

**Minutes of the Meeting of the  
Board of University and School Lands  
July 29, 2021**

The July 29, 2021 meeting of the Board of University and School Lands was called to order at 9:04 AM in the Governor's Conference of the State Capitol and via Microsoft Teams by Chairman Doug Burgum.

**Members Present:**

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

**Department of Trust Lands Personnel present:**

Jodi Smith	Commissioner
Emily Bosch	Unclaimed Property Claims
Dennis Chua	Investment Analyst
Christopher Dingwall	Mineral Title Specialist
Robert Dixon	ITD
Susan Dollinger	Unclaimed Property
Jessica Fretty	Unclaimed Property
Michael Humann	Surface Division Director
Kristie McCusker	Paralegal
Catelin Newell	Administrative Staff Officer
Adam Otteson	Revenue Compliance Director
Rick Owings	EIIO Grants Administrator
Kate Schirado	Administrative Assistant
Michael Shackelford	Investments Director
David Shipman	Minerals Division Director
Kayla Spangelo	Range Soils Management Specialist
Lynn Spencer	Mineral Title Specialist
Joseph Stegmiller	Range Soils Management Specialist
James Wald	Legal Council

**Guests in Attendance:**

Dave Garner	Office of the Attorney General
Jen Verleger	Office of the Attorney General
Reice Haase	Office of the Governor
Leslie Bakken Oliver	Governor's General Counsel
Amy Sisk	Bismarck Tribune
Brady Pelton	NDPC
Doug Ostrow	Blue Owl
Colin Vick	Blue Owl
Brian Sullivan	GCM Grosvenor
Bernard Yancovich	GCM Grosvenor
Erik Hall	GCM Grosvenor

**Additional Guests in Attendance:**

Andrea Pfennig  
Tricia Lynn  
Matt Perdue  
Austin Head-Jones  
Josh Kevan  
Kirby Francis  
Jeremy Turley - Fargo Forum

(07/29/21)

Shane Goettle  
 Jeff Herman  
 Davin Hunt

## A P P R O V A L   O F   M I N U T E S

A motion to approve the minutes of the June 24, 2021 regular meeting was made by Attorney General Wayne Stenehjem and seconded by Secretary of State Alvin Jaeger and the motion carried unanimously on a voice vote.

## R E P O R T S

### June 2021 Report of Encumbrances Issued by Land Commissioner

**Granted to:** TRUE OIL LLC, CASPER-WY  
 For the Purpose of: On-lease Activity: Well-Vertical Oil Well  
 Right-of-Way Number: RW0008705  
 Trust: A - Common Schools  
 Legal Description: MCK-148-102-36-NE4, SE4  
 \* agreement contains a recurring payment requirement of \$12,348.80 for well site & road

**Granted to:** DENBURY ONSHORE LLC, PLANO-TX  
 For the Purpose of: On-lease Activity: Water/CO2 Injection Pipelines  
 Right-of-Way Number: RW0008893  
 Trust: A - Common Schools  
 Legal Description: BOW-131-106-24-NE4SE4, LOT 2

**Granted to:** OASIS PETROLEUM NORTH AMERICA LLC, HOUSTON-TX  
 For the Purpose of: On-lease Activity: Well-Horizontal Oil Well  
 Right-of-Way Number: RW0008838  
 Trust: A - Common Schools  
 Legal Description: MCK-151-97-36-SW4  
 \* agreement contains an annual payment requirement of \$7,376.00 annually for well site & road

**Granted to:** PETRO-HUNT LLC, BISMARCK-ND  
 For the Purpose of: Easement: Well-Subsurface Well Bore  
 Right-of-Way Number: RW0008819  
 Trust: A - Common Schools  
 Legal Description: DIV-164-100-36-SW4

**Granted to:** OASIS PETROLEUM NORTH AMERICA LLC, HOUSTON-TX  
 For the Purpose of: Permit: Road-Access Road  
 Right-of-Way Number: RW0008898  
 Trust: A - Common Schools  
 Legal Description: MCK-151-97-36-SW4  
 \* agreement contains an annual payment requirement of \$1,284.00 for the road

**Granted to:** OASIS MIDSTREAM SERVICES LLC, HOUSTON-TX  
 For the Purpose of: Easement: Pipeline-Multiple Pipelines  
 Right-of-Way Number: RW0008626  
 Trust: A - Common Schools  
 Legal Description: MCK-151-97-36-SW4

