPORT	A190014	CONSTRUCT PERIMETER & SECURITY FENCE	\$1,200,597	\$338,825
SLOULIN INTERNATIONAL AIRPORT	A190015	CONSTRUCT PERIMETER & INTERNAL ROAD SYSTEM	\$7,440,297	\$744,030
SLOULIN INTERNATIONAL AIRPORT	A190016	NAVAID MALSR TOWERS	\$4,050,678	\$4,050,678
SLOULIN INTERNATIONAL AIRPORT	A190017	ON-SITE WATER AND STORAGE/SEWER PROJECT	\$1,647,300	\$1,482,570
SLOULIN INTERNATIONAL AIRPORT	A190018	ELECTRICAL VAULT & INSTALL RADIO EQUIPMENT	\$918,425	\$240,463
SLOULIN INTERNATIONAL AIRPORT	A190019	COMMERCIAL SERVICE PARKING LOTS	\$6,380,971	\$4,898,751
				\$17,954,761
ENERGY IMPACT FUND - WILLISTON AIRPORT				
APPLICANT	APP #	PROJECT	PROJECT TOTAL	AMOUNT REQUESTED
SLOULIN INTERNATIONAL AIRPORT	A190020	CONSTRUCT GENERAL AVIATION TAXIWAY*	\$2,108,133	\$174,542
SLOULIN INTERNATIONAL AIRPORT	A190021	CONSTRUCT COMMERCIAL SERVICE APRON	\$7,122,335	\$1,968,632
				\$2,143,174
TOTAL GRANT RECOMMENDATION				<u>\$20,097,935</u>

* Application A190011 and A190020 is one project funded by two grant funds

There remaining amount available in both funds are exactly what's identified in the recommendation by the North Dakota Aeronautics Commission as shown in the following matrix:

2017-2019 Biennium Breakdown					
Grant Round	# Applications	Amount of Projects	Amount Requested	# Awards	Amount Awarded
O&G Williston Airport - 2018	10	\$8,758,442	\$7,860,548	6	\$5,643,174
O&G Dickinson Airport - 2018	6	\$3,965,326	\$1,402,065	6	\$1,402,065
EI Williston Airport - 2018	5	\$71,279,603	\$12,856,826	5	\$12,856,826
Contingency Grant - 1st Round	18	\$10,576,411	\$7,378,821	3	\$47,681
Contingency Grant - 2nd Round	4	\$1,710,367	\$1,356,598	1	\$250,000
O&G Williston Airport - 2018	9	\$42,687,361	\$14,356,826	9	\$14,356,826
O&G Dickinson Airport - 2018	6	\$25,783,150	\$3,597,935	6	\$3,597,935
EI Williston Airport - 2018	2	\$9,230,468	\$2,143,174	2	\$2,143,174
Subtotals	60	\$173,991,128	\$50,952,793	38	\$40,297,681.00
Minus Adjustments					\$0.00
Net Awards					\$40,297,681.00
As of: November 20, 2018					

		Remaining Allocations	
		O&G Williston Airport	\$0
		O&G Dickinson Airport	\$0
		El Williston Airport	\$0
			\$0
		Contingency Grant	\$3,072,002

These grant awards complete the appropriations specified for airports by the Legislature for the biennium.

Motion: The Board approves a total of 17 grants to Williston and Dickinson Airports for a total of \$20,097,935 for airport expansion projects, listed in the preceding charts, as authorized by the 2017 Legislative Assembly.

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

INVESTMENTS

Summary of Investment Fees Paid in FY 2018

The report of investment related fees and expenses paid during the fiscal year ended June 30, 2018 was presented to the Board and is available at the Department upon request.

During fiscal year 2018, the pooled investments of the permanent trusts paid \$25,081,670 of investment fees; the average market value of assets invested was \$4.37 billion for fiscal year 2018. The average fee rate paid for the fiscal year was 0.537% of average assets, or 53.7 basis points. Net of fees, the permanent trust pool realized a total return of 6.50% in fiscal year 2018.

The pooled investments of the Strategic Investment and Improvements Fund, the Coal Development Trust Fund, and the Capitol Building Fund paid investment fees of \$146,372 during fiscal year 2018 on an average market value of \$335.3 million. This portfolio paid a flat fee of 0.06% on average assets, or 6.0 basis points; the portfolio does not pay a custody fees. This investment pool posted a total return of 1.39% net of fees for the fiscal year.

MINERALS MANAGEMENT

Board Coal Policy Manual – First Reading

Since January 2018, the Department of Trust Lands (Department) has been reviewing the policies of each of its Divisions. As a result of this review, the Department determined the Board's Coal policies need updating. Board policies instruct the Department on carrying out Department duties and functions. Any changes to these policies will be reviewed by the Board and are not subject to legislative approval.

The Commissioner is requesting the Board provide input on the proposed North Dakota Board of University and School Lands Coal Policy Manual. The Department met with representatives from North American Coal and BNI on October 31, 2018 and requested they provide comments on the proposed North Dakota Board of University and School Lands Coal Policy Manual; no revisions were requested during this meeting.

This is the “first reading” of proposed policies, with suggestions being taken into consideration and a “second reading” to occur on December 17, 2018.

The North Dakota Board of University and School Lands Coal Policy Manual and recommended revisions are available at the Department upon request.

Coal Lease Auction – November 13, 2018

At the October 25, 2018 meeting of the Board of University and School Lands (Board), the Board authorized the Commissioner to auction two nominated coal leases, totaling 480 net coal acres and 320 surface acres in McLean Co., with the following terms:

- **Bonus:** \$100 per acre for both surface and mineral equaling an \$80,000.00 upfront payment.
- **Royalty Rate:** \$0.16 per ton (mineral estate) \$0.12 per ton mined (surface) + 3% annual escalator.
- **Annual rental:** \$5.00 per mineral acre and \$5.00 per acre surface.
- **Length of lease:** 15 years with an option to extend for an additional 15 years.

As instructed by the Board, representatives from the Department of Trust Lands conducted a due diligence study to discover the prevailing “market rate” in the area and found the above terms to be, for the most part, on par or better than neighboring tracts.

According to the Board's rules and policies of leasing coal, a lease auction and hearing was conducted on November 13, 2018. No public comment on this matter was made. Seeing no objection to the proposed coal leasing, the Department moved to the auction phase, and the Falkirk Mining Company, a subsidiary of North American Coal Corporation, was the sole bidder.

Motion: The Board authorizes the Commissioner to issue the Falkirk Mining Company, Board approved leases, with the nominated terms, covering both the coal estates and surface estates for Township 147 North, Range 82 West Sec. 36: S½ & two leases covering the coal estates in Township 146 North, Range 82 West Sec. 4: S½.

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		

LITIGATION

Board of University and School Lands Major Case Summary as of November 13, 2018

The following is a summary of active litigation. Detailed case specific memorandums will be presented to the Board upon changes in case status or as new events requiring Board consideration occur.

UNCLAIMED PROPERTY

Case: State of Arkansas, et al. v. State of Delaware
Date Filed: June 9, 2016
Court: United States Supreme Court
Judge: Pierre N. Leval, *Special Master*
Attorney: David Garner
Opposing Counsel: Delaware Attorney General's Office

Issues: The United States Supreme Court assumed original jurisdiction over this lawsuit involving unclaimed property brought by 30 states, including the state of North Dakota, against the state of Delaware. The substantive issue involved is whether sums payable on unclaimed and abandoned checks sold by MoneyGram Payments Systems, Inc. should be remitted to the Plaintiff States, as the states of purchase, or to Defendant Delaware, as MoneyGram's state of incorporation. Texas and Arkansas are the lead states on behalf of the other Plaintiff states.

Current Status: A Complaint and Answer have been filed. A Special Master has been appointed to preside over the case. The Special Master has accepted the Case Management Order agreed to by the parties. The parties issued discovery requests and responses in November/December 2017. The parties have exchanged discovery and are in the process of resolving issues regarding depositions of certain states. The parties have agreed to stipulate as to the authenticity of the documents produced in discovery rather than undertake depositions.

REVENUE COMPLIANCE

Case: Continental Resources, Inc. v. North Dakota Board of University & School Lands and North Dakota Department of Trust Lands, Civ. No. 27-2017-CV-00661
Date Filed: December 20, 2017
Court: District Court/McKenzie County
Attorneys: David Garner
Opposing Counsel: Mark S. Barron/Baker & Hostetler LLP
Judge: Robin Schmidt

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

Current Status: A Complaint and Answer with Counterclaims have been filed. Continental filed an Answer to Counterclaims. Continental served discovery and responses were due July 30, 2018. Defendant served discovery and Continental replied on September 17, 2018. Trial scheduled for February 1, 2019.

Case: Newfield Exploration Company, Newfield Production Company, and Newfield RMI LLC v. State of North Dakota, ex rel. the North Dakota Board of University and School Lands and the Office of the Commissioner of University and School Lands, a/k/a the North Dakota Department of Trust Lands, Civ. No. 27-2018-CV-00143

Date Filed: March 7, 2018

Court: District Court/McKenzie County

Attorneys: David Garner

Opposing Counsel: Lawrence Bender and Spencer Ptacek/Fredrikson & Byron, P.A.

Judge: Robin Schmidt

Issues: Plaintiff is seeking a Declaratory Judgment that it is currently paying gas royalties properly under the Board's lease. Specifically, Plaintiff is asking the Court to order that gas royalty payments made by the Plaintiff be based on the gross amount received by the Plaintiff from an unaffiliated third-party purchaser, not upon the gross amount paid to a third party by a downstream purchaser, and that Plaintiff does not owe the Defendants any additional gas royalty payments based on previous payments.

