

**Minutes of the Meeting of the  
Board of University and School Lands  
February 27, 2020**

The February 27, 2020 meeting of the Board of University and School Lands was called to order at 9:00 AM in the Governor's Conference Room 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
Kathy Brandvold	Auditor
Rob Dixon	Computer Network Specialist
Brad Fettig	Mineral Title Specialist
Peggy Gudvangen	Accounting Division Director
Mike Humann	Surface Division Director
Bev Jacobson	Administrative Assistant
Kristie McCusker	Paralegal
Catelin Newell	Administrative Staff Officer
Adam Otteson	Revenue Compliance Division Director
Rick Owings	Administrative Officer
Dave Shipman	Minerals Division Director
Mike Shackelford	Investment Division Director

**Guests in Attendance:**

Bethany Kurz	EERC, Grand Forks
Ron Rauschenberg	Self
Jeff Engleson	Self
Eric Sundberg	Slawson Exploration Co.
Todd Slawson	Slawson Exploration Co.
Ron Ness	North Dakota Petroleum Council
Rudie Martinson	Primary Strategy Group
Kate Black	Inland Oil & Gas
Pete Wolla	Self
Arlin Link	Self
Brian Anderson	WBROA
Sara Bilden	Midkota Public School
Lawrence Bender	Fredrikson & Byron, P.A.
Tyler Gludt	Fredrikson & Byron, P.A.
Charles Tuttle	Self
Steven Poeckes	Self
Peter Masset	Altair Corp
Nick Archuleta	ND United
Dale Patten	District 39 Senator
Danielle Yourk	Altair Corp
Aimee Copas	NDCEL
Brandt Dick	Underwood School/NDSOS
Fintan Dooley	Salted Lands Council

Brady Pelton	North Dakota Petroleum Council
Paul Clarys	Armstrong OP, Inc
Geoff Simon	WDEA
Blue Hulsey	Continental Land Resources
Roger Kelley	Continental Land Resources
James McPherson	AP
Brent Sanford	Lt. Governor
Dave Garner	Attorney General's Office
Leslie Bakken Oliver	Governor's Legal Counsel
Reice Haase	Governor's Office
Lynn Helms	NDIC-DMR