<b>Granted to:</b> For the Purpose of: Right-of-Way Number: Trust: Legal Description:	<b>WBI ENERGY TRANSMISSION INC, GLENDIVE-MT</b> Easement: Pipeline-Gas Transmission Pipeline RW0008379 A - Common Schools WIL-158-95-36-NE4, SE4, SW4
<b>Granted to:</b> For the Purpose of: Right-of-Way Number: Trust: Legal Description:	<b>WBI ENERGY TRANSMISSION INC, GLENDIVE-MT</b> Easement: Pipeline-Gas Transmission Pipeline RW0008392 A - Common Schools BRK-159-94-16-NW4
<b>Granted to:</b> For the Purpose of: Right-of-Way Number: Trust: Legal Description:	<b>ONEOK ROCKIES MIDSTREAM LLC, SIDNEY-MT</b> Easement: Pipeline-Gas Gathering Pipeline RW0008387 A - Common Schools MCK-149-97-36-NW4, W2SW4, LOTS 4,5,6
<b>Granted to:</b> For the Purpose of: Right-of-Way Number: Trust: Legal Description:	<b>TESORO HIGH PLAINS PIPELINE COMPANY LLC, SAN ANTONIO-TX</b> Easement: Pipeline-Oil Gathering Pipeline RW0008854 A - Common Schools DUN-146-93-16-NE4
<b>Granted to:</b> For the Purpose of: Right-of-Way Number: Trust: Legal Description:	<b>WESTERN AREA WATER SUPPLY AUTHORITY, WILLISTON-ND</b> Easement: Pipeline-Potable Water Pipeline RW0008717 A - Common Schools MOU-155-93-16-NW4, SE4, SW4
<b>Granted to:</b> For the Purpose of: Right-of-Way Number: Trust: Legal Description:	<b>WESTERN AREA WATER SUPPLY AUTHORITY, WILLISTON-ND</b> Easement: Pipeline-Potable Water Pipeline RW0008719 A - Common Schools WIL-154-95-16-NE4
<b>Granted to:</b> For the Purpose of: Right-of-Way Number: Trust: Legal Description:	<b>WESTERN AREA WATER SUPPLY AUTHORITY, WILLISTON-ND</b> Easement: Pipeline-Potable Water Pipeline RW0008720 A - Common Schools WIL-155-96-36-NE4, N2SE4, SW4SE4
<b>Granted to:</b> For the Purpose of: Right-of-Way Number: Trust: Legal Description:	<b>WESTERN AREA WATER SUPPLY AUTHORITY, WILLISTON-ND</b> Easement: Pipeline-Potable Water Pipeline RW0008721 A - Common Schools MOU-153-92-16-NW4
<b>Granted to:</b> For the Purpose of: Right-of-Way Number: Trust: Legal Description:	<b>WESTERN AREA WATER SUPPLY AUTHORITY, WILLISTON-ND</b> Easement: Pipeline-Potable Water Pipeline RW0008722 A - Common Schools MOU-154-93-36-NE4, SE4
<b>Granted to:</b> For the Purpose of: Right-of-Way Number: Trust: (07/29/21)	<b>WESTERN AREA WATER SUPPLY AUTHORITY, WILLISTON-ND</b> Easement: Pipeline-Potable Water Pipeline RW0008882 A - Common Schools