Current Status: A Complaint and Answer with Counterclaims have been filed. Newfield filed an Answer to Counterclaims. A Scheduling conference was held July 27, 2018. Plaintiffs' filed a Motion for Summary Judgment on August 13, 2018 and Defendants filed a Cross-Motion for Summary Judgment. Plaintiffs' Response was filed October 19, 2018 and Defendants' Reply was filed November 9, 2018. A hearing on the Motions for Summary Judgment is scheduled for January 4, 2019 at 1:30 p.m., McKenzie County. Trial is scheduled for September 10 and 11, 2019.

Minerals

Case: EOG Resources, Inc. v. Soo Line Railroad Co., et. al., Civ. No. 31-10-CV-00010

Date Filed: Jan. 20, 2010

Court: Mountrail County District Court

Judge: Todd Cresap

Attorney: Hope Hogan/Matthew Sagsveen

Opposing Counsel: Multiple parties.

Issue: At issue is the ownership of mineral rights underlying the railroad in 8 sections of land in Mountrail County. The disputed property is land that the railroad acquired by condemnation and through right-of-way deeds. The railroad's lessee filed a crossclaim against the State and a number of other parties that claim an ownership interest adverse to the railroad.

Current Status: A settlement agreement has been signed by all parties and will be filed with the court once proceeds are distributed in accordance with the agreement.

Case: **Whiting Oil and Gas Corporation v. Arlen A. Dean, et. al., Civ. No. 27-2016-CV-00040**

Date Filed: January 25, 2016

Court: McKenzie County District Court

Judge: Robin Schmidt

Attorney: Hope Hogan/Jennifer Verleger

Opposing Counsel: Paul Forster, Shane Hanson (Whiting Oil and Gas Corp.), Kevin Chapman (multiple defendants)

Issues: Whiting Oil and Gas Corporation (“Whiting”) operates the Kuykendall 34-31-1H well located in McKenzie County near the Montana border. The Yellowstone River flows through the Kuykendall well spacing unit. Over time, the river has shifted westward. There are also islands within the Kuykendall spacing unit. On January 25, 2016, Whiting filed this interpleader action to resolve alleged title questions that have arisen due to the movement of the Yellowstone River. Because of these title questions, Whiting is withholding royalty payments. In its lawsuit, Whiting 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, Whiting will know who to pay.

The Board claims a mineral interest under the Yellowstone River, including the islands, and the Board also claims a 5% mineral interest in some of the riparian tracts in this spacing unit.

The Board and the State Engineer filed a joint response to the Complaint and several cross claims that have been made against the State.

Current Status:

The court trial (no jury) scheduled for August 6-10, 2018 was postponed to April 22 - 26, 2019. The initial scheduling order was amended for the State to conduct field work that could not be completed in the winter. Due to property flooding from high flows on the Yellowstone River, the State has been unable to conduct field work. Therefore, a telephonic scheduling conference was held August 16, 2018 to discuss the Court’s wishes for resetting deadlines. All deadlines and the April 2019 trial were cancelled. A January 3, 2019 telephonic status conference was scheduled.

Case: **ND Office of State Engineer, Board of University and School Lands v. BLM - Case No. IBLA 2016-170**

Tribunal: US Dept. of Interior Office of Hearings and Appeals – Board of Land Appeals

Attorney: Charles Carvell, Hope Hogan, and Jennifer Verleger

Opposing Counsel: Karan Dunnigan

Issues: In 2014, the Bureau of Land Management (BLM) resurveyed land along the Missouri River to locate the boundary, OHWM, between the public domain land owned by the United States and the riverbed owned by the state of North Dakota. In identifying the OHWM, the BLM applied federal law rather than state law. Specifically, the BLM adopted the survey conducted by the Corps of Engineers as part of the Garrison Dam project. In certain areas, the survey overlaps with the state’s claim to sovereign lands.

After the survey work was complete, the BLM published a “Notice of Filing Plats of Survey; North Dakota” in which BLM intends to formally file the survey plats as Official Plats. After the Federal Register Notice appeared, the State Engineer and the Board jointly filed a protest challenging the filing of the survey plats. The BLM rejected the State’s protest and the State appealed the BLM’s decision to the Interior Board of Land Appeals.

Current

Status: The State is waiting for a decision from the Interior Board of Land Appeals.

Case: **Continental Resources, Inc. v. North Dakota Board of University and School Lands, et al., Case No. 1:17-cv-00014**

Date Filed: December 23, 2016

Court: Federal District Court, 8th Circuit

Judge: Honorable David Hovland

Attorney: Charles Carvell, David Garner, Hope Hogan, and Jen Verleger

Opposing Counsel: Lawrence Bender, David Ogden, Paul Wolfson, Shaun Pettigrew

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

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

Current

Status: The Board filed a response on December 20, 2017 opposing the motion to dismiss. Continental filed a response and the United States filed its reply. The United States filed a Motion to Dismiss on March 16, 2018. The Board filed a Surreply to the Motion to Dismiss on April, 16, 2018. Awaiting decision from the Court on the United States’ Motion to Dismiss.

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

Date Filed: January, 2012

Court: Williams County District Court

Judge: Paul Jacobson

Attorney: Hope Hogan/Jennifer Verleger/Matthew Sagsveen

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

Issues: The Wilkinson lawsuit was filed on January 10, 2012. The Plaintiffs assert that they own minerals in a 200 acre tract west of Williston. This suit was initially filed in state

court as a quiet title action. The Attorney General's Office filed an Answer and Counterclaim on February 27, 2012.

On July 1, 2014, the Plaintiffs filed an amended complaint in the case and added claims of unconstitutional takings, conversion, constructive trust and unjust enrichment, civil conspiracy and deprivation of rights under 42 U.S.C. § 1983. Plaintiffs assert in their amended complaint that the Board should be issuing leases on the west side of the Highway 85 bridge pursuant to the Phase II Investigation – the estimated location of the ordinary high watermark (OHWM) prior to inundation of Lake Sakakawea – rather than the Phase I Delineation – current location of the OHWM. Plaintiffs argue that the subject property is located under Lake Sakakawea, which did not exist at statehood, and thus the state did not acquire title to it as sovereign lands. Therefore, the State's title to the Missouri River is limited to the channel as it existed prior to inundation of Lake Sakakawea as determined by the Phase II investigation.

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

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

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

**Current
Status:**

Due to the passage of S.B. 2134, the Court ordered the case stayed and all deadlines be held in abeyance until the final review findings under S.B. 2134 are issued by the Industrial Commission. Plaintiff, after NDIC issued the review findings, requested a status conference with the Court to set a new trial date and other deadlines. The Board and State Engineer filed a Motion for Continued Stay of Proceedings on October 11, 2018. The telephonic status conference scheduled for November 2, 2018 was cancelled. A Hearing on the Motion for Continued Stay is scheduled for November 30, 2018.

Case: **Whitetail Wave LLC v. XTO Energy, Inc.; the Board of University and School Lands; and the State of North Dakota – 27-2015-CV-00164**
Date Filed: **June 4, 2015**

Court: McKenzie County District Court
Judge: Robin Schmidt
Attorney: Hope Hogan/Jennifer Verleger
Opposing Counsel: Whitetail Wave – Christopher Sweeney; XTO Energy – Lawrence Bender

Issues: On August 1, 2015, the Attorney General's Office was served with a complaint in the above referenced case. This case is challenging the State's determination of the OHWM east of the Highway 85 Bridge, near the northern border of the Fort Berthold Indian Reservation. The Board has currently leased minerals pursuant to the Phase II Investigation for this tract. The Plaintiff is requesting that title to the minerals be quieted and has alleged claims of Unconstitutional takings, trespass, slander of title, and constructive trust/unjust enrichment against the State. The complaint also makes a number of claims specific to XTO Energy Inc., the operator of the wells on the tracts in dispute. Specifically, the Plaintiff is requesting that the State's claim to sovereign lands' mineral interest be restricted to those minerals located below the OHWM of the Missouri River prior to inundation of the Lake Sakakawea.

An answer was filed on behalf of the Board on July 21, 2015. In January 2016, the State Engineer intervened in the case.

Current Status: Due to the passage of S.B. 2134, the Court ordered the case stayed and all deadlines be held in abeyance until the final review findings under S.B. 2134 are issued by the Industrial Commission. The Board and State Engineer filed a Motion for Continued Stay of Proceedings on October 19, 2018 and XTO filed a Response in Support of Continued Stay on October 26, 2018. On November 5, 2018, the Court entered its Order for Continued Stay of Proceedings, staying the proceedings, holding all deadlines in abeyance, and ordering that upon final disposition of the Sorum lawsuit the parties will request a status conference to schedule a new trial date and reset other deadlines.

Case: Mary K. Starin, as Personal Representative of the Estate of Bruno Herman Weyrauch v. Kelly Schmidt, et. al., Civ. No. 53-2015-CV-00986

Date Filed: August 17, 2015
Court: Williams County District Court
Judge: David Nelson
Attorney: Hope Hogan/Jennifer Verleger
Opposing Counsel: Dennis Johnson

Issues: Plaintiff initiated this quiet title action to determine title to property located under Lake Sakakawea. In 1939, the State acquired the disputed property through a foreclosure of a Bank of North Dakota loan. In 1945, the State re-sold the property through a contract for deed to the Plaintiff's predecessors in interest. Pursuant to state law, the state reserved 50% of the minerals. The Special Warranty Deed issued after satisfaction of the contract for deed was not recorded and no one has a copy of the fully executed deed. The surface estate was later condemned as part of the Garrison Dam reservoir project. Plaintiffs have brought this action to clear title to the 50% of the minerals that they claim. The Board has leased the 50% mineral interest it reserved in this conveyance.

