

**Minutes of the Meeting of the
Board of University and School Lands
January 28, 2021**

The January 28, 2021 meeting of the Board of University and School Lands was called to order at 9:00 AM via Microsoft Teams by Chairman Doug Burgum. All meeting attendees were via Microsoft Teams.

Members Present:

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Wayne Stenehjem	Attorney General
Thomas Beadle	State Treasurer
Kirsten Baesler	Superintendent of Public Instruction

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Dennis Chua	Investment Analyst
Christopher Dingwall	Mineral Title Specialist
Scott Giere	Revenue Compliance Auditor
Peggy Gudvangen	Accounting Division Director
Mike Humann	Surface Division Director
Roman Knudsvig	Department Intern
Jacob Lardy	Trust Lands Specialist
Kristie McCusker	Paralegal
Catelin Newell	Administrative Staff Officer
Adam Otteson	Revenue Compliance Director
Rick Owings	EIIO Grants Administrator
Michael Shackelford	Investments Director
David Shipman	Minerals Division Director
Lynn Spencer	Mineral Title Specialist
James Wald	Legal Council

Guests in Attendance:

Dave Garner	Office of the Attorney General
Leslie Bakken Oliver	Governor's Legal Counsel
Reice Haase	Office of the Governor

Additional Guests in Attendance:

Andrew Lasky
Logan Caldwell
Craig C. Smith
Dennis Blank
Geoff Simon
Greg S.
Ron Ness
Ron Rauschenberger
Will

APPROVAL OF MINUTES

A motion to approve the minutes of the December 17, 2020 regular meeting and the January 12, 2021 special meeting was made by Attorney General Wayne Stenehjem and seconded by Secretary Alvin Jaeger and the motion carried unanimously on a voice vote.

(01/28/21)

R E P O R T S**December 2020 Report of Shut-Ins Approved by Land Commissioner**

Granted to: **Slawson Exploration Company, Inc.**
 For the Purpose of: COVID-19
 Date Issued: 12/28/2020
 Trust: A – Common Schools
 Lease: OG-04-01299, OG-04-01300, OG-04-01301, OG-04-01302

December 2020 Report of Encumbrances Issued by Land Commissioner

Granted to: **DUCKS UNLIMITED INC, BISMARCK-ND**
 For the Purpose of: Easement: Flowage
 Right-of-Way Number: RW0007508
 Trust: A - Common Schools
 Legal Description: MOU-157-88-36-SW4

Granted to: **SARGENT COUNTY-WATER RESOURCE DIST., FORMAN-ND**
 For the Purpose of: Easement: Flowage
 Right-of-Way Number: RW0008620
 Trust: A - Common Schools
 Legal Description: SAR-130-57-16-NW4

Granted to: **XTO HOLDINGS, LLC, SPRING-TX**
 For the Purpose of: Permit: Road-Section Line Access Road
 Right-of-Way Number: RW0008641
 Trust: A - Common Schools
 Legal Description: WIL-159-96-16-NW4

Granted to: **CENTRAL POWER ELECTRIC COOP INC, MINOT-ND**
 For the Purpose of: Easement: Pipeline-Potable Water Pipeline
 Right-of-Way Number: RW0008661
 Trust: A - Common Schools
 Legal Description: BRL-139-80-36-SW4 LESS ACRES SOLD

Granted to: **MOUNTRAIL-WILLIAMS ELECTRIC COOP, WILLISTON-ND**
 For the Purpose of: Easement: Electric-Buried Distribution Line
 Right-of-Way Number: RW0008726
 Trust: A - Common Schools
 Legal Description: MOU-150-92-10, MOU-150-92-15-S2SW4, W2SW4

Granted to: **EQUINOR PIPELINES LLC, WILLISTON-ND**
 For the Purpose of: Easement-Amend: Pipeline-Multiple Pipelines
 Right-of-Way Number: RW0008727
 Trust: A - Common Schools
 Legal Description: MCK-151-101-36-NW4, SE4, SW4