## LITIGATION

### Sorum Litigation

**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, 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.

**History:** 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

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December 10, 2018. Reply Briefs were due December 21, 2018. A hearing on the Motions for Summary Judgment was held on January 4, 2019. The Order on Cross-Motions for Summary Judgment was issued on February 27, 2019, and Defendants were directed to prepare the proposed Judgment. On March 6, 2019, Defendants filed their proposed Judgment. Plaintiff's filed a letter on March 7, 2019, advising the Court that they felt Defendants' proposed Judgment was deficient and that they would also be submitting a proposed Judgment. Plaintiff's proposed Judgment was filed March 8, 2019. Defendants filed a letter on March 8, 2019 advising the Court that they intended to submit a response to Plaintiffs' proposed Judgment within 14 days. On March 19, 2019, Defendants filed an Objection to Plaintiffs' Proposed Judgment. Thereafter, Plaintiffs filed a letter asking the Court not to rule on Defendants' Objection until Plaintiffs have had the opportunity to be heard and further, that Plaintiffs' intend to bring a Motion for Clarification concerning retroactive royalty refunds within 14 days. Plaintiffs filed their Response to Defendants' Objection to Proposed Judgment and Request for Clarification and their Amended Proposed Order and Judgment on March 29, 2019. Defendants filed their Objection to Plaintiffs' Proposed Order and Judgment (Plaintiffs' Amended Proposed) and Reply to Plaintiffs' Response to Defendants' Objection to Proposed Judgment and Request for Clarification on April 8, 2019. On April 25, 2019, Judge Irby entered an Order for Entry of Judgment ordering the Clerk to enter Defendants' Proposed Order as the Judgment of the Court. Judgment was entered on April 26, 2019. Plaintiffs' filed a Notice of Motion for Attorney Fees, Costs, and Service Award to Plaintiffs scheduling a hearing for 1:30 p.m. June 10, 2019 in Fargo. The Notice of Entry of Order on Cross-Motions for Summary Judgment, Order for Entry of Judgment, and Judgment was filed by Defendants on May 3, 2019. On May 15, 2019, Plaintiffs filed their Motion for Attorney Fees, Costs and Service Award to Plaintiffs and the Memorandum in Support of Motion, together with supporting documents. On May 20, 2019, Plaintiffs filed their Amended Motion for Attorneys Fees, Costs and Service Award to Plaintiffs. Defendants filed an Expedited Motion for Extension of Time to Respond to Plaintiffs' Memorandum in Support of Motion for Attorney Fees, Costs and Service Award to Plaintiffs and requested the June 10, 2019 hearing be postponed. Defendants filed, with the District Court, its Response to Plaintiffs' Memorandum in Support of Motion for Attorneys Fees, Costs and Service Award to Plaintiffs on June 12, 2019. Plaintiffs' filed their Reply Memorandum in Support of Motion for Attorney Fees, Costs and Service Award to Plaintiffs on June 19, 2019. A hearing on the motion for attorneys fees was held before the District Court on July 18, 2019. The State Defendants/Appellants filed a Notice of Appeal to the North Dakota Supreme Court (Supreme Court) on June 27, 2019. Plaintiff/Appellees/Cross-Appellants filed a Notice of Cross-Appeal dated July 10, 2019. Appellants' Briefs were due to the Supreme Court on August 6, 2019. On July 18, 2019, the parties filed a Stipulation and Joint Motion for Appellate Briefing Schedule with the Supreme Court to allow for a decision to be rendered in the District Court on the issue of attorneys fees prior to the briefs being due to the Supreme Court. On July 19, 2019, the Joint Motion for Appellate Briefing Schedule was denied and an Order of Remand was entered by the Supreme Court temporarily remanding the case to the trial court for the limited purpose of consideration and disposition of Plaintiffs' Motion for Attorney Fees, Costs and Service Award to Plaintiffs. The briefing schedule for briefs before the Supreme Court is stayed pending the District Court's disposition of the attorneys fees issue. On July 24, 2019, the District Court issued its Order on Plaintiffs' Motion for Attorney Fees, awarding attorney fees to Plaintiffs' attorneys and service awards to Plaintiffs. An Amended Judgment was entered in the District Court on July 31, 2019. On August 1, 2019, State Defendants filed an Amended Notice of Appeal and the Order and Request for Transcript. Also

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on August 1, 2019, the Supreme Court provided its Notice of Filing Notice of Appeal. On August 7, 2019, the Amended Notice of Cross-Appeal was filed by Plaintiffs. The transcripts requested by the State Defendants of the January 4, 2019 summary judgment hearing and the July 18, 2019 hearing on attorney fees/costs/service award were filed with the North Dakota Supreme Court on October 4, 2019. In light of the filing of those transcripts, the Supreme Court's clerk has advised that the State Defendants' initial appellant brief is to be filed on November 13, 2019. Brief of Defendants, Appellants and Cross-Appellees the State of North Dakota, the Board of University and School Lands of the State of North Dakota, the North Dakota Industrial Commission, the Hon. Douglas Burgum, in his Official Capacity as Governor of the State of North Dakota, and the Hon. Wayne Stenehjem, in his Official Capacity as Attorney General of North Dakota was filed with the Supreme Court on November 13, 2019. A Motion for Leave to File *Amicus Curiae* Brief by the North Dakota Petroleum Council in Support of the Constitutionality of N.D.C.C. ch. 61-33.1 was filed with the Supreme Court on November 13, 2019. The Supreme Court granted the North Dakota Petroleum Council's Motion for Leave to File *Amicus Curiae* Brief on November 14, 2019. Plaintiffs' brief was due to the Supreme Court on or before December 13, 2019. On December 9, 2019, Plaintiff Paul Sorum made a request to the Supreme Court for an extension to file his brief until January 29, 2020. The Supreme Court granted Plaintiff Paul Sorum's request for an extension, giving him until January 21, 2020 to file his brief.

**Current Status:**

- On January 29, 2020, Defendants requested an extension of time to file the reply brief until February 14, 2020, due to the amount of information that was filed in the separate briefs and appendixes.
- On January 30, 2020, an initial letter was issued in which the Supreme Court granted Defendants' request for an extension to file the Reply Brief until February 24, 2020. Thereafter, the Court issued a corrective letter advising reply briefs are due February 14, 2020.
- On February 13, 2020, Paul Sorum filed the Reply to Appellant Brief of Defense.
- Defendants filed the Reply Brief of Defendants, Appellants and Cross-Appellees the State of North Dakota, the Board of University and School Lands of the State of North Dakota, the North Dakota Industrial Commission, the Hon. Douglas Burgum, in his Official Capacity as Governor of the State of North Dakota, and the Hon. Wayne Stenehjem, in his Official Capacity as Attorney General of North Dakota on February 14, 2020.
- Oral Argument before the Supreme Court is scheduled for 1:30 p.m. on March 4, 2020.