In January 2016, the State Engineer intervened in this case.

**Current
Status:**

Due to the passage of S.B. 2134, the Court ordered the case stayed and all deadlines be held in abeyance until the final review findings under S.B. 2134 are issued by the Industrial Commission. When the review findings are issued, the parties must request a status conference with the Court to set a new trial date and other deadlines. The Board and State Engineer filed a Motion for Continued Stay of Proceedings on October 12, 2018. Plaintiffs filed a Response to Defendants' Motion to Stay Proceedings on October 23, 2018. A hearing on the Motion to Stay Proceedings is scheduled for November 16, 2018.

Case: Paul Sorum, et. al. v. State of North Dakota, et. al. – Civ. No. 09-2018-CV 00089
Tribunal: Cass County District Court
Judge: John C. Irby
Attorney: Mark Hanson & Peter Hvidston, Nilles Law Firm
Opposing Counsel: Terrance W. Moore, Fintan L. Dooley

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

**Current
Status:**

An Answer was filed. Defendants filed a Motion to Dismiss, which was denied in April 2018. Petition for Supervisory Writ and Exercise of Original Jurisdiction was filed by Defendants and denied in May 2018. A Motion for Preliminary Injunction was brought by Plaintiffs and a hearing was held on May 21, 2018. An Order for Preliminary Injunction was filed June 26, 2018. A Scheduling Conference was held on September 6, 2018 and the following briefing deadlines were set: Summary Judgment Motions due October 22, 2018; Response Briefs due December 6, 2018; and the Reply briefs are due December 21, 2018. A hearing on the Motions for Summary Judgment is scheduled for 9:00 a.m. January 4, 2019, Fargo.

Paul Sorum, et al. v. The State of North Dakota, et al., Cass County District Court, Civil No.09-2018-CV-00089

Date Filed:	January 10, 2018
Date Served:	January 10, 2018
Tribunal:	Cass County District Court
Judge:	John C. Irby
Attorney:	Mark R. Hanson, Special Assistant Attorney General
Opposing Counsel:	Terrance W. Moore, Fintan L. Dooley

Plaintiffs brought this action against the State of North Dakota, the Board of University and School Lands, the North Dakota Industrial Commission, Governor Burgum and Attorney General Stenehjem (Defendants) seeking to declare N.D.C.C. ch. 61-33.1 unconstitutional, and to enjoin Defendants from implementation or enforcement of N.D.C.C. ch. 61-33.1.

Plaintiffs argue that the Legislature, by passing Senate Bill 2134, codified at N.D.C.C. ch. 61-33.1, has violated the public trust doctrine and the anti-gift (see N.D. Const. art. X, § 18), “equal protection” (see N.D. Const. art. I, § 21), and special laws (see N.D. Const. art. IV, § 13) clauses of the North Dakota Constitution. Plaintiffs are claiming that the legislation results in the unlawful transfer of “approximately \$1.96 billion in cash and State-owned sovereign lands from the citizens of the State . . . to a small group of private parties in western North Dakota.” Plaintiffs allege N.D.C.C. ch. 61-33.1 “disclaims [the State’s] perpetual rights to all minerals under Lake Sakakawea, a total of about 108,000 mineral acres.”

February 28, 2018	Defendants moved to dismiss Plaintiffs’ Complaint as Plaintiffs failed to join indispensable parties.
March 5, 2018	Plaintiffs brought a Motion for Preliminary Injunction. A hearing was previously scheduled for March 27, 2018.
March 7, 2018	Defendants brought an Expedited Motion to Stay or Extend Time to Respond to Plaintiffs’ Motion for Preliminary Injunction and to Postpone the March 27, 2018 Hearing on Such Motion (Motion to Stay).
March 8, 2018	The Court granted Defendants’ Motion to Stay pending a decision on Defendants’ Motion to Dismiss currently pending before the court, and cancelled the March 27, 2018 hearing.
March 9, 2018	Plaintiffs opposed the Motion to Stay and requested reconsideration of the Order.
March 14, 2018	Plaintiffs’ request for reconsideration was denied.
March 19, 2018	Rule 16 Conference held.
March 21, 2018	Defendants filed a joint Reply Brief in Support of Motion to Dismiss.
March 27, 2018	North Dakota Petroleum Council filed a Motion for Leave to File an Amicus Curiae Brief in Opposition of Plaintiff’s Motion for Preliminary Injunction (Motion to File Amicus Brief).
April 2, 2018	Defendants filed a Response of No Objection to North Dakota Petroleum Council’s Motion to File Amicus Brief.
April 4, 2018	Plaintiffs’ filed a Brief in Opposition to North Dakota Petroleum Council’s Motion to File Amicus Brief.
April 5, 2018	North Dakota Petroleum Council filed a Reply Brief in Support of Motion to File Amicus Brief.
April 9, 2018	Defendant North Dakota Industrial Commission filed a Second

Amended Notice of Hearing on Defendants' Motion to Dismiss changing the time of the hearing on April 11 from 1:30 p.m. to 2:30 p.m.

April 11, 2018 Request by Media to Attend Hearing Via Telephone Conference Call, proposed Order, Certificate of Service (RE: April 1, 2018 hearing)

April 11, 2018 Hearing on Defendants' Motion to Dismiss. Motion to Dismiss was denied.

April 11, 2018 Order Allowing Media Coverage Via Telephone Conference Call denied as untimely.

April 18, 2018 State Defendants filed a Response to Plaintiffs Motion for Preliminary Injunction, with supporting documents.

April 25, 2018 Defendants filed a Petition for Supervisory Writ and Exercise of Original Jurisdiction with the North Dakota Supreme Court.

April 30, 2018 Scheduled hearing on the Plaintiffs' Motion for Preliminary Injunction.

May 2, 2018 Third Amended Notice of Hearing on Motion for Preliminary Injunction – scheduling hearing for May 21, 2018

May 9, 2018 Order of Denial issued by the North Dakota Supreme Court – denying Defendants' request for supervisory writ.

May 14, 2018 Order Denying Motion to Stay Pending Order on Petition for Supervisory Writ and Exercise of Original Jurisdiction

May 18, 2018 Defendants filed Supplemental Affidavit of Lynn D. Helms in Support of the State Defendants['] Response to Plaintiffs' Motion for Preliminary Injunction

May 21, 2018 Hearing on Motion for Preliminary Injunction – Judge Irby ordered from the Bench – Judge ordered royalties totaling more than \$200 million be kept by the State, prohibiting the State from forfeiting oil royalties, rents and bonus payments

May 23, 2018 Notice of Hearing on Motion for Summary Judgment

May 29, 2018 Plaintiffs' Request for Production of Documents to Defendant (Set 1), Plaintiffs' Requests for Admissions to Defendants, Affidavit of Electronic Service (Discovery not filed)

May 30, 2018 Motion, Affidavit and proposed Order for Pro Hac Vice of Anne T. Regan,

May 30, 2018 Motion, Affidavit and proposed Order for Pro Hac Vice Gregory S. Otsuka

May 31, 2018 Proposed Findings of Fact, Conclusions of Law and Order for Preliminary Injunction, Ex. 1 – Fiscal Note to Findings of Fact, Conclusions of Law and Order for Preliminary Injunction

June 1, 2018 Letter to Judge Irby re: Plaintiff's proposed Findings

June 1, 2018 Letter to Judge Irby re: undisputed facts, discovery, etc.; Ex. A – Plaintiffs' Requests for Admissions to Defendants; Ex. B – Plaintiffs' Request for Production of Documents to Defendants (Set No. 1); Ex. C – Email Exchange between attorneys May 30, 2018;

June 5, 2018 Letter to Judge Irby responding to Gaustad's letter

June 8, 2018 Notice of Appearance of Mark R. Hanson, Special Assistant Attorney General Representing the Board of University and School Lands of the State of North Dakota

June 8, 2018 Notice of Hearing (Telephonic Conference) (RE: Discovery Issues)

June 11, 2018 Transcript (of Hearing on Motion for Preliminary Injunction)

June 12, 2018	Substitution of Counsel Representing the Board of University and School Lands of the State of North Dakota
June 12, 2018	State Defendants' Objection to Plaintiffs' Proposed Order for Preliminary Injunction; Exhibit A – Proposed Order for Preliminary Injunction
June 12, 2018	Notice of Demand for Production or Inspection of Documents to ND Petroleum Council; Subpoena Duces Tecum
June 14, 2018	Proposed Scheduling Order (RE: Stipulated Facts)
June 14, 2018	Notice of Expedited Motion for a Discovery Protection Order by Defendants; Expedited Motion for a Discovery Protection Order by Defendants; Memo in Support of Expedited Motion for a Discovery Protection Order by Defendants; Exhibit A – Notice of Demand for Production or Inspection of Documents to ND Petroleum Council with Subpoena
June 14, 2018	Defendant Board of University and School Lands of the State of North Dakota Joinder in the State Defendants' Objection to Plaintiffs' Proposed Preliminary Injunction
June 20, 2018	Memorandum in Opposition to Expedited Motion for Protective Order, Exhibit 1 -Plaintiff's Request for Production of Documents to Defendants; Exhibit 2 -Plaintiffs Request for Production of Documents to Defendants; Exhibit 3 – May 30, 2018 email
June 22, 2018	Plaintiffs' Objections to Defendants' Proposed Order and Memorandum in Opposition to Defendants' Objections; Exhibit 1 – Transcript Excerpt
June 25, 2018	Reply Memorandum in Support of Expedited Motion for a Discovery Protection Order by Defendants
June 25, 2018	Hearing on Expedited Motion for Discovery Protection Order to be held during telephonic scheduling conference
June 28, 2018	Proposed Order – from Court's June 25, 2018 ruling that (1) on July 23, 2018 the parties submit to the Court a statement of undisputed facts and additional facts a party believes are material undisputed facts, but for which the parties cannot agree, (2) the Court will review the submitted facts and make a determination by August 1 if cross motions for summary judgment are appropriate, (3) if cross motions for summary judgment are appropriate the Court will provide a briefing schedule, (4) discovery is stayed, and (5) if the Court determines that cross-motions for summary judgment are not appropriate, then responses to currently served discovery are due 30 days from the date of such determination by the Court.
July 3, 2018	Order for Pro Hac Vice Admission of Anne T. Regan
July 3, 2018	Order for Pro Hac Vice Admission of Gregory S. Otsuka
July 6, 2018	Order (Scheduling Deadlines) as set out in the June 28 proposed order was signed by the Court.
July 9, 2018	Notice of Hearing – Pretrial Conference – September 6, 2018
July 9, 2018	Amended Notice of Hearing – Scheduling Conference – September 6, 2018
July 13, 2018	Transcript (June 25, 2018 hearing)
July 23, 2018	Deadline for parties to confer & file statement of undisputed material facts and other material facts for which all parties cannot agree
August 1, 2018	Court's anticipated deadline to review undisputed facts and any submitted Claimed Supplemental Undisputed Facts to determine if cross motions for summary judgment are appropriate – if