Legal Description:	WIL-156-102-16-NE4, NW4
<b>Granted to:</b>	<b>BASIN ELECTRIC POWER COOP INC, BISMARCK-ND</b>
For the Purpose of:	Easement: Electric-Transmission Line
Right-of-Way Number:	RW0008614
Trust:	A - Common Schools
Legal Description:	MOU-155-93-16-SE4, SW4 MOU-155-93-36-NE4, NW4
<b>Granted to:</b>	<b>MCKENZIE ELECTRIC COOPERATIVE INC, WATFORD CITY-ND</b>
For the Purpose of:	Easement: Electric-Buried Distribution Line
Right-of-Way Number:	RW0008848
Trust:	A - Common Schools
Legal Description:	MCK-146-100-36-SE4, SW4
<b>Granted to:</b>	<b>MOUNTRAIL-WILLIAMS ELECTRIC COOPERATIVE, WILLISTON-ND</b>
For the Purpose of:	Easement: Drop Line-Buried Electric Distribution Line
Right-of-Way Number:	RW0008852
Trust:	A - Common Schools
Legal Description:	MOU-153-92-16-NW4
<b>Granted to:</b>	<b>ELKAN INC, WATFORD CITY-ND</b>
For the Purpose of:	Easement-Amend: Pipeline-Raw Water Pipeline
Right-of-Way Number:	RW0008845
Trust:	A - Common Schools
Legal Description:	MCK-148-98-16-NE4
<b>Granted to:</b>	<b>GRANT COUNTY AUDITOR, CARSON-ND</b>
For the Purpose of:	Easement: Release of Easement
Right-of-Way Number:	RW0008193
Trust:	A - Common Schools
Legal Description:	GRA-133-87-36-NE4, SE4
<b>Granted to:</b>	<b>CATES EARTH SCIENCE TECHNOLOGIES INC, BISMARCK-ND</b>
For the Purpose of:	Permit-Amend: Temporary Layflat Line
Right-of-Way Number:	RW0008888
Trust:	A - Common Schools
Legal Description:	MOU-151-92-36-W2NE4SW4, NW4SW4, S2SW4
<b>Granted to:</b>	<b>WEST DAKOTA WATER LLC, WILLISTON-ND</b>
For the Purpose of:	Permit: Temporary Water Layflat Line
Right-of-Way Number:	RW0008891
Trust:	A - Common Schools
Legal Description:	WIL-156-97-16-S2SW4 LESS THE N 248 FT
<b>Granted to:</b>	<b>NORTHERN PLAINS ENGINEERING LLC, DICKINSON-ND</b>
For the Purpose of:	Permit: Planning & Preconstruction Survey
Right-of-Way Number:	RW0008837
Trust:	A - Common Schools
Legal Description:	All Trust Land in North Dakota
<b>Granted to:</b>	<b>ACKERMAN ESTVOLD ENGINEERING, MINOT-ND</b>
For the Purpose of:	Permit: Planning & Preconstruction Survey
Right-of-Way Number:	RW0008879
Trust:	A - Common Schools
Legal Description:	All Trust Land in North Dakota

**Granted to:** **BEAVER CREEK ENVIRONMENTAL, BISMARCK-ND**  
 For the Purpose of: Permit: Access to School Land for native pollinator population studies  
 Right-of-Way Number: RW0008885  
 Trust: A - Common Schools, F - Farm Loan Pool, Z Valley City State University & Mayville State University, E - Ellendale, C - Capitol Building, W - North Dakota State School of Science, N - North Dakota State University  
 Legal Description: BRK, LOG, MCH, MCI, MCL, MER, MOU, OLI, PIE, ROL, STU, WIL

**Granted to:** **ND STATE WATER COMMISSION, BISMARCK-ND**  
 For the Purpose of: Permit: Access to School Land to collect water surface elevation data  
 Right-of-Way Number: RW0008863  
 Trust: A - Common Schools  
 Legal Description: EMM-129-75-16-SE4

**Granted to:** **ND GEOLOGICAL SURVEY, BISMARCK-ND**  
 For the Purpose of: Permit: Access to School Land to map geologic features  
 Right-of-Way Number: RW0008904  
 Trust: A - Common Schools  
 Legal Description: BRL-138-75-16-NW4

## June 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 (Department) 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 June 2021, the Division received 49 holder reports with a property value of \$183,317 and paid 308 claims with a total value of \$403,538.

The Department has engaged Marketing & Advertising Business Unlimited, Inc. (MABU), a full-service management, marketing and multimedia production company, to aid the Department in developing and deploying a strategic communications plan surrounding changes to N.D.C.C. ch. 47-30.1 as a result of the passage of Senate Bill 2048 during the Sixty-seventh Legislative Assembly. The communication plan has been fully executed at this time which included:

- Development and distribution of two issues of an e-newsletter to holders of unclaimed property
- Review of website landing page content with additions, including a link to Senate Bill 2048
- Development of an Unclaimed Property infographic and fact sheet

(07/29/21)

- Key stakeholder interviews to gauge perceptions
- PowerPoint presentation delivered as a webinar to the League of Cities
- Creation of educational webinar to be posted on website for all holders
- Digital and social media posts and print advertisements targeting key industries and professionals
- News release to media, followed by media interviews, news stories, etc.
- Stakeholder and partner outreach with trade associations
- Updated holders manual

Unclaimed Property Fact Sheet was presented to the Board and is available at the Department upon request.