**EXECUTIVE SESSION**

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 of attorney consultation relating to:

- **Paul Sorum et al. Civ. No. 09-2018-CV-00089**

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		

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At 9:03 AM the Board entered executive session for the purposes outlined in its adopted motion.

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### 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	Administrative Staff Officer

#### Guests in Attendance:

Brent Sanford	Lt. Governor
Leslie Bakken Oliver	Governor's Legal Counsel
Reice Haase	Governor's Office
Mark Hanson	Nilles Law Firm

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The executive session adjourned at 9:27 AM. During the executive session, the Board was provided information from its attorney and no formal action was taken.

To accommodate the number of public in attendance the Board reconvened in open session in the Roughrider Room in the State capitol.

### APPROVAL OF MINUTES

A motion to approve the minutes of the January 21, 2020 regular meeting, January 27, 2020 special meeting and February 11, 2020 special meeting was made by Attorney General Wayne Stenehjem and seconded by Secretary Alvin Jaeger and the motion carried unanimously on a voice vote.

### LITIGATION

#### North Range Litigation

**Case:** North Range Resources, LLC v. State of North Dakota, North Dakota Board of University and School Lands, Jodi Smith, Commissioner of University and School Lands, Case No. 27-2020-CV-00028

**Date Filed:** January 16, 2020

**Court:** McKenzie County District Court

**Judge:** Honorable Daniel El-Dweek

**Attorney:** David Garner

**Opposing**

**Counsel:** Lawrence Bender, Spencer D. Ptacek

**Issues:** On January 15, 2020, North Range Resources served a Summons and Complaint on State of North Dakota, the North Dakota Board of University and School Lands, and the Commissioner. This case is requesting a judgment be entered under Chapter 32-12 of the North Dakota Century Code quieting title in Leases in favor of Plaintiffs;

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a judgment be entered under Chapter 32-23 of the North Dakota Century Code declaring that the Leases remain valid and in effect with respect to all of the Subject Lands; and that Plaintiffs be awarded their costs and reasonable attorney fees.

**History:** Summons and Complaint was served on January 15, 2020, with the Answer being due in 21 days.

**Current Status:**

- Notice of Lis Pendens was filed on January 23, 2020.
- Answer filed on February 4, 2020.

## S U R F A C E   M A N A G E M E N T

### Construction Aggregate Lease Applications

Aggregate Construction, Inc., of Minot, North Dakota, submitted three applications for Construction Aggregate Mining Leases on the following tracts of land in Mountrail and Williams Counties:

**Application 1:**

Mountrail County Township 158 North, Range 92 West, Section 16: N½ North of Road (see attached map for location)

**Application 2:**

Mountrail County Township 158 North, Range 92 West, Section 16: NW¼ South of Road (see attached map for location)

**Application 3:**

Williams County Township 156 North, Range 100 West, Section 16: NW¼

The applications for Construction Aggregate Leases were submitted under authority of North Dakota Administrative Code chapter 85-04-02 which requires posting a Notice of Construction Aggregate Leasing on the Department of Trust Land's (Department) website and allowing for a 14-day period comment. The applications located in Mountrail County Township have been posted for the 14-day comment period and no comments were received. The application located in Williams County Township is currently posted.

The applications will be prepared for public auction by publishing a notice of the auction at least 10 days prior to the auction in the official newspaper of the county where the proposed construction aggregate leased premises is located and in the Bismarck Tribune. The Commissioner is authorized to approve and issue a construction aggregate lease on the board's behalf N.D.A.C. § 85-04-02-03. Any Construction Aggregate Leases approved by the Commissioner would appear on the Encumbrance Report at a future Board meeting.

Application location maps were provided to the Board and are available upon request at the Department.

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**XTO Holdings Request for Temporary Gas Storage – Pilot Program**

Extraction of oil and gas from the Bakken petroleum system has dramatically increased over the past decade without commensurate augmentation of gas capture infrastructure, which has resulted in continued flaring of produced gas. The North Dakota Industrial Commission (NDIC) has worked with industry to establish gas capture requirements to reduce the volume of flared gas.