	appropriate, briefing schedule will be issued. If not appropriate, then (1) the currently served discovery must be answered within 30 days and (2) the parties can engage in further discovery.
August 27, 2018	Hearing Scheduled by Plaintiffs on Motion for Summary Judgment CANCELLED BY THE COURT
August 30, 2018	Letter to Judge Irby – RE: appearance at scheduling conference
September 6, 2018	Notice of Hearing - Scheduling Conference and Pretrial Conference– 9:30 a.m. Cass County Courthouse
September 10, 2018	Proposed Order for Briefing Schedule and Order for Oral Argument Hearing –due dates: Summary Judgments Motions and Briefs – on or before October 22, 2018; Answer Briefs – on or before December 6, 2018 Reply Briefs - on or before December 21, 2018. Hearing on Motions for Summary Judgment – January 4, 2019, 9:00 a.m. – Cass County Courthouse
October 22, 2018	Motion for Summary Judgment, Memorandum of Law in Support of Motion for Summary Judgment, Affidavit of Terrance W. Moore, proposed Order
October 22, 2018	State Defendants' Notice Motion for Summary Judgment, Motion for Summary Judgment, Brief in Support of Motion for Summary Judgment, Affidavit of Lynn Helms, Affidavit of Jodi Smith
January 4, 2019	Hearing on Motions for Summary Judgment – scheduled for January 4, 2019, 9:00 a.m. – Cass County Courthouse

The Commissioner recommends the Board consider entering executive session for consultation with legal counsel regarding pending or potential litigation.

Motion: **Under the authority of N.D.C.C. §§ 44-04-19.1 and 44-04-19.2, the Board enter into executive session for attorney consultation related to:**

- **Paul Sorum, et al. v. The State of North Dakota, et al.**

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

At 2:54 PM the Board entered executive session for the purposes outlined in its adopted motion.

EXECUTIVE SESSION

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:

Jodi Smith	Commissioner
Kristie McCusker	Paralegal
Catelin Newell	Office Manager

Guests in Attendance:

Leslie Bakken Oliver	Governor's Legal Counsel
Reice Haase	Governor's Policy Advisor
Mark Hanson	Nilles Law Firm
Brent Sanford	Lt. Governor

The executive session adjourned at 3:39 PM and the Board returned to open session and the public was invited to return to the meeting. During the executive session, the Board was provided information regarding the Paul Sorum et al. v. The State of North Dakota, et al.

R E P O R T S

The Summary of Assets (Unaudited) for Period Ended August 31, 2018 was presented to the Board.

Report of Easements Issued by Land Commissioner from 10/16/18 to 11/12/18

Granted to:	CALIBER MIDSTREAM NORTH DAKOTA LLC, DENVER-CO
For the Purpose of:	Easement: Salt Water Disposal Well - Extension
Right-of-Way Number:	RW0008320
Trust:	A - Common Schools
Legal Description:	MCK-152-102-36-SE4, SW4

Granted to:	PRIDE ENERGY COMPANY, TULSA-OK
For the Purpose of:	Easement: Salt Water Disposal Well - Extension
Right-of-Way Number:	RW0008359
Trust:	A - Common Schools
Legal Description:	MCK-146-105-36-NE4

Granted to:	NP RESOURCES LLC, DENVER-CO
For the Purpose of:	Permit: Access Road
Right-of-Way Number:	RW0008360
Trust:	A - Common Schools
Legal Description:	GOL-143-103-36-NE4

Granted to:	NP RESOURCES LLC, DENVER-CO
For the Purpose of:	Assignment: Salt Water Disposal Well-Assignment
Right-of-Way Number:	RW0008361
Trust:	A - Common Schools
Legal Description:	GOL-143-103-36-NE4, NW4

Granted to:	ROUGH RIDER ELECTRIC COOPERATIVE, INC., DICKINSON-ND
For the Purpose of:	Easement: Substation/Maintenance Yard
Right-of-Way Number:	RW0008386
Trust:	A - Common Schools
Legal Description:	BIL-142-101-36-SW4

Granted to:	ND GEOLOGICAL SURVEY, BISMARCK-ND
For the Purpose of:	Permit: Rare Earth Elements
Right-of-Way Number:	RW0008396
Trust:	A - Common Schools
Legal Description:	SLO-136-102-16-NE4

Results of Online November Oil and Gas Mineral Lease Auction

On behalf of the Board, the Department conducted an oil and gas mineral lease auction which concluded on November 1, 2018 on <https://www.energynet.com/>.

There were 101 tracts offered and all but two received competitive bids. The highest bid per acre was \$6,000.00 for 14.81 net mineral acres in Dunn County.

There were 44 bidders registered, 23 of which submitted bids in the seven-day auction. Bidders were from 11 states (CO, GA, MI, MN, MT, ND, SD, TX, UT, WA and WY).

A total \$2,112,455.93 of bonus was collected from the auction.

Investment Updates

Asset Allocation

Due to the early Board meeting date in November, October final audited numbers are not yet available. The numbers shown are unaudited numbers for October 31, 2018, but should be very close to audited month end figures:

Account/Asset Class	Long-Term Asset Allocation	10/31/18 Actual Allocation \$	10/31/18 Actual Allocation %	10/31/18 %Diff.
Large Cap US Equity	13.3%	\$ 585,160,561	13.1%	-0.2%
Mid/Small Cap US Equity	3.7%	\$ 159,882,785	3.6%	-0.1%
International Equity	13.3%	\$ 556,111,858	12.5%	-0.8%
Emerging Market Equity	3.7%	\$ 161,189,669	3.6%	-0.1%
Total Equities	34.0%	\$ 1,462,344,874	32.8%	-1.2%
Core Fixed Income	12.6%	\$ 715,192,380	16.0%	3.4%
Non-Core Fixed Income	8.4%	\$ 246,301,580	5.5%	-2.9%
Total Fixed Income	21.0%	\$ 961,493,960	21.6%	0.6%
Total Absolute Return	20.0%	\$ 901,328,785	20.2%	0.2%
Commodities	3.0%	\$ 137,784,124	3.1%	0.1%
MLPs	3.0%	\$ 130,494,684	2.9%	-0.1%
TIPS	2.0%	\$ 87,435,262	2.0%	0.0%
Natural Resource Equities	2.0%	\$ 83,391,284	1.9%	-0.1%
Total Inflation Strategies	10.0%	\$ 439,105,353	9.8%	-0.2%
Core Real Estate	8.0%	\$ 381,318,549	8.5%	0.5%
Core Plus Real Estate	7.0%	\$ 314,628,272	7.1%	0.1%
Total Real Estate	15.0%	\$ 695,946,821	15.6%	0.6%
Total Asset	100.0%	\$ 4,460,219,793	100.0%	

Angelo Gordon (\$47.25 million, 1.1% of PTF assets)

Direct Lending Fund

The initial funding of the new Angelo Gordon Direct Lending portfolio occurred in late-August with a transfer of \$6.0 million. As of November 14, 2018, a total of \$47.25 million had been transferred to Angelo Gordon, representing 31.5% of the Board total commitment of \$150 million. The funding of the portfolio is approximately 8 months ahead of the funding timeline initially expected by Angelo Gordon.

Schroders (\$95.11 million, 2.1% of PTF assets)

Securitized Credit

The initial funding of the Schroder's securitized credit portfolio occurred in mid-September with a deposit of \$35.0 million; an additional \$35.0 million was transferred to Schroders in mid-October. The funding of the portfolio was completed in early November with a transfer of \$25.0 million. Performance monitoring of this portfolio will begin effective December 1, 2018, once Schroders has completed the initial investing of all of the funds that have been transferred into the account.

BND Farm Loan Pool (\$12.8. million, 0.3% of PTF assets)**Direct Farm Lending**

During late-October, \$5.0 million was transferred to BND to fund new loan from the farm loan pool account. According to BND there is a solid market for new loans at the present time, so the Board can expect to fund as much as \$5-10 million of loans before the end of 2018.

The Commissioner is excited to once again be using permanent trust dollars to invest in North Dakota farm real estate loans. With rates now yielding close to 6.25%, these high quality loans will meet the trusts' investment needs for years to come, while also providing affordable financing options to farmers and ranchers in North Dakota.

The 2019 Land Board Meeting Schedule was provided to the Board.

A D J O U R N

There being no further business, the meeting was adjourned at 3:48 PM.