Granted to: **MOUNTRAIL-WILLIAMS ELECTRIC COOP, WILLISTON-ND**
 For the Purpose of: Easement: Electric-Above Ground Distribution Line
 Right-of-Way Number: RW0008753
 Trust: A - Common Schools
 Legal Description: MOU-155-91-12-NE4

Granted to: **DIVIDE COUNTY HWY DEPT, CROSBY-ND**
 For the Purpose of: Easement: Road Right-of-Way
 Right-of-Way Number: RW0008782
 Trust: A - Common Schools
 Legal Description: DIV-161-97-36-NE4

Granted to: **MCKENZIE ELECTRIC COOP INC, WATFORD CITY-ND**
 For the Purpose of: Easement-Amend: Drop Line-Electric
 Right-of-Way Number: RW0008787
 Trust: A - Common Schools
 Legal Description: MCK-147-104-36-SE4

Granted to: **CATES EARTH SCIENCE TECHNOLOGIES INC, BISMARCK-ND**
 For the Purpose of: Permit: Temporary Water Layflat Line
 Right-of-Way Number: RW0008804
 Trust: A - Common Schools
 Legal Description: MOU-151-92-36-W2NE4SW4, NW4SW4, S2SW4

Granted to: **STANTEC CONSULTING INC, FARGO-ND**
 For the Purpose of: Permit: Planning & Preconstruction Survey
 Right-of-Way Number: RW0008805
 Trust: A - Common Schools
 Legal Description: All Trust Land in North Dakota

December Unclaimed Property 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 December 2020, the Division received 75 holder reports with a property value of \$413,563 and paid 371 claims with a total value of \$1,333,531.

The Financial Report (Unaudited) for period ending October 31, 2020 was presented to the Board for review and is available at the Department upon request.

Investment Updates

Portfolio Rebalancing Updates

\$25M was liquidated and withdrawn from Harvest MLP account on December 15, 2020. After the withdrawal, the Diversified Inflation Strategies (DIS) asset class has approximately remaining \$96M. The Department staff and RVK will continue to monitor the trigger points set for the DIS.

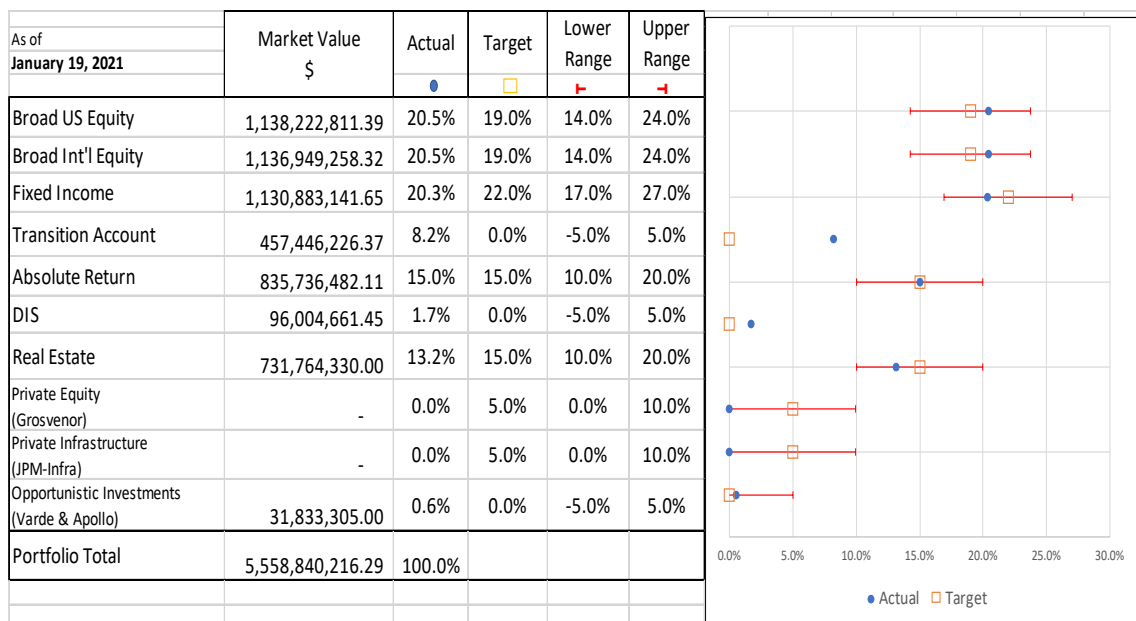
On January 7, 2021, Varde Dislocation Fund IV LP, the other Opportunistic Investment, made a \$10M capital call. The remaining unfunded commitment is \$75M.