**The Financial Report (Unaudited) for period ending April 30, 2021 was presented to the Board for review and is available at the Department upon request.**

### **Investment Updates**

#### **Portfolio Rebalancing Updates**

The portfolio was rebalanced in July. The following is a summary:

- \$67M taken out of the Broad US Equity and \$13M from the Broad International Equity
- \$80M total was transferred to Fixed Income with \$40m to each Core Bonds Manager
- To align Real Estate to its target, \$30M was added to the original \$100M commitment to Harrison Street Core Property Fund

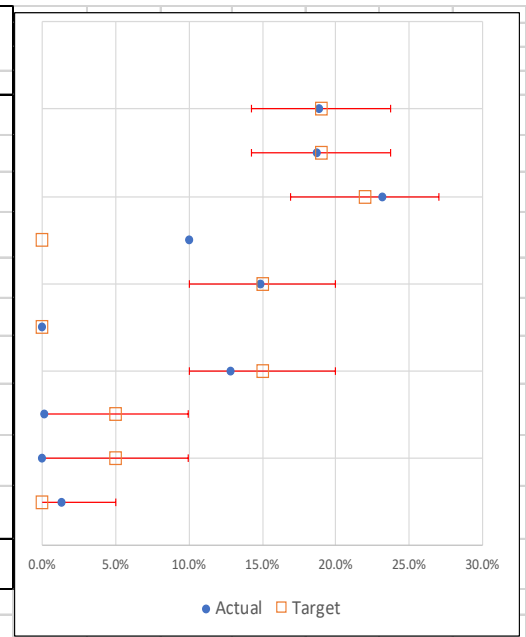
A \$13M capital call was made by Apollo Accord Fund. \$3.8M will be called by GCM Private Equity on July 22. Therefore, total unfunded commitments after 7/22 will be at \$658.7M. Broken down as follows:

1. JPM Infrastructure Fund, \$130M
2. Harrison Street Core Property Fund LP, \$130M
3. Apollo Accord Fund, \$81.5M
4. Varde Dislocation Fund, \$50M
5. GCM Private Equity, \$115.2M
6. ARES Pathfinder Fund, \$84.5M
7. Angelo Gordon DL IV, \$67.5M.

### **Asset Allocation**

The table below shows the status of the permanent trusts' asset allocation as of July 20, 2021. The figures provided are unaudited.

As of July 20, 2021	Market Value \$	Actual	Target	Lower Range	Upper Range
Broad US Equity	1,102,200,165.65	18.9%	19.0%	14.0%	24.0%
Broad Int'l Equity	1,093,291,045.26	18.7%	19.0%	14.0%	24.0%
Fixed Income	1,353,171,117.35	23.2%	22.0%	17.0%	27.0%
Transition Account	586,072,690.81	10.0%	0.0%	-5.0%	5.0%
Absolute Return	866,424,225.41	14.8%	15.0%	10.0%	20.0%
DIS	-	0.0%	0.0%	-5.0%	5.0%
Real Estate	749,939,532.00	12.8%	15.0%	10.0%	20.0%
Private Equity (Grosvenor)	10,967,479.00	0.2%	5.0%	0.0%	10.0%
Private Infrastructure (JPM-Infra)	-	0.0%	5.0%	0.0%	10.0%
Opportunistic Investments (Varde & Apollo)	75,516,009.00	1.3%	0.0%	-5.0%	5.0%
<b>Portfolio Total</b>	<b>5,837,582,264.48</b>	<b>100.0%</b>			