To evaluate potential options to alleviate flaring, conserve natural resources and optimize oil production from the Bakken, the Sixty-Sixth Legislative Assembly of North Dakota allocated funding to the EERC under Section 25 of House Bill 1014 “for pilot projects relating to the underground storage of produced natural gas.” The intent of the funding is to enable the assessment of produced gas injection into geologic targets in the Williston Basin as a mechanism to reduce flaring and achieve gas capture goals in Bakken oilfield locations with limited gas capture and transportation infrastructure.

XTO Holdings, LLC (XTO) in collaboration with the EERC is evaluating a pilot demonstration project relating to temporary underground storage of produced natural gas on Trust Land involving the injection, storage and withdrawal of natural gas and other associated gaseous substances (“Natural Gas”) into the pore space of the Broom Creek Formation Reservoir (Minnelusa Group). Temporary gas storage may enable XTO to bring drilled well bores into production and provide additional revenue to the Trust in areas where there is not adequate infrastructure.

XTO requests the Department to obtain authority to issue an easement allowing for the injection, temporary storage and withdrawal of Natural Gas. Through the site granted by the easement, EERC would be able to study and collect monitoring information regarding gas storage. The general terms and conditions of an easement would be developed in consultation with the Attorney General office and approval to negotiate and grant such easement. Any easements issued to XTO would also include reclamation responsibility.

**Motion: The Board approves the Commissioner to develop an easement for the purpose of injecting, storing and withdrawing natural gas subject to review of the easement document by the Attorney’s General Office and final approval of the Board.**

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		

**R E P O R T S**

**Report of Encumbrances Issued by Land Commissioner 1/15/2020 to 2/14/2020**

**Granted to:** SLAWSON EXPLORATION COMPANY INC, DENVER-CO  
 For the Purpose of: Easement-Amend: Well-Directional Wellsite Location  
 Right-of-Way Number: RW0006937  
 Trust: A – Common Schools  
 Legal Description: MOU-152-92-14-SE4

<p><b>Granted to:</b>  For the Purpose of:  Right-of-Way Number:  Trust:  Legal Description:</p>	<p><b>WHITING OIL &amp; GAS CORPORATION, DENVER-CO</b>  Easement-Amend: Drop Line-Pipeline  RW0008431  A – Common Schools  MOU-153-92-16-NW4</p>
<p><b>Granted to:</b>  For the Purpose of:  Right-of-Way Number:  Trust:  Legal Description:</p>	<p><b>MOUNTRAIL COUNTY, STANLEY-ND</b>  Easement: Road Right-of-Way  RW0008477  A – Common Schools  MOU-155-94-36-NE4, SE4</p>
<p><b>Granted to:</b>  For the Purpose of:  Right-of-Way Number:  Trust:  Legal Description:</p>	<p><b>BRIDGER PIPELINE LLC, CASPER-WY</b>  Easement: Pipeline-Oil Gathering Pipeline  RW0008535  A – Common Schools  MCK-149-96-16-NW4, SW4</p>
<p><b>Granted to:</b>  For the Purpose of:  Right-of-Way Number:  Trust:  Legal Description:</p>	<p><b>ONEOK BAKKEN PIPELINE LLC, TULSA-OK</b>  Easement: Pipeline-Gas Transmission Pipeline  RW0008575  A – Common Schools  WIL-155-99-16-SW4  WIL-155-102-16-NE4</p>
<p><b>Granted to:</b>  For the Purpose of:  Right-of-Way Number:  Trust:  Legal Description:</p>	<p><b>WHITING OIL &amp; GAS CORPORATION, DENVER-CO</b>  Permit: Road-Access Road  RW0008594  A – Common Schools  MOU-153-92-16-NW4</p>
<p><b>Granted to:</b>  For the Purpose of:  Right-of-Way Number:  Trust:  Legal Description:</p>	<p><b>ONEOK ROCKIES MIDSTREAM LLC, SIDNEY-MT</b>  Easement-Amend: Pipeline-Gas Gathering Pipeline  RW0008598  A – Common Schools  MCK-149-96-16-NE4,NW4,SW4</p>
<p><b>Granted to:</b>  For the Purpose of:  Right-of-Way Number:  Trust:  Legal Description:</p>	<p><b>CONTINENTAL RESOURCES INC, OKLAHOMA CITY-OK</b>  Permit-Amend: Road-Access Road  RW0008604  A – Common Schools  MCK-153-94-16-NE4, NW4, SW4</p>
<p><b>Granted to:</b>  For the Purpose of:  Right-of-Way Number:  Trust:  Legal Description:</p>	<p><b>CONTINENTAL RESOURCES INC, OKLAHOMA CITY-OK</b>  On-lease Act. Amend: Well-Horizontal Oil Well  RW0008605  A – Common Schools  MCK-153-94-16-NW4, SW4</p>
<p><b>Granted to:</b>  For the Purpose of:  Right-of-Way Number:  Trust:  Legal Description:  (02/27/20)</p>	<p><b>PURITY OILFIELD SERVICES LLC, WILLISTON-ND</b>  Permit: Temporary Water Layflat Line  RW0008649  A – Common Schools  BRK-159-94-16-NW4</p>