Apollo Accord Fund IV LP (Fund), another Opportunistic Investment, made capital calls totaling \$5.5M. The remaining unfunded commitment is \$94.5M. The fund so far had made two distributions equaling \$18,734.59.

The Staff have executed the Agreements for GCM Grosvenor (Private Equity Manager), JP Morgan (Private Infrastructure Manager), and ARES Pathfinder Fund LP (Asset-Focused Credit). Meanwhile the Agreements for Angelo Gordon, JPM Core Bond, and the Loomis & Sayles Multi-Sector are being reviewed by the Attorney General's Office

Asset Allocation

The table below shows the status of the permanent trusts' asset allocation as of January 19, 2021. The figures provided are unaudited.



Upcoming Investment Manager Meetings

There is no upcoming meeting scheduled.

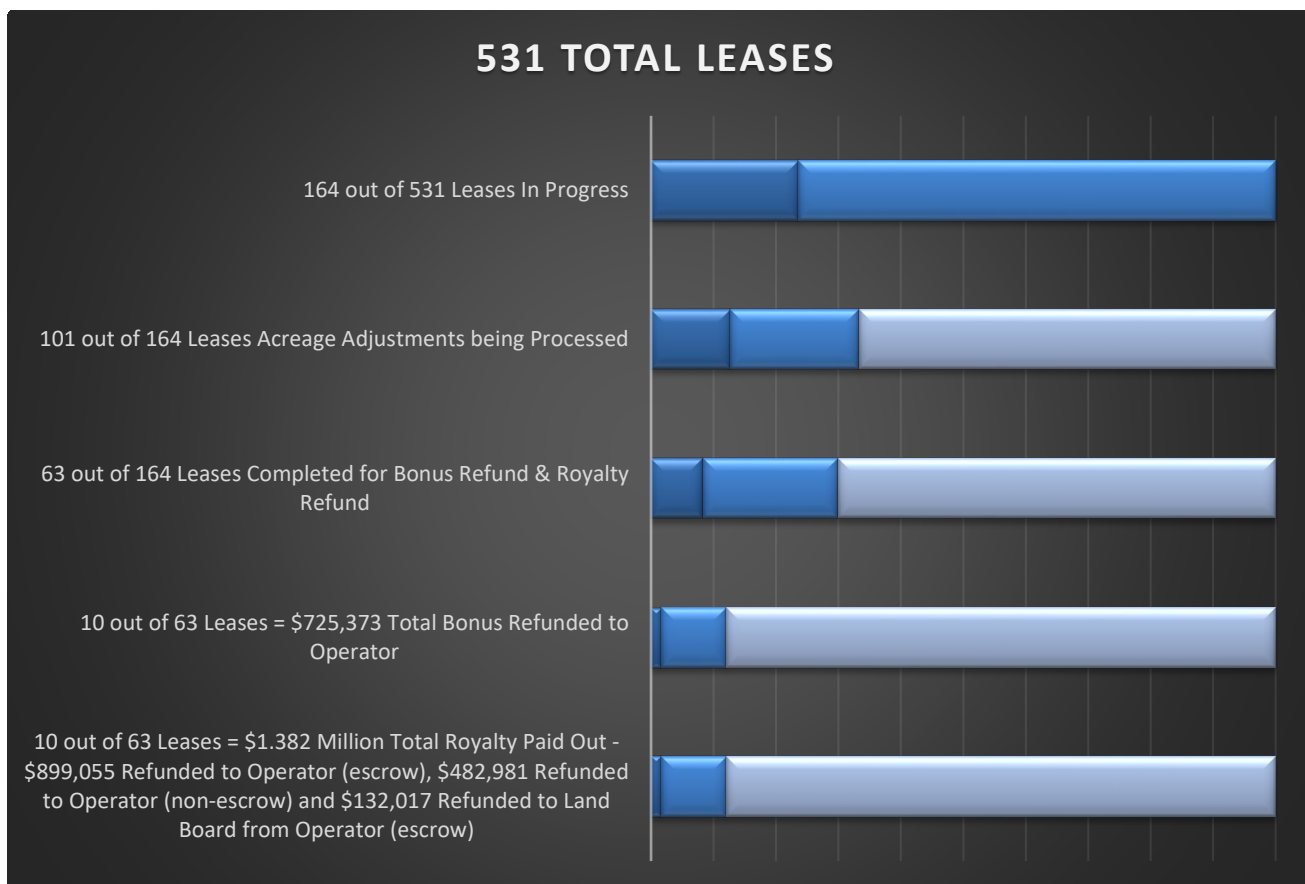
Acreege Adjustment Survey Project

The Sixty-Fifth Legislative Assembly's adoption of Senate Bill 2134 (SB 2134), codified as N.D.C.C ch. 61-33.1, sought to establish state ownership of minerals below the ordinary high water mark of the historical Missouri riverbed channel subject to inundated by Pick-Sloan Missouri Basin project dams.

On behalf of the Board of University and School Lands, the Department of Trust Lands has set in motion the refunding of royalty proceeds that fall within the six-month time frame outlined in N.D.C.C § 61-33.1-04(1). Implementation and release of royalty proceeds is under way as acreage determinations have been calculated on “oil and gas mineral tracts lying entirely above the ordinary high water mark of the historical Missouri riverbed channel on both the corps survey and the state phase two survey . . . absent a showing of other defects affecting mineral title.” N.D.C.C § 61-33.1-04(1)(a)