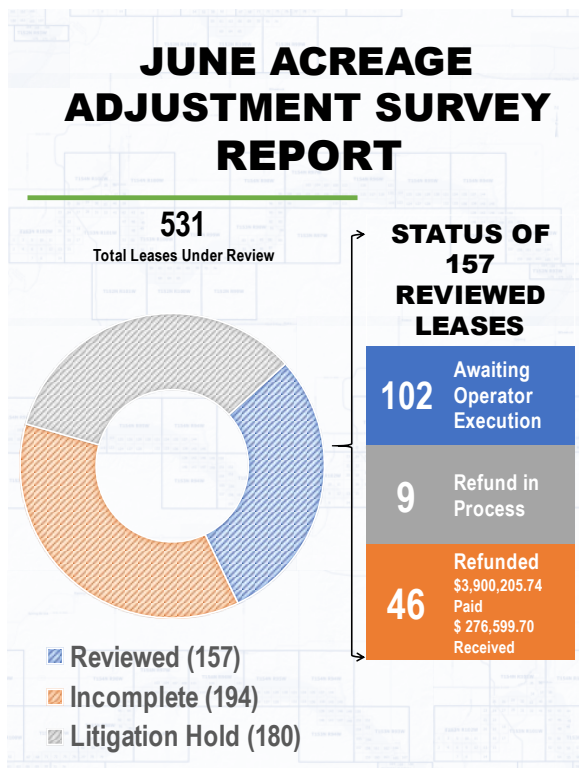


### Upcoming Investment Manager Meetings

The following meeting with investment manager were planned to discuss updates on strategy, compliance, and performance. Meetings will be held at the Department of Trust Lands. Please inform the Commissioner ahead of time if you plan to attend, so that we can make sure enough presentation materials are available.

**August 11, 2021, 9:00AM      JP Morgan Core Bond**  
 Fixed Income (\$366M, 6.3% of PTF assets)

### June Acreage Adjustment Report



(07/29/21)

NDDTL River Tracts Refund Status map was also presented to the Board and is available upon request.

### June 2021 Report of Shut-Ins Approved by Land Commissioner

<b>Granted to:</b>	<b>ConocoPhillips</b>
For the Purpose of:	Operations
Date Issued:	06/04/2021
Application Fee:	\$100.00
Trust:	A – Common Schools
Lease:	OG-04-00196, OG-04-00197, OG-04-00198, OG-04-00199

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

### Fixed Income – Direct Lending Manager

In accordance with the Investment Policy Statement (IPS) the Department of Trust Lands (Department) staff regularly reviews the Permanent Trust Funds' (PTFs) asset allocations for rebalancing purposes. At the end of the first and second quarters of 2021, the Department determined that the PTFs should be rebalanced out of public equities (both domestic and international) into fixed income and commercial real estate (CRE). The outperformance of domestic and international equities brought each asset class above their target allocations, while fixed income and CRE were below target.

Given that the current low interest rate environment is expected to persist, the Department and RVK believe it is prudent to put the rebalanced dollars into Private Credit. Certain Private Credit strategies, such as direct lending, have an attractive risk/return profile and a low default/loss track record. Private Credit would add higher yield to the PTFs at acceptable risk levels. In addition, when bond yields do rise the floating rate nature of direct lending loans will avoid negative valuation effects.

The Department and RVK began the manager search by compiling a list of top performing Private Credit managers within RVK's database. The Department and RVK reviewed the performance and risk history of each manager, along with fees, asset quality, asset characteristics and investment structures. The Department and RVK interviewed managers to review their investment strategies and investment processes.

After conducting a thorough due diligence of each manager it was determined that the Department and RVK would recommend the Board approve an allocation to Owl Rock Capital (a subsidiary of Blue Owl Capital Inc.) in their Owl Rock Diversified Lending fund. Owl Rock is an investment manager with nearly \$28 Billion in assets under management and around 180 employees (with 66 investment professionals). Owl Rock's team has a strong track record in middle market lending, with a diligent underwriting process and strong portfolio characteristics that Staff and RVK felt would well suit the PTFs.

In addition, the fund is structured as an evergreen fund, which means it will be continuously open to new investment and has a limited withdrawal feature. This will assist the PTFs in maintaining continuous investment in direct lending without having to regularly find new opportunities in the sector, and also allow for limited liquidity, if needed.



**Motion: The Board approve an initial \$100 Million investment with Owl Rock in the Owl Rock Diversified Lending fund, subject to final review and approval of all legal documents by the Office of the Attorney General.**

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

RVK Recommendation Memo and Owl Rock Diversified Lending Presentation were presented to the Board and are available at the Department upon request.

### **Private Equity - Secondaries**

On April 8, 2020, the Board of University and School Lands' (Board) approved an asset allocation to Private Equity (PE) within the broader Strategic Asset Allocation (SAA) for the Permanent Trust Funds (PTFs). On August 27, 2020, the Board approved an investment in PE with GCM Grosvenor (GCM) in a "Fund-of-One" structure.