**Granted to:** AMES SAVAGE WATER SOLUTIONS, WILLISTON-ND  
**For the Purpose of:** Permit: Temporary Water Layflat Line  
**Right-of-Way Number:** RW0008654  
**Trust:** A – Common Schools  
**Legal Description:** WIL-156-97-16-S2SW4 LESS THE N 248 FT

**The Financial Position was provided to the Board and is available at the Department upon request.**

## Investment Updates

### Asset Allocation

The table below shows the status of the permanent trusts' asset allocation as of January 31, 2020. The figures provided are unaudited.

Account/Asset Class	Long-Term Asset Allocation	1/31/20 Actual Allocation \$	1/31/20 Actual Allocation %	1/31/20 % Diff.
Large Cap US Equity	14.5%	\$ 776,890,321	15.3%	0.8%
Mid/Small Cap US Equity	4.0%	\$ 203,875,104	4.0%	0.0%
International Equity	14.5%	\$ 758,683,083	15.0%	0.5%
Emerging Market Equity	4.0%	\$ 209,220,005	4.1%	0.1%
<b>Total Equities</b>	<b>37.0%</b>	<b>\$ 1,948,668,513</b>	<b>38.5%</b>	<b>1.5%</b>
Core Fixed Income	13.8%	\$ 748,589,704	14.8%	1.0%
Non-Core Fixed Income	9.2%	\$ 424,436,755	8.4%	-0.8%
<b>Total Fixed Income</b>	<b>23.0%</b>	<b>\$ 1,173,026,459</b>	<b>23.2%</b>	<b>0.2%</b>
<b>Total Absolute Return</b>	<b>15.0%</b>	<b>\$ 738,004,376</b>	<b>14.6%</b>	<b>-0.4%</b>
Commodities	3.0%	\$ 146,113,218	2.9%	-0.1%
MLPs	3.0%	\$ 137,115,513	2.7%	-0.3%
TIPS	2.0%	\$ 100,457,409	2.0%	0.0%
Natural Resource Equities	2.0%	\$ 91,421,252	1.8%	-0.2%
<b>Total Inflation Strategies</b>	<b>10.0%</b>	<b>\$ 475,107,392</b>	<b>9.4%</b>	<b>-0.6%</b>
Core Real Estate	8.0%	\$ 392,016,685	7.7%	-0.3%
Core Plus Real Estate	7.0%	\$ 335,468,622	6.6%	-0.4%
<b>Total Real Estate</b>	<b>15.0%</b>	<b>\$ 727,485,307</b>	<b>14.4%</b>	<b>-0.6%</b>
<b>Total Asset</b>	<b>100.0%</b>	<b>\$ 5,062,292,047</b>	<b>100.0%</b>	

### Angelo Gordon (\$121.9 million, 2.4% of PTF assets as of 1/31/20) Direct Lending Fund

The Angelo Gordon Direct Lending Fund III portfolio was initially funded in late-August 2018. At present, total funded to Angelo Gordon stands at 81.50% of total capital commitment or \$122.25 million out of \$150 million. According to Angelo Gordon, the Board's commitment should be fully drawn by late-2020.

At the end of January, we have received a \$2,329,264 distribution from the Fund. Including this distribution, the Fund will have distributed approximately 4.9% of total paid-in capital total.

### Theodore Roosevelt Presidential Library and Museum Endowment Fund

On September 30, 2019, \$15M of the Theodore Roosevelt Presidential Library Endowment Fund was invested into the permanent trust pool.