Currently, 63 Lease Correction and Acreage Stipulation packages have been sent to various operators. Of these 63 packages, 10 have been refunded, 13 are being held by clouded title, 44 are waiting for operator execution, and 3 are in the process of being refunded.

The following provides the status of acreage determination refunds and the amount at issue for those refunds in each stage of the process:



Legislative Update

BILL	TITLE	SPONSORS	COMMITTEE	STATUS		
				House Date of Hearing	Senate Date of Hearing	Governor
HB 1031	Relating to legislative management studies of state agency fees.	Legislative Management	Gov't & Veterans Affairs	Passed		
HB 1054	Relating to bond requirements for abandoned oil and gas wells.	Energy and Natural Resources	Energy & Natural Resources	Defeated		
HB 1080	Relating to the obligation to pay oil and gas royalties on leases owned and managed by the board of university and school lands.	Rep. Dockter	Finance & Taxation	Introduced		
HB 1081	Relating to authority of the game and fish department employees to enforce laws.	Rep. Zubke	Energy & Natural Resources	Introduced		
HB 1202	Relating to funds managed by the state investment board and the investments of the board of university and school lands	Rep. Kempenich, Brandenburg, Delzer, M. Ruby, Schatz, Tveit Sen. Klein, Patten	Gov't & Veterans Affairs	Introduced		
HB 1269	Relating to the state land advisory board.	Rep. Kempenich, Schatz, Zubke	Political Subdivisions	Introduced 1-28-2021		
HB 1322	Relating to the attorney general's review of proposed administrative rules and the authority of the administrative rules committee to object to or void an administrative rule.	Rep. B. Koppelman, K. Koppelman, Pyle, D. Ruby, Steiner Sen. Burckhard, Clemens, Lemm, Meyer, J. Roers	Judiciary	Introduced 1-26-2021		
HB 1340	Relating to prohibiting entry onto private land without permission	Rep. Simons, Ertelt, Hoverson, Jones, Kempenich, Magrum, Skroch Sen. Heitkamp, Hogue	Judiciary	Introduced		