Doug Burgum, Chairman
Board of University and School Lands

Jodi Smith, Secretary
Board of University and School Lands

**Minutes of the Meeting of the
Board of University and School Lands
December 17, 2018**

The December 17, 2018 meeting of the Board of University and School Lands was called to order at 1:00 PM 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 (via Telephone)
Kelly Schmidt	State Treasurer

Member Absent:

Kirsten Baesler	Superintendent of Public Instruction
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Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Drew Combs	Minerals Director
Jeff Engleson	Investments Director
Kristie McCusker	Paralegal
Catelin Newell	Office Manager
Kate Schirado	Administrative Assistant
Gerard Schwan	Grants Administrator
Joseph Stegmiller	Natural Resource Professional

Guests in Attendance:

Brent Sanford	Lt. Governor
Leslie Bakken Oliver	Governor's Legal Counsel
Reice Haase	Governor's Policy Advisor
Dave Garner	Attorney General's Office
Mark Hanson	Nilles Law Firm
Tom Stromme	Bismarck Tribune
Amy Dalrymple	Bismarck Tribune
Josh Kevan	RVK
Marcia Beard	RVK
Troy Seibel	Attorney General's Office
Faith Harron	Stanford
Geoff Simon	WDEA

APPROVAL OF MINUTES

A motion to approve the minutes of the November 20, 2018 meeting was made by Secretary Al Jaeger and seconded by Treasurer Kelly Schmidt and the motion carried unanimously on a voice vote.

LITIGATION

Board of University and School Lands Major Case Summary as of December 12, 2018

The following is a summary of active litigation. Detailed case specific memorandums will be presented to the Board upon changes in case status or as new events requiring Board consideration occur.

UNCLAIMED PROPERTY

Case: State of Arkansas, et al. v. State of Delaware
Date Filed: June 9, 2016
Court: United States Supreme Court
Judge: Pierre N. Leval, *Special Master*
Attorney: David Garner
Opposing Counsel: Delaware Attorney General's Office

Issues: The United States Supreme Court assumed original jurisdiction over this lawsuit involving unclaimed property brought by 30 states, including the state of North Dakota, against the state of Delaware. The substantive issue involved is whether sums payable on unclaimed and abandoned checks sold by MoneyGram Payments Systems, Inc. should be remitted to the Plaintiff States, as the states of purchase, or to Defendant Delaware, as MoneyGram's state of incorporation. Texas and Arkansas are the lead states on behalf of the other Plaintiff states.

Current Status: A Complaint and Answer have been filed. A Special Master has been appointed to preside over the case. The Special Master has accepted the Case Management Order agreed to by the parties. The parties issued discovery requests and responses in November/December 2017. The parties have exchanged discovery and are in the process of resolving issues regarding depositions of certain states. The parties have agreed to stipulate as to the authenticity of the documents produced in discovery rather than undertake depositions.

REVENUE COMPLIANCE

Case: Continental Resources, Inc. v. North Dakota Board of University & School Lands and North Dakota Department of Trust Lands, Civ. No. 27-2017-CV-00661
Date Filed: December 20, 2017
Court: District Court/McKenzie County
Attorneys: David Garner
Opposing Counsel: Mark S. Barron/Baker & Hostetler LLP
Judge: Robin Schmidt

Issues: Continental is seeking a Declaratory Judgment that it is currently paying royalties properly under the Board's lease. Specifically, Continental is asking the Court to order that Continental is allowed to deduct certain costs from royalty payments and

that it does not owe the Defendants any additional royalty payments based on previous deductions.

**Current
Status:**

A Complaint and Answer with Counterclaims have been filed. Continental filed an Answer to Counterclaims. Continental served discovery and responses were due July 30, 2018. Defendant served discovery and Continental replied on September 17, 2018. On November 27, 2018, the parties filed a Joint Motion to Vacate Trial Date and Joint Status Report, agreeing that no later than February 1, 2019, the parties would submit to the Court a proposed case management statement incorporating a schedule for dispositive motions. **Trial scheduled for February 1, 2019 was cancelled to allow for additional discovery.**

Case: Newfield Exploration Company, Newfield Production Company, and Newfield RMI LLC v. State of North Dakota, ex rel. the North Dakota Board of University and School Lands and the Office of the Commissioner of University and School Lands, a/k/a the North Dakota Department of Trust Lands, Civ. No. 27-2018-CV-00143

Date Filed: March 7, 2018

Court: District Court/McKenzie County

Attorneys: David Garner

Opposing

Counsel: Lawrence Bender and Spencer Ptacek/Fredrikson & Byron, P.A.

Judge: Robin Schmidt

Issues: Plaintiff is seeking a Declaratory Judgment that it is currently paying gas royalties properly under the Board's lease. Specifically, Plaintiff is asking the Court to order that gas royalty payments made by the Plaintiff be based on the gross amount received by the Plaintiff from an unaffiliated third-party purchaser, not upon the gross amount paid to a third party by a downstream purchaser, and that Plaintiff does not owe the Defendants any additional gas royalty payments based on previous payments.

**Current
Status:**

A Complaint and Answer with Counterclaims have been filed. Newfield filed an Answer to Counterclaims. A Scheduling conference was held July 27, 2018. Plaintiffs' filed a Motion for Summary Judgment on August 13, 2018 and Defendants filed a Cross-Motion for Summary Judgment. Plaintiffs' Response was filed October 19, 2018 and Defendants' Reply was filed November 9, 2018. A hearing on the Motions for Summary Judgment is scheduled for January 4, 2019 at 1:30 p.m., McKenzie County. Trial is scheduled for September 10 and 11, 2019.

Minerals

Case: EOG Resources, Inc. v. Soo Line Railroad Co., et. al., Civ. No. 31-10-CV-00010

Date Filed: Jan. 20, 2010

Court: Mountrail County District Court

Judge: Todd Cresap

Attorney: Matthew Sagsveen

Opposing Counsel: Multiple parties.

Issue: At issue is the ownership of mineral rights underlying the railroad in 8 sections of land in Mountrail County. The disputed property is land that the railroad acquired by condemnation and through right-of-way deeds. The railroad's lessee filed a crossclaim against the State and a number of other parties that claim an ownership interest adverse to the railroad.

Current Status: A settlement agreement has been signed by all parties and will be filed with the court once proceeds are distributed in accordance with the agreement. The parties stipulated to dismissal of the pending action. **An Order of Dismissal Without Prejudice, Notice of Entry of Judgment, and a Judgment of dismissal were filed on November 30, 2018. Hearing on Order to Show Cause scheduled for December 6, 2018 was cancelled.**

Case: Whiting Oil and Gas Corporation v. Arlen A. Dean, et. al., Civ. No. 27-2016-CV-00040

Date Filed: January 25, 2016

Court: McKenzie County District Court

Judge: Robin Schmidt

Attorney: David Garner/Jennifer Verleger

Opposing Counsel: Paul Forster, Shane Hanson (Whiting Oil and Gas Corp.), Kevin Chapman (multiple defendants)

Issues: Whiting Oil and Gas Corporation ("Whiting") operates the Kuykendall 34-31-1H well located in McKenzie County near the Montana border. The Yellowstone River flows through the Kuykendall well spacing unit. Over time, the river has shifted westward. There are also islands within the Kuykendall spacing unit. On January 25, 2016, Whiting filed this interpleader action to resolve alleged title questions that have arisen due to the movement of the Yellowstone River. Because of these title questions, Whiting is withholding royalty payments. In its lawsuit, Whiting 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, Whiting will know who to pay.

The Board claims a mineral interest under the Yellowstone River, including the islands, and the Board also claims a 5% mineral interest in some of the riparian tracts in this spacing unit.

The Board and the State Engineer filed a joint response to the Complaint and several cross claims that have been made against the State.

**Current
Status:**

The court trial (no jury) scheduled for August 6-10, 2018 was postponed to April 22 - 26, 2019. The initial scheduling order was amended for the State to conduct field work that could not be completed in the winter. Due to property flooding from high flows on the Yellowstone River, the State has been unable to conduct field work. Therefore, a telephonic scheduling conference was held August 16, 2018 to discuss the Court's wishes for resetting deadlines. All deadlines and the April 2019 trial were cancelled. A January 3, 2019 telephonic status conference was scheduled.

Case: **ND Office of State Engineer, Board of University and School Lands v. BLM - Case No. IBLA 2016-170**
Tribunal: **US Dept. of Interior Office of Hearings and Appeals – Board of Land Appeals**
Attorney: **Charles Carvell and Jennifer Verleger**
Opposing Counsel: **Karan Dunnigan**

Issues: In 2014, the Bureau of Land Management (BLM) resurveyed land along the Missouri River to locate the boundary, OHWM, between the public domain land owned by the United States and the riverbed owned by the state of North Dakota. In identifying the OHWM, the BLM applied federal law rather than state law. Specifically, the BLM adopted the survey conducted by the Corps of Engineers as part of the Garrison Dam project. In certain areas, the survey overlaps with the state's claim to sovereign lands.

After the survey work was complete, the BLM published a "Notice of Filing Plats of Survey; North Dakota" in which BLM intends to formally file the survey plats as Official Plats. After the Federal Register Notice appeared, the State Engineer and the Board jointly filed a protest challenging the filing of the survey plats. The BLM rejected the State's protest and the State appealed the BLM's decision to the Interior Board of Land Appeals.

**Current
Status:**

The State is waiting for a decision from the Interior Board of Land Appeals.