### Upcoming Investment Manager Meetings

There is no upcoming meeting scheduled.

## Unclaimed Property Program Report

Unclaimed property is all property held, issued, or owing in the ordinary course of a holder's business that has remained unclaimed by the owner for more than the established time frame for the type of property. It can include checks, unpaid wages, stocks, amounts payable under the terms of insurance policies, contents of safe deposit boxes, etc.

An owner is a person or entity having a legal or equitable interest in property subject to the unclaimed property law. A holder can include a bank, insurance company, hospital, utility company, retailer, local government, etc.

Since 1975, the Unclaimed Property Division (Division) of the Department of Trust Lands has been responsible for reuniting individuals with property presumed abandoned. The Division acts as custodian of the unclaimed property received from holders. The property is held in trust in perpetuity by the State and funds are deposited in the Common Schools Trust Fund. The 1981 Uniform Unclaimed Property Act created by the national Uniform Law Commission was adopted by the State in 1985.

For the month of January 2020, the Division received 38 holder reports with a property value of \$64,250 and paid 693 claims with a total value of \$787,210.

## Energy Infrastructure and Impact Office Program Report

The Energy Infrastructure and Impact Office (EIIO) is a division within the Department of Trust Lands (Department). EIIO provides financial assistance to local units of government that are impacted by oil and gas activity. In turn, EIIO receives a portion of the Oil and Gas Gross Production Tax. The office has been a part of the Department since 1977 and was formally known as the Energy Development Impact Office created under N.D.C.C. ch. 57-62. Over the course of the past 40 years, EIIO has dispersed over \$624 million in funding.

The Oil and Gas Impact Grant Fund currently has 21 grants with a balance of \$7,207,988.75 as of February 13, 2020. The following shows grant activity for the last four months:

Oil and Gas Impact Grant Fund	Grants with balances	Current Balance Obligated to Grants
11/15/2019	40	\$17,164,734.70
12/9/2019	36	\$15,477,345.77
12/31/2019	30	\$14,388,087.28
2/13/2020	21	\$7,207,988.75

The Energy Impact Fund, established within Senate Bill 2013 as enacted by the Sixty-fifth Legislative Assembly, was created to supplement the Oil and Gas Impact Grant Fund for the 2017-2019 biennium. This fund currently has three grants with a balance of \$3,447,448.60 as of February 13, 2020. House Bill 1013 of the Sixty-sixth Legislative Assembly requires the Commissioner of University and School Lands to transfer any unexpended funds remaining in the Energy Impact Fund when the fund is repealed on June 30, 2021, to the Oil and Gas Impact Grant Fund.

The following shows grant activity for the last four months:

Energy Impact Fund	Grants with balances	Current Balance Obligated to Grants
11/15/2019	4	4,793,191.14
12/9/2019	4	\$4,793,191.14
12/31/2019	4	\$4,108,325.39
2/13/2020	3	\$3,447,448.60

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The Energy Infrastructure and Impact Office is currently managing 24 grants for a total of \$10,655,437.35. The following shows grant activity for the last four months:

Oil and Gas Impact Grant Fund	Grants with balances	Current Balance Obligated to Grants	Energy Impact Fund	Grants with balances	Current Balance Obligated to Grants	Total between both Funds
11/15/2019	40	\$17,164,734.70	11/15/2019	4	\$4,793,191.14	\$21,957,925.84
12/9/2019	36	\$15,477,345.77	12/9/2019	4	\$4,793,191.14	\$20,270,536.91
12/31/2019	30	\$14,388,087.28	12/31/2019	4	\$4,108,325.39	\$18,496,412.67
2/13/2020	21	\$7,207,988.75	2/13/2020	3	\$3,447,448.60	\$10,655,437.35

### Acreage Adjustment Survey

Senate Bill 2211 of the Sixty-Sixth Legislative Assembly amended N.D.C.C. ch. 61-33.1 relating to the ownership of mineral rights of land subject to inundation by Pick-Sloan Missouri basin project dams. Under N.D.C.C. § 61-33.1-03(8), the Department executed a contract with Kadrmas, Lee & Jackson, Inc. “to analyze the final review findings and determine the acreage on a quarter-quarter basis or government lot basis above and below the ordinary high water mark as delineated by the final review findings of the industrial commission.” The contract’s scope of work concludes twelve months from the date of execution, at a total cost of \$1,088,635.