BILL	TITLE	SPONSORS	COMMITTEE	STATUS		
				House Date of Hearing	Senate Date of Hearing	Governor
HB 1349	Relating to open record and meeting laws	Rep. Devlin, Karls Sen. Dwyer, Lee, Oban	Political Subdivisions	Introduced 2-05-2021		
HB 1358	Relating to oil and gas tax revenue hedging	Rep. Kempnich, Christensen, Mock, Steiner, Trottier Sen. Bekkedahl, Dwyer, Schaible	Finance & Taxation	Introduced 1-26-2021		
HB 1385	Relating to the attorney general review of the proposed administrative rules	Rep. Becker, Kasper, Louser, Schauer, Tveit Sen. Meyer, Vedaa, Wobbema	Finance & Taxation Committee	Introduced 02-02- 2021		
HB 1392	Relating to the duration of school and public land leases.	Rep. Schatz, Brandenburg, Christensen, D. Johnson, Kempnich, Longmuir, Monson, Simons Sen. Anderson, Elkin, Erbele	Government & Veterans Affairs	Introduced		
SB 2013	A BILL for an Act to provide an appropriation for defraying the expenses of the commissioner of university and school lands; and to provide for distributions from permanent funds.	Appropriations	Appropriations		Introduced	
SB 2036	A BILL for an Act to provide for a legislative management study regarding access to lands and electronic posting.	Legislative Management	Energy & Natural Resources		Passed	
SB 2048	Revised Uniform Unclaimed Property Act	Industry, Business and Labor	Industry, Business & Labor		Introduced	

BILL	TITLE	SPONSORS	COMMITTEE	STATUS		
				House Date of Hearing	Senate Date of Hearing	Governor
SB 2065	Relating to the jurisdiction of the industrial commission to regulate the permitting and amalgamation of the underground storage of oil and gas.	Energy & Natural Resources	Energy & Natural Resources		Introduced	
SB 2070	Relating to the regulated substance response; to amend and reenact sections 11-33-01, 40-47-01, and 58-03-11 of the North Dakota Century Code, relating to the regulated substance response; and to repeal sections 23.1-04-04 and 23.1-10-01 of the North Dakota Century Code, relating to contaminated properties.	Energy & Natural Resources	Energy & Natural Resources		Introduced	
SB 2144	Relating to criminal trespass and electronic posting; and to provide a penalty.	Sen. Erbele, Patten, Bell Rep. Damschen, Dobervich, Tveit	Finance & Taxation		Passed	
SB 2191	Relating to the disposal of abandoned personal property	Sen. Holmberg	Political Subdivisions		Introduced 1-28-2021	
SB 2217	Relating to oil and gas royalty leases, negative royalties, and arm's length transactions; and to provide a penalty	Sen. Bekkedahl, Dwyer, Kannianen Rep. Brandenburg, Kempenich, Zubke	Finance & Taxation		Introduced	
SB 2262	Relating to the authority of the industrial commission	Sen. Kannianen, Bekkedahl, Burckhard Rep. Fegley, Longmuir	Energy & Natural Resources		Introduced 1-28-2021	

BILL	TITLE	SPONSORS	COMMITTEE	STATUS		
				House Date of Hearing	Senate Date of Hearing	Governor
SB 2282	Relating to membership of the board of university and school lands	Sen. Schaible, Klein, Luick Rep. D. Johnson, Schmidt	Government & Veterans Affairs		Introduced 02-04- 2021	
SB 2291	Relating to social investments made by the state investment board and the boycott of energy or commodities companies	Sen. Bell	Energy & Natural Resources		Introduced 02-04- 2021	
SB 2307	Relating to the abandoned oil and gas well plugging and site reclamation fund; and to provide an effective date	Sen. Heckaman Rep. Boschee	Finance & Taxation		Introduced 02-01- 2021	
SB 2319	Relating to oil and gas agreements; and to provide an effective date	Sen. Kannianen	Finance & Taxation		Introduced	
SB 2327	Relating to school district bonded indebtedness grants	Sen. Heitkamp, O. Larsen Rep. Louser, Magrum, D. Ruby	Education		Introduced 02-03- 2021	
SB 2342	Relating to healthy soil grant and healthy soil assessment and education programs	Sen. Piepkorn, Elkin, Hogan, Mathern Rep. Dobervich, Simons	Agriculture		Introduced 02-04- 2021	
HCR 3016	Relating to the membership of the board of university and school lands	Rep. Schmidt, D. Anderson, Brandenburg, D. Johnson, Kempenich, Schatz, Weisz Sen. Klein, Luick, Myrdal, Vedaa	Government & Veterans Affairs	Introduced 02-04- 2021		
SCR 4007	Relating to the membership of the board of university and school lands	Sen. Schaible, Klein, Luick Rep. D. Johnson, Schmidt	Government & Veterans Affairs		Introduced 02-04- 2021	