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

Issues: In December 2016, Continental Resources, Inc. (Continental) brought an interpleader action against the Board of University and School Lands and the United States regarding certain lands underlying Continental operated wells located in McKenzie, Mountrail, and Williams Counties. This case addresses overlapping ownership claims by the State and the United States of minerals

underlying the Missouri River. Continental is requesting the Court determine the property interests for the disputed lands so that Continental can correctly distribute the proceeds from the affected wells. Continental has claimed that there is “great doubt as to which Defendant is entitled to be paid royalties related to the Disputed Lands.” Currently, Continental is paying the United States its full royalty based on the acreage it claims. The remaining royalty, over and above what is due the United States, is being escrowed with the Bank of North Dakota pursuant to the Board’s rules.

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

**Current
Status:**

The Board filed a response on December 20, 2017 opposing the motion to dismiss. Continental filed a response and the United States filed its reply. The United States filed a Motion to Dismiss on March 16, 2018. The Board filed a Surreply to the Motion to Dismiss on April, 16, 2018. Awaiting decision from the Court on the United States’ Motion to Dismiss.

Case: **William S. Wilkinson, et. al. v. Board of University & School Lands, Brigham Oil & Gas, LLP; EOG Resources, Inc.; Case No. 53-2012-CV-00038**
Date Filed: **January, 2012**
Court: **Williams County District Court**
Judge: **Paul Jacobson**
Attorney: **Jennifer Verleger/Matthew Sagsveen/David Garner**
Opposing Counsel: **Josh Swanson/Rob Stock, Lawrence Bender, Lyle Kirmis**

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

On July 1, 2014, the Plaintiffs filed an amended complaint in the case and added claims of unconstitutional takings, conversion, constructive trust and unjust enrichment, civil conspiracy and deprivation of rights under 42 U.S.C. § 1983. Plaintiffs assert in their amended complaint that the Board should be issuing leases on the west side of the Highway 85 bridge pursuant to the Phase II Investigation – the estimated location of the ordinary high watermark (OHWM) prior to inundation of Lake Sakakawea – rather than the Phase I Delineation – current location of the OHWM. Plaintiffs argue that the subject property is located under Lake Sakakawea, which did not exist at statehood, and thus the state did not acquire title to it as sovereign lands. Therefore, the State’s title to the Missouri River is limited to the channel as it existed prior to inundation of Lake Sakakawea as determined by the Phase II investigation.

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

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

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

**Current
Status:**

Due to the passage of S.B. 2134, the Court ordered the case stayed and all deadlines be held in abeyance until the final review findings under S.B. 2134 are issued by the Industrial Commission. Plaintiff, after NDIC issued the review findings, requested a status conference with the Court to set a new trial date and other deadlines. The Board and State Engineer filed a Motion for Continued Stay of Proceedings on October 11, 2018. The telephonic status conference scheduled for November 2, 2018 was cancelled. **A Hearing on the Motion for Continued Stay was held November 30, 2018. Defendants submitted a proposed Order and the Judge asked for Plaintiffs to submit a proposed Order, which was filed December 4, 2018.**

Case:	<u>Whitetail Wave LLC v. XTO Energy, Inc.; the Board of University and School Lands; and the State of North Dakota – 27-2015-CV-00164</u>
Date Filed:	June 4, 2015
Court:	McKenzie County District Court
Judge:	Robin Schmidt
Attorney:	David Garner/Jennifer Verleger
Opposing Counsel:	Whitetail Wave – Christopher Sweeney; XTO Energy – Lawrence Bender
Issues:	On August 1, 2015, the Attorney General's Office was served with a complaint in the above referenced case. This case is challenging the State's determination of the OHWM east of the Highway 85 Bridge, near the northern border of the Fort Berthold Indian Reservation. The Board has currently leased minerals pursuant to the Phase

II Investigation for this tract. The Plaintiff is requesting that title to the minerals be quieted and has alleged claims of Unconstitutional takings, trespass, slander of title, and constructive trust/unjust enrichment against the State. The complaint also makes a number of claims specific to XTO Energy Inc., the operator of the wells on the tracts in dispute. Specifically, the Plaintiff is requesting that the State's claim to sovereign lands' mineral interest be restricted to those minerals located below the OHWM of the Missouri River prior to inundation of the Lake Sakakawea.

An answer was filed on behalf of the Board on July 21, 2015. In January 2016, the State Engineer intervened in the case.

**Current
Status:**

Due to the passage of S.B. 2134, the Court ordered the case stayed and all deadlines be held in abeyance until the final review findings under S.B. 2134 are issued by the Industrial Commission. The Board and State Engineer filed a Motion for Continued Stay of Proceedings on October 19, 2018 and XTO filed a Response in Support of Continued Stay on October 26, 2018. On November 5, 2018, the Court entered its Order for Continued Stay of Proceedings, staying the proceedings, holding all deadlines in abeyance, and ordering that upon final disposition of the Sorum lawsuit the parties will request a status conference to schedule a new trial date and reset other deadlines. **The continued stay was affirmed on November 27, 2018.**

Case: **Mary K. Starin, as Personal Representative of the Estate of Bruno Herman Weyrauch v. Kelly Schmidt, et. al., Civ. No. 53-2015-CV-00986**
Date Filed: **August 17, 2015**
Court: **Williams County District Court**
Judge: **David Nelson**
Attorney: **David Garner/Jennifer Verleger**
Opposing Counsel: **Dennis Johnson**

Issues: Plaintiff initiated this quiet title action to determine title to property located under Lake Sakakawea. In 1939, the State acquired the disputed property through a foreclosure of a Bank of North Dakota loan. In 1945, the State re-sold the property through a contract for deed to the Plaintiff's predecessors in interest. Pursuant to state law, the state reserved 50% of the minerals. The Special Warranty Deed issued after satisfaction of the contract for deed was not recorded and no one has a copy of the fully executed deed. The surface estate was later condemned as part of the Garrison Dam reservoir project. Plaintiffs have brought this action to clear title to the 50% of the minerals that they claim. The Board has leased the 50% mineral interest it reserved in this conveyance.

In January 2016, the State Engineer intervened in this case.

**Current
Status:**

Due to the passage of S.B. 2134, the Court ordered the case stayed and all deadlines be held in abeyance until the final review findings under S.B. 2134 are issued by the Industrial Commission. When the review findings are issued, the parties must request a status conference with the Court to set a new trial date and other deadlines. The Board and State Engineer filed a Motion for Continued Stay of Proceedings on October 12, 2018. Plaintiffs filed a Response to Defendants' Motion to Stay Proceedings on October 23, 2018. A hearing on the Motion to Stay

Proceedings was held scheduled November 16, 2018. **Stay was granted. Trial previously scheduled for February of 2019 was continued until February 5, 6, and 7, 2020.**

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

Tribunal: **Cass County District Court**

Judge: **John C. Irby**

Attorney: **Mark Hanson & Peter Hvidston, Nilles Law Firm**

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

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

Current Status: An Answer was filed. Defendants filed a Motion to Dismiss, which was denied in April 2018. Petition for Supervisory Writ and Exercise of Original Jurisdiction was filed by Defendants and denied in May 2018. A Motion for Preliminary Injunction was brought by Plaintiffs and a hearing was held on May 21, 2018. An Order for Preliminary Injunction was filed June 26, 2018. A Scheduling Conference was held on September 6, 2018 and the following briefing deadlines were set: Summary Judgment Motions were filed October 22, 2018. Response Briefs were filed December 10, 2018. Reply Briefs are due December 21, 2018. A hearing on the Motions for Summary Judgment is scheduled for 9:00 a.m. January 4, 2019, Fargo.

The Commissioner recommends the Board consider entering executive session for consultation with legal counsel regarding pending and potential litigation.

EXECUTIVE SESSION

Motion: Under the authority of N.D.C.C. §§ 44-04-19.1 and 44-04-19.2, the Board enter into executive session for attorney consultation related to:

- Paul Sorum, et al. v. The State of North Dakota, et al.
- William S. Wilkinson, et. al. v. Board of University & School Lands

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

At 1:10 PM the Board entered executive session for the purposes outlined in its adopted motion.

EXECUTIVE SESSION**Members Present:**

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Wayne Stenehjem	Attorney General (via Telephone)
Kelly Schmidt	State Treasurer

Member Absent:

Kirsten Baesler	Superintendent of Public Instruction
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Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Kristie McCusker	Legal Assistant
Catelin Newell	Office Manager
Kate Schirado	Administrative Assistant

Guests in Attendance:

Leslie Bakken Oliver	Governor's Legal Counsel
Reice Haase	Governor's Policy Advisor
Mark Hanson	Nilles Law Firm – Paul Sorum Case Only
Brent Sanford	Lt. Governor
Troy Seibel	Attorney General's Office
Dave Garner	Attorney General's Office

The executive session adjourned at 2:23 PM and the Board returned to open session and the public was invited to return to the meeting. During the executive session, the Board was provided information regarding the Paul Sorum et al. v. The State of North Dakota, et al. and William S. Wilkinson, et. al. v. Board of University & School Lands.

ENERGY INFRASTRUCTURE AND IMPACT OFFICE

Reallocation of Funding Request – G180002

In August 2017, the Board of University and Schools Lands (Board) approved grants for continued support for organizations combatting the effects of human trafficking and providing victim treatment and services. Of the three recipients sharing the \$809,900 in funding. The Board awarded \$93,272 to Mountrail County (grant G180002) with their sub-grantee, Council on Abused Women Services (CAWS) North Dakota. The organization requests a reallocation in funding due to new federal awards in October 2018 (see attached). This reallocation would enable CAWS North Dakota to increase their effectiveness under the state grant and address the unmet needs of human trafficking victims and allied organizations providing the services for victims under the state grant.

To reduce administrative costs across the board, this sub-grantee has cooperative agreements with other non-profit and third party entities helping deliver victim services, including:

- 1) FUSE (a statewide anti-trafficking and exploitation coalition housed at Youthworks);
- 2) The Improve Group (a third party that incorporates data to provide analysis and evaluation for the program), and;
- 3) University of Mary (conducts the demand reduction program for offenders ordered by the court to help curtail human trafficking).