## Summary of Oil and Gas Lease Auction

On behalf of the Board, the Department conducted an oil and gas mineral lease auction on [www.energynet.com](http://www.energynet.com) which concluded on February 4, 2020.

There were 36 tracts offered and all received competitive bids (If the Board does not receive a competitive bid the lease is awarded to the nominator). The highest bid per acre was \$251.00 for 80 acres in Divide County.

February 2020			
County	Mineral Acres	Total Bonus	Bonus/Acres
Billings	160	\$2,560.00	\$16.00
Burke	153.17	\$2,683.89	\$17.52
Divide	480	\$87,840.00	\$183.00
Dunn	16.19	\$1,230.44	\$76.00
Hettinger	80	\$1,280.00	\$16.00
McKenzie	3200	\$213,280.00	\$66.65
<b>GRAND TOTAL</b>	<b>4,089.36</b>	<b>\$308,874.33</b>	<b>\$75.53</b>

There were 28 registered bidders, 13 of which placed a bid in the 8-day auction. There were bidders from 3 states (ND, MT and LA).

A total of \$308,874.33 of bonus was collected from the auction.

## 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 (IT) systems as authorized by Senate Bill 2013 of the Sixty-fifth Legislative Assembly.

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.

On April 29, 2019, the new system for Unclaimed Property was successfully launched.

The Department has a tentative go-live date of June 16, 2020 with a lag time go-live of October 15, 2020 for the new Financial Management & Accounting (FMA) system that will utilize the Microsoft Dynamics 365 Finance and Operations module. The FMA implementation plan has been strategically developed into four iterations: (1) Planning and Analysis Cycle; (2) Design and Build Cycle 1; (3) Design and Build Cycle 2; (4) Production Cycle. At the end of each iteration, the implementation team will review progress to-date with the Commissioner. Appropriate adjustments to the go-live date will be made if necessary. The Planning and Analysis Cycle Iteration is now complete and the FMA project is on schedule.

On December 16, 2019, the Department issued the RFP for the Land Management system. In February 2020, five responses were received. An evaluation team is currently reviewing and scoring these proposals.

(02/27/20)

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

### **Reconsideration of Gas Royalty Repayment Notification – no memo provided.**

#### **Repayment of Unpaid Gas Royalties Update**

The North Dakota Board of University and School Lands (Board) manages land, minerals and proceeds as trustee for the exclusive benefit of constitutionally identified beneficiaries, with much of the income funding North Dakota schools and institutions. The Board also manages sovereign minerals for the State of North Dakota.

The Department of Trust Lands (Department) has persistently worked with operators to collect payment or establish escrow accounts for royalties from the production of minerals, in accordance with the Board's lease, rules, and policies.

In 2012, the Department sent letters to operators and lessees who reported deductions for royalties paid. In July 2017, letters were sent to all operators and lessees regarding the proper method to calculate gas royalties. Companies who were audited and found to be non-compliant with the proper calculation of gas royalties, as outlined in the July 2017 letter, received audit findings letters. All companies who have continued to be non-compliant have received additional communication regarding the proper calculation of gas royalties.

The Board's administrative rules, N.D.A.C. Title 85, provide guidelines for assessment of penalties and interest. Current Department and Board policy assesses the maximum interest (18%) under N.D.C.C. § 47-16-39.1, and penalty (12%) allowed on all late royalty payments unless a request is made to the Commissioner to negotiate the interest rate. The Department's revenue compliance procedures are configured to calculate and generate interest and penalty notices in accordance with these policies.

The letter regarding Formal Notification of Gas Royalty Repayment Obligations dated February 11, 2020 with enclosed Gas Deduction Compliance Notification (Letter) was sent to all entities required to pay royalties to the Board pursuant to the Board's lease.

The Letter advised all entities who have been deducting post production costs from royalty payments made to the Department that they have been underpaying royalties contrary to the terms of the Board's lease. Penalties and interest continue to accrue in accordance with the Gas Deduction Compliance Notification until payment is received.

As of noon on February 21, 2020, twenty-five gas royalty payors had contacted the Department. Two gas royalty payors made a formal offer of repayment and the Department is actively working with the other gas royalty payors.

## A D J O U R N

There being no further business, the meeting was adjourned at 10:48 AM.

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Doug Burgum, Chairman  
Board of University and School Lands

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Jodi Smith, Secretary  
Board of University and School Lands

(02/27/20)