E N E R G Y I N F R A S T R U C T U R E & I M P A C T O F F I C E

Reallocation of Funding Request – G200004

In April 2020, the Board of University and School Lands (Board) awarded nine contingency grants totaling \$1.2M from the Oil and Gas Impact Grant Fund as appropriated by the Sixty-Sixth Legislative Assembly. The Tolley Fire Department was awarded \$355,172 for a 50 x 50 building addition, to be primarily used for vehicle storage, monthly meetings, and trainings. Additionally, the Tolley Fire Department intends to use the building as an emergency shelter for area residents, to host community events, to provide informational meetings, and to provide temporary shelter for those who have been involved in an emergency situation but do not require medical attention at a hospital.

The grant application included a construction and site preparation bid in the amount of \$555,000. In June 2020, the Tolley Fire Department re-bid the project to modify the project to a 50 x 62 building. The bids were significantly less at \$330,000.

To date EIIO has awarded the Tolley Fire Department funds in the amount of \$294,701, with \$60,471 remaining. If 100% of the invoices are submitted to the EIIO Oil and Gas Impact Fund, then 100% of the cost of the construction would have been paid, which was not a part of the original grant application.

The Tolley Fire Department is requesting the remaining funding be reallocated to stock the new building with pots, pans, utensils, small kitchen appliances, washer and dryer, bedroom furniture, tables and chairs, generator and hook up, television for emergency medical services and fire training, etc. (Attachment 1 and 2)

Motion: The Board approves the reallocation of funds for G200004 for the Tolley Fire Department to use the grant funds as awarded with the remaining funds to be used to stock the new building addition.

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

A copy of the Tolley Fire Department Reallocation Request and Tolley Fire Department Budget Analysis were provided to the Board for review and are available at the Department upon request.

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

Acreage Adjustment Survey - T153N, R102W Sections 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 34, and 36

Under North Dakota law, the Board of University and School Lands (Board) is vested with the authority to manage state-owned minerals including the oil, gas, and related hydrocarbons within the beds of the State’s navigable waters. On behalf of the State, the Board oversees the Strategic Investment and Improvements Fund (SIIF) which collects the revenues from these sovereign minerals.