Categorical changes to the amounts:

Category:	Previously Approved:	Requested Change:	Annotation:
Contracts:	FUSE Director - \$19,740	Increase \$1,627	Increased training requests
	Improve Group - \$10,000	Increase \$7,183	Additional evaluation hours
	U-Mary - \$20,000	Increase \$9,603	Additional training hours
	ND Human Trafficking Taskforce - \$27,090	Decrease \$27,090	Covered by the federal grant received, move funds to Improve Group and U-Mary
Other Items:	Admin Costs - \$4,442	Decrease \$4,442	Funds go to FUSE Director and Improve Group contracts

This grant reimbursed the sub-grantee \$14,903.36 from expenditures made this past summer.

The North Dakota Bureau of Criminal Investigation is in support of this grant request.

Motion: The Board approves the reallocation of funds for Mountrail County grant G180002 as described above.

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		

MINERALS MANAGEMENT

Board Coal Policy Manual –Second Reading

Since January 2018, the Department of Trust Lands (Department) has been reviewing the policies of each of its Divisions. As a result of this review, the Department determined the Board of University and School Land's (Board) Coal Policy needed updating. Board policies instruct the Department on carrying out Department duties and functions. Any changes to these policies will be reviewed by the Board and are not subject to legislative approval.

The Department met with representatives from North American Coal and BNI on October 31, 2018 and requested they provide comments on the proposed North Dakota Board of University and School Lands Coal Policy Manual; no revisions were requested during this meeting. The Commissioner requested the Board provide input on the proposed Coal Policy Manual during this meeting. Additionally, an open comment period was held and no comments were received.

Motion: The Board adopts the proposed North Dakota Board of University and School Lands Coal Policy.

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

The North Dakota Board of University and School Lands Coal Policy manual is available at the Department upon request.

SURFACE MANAGEMENT

Fair Market Value Minimum Rent Policy – Second Reading

Since January 2018, the Department of Trust Lands (Department) has been reviewing the policies of each of its Divisions. As a result of this review, the Department determined the Board's Surface policies need updating. Board policies instruct the Department on carrying out Department duties and functions. Any changes to these policies will be reviewed by the Board and are not subject to legislative approval.

Recommended revisions to Board policies were included in the proposed North Dakota Board of University and School Lands Surface Land Management Policy Manual. As stated at the September 27, 2018 Board meeting, certain policies were being reviewed and would be provided to the Board at a later date, including the Board's Fair Market Value Method for Establishing Minimum Bids on Trust Lands.

That policy has now been reviewed and revised, with recommendations obtained during the performance audit of the Department being considered. A copy of the proposed Fair Market Value Minimum Rent Policy (FMV) is attached for the Board's review. Revisions include:

- The five year moving average reduced to a three year moving average.
- The rental regions were revised.

- The Land Resource Area vegetation zones replaced the outdated Natural Resources Conservation Service vegetation zones. The vegetation zones are now larger Land Resource Areas, which allow for an increased number of tracts contributing to the average potential grassland productivity value calculation for trust land.
- Rental regions were previously large regions across the state. Rental regions in the proposed FMV policy are now based primarily on one county being a region, with the exception of certain counties, or portions of counties, being grouped together due to:
 - The low number of trust grassland tracts in the area;
 - The low number of survey samples; and
 - The influences of surrounding national grasslands and the management of those lands, *i.e.*, the Badlands.
- Eliminated provisions that were included in other chapters of the Board Surface Land Management Policy Manual and the Department's Surface Policy Manual, including Permanent Improvements.
- Increased the following adjustments:
 - Fence - from \$1.50 per acre to \$1.60 per acre.
 - Badlands Water – from \$.65 per grassland acre to \$.85 per grassland acre. This increase reflects the change in the most common type of water development from a stock water pond to a livestock water pipeline.
- Eliminated tract specific adjustments for:
 - Noxious weeds; and
 - Administrative cost allowance for Grazing Association Management.
- Eliminated tame grass pasture classification due to few trust land tracts to which this would apply.
- Language and formatting changed for better readability, with the cropland and hayland formulas remaining unchanged.

The Board had a first reading of the proposed North Dakota Board of University and School Lands Fair Market Value Minimum Rent Policy on October 25, 2018. The Department requested the North Dakota Stockmen's Association and the Little Missouri, Medora and McKenzie County Grazing Associations provide comments on the proposed North Dakota Board of University and School Lands Fair Market Value Minimum Rent Policy. A red-lined version that includes suggested revisions has been included in the Board packet for consideration by the Board. Additionally, a copy of the summary of comments on the policy has been attached for review.

Motion: The Board adopts the proposed North Dakota Board of University and School Lands Fair Market Value Minimum Rent Policy.

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

The Fair Market Value Minimum Rent Policy with addendums and summary of comments on the Proposed Fair Market Value Minimum Rent policy were provided to the Board and are available upon request at the Department.

OPERATIONS

Employee Survey Update

The Department of Trust Lands' staff received the second all team member survey this fall, which resulted in an 86 percent team response rate (most of the employees who did not respond are temporary field staff.)

Last January, leadership identified three key areas to focus our efforts on over the year:

- (1) Policies & Procedures;
- (2) Teamwork; and
- (3) Leadership.

Policies were reviewed and revised throughout the past year and are complete. Teamwork was addressed through the recommendations of an internal staff committee. Leadership was promoted through team spirit and by holding supervisors and others accountable for their respective divisions' success. Leadership learning opportunities were provided throughout the year.

The results of this year's employee survey demonstrated a significant improvement over last years; particularly in those areas in which the Department focused efforts.

Policies & Procedures	2017	2018
Q9. Processes and procedures allow me to effectively meet my customer's needs.	50%	68%
Teamwork	2017	2018
Q18. There is a climate of trust within my team.	53%	76%
Q19. My teammates display a high degree of teamwork.	56%	76%
Q20. My team has a climate in which diverse perspectives are valued.	53%	71%
Q21. My teammates develop and value relationships with others.	63%	68%
Q22. My teammates are committed to performing quality work.	70%	80%
Q45. Team members of the agency where I work trust and support each other.	30%	72%
Q46. Information and knowledge are shared openly.	23%	68%
Leadership	2017	2018
Q23. I receive the right amount of communication from my immediate supervisor.	63%	84%
Q24. My immediate supervisor believes customer service is important in our team.	80%	88%
Q25. I understand my immediate supervisor's expectations of me.	66%	84%
Q26. My immediate supervisor holds me accountable for achieving results.	72%	88%
Q27. I am comfortable giving my immediate supervisor feedback.	73%	88%
Q28. My immediate supervisor recognizes me for a job well done.	66%	80%
Q29. My immediate supervisor treats me with respect.	76%	88%
Q30. I am comfortable raising ethical concerns to my immediate supervisor.	72%	84%
Q31. My immediate supervisor encourages me to think creatively at work.	73%	76%
Q32. I have confidence in my immediate supervisor within the agency where I work.	63%	84%

Q33. My immediate supervisor is willing to take a risk on new ideas.	63%	88%
Q34. My agency's senior leadership informs team members about the things we need to know.	53%	80%
Q35. My agency's senior leadership seeks input from others before making important decisions.	40%	64%
Q36. My agency's senior leadership sets an example for others to follow.	46%	80%
Q37. My agency's senior leadership are transparent in their decisions.	43%	60%
Q38. My agency's senior leadership treats others with respect.	50%	84%
Q39. I am confident my agency's senior leadership will respond to unethical behavior.	50%	80%
Q40. I have confidence in my agency's senior leadership to make the appropriate decisions.	53%	80%

Over the course of the next year, the Department leadership will focus efforts in three key areas:

- (1) Technology, Tools & Workflow;
- (2) Teamwork; and
- (3) Leadership.

Engineering Firm Request for Proposal

The 65th Legislative Assembly's adoption of Senate Bill 2134 (SB 2134), codified as N.D.C.C. ch. 61-33.1, provided for the determination of the ordinary high water mark (OHWM) for certain stretches of the Missouri River. The bill directs the North Dakota Industrial Commission (NDIC) to determine the delineation of the OHWM of the US Army Corp of Engineers (USACE) survey segments from the northern boundary of the Fort Berthold Indian reservation to the southern border of Sections 33 and 34, Township 153 North, Range 102 West, McKenzie, Mountrail, and Williams Counties, North Dakota.

On June 26, 2018, the North Dakota Department of Trust Lands (Department) submitted oral and written comments reflecting the Department's review of the Ordinary High Water Mark of the Missouri River Bed study dated April 2018 (Wenck Study). The Department did not comment as to the Wenck Study's OHWM definition, data compilation methods, methodology, legal research, or other technical matters but did spell out its need for identification of the following:

1. Acreage for specific quarter-quarter sections to fully allocate acreages below the OHWM, including the riverbed;
2. Identification of accretion acreages attributable to riparian or upland landowners by quarter-quarter section;
3. Identification of acreage to two decimal places.

NDIC's September 27, 2018 Order of the Commission, Order No. 29129, found among other things that:

1. "[T]he Wenck Study was not intended to provide accurate acreage allocations for property transfer which is outside the scope of the legislation; the data sets provided to Wenck for use in calculating acreages represent the most efficient method for determination of areas necessary for decisions by the [NDIC]; no land surveying was done nor contracted to be done in the course of [the Wenck] study." Order at 4.

2. "[T]he cost to complete the necessary research and surveys to apportion property significantly exceeds the appropriated funds." Id.
3. "[A]dequate documentation and data for parties to determine how interests might be impacted were provided in the Wenck Study and subsequent communications." Id.

