

**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

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 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.

I N V E S T M E N T S

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):

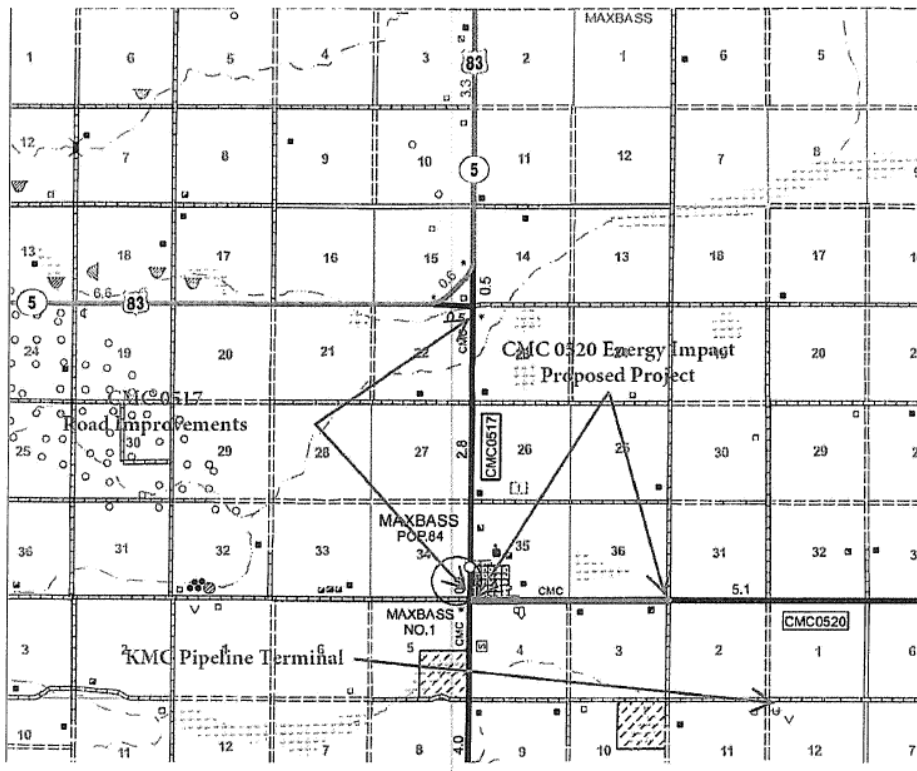
Dan Kalil (Williston Township Chair), Jay Elkin (Stark County Commissioner), Justin Voll (former mayor of Watford City), Marcia Lamb (Billings County Auditor), Mark Spooner (Border Township Chair), Allen Ryberg (Burke County Commissioner), David Wegner (Beach PSD Superintendent), Gary Weisenberger (mayor of Stanley), and Reinhard Hauck (Dunn County Commissioner)

Per the Board's approved grant requirements, the grant announcement closed on August 30, 2018. EIIO 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. EIIO 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		

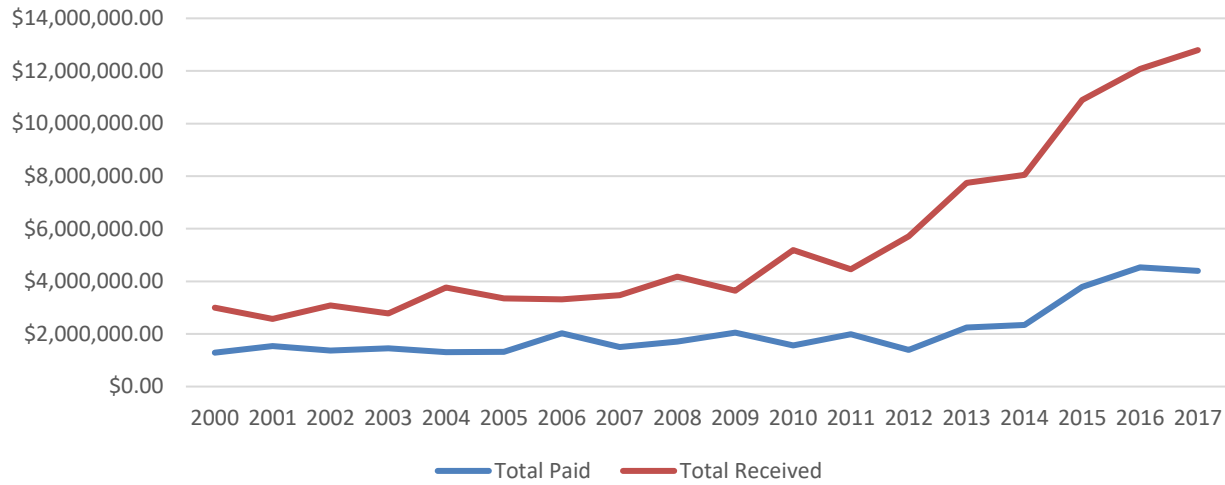
O P E R A T I O N S

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.

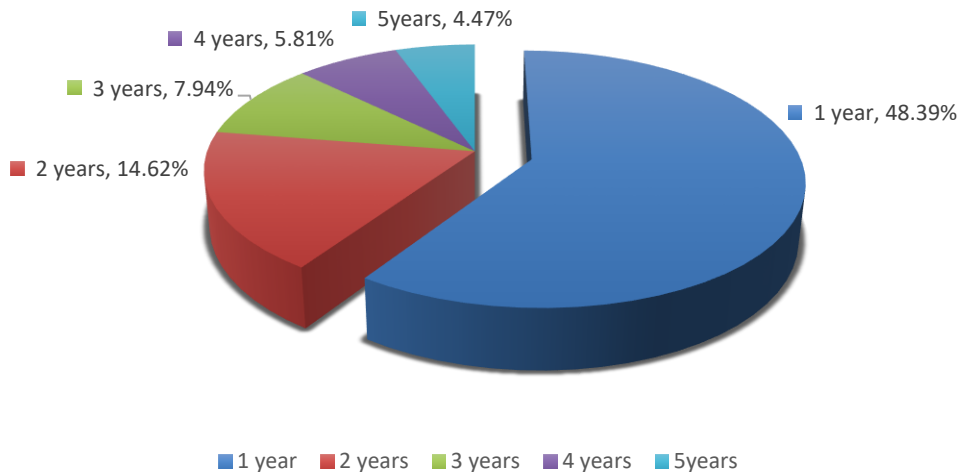
Claims Paid vs. Total Unclaimed Property Received



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.

Average Time Held Before Payment



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 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	<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 <u>(RE: April 1, 2018 hearing)</u>
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