Timeline of State Activity Related to Sovereign Lands

- The 1977 Legislature defined “sovereign lands” as “those beds, islands, accretions, and relictions lying within the ordinary high watermark of navigable lakes and streams.” 1977 N.D. Sess. Laws, ch. 144, § 1, codified as N.D.C.C. § 15-08.2-02 (repealed 1989 N.D. Sess. Laws, ch. 552, § 4).
- From 1977 to 1989, the Board had authority over both the surface and subsurface of sovereign lands, including the power to convey interests.
- In 1989, the Legislature again defined state title as “those beds, islands, accretions, and relictions lying within the ordinary high watermark of navigable lakes and streams.” 1989 N.D. Sess. Laws, ch. 552, § 3, codified as N.D.C.C. § 61-33-01.
- The 1989 Legislature gave the State Engineer’s Office authority to manage the surface and the Board authority over the oil, gas, and related hydrocarbons within the subsurface, with each agency having the power to convey interests.
- In 2007, the Office of the State Engineer issued the North Dakota Sovereign Land Management Plan and Ordinary High Water (OHWM) Mark Delineation Guidelines.
- In 2009, the Board and the State Engineer engaged Bartlett & West, a private engineering company, to undertake a comprehensive study of the OHWM along the Yellowstone River and the Missouri River from the Montana border to river mile marker 1549 near Williston (Phase I Delineation).
- In 2010, the Board again contracted with Bartlett & West to approximate the location of the OHWM for the historic Missouri River under Lake Sakakawea from river mile marker 1574 near the Furlong Loop to river mile marker 1482, the border of the Fort Berthold Reservation (Phase II). This study was completed using historical aerial photography, elevation data, and topographic maps.
- In 2010, the Board authorized Phase III to investigate specific and isolated sections of the Missouri and Yellowstone Rivers between Williston to the Montana border that could not be fully completed under Phase I due to location and complexity (this includes the Trenton Lake area.)
- In 2012, the Board initiated the review of the estimated historic OHWM between the Four Bears Bridge and the Garrison Dam (Phase IV) using the same techniques as Phase II.
- In 2013, the North Dakota Supreme Court issued decisions in *Reep v. State* and *Brigham v. State* holding that the State owns the mineral interests up to the ordinary high water mark of navigable rivers and water bodies.
- In 2017, the Sixty-Fifth Legislative Assembly’s adoption of Senate Bill 2134 (SB 2134), codified as N.D.C.C. ch. 61-33.1, sought to establish state ownership of minerals below the ordinary high water mark of the historical Missouri riverbed channel (Historical OHWM) inundated by Pick-Sloan Missouri basin project dams.
- In 2019, 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 Board contracted with Kadmas, Lee & Jackson, Inc. (KLJ) “to analyze the final review findings and determine the acreage on a quarter-quarter basis or government lot basis above and below the [Historical OHWM] as delineated by the final review findings of the industrial commission.”

On June 25, 2020, the Board formally requested the North Dakota Industrial Commission complete further review of T153N, R102W Sections 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 34, and 36. The North Dakota Industrial Commission entered Order No. 31104 providing the Department of Trust Lands (Department) with necessary information to complete the acreage adjustment survey in T153N, R102W Sections 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 34, and 36.

The Department has consulted with the State Engineer as to the State’s sovereign land ownership in Sections 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 34, and 36 of Township 153 North, Range

102 West, Williams/McKenzie Counties, North Dakota (more commonly referred to as the Trenton Lake area.)

L I T I G A T I O N

Continental Resources, Inc. - Interpleader

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 Daniel 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 public domain lands underlying Continental operated wells located in McKenzie, Mountrail, and Williams Counties. This case involves a disagreement between the State and United States over the location of the ordinary high watermark—and consequently title to underlying minerals—on federally owned land along the now inundated historic Missouri River. Continental is requesting the Court determine title to 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.

History: 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 that the interpleader action is moot under S.B. 2134.

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 reply on March 16, 2018. The Board filed a Surreply to the Motion to Dismiss on April, 16, 2018. The Order Denying the United States’ Motion to Dismiss for Lack of Subject Matter Jurisdiction was entered on December 31, 2018. The Order provided that North Dakota and the United States confer and submit a proposed scheduling order to the Court no later than sixty days from the date of the order. On January 8, 2019 the United States filed its Motion to Stay Action Due to Lapse of Appropriations. On January 10, 2019, the Court granted the United States’ Motion and cancelled the January 24, 2019 scheduling conference. The Order stated the “action is stayed until [federal] appropriations are restored and Department attorneys and the Bureau of Land Management personnel are permitted to resume their usual civil litigation functions.” The United States filed a Notice of Restoration of Appropriations on January 28, 2019, which requested the Court set a new scheduling conference date. On January 30, 2019, the Court issued an order