N.D.C.C. § 61-33.1-04(2) provides that upon the adoption of the final review findings by the NDIC:

The board of university and school lands shall begin to implement any acreage adjustments, lease bonus and royalty refunds, and payment demands as may be necessary relating to state-issued oil and gas leases. The board shall complete the adjustments, refunds, and payment demands within two years after the date of adoption of the final review findings.

On October 25, 2018, the Board authorized the Commissioner to contract with an engineering firm to provide the Department with the necessary data to implement any acreage adjustments, lease bonus and royalty refunds, and payment demands as may be necessary relating to state-issued oil and gas leases.

In order to fully satisfy all requirements under SB 2134, in addition to those solely related to state-issued oil and gas leases, it would also be beneficial for the engineering firm to provide this information for all property impacted by N.D.C.C. ch. 61-33.1 so that this information is available to the Department, operators, and the public. The engineering firm would provide the Department with the necessary acreage adjustment data to allow the Board and oil and gas well operators to implement any acreage adjustments, lease bonus and royalty refunds, and payment demands as may be necessary.

Motion: The Board requests proposals for analysis and GIS services for property related to the OHWM Study of the historical Missouri riverbed channel prepared by Wenck Associates, Inc. and adopted by NDIC on September 27, 2018 in Order No. 29129 to determine acreage above and below the OHWM within the following area: the northern boundary of the Fort Berthold Indian Reservation (approximately river mile 1482) to the southern border of Sections 33 and 34, Township 153 North, Range 102 West (just beyond river mile 1564), a distance of approximately 83 river miles.

Recommendation: The Board	Motion	Second	Aye	Nay	Absent
Secretary Jaeger			X		
Superintendent Baesler					X
Treasurer Schmidt	X		X		
Attorney General Stenehjem		X	X		
Governor Burgum			X		

I N V E S T M E N T S

Quarterly Investment Reports – 3rd Quarter 2018

Marcia Beard and Josh Kevan from RVK reviewed the performance of the Board of University and School Land's (Board) investment program for the period ending September 30, 2018.

The first report they reviewed is prepared by RVK to enable the Board to monitor and evaluate the collective performance of the permanent trusts' investments and the performance of individual managers within the program. In order to provide an overview of the program and highlight critical

information, an executive summary has been incorporated into the Board report. A more comprehensive, detailed report is also available.

After RVK's presentation, Jeff Engleson reviewed the report which details the activities of the Strategic Investment and Improvements Fund, the Coal Development Trust Fund and the Capitol Building Fund, as well as the performance of Northern Trust separate investment pool that holds the assets of these three funds.

The following items were presented to the Board and are available at the Department upon request: RVK Permanent Trust Fund Performance Analysis Report, Other Funds Managed by the Board Report, RVK Ultra-short Performance Report

An Investment Overview presentation was reviewed with the Board and is available at the Department upon request.

R E P O R T S

Report of Easements Issued by Land Commissioner 11/14/2018 to 12/6/2018

Granted to:	SOUTHWESTERN PRODUCTION CORP, LAKEWOOD-CO
For the Purpose of:	Permit: Access Road
Right-of-Way Number:	RW0008059
Trust:	A - Common Schools
Legal Description:	BIL-138-102-26-SW4

Granted to:	ONEOK ROCKIES MIDSTREAM LLC, SIDNEY-MT
For the Purpose of:	Easement: Drop Line-Gas Gathering Pipeline
Right-of-Way Number:	RW0008350
Trust:	A - Common Schools
Legal Description:	MCK-150-98-36-SW4

Granted to:	WHITING OIL AND GAS CORPORATION, DENVER-CO
For the Purpose of:	Easement: Gas Gathering Pipeline
Right-of-Way Number:	RW0008352
Trust:	A - Common Schools
Legal Description:	WIL-156-97-36-NW4

Granted to:	ANDEAVOR FIELD SERVICES LLC, SAN ANTONIO-TX
For the Purpose of:	Easement: Drop Line-Oil Gathering Pipeline
Right-of-Way Number:	RW0008372
Trust:	A - Common Schools
Legal Description:	DUN-146-94-36-SW4

Granted to:	NP RESOURCES LLC, DENVER-CO
For the Purpose of:	Easement: Salt Water Disposal Well - Extension
Right-of-Way Number:	RW0008382
Trust:	A - Common Schools
Legal Description:	GOL-143-103-36-NE4, NW4

Granted to:	MCKENZIE ELECTRIC COOPERATIVE INC, WATFORD CITY-ND
For the Purpose of:	Easement: Drop Line-Buried Electric Distribution Line
Right-of-Way Number:	RW0008383
Trust:	A - Common Schools
Legal Description:	DUN-146-94-36-SW4

Granted to:	WWC ENGINEERING, HELENA-MT
For the Purpose of:	Permit: Planning & Preconstruction Survey
Right-of-Way Number:	RW0008397
Damage Payment to Lessee:	N/A
Trust:	A - Common Schools
Legal Description:	N/A

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:	SELECT ENERGY SERVICES LLC, WILLISTON-ND
For the Purpose of:	Letter of Permission: Temporary Water Layflat Line
Right-of-Way Number:	RW0008400
Trust:	A - Common Schools
Legal Description:	MCK-153-94-36-SW4

Granted to:	TEK INDUSTRIES, MANDAREE-ND
For the Purpose of:	Letter of Permission: Temporary Water Layflat Line
Right-of-Way Number:	RW0008401
Trust:	A - Common Schools
Legal Description:	MOU-150-92-10-S2SW4

Granted to:	BRIDGER PIPELINE LLC, CASPER-WY
For the Purpose of:	Easement-Amend: Oil Gathering Pipeline
Right-of-Way Number:	RW0008404
Trust:	A - Common Schools
Legal Description:	DUN-147-96-36-NE4

Granted to:	CATES EARTH SCIENCE TECHNOLOGIES INC, BISMARCK ND
For the Purpose of:	Letter of Permission: Temporary Water Layflat Line
Right-of-Way Number:	RW0008405
Trust:	A - Common Schools
Legal Description:	MOU-151-92-36-W2NE4SW4, NW4SW4, S2SW4

Granted to:	KDK CONSULTING, WEST FARGO-ND
For the Purpose of:	Permit: Planning & Preconstruction Survey
Right-of-Way Number:	RW0008410
Trust:	A - Common Schools
Legal Description:	N/A

Granted to:	MBI ENERGY SERVICES, KILLDEER-ND
For the Purpose of:	Letter of Permission: Temporary Water Layflat Line
Right-of-Way Number:	RW0008411
Trust:	A - Common Schools
Legal Description:	MCK-149-96-16-NW4, SE4, SW4

Investment Updates

Asset Allocation

The table below shows the unaudited status of the permanent trusts' asset allocation as of November 30, 2018. Audited November numbers will most likely not be available before the Board of University and School Lands (Board) board meeting:

Account/Asset Class	Long-Term Asset Allocation	11/30/18 Actual Allocation \$	11/30/18 Actual Allocation %	11/30/18 % Diff.
Large Cap US Equity	13.3%	\$ 602,094,618	13.4%	0.1%
Mid/Small Cap US Equity	3.7%	\$ 164,733,925	3.7%	0.0%
International Equity	13.3%	\$ 580,081,432	12.9%	-0.4%
Emerging Market Equity	3.7%	\$ 168,471,343	3.8%	0.1%
Total Equities	34.0%	\$ 1,515,381,317	33.8%	-0.2%
Core Fixed Income	12.6%	\$ 646,903,670	14.4%	1.8%
Non-Core Fixed Income	8.4%	\$ 283,272,774	6.3%	-2.1%
Total Fixed Income	21.0%	\$ 930,176,445	20.7%	-0.3%
Total Absolute Return	20.0%	\$ 910,164,143	20.3%	0.3%
Commodities	3.0%	\$ 127,513,432	2.8%	-0.2%
MLPs	3.0%	\$ 132,673,028	3.0%	0.0%
TIPS	2.0%	\$ 87,834,555	2.0%	0.0%
Natural Resource Equities	2.0%	\$ 85,484,939	1.9%	-0.1%
Total Inflation Strategies	10.0%	\$ 433,505,954	9.7%	-0.3%
Core Real Estate	8.0%	\$ 381,318,549	8.5%	0.5%
Core Plus Real Estate	7.0%	\$ 314,628,272	7.0%	0.0%
Total Real Estate	15.0%	\$ 695,946,821	15.5%	0.5%
Total Asset	100.0%	\$ 4,485,174,680	100.0%	

Angelo Gordon (\$47.25 million, 1.1% of PTF assets)

Direct Lending Fund

The Angelo Gordon Direct Lending portfolio was funded in late-August, with an initial call of \$6 million. There have been five additional calls totaling \$48.25 million, including the most recent call for \$7.5 million that was transferred to Angelo Gordon on December 10, 2018. Once the December transfer is made, the trusts will have transferred 36.5% of the total \$150 million committed made to this fund.

BND Farm Loan Pool (\$12.8 million, 0.3% of PTF assets)

Direct Farm Lending

On October 26, 2018, \$5 million was sent to the Farm Loan Pool account at BND in the anticipation of the funding four different loans. This was the first transfer of funds to the farm loan pool since late-2009; the first loan was funded in late-October.

According to BND there is a solid market for these loans at the present time, so the Board can expect to fund as much as \$5 million of additional loans over the next few months.

The Quarterly Financial Statement (Unaudited) for Period Ended September 30, 2018 was provided to the Board for review.

A D J O U R N

There being no further business, the meeting was adjourned at 3:55 PM.

Doug Burgum, Chairman
Board of University and School Lands

Jodi Smith, Secretary
Board of University and School Lands