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granting the motion for scheduling conference, requiring the parties submit a revised scheduling/discovery plan by March 15, 2019, and setting a telephonic scheduling conference for 10:00 a.m., March 18, 2019. The parties filed a Joint Motion for Extension of Time to File Scheduling Proposal and Participate in Scheduling Conference on March 12, 2019. The Court entered an Order granting the extension to April 12, 2019 and a scheduling conference was reset for April 15, 2019. The Scheduling Conference was held on April 15, 2019. On June 14, 2019, the Board of University and School Lands filed its Amended Answer to Amended Complaint with Statement of Claim. By August 13, 2019, the United States shall assert its claims, if any, to the disputed stake. After the August 13, 2019 filing, the proceedings will be stayed until September 19, 2019 or another date set by the Court. During the stay, the United States and the Board are to discuss whether the dispute that gave rise to the litigation can be resolved. By no later than September 19, 2019, the United States and Board shall inform the Court of the status of their discussions and the Court will consider a schedule for the case. A Status Conference was set for September 20, 2019 before Magistrate Judge Clare R. Hochhalter. On August 1, 2019, the Status Conference previously set for September 20 was reset to October 11, 2019 at 10 a.m. before Magistrate Judge Clare R. Hochhalter. On August 13, 2019, the United States filed a Motion for Extension of Time to Plead and Assert Affirmative Claims and the Motion was granted on the same day, giving the United States until August 27, 2019 to file. The United States filed their Answer to Amended Complaint on August 27, 2019. On October 3, 2019, Defendants filed a joint motion and memorandum for postponement of the October 11, 2019 status conference by 90 days. On October 4, 2019, the Court entered an Order granting the motion to continue status conference. Status conference was reset to January 13, 2020, at 9 a.m. via telephone before Magistrate Clare R. Hochhalter. United States Department of Justice advised it will be working with the United States Department of Interior – Bureau of Land Management regarding a settlement proposal. On November 8, 2019, the Board received an email from the US DOJ in response to the Board's request that the federal government start settlement discussions by making a proposal to the Board. The email states the federal government believes its OHWM surveys are accurate, and cited N.D.C.C. § 61-33.1-06, which states: "Notwithstanding any provision of this chapter to the contrary, the ordinary high water mark of the historical Missouri riverbed channel abutting . . . public domain lands . . . must be determined by the branch of cadastral study of the [BLM] in accordance with federal law." Relying on this statute, US DOJ suggests that the federal surveys are presumptively accurate, and then states: "we respectfully suggest that the best and most appropriate path forward would be for representatives of North Dakota to identify the specific areas where it believes the agency erred in identifying the OHWM and proffer the evidence on which it bases that belief. BLM would then assess that evidence in good faith to ascertain if a compromise, aimed at reducing litigation risk, is possible." Status conference was held January 13, 2020 and another status conference was set for April 7, 2020.

Current Status:

- **On April 7, 2020, an Order RE: Briefing Scheduled was issued by the court setting the following deadlines: Motions for Summary Judgment due simultaneously on May 7, 2020; Responses are due June 5, 2020; and Replies are due June 12, 2020.**
- **On December 8, 2020, the Court issued its Order Granting the United States' Motion for Partial Summary Judgment.**

(01/28/21)

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:

- **Continental Resources Case No. 1:17-cv-00014**
- **Legislative Update**
- **Acreage Adjustment Survey – T153N, R102W Sections 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 34 and 36**

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

EXECUTIVE SESSION

Members Present:

Doug Burgum	Governor
Alvin A. Jaeger	Secretary of State
Wayne Stenehjem	Attorney General
Kirsten Baesler	Superintendent of Public Instruction via Teams
Thomas Beadle	State Treasurer

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Catelin Newell	Administrative Staff Officer
Kristie McCusker	Paralegal
Adam Otteson	Revenue Compliance
David Shipman	Minerals Division Director via Microsoft Teams
Christopher Dingwall	Mineral Title Specialist

Guests in Attendance:

Leslie Bakken Oliver	Governor’s Legal Counsel
Dave Garner	Office of the Attorney General
Charles Carvell	Office of the Attorney General (Continental Interpleader only)
Reice Haase	Governor’s Policy Advisor

The executive session adjourned at 11:10 AM and the Board returned to the open session Teams meeting to rejoin the public. During the executive session Teams meeting, the Board was provided information and no formal action was taken.

A D J O U R N

There being no further business, the meeting was adjourned at 11:12 AM.

Doug Burgum, Chairman
Board of University and School Lands

Jodi Smith, Secretary
Board of University and School Lands