The PE strategy approved in April 2020 assumed a six to eight year ramp-up to the PTFs full 5% PE allocation within the SAA. The rationale provided to the Board at the time was that a multi-year ramp-up allowed for investment in multiple PE vintage years. There are well established diversification advantages to owning multiple vintage years. Even if we disregarded vintage year diversification, we would still be subject to the notoriously slow pace of capital calls from each PE manager to which we committed capital.

The Staff and RVK have been in discussions to contemplate ways to speed the PTFs investment in PE, while still respecting the diversification virtues of owning multiple vintage years and understanding the slow pace of capital calls. In addition, staff and GCM have also had multiple discussions along the same lines. The joint solution is increased investment in PE secondaries.

PE secondaries are capital investments in PE funds that were invested by third-parties who now wish to sell their interests. Managers like GCM create secondaries funds to invest in the orphaned interests. The advantage to investing in secondaries is the visibility into some or all of the underlying PE portfolio investments. Also advantageous is the ability to avoid some or all of the J-curve, which is the period of negative cashflow versus positive cashflow (or capital calls vs distributions).

Staff and RVK discussed conducting an additional manager search, but decided to stay with our current PE manager GCM. The rationale was three-fold: First, Staff and RVK had only just completed the first PE search a year ago and not much had changed amongst the managers from the previous search. Second, the documentation negotiation process for these can be lengthy and Staff felt speed of execution would be beneficial. Third, GCM is intimately familiar with the PTFs' PE pacing schedule and can attenuate the investments between the Fund-of-One and their Secondaries fund to ensure the PTFs remain on track.

**Motion: The Board approve up to a \$150 Million investment in the GCM Grosvenor Secondary Opportunities Fund III, L.P., subject to final review and approval of all legal documents by the Office of the Attorney General.**

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

RVK Recommendation Memo and GCM Grosvenor Presentation were presented to the Board and are available at the Department upon request.

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

### **Board of University and School Lands Media Relations Policy Manual**

The Board of University and School Lands (Board) currently has a Policy Manual (Board Policy Manual) which includes sections titled Governance, General, Surface Land Management, Investments, and Minerals. The Board requested the Commissioner prepare a Media Relations Policy that seeks to work cooperatively with the media to disseminate information of public interest and concern in an accurate, complete, and timely manner and in harmony with the official position of the Board.

The Department of Trust Lands (Department) has created a draft policy that the Treasurer and Attorney Generals Office has reviewed.

This is the “first reading” of the proposed repeal, with suggestions being taken into consideration and a “second reading” to occur on August 26, 2021.

Board of University and School Lands Media Relations Policy was presented to the Board and is available at the Department upon request.

### **Senate Bill 2282 Language needed here**

The 67<sup>th</sup> Legislative Assembly passed Senate Bill 2282 which states:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - MEMBERSHIPS OF BOARD OF UNIVERSITY AND SCHOOL LANDS AND INDUSTRIAL COMMISSION. During the 2021-22 interim, the legislative management shall study the membership of the board of university and school lands and the membership of the industrial commission. The study must include consideration of potential conflicts of interest relating to the memberships, possible changes to the composition of the memberships of the board of university and school lands and the industrial commission, and possible changes to article IX of the Constitution of North Dakota. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

The Study was assigned to the Judiciary Committee with the initial meeting scheduled for August 11, 2021. The Department has been requested to provide a presentation from the perspective of the Board as it relates to Senate Bill 2282.

Article IX of the North Dakota Constitution has 13 Sections (Attachment 1). The Department of Trust Lands (Department) has reviewed each Section within the Article IX for possible recommendations for revisions.

**Motion: The Board instructs the Commissioner to undertake a study on the formula written in Section 2 relative to payouts from the funds to ensure a formula that will maintain the long term financial health of the Trusts.**

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		

## S U R F A C E

### Surface Land Lease Revisions

As a result of implementing a 100% cost share for the Permanent Improvement – Livestock Water Developments, rent credits and depreciation will be eliminated; thus, paragraphs 5 and 6 of the Surface Land Lease are proposed for revision. Cost share will now be the form of compensation to protect the lessee for their investment in developing a permanent improvement on trust land. The change to cost share will allow rental revenues and improvement expenditures to be accurately reflected in the financials. Additional, other non-material changes were made in various sections for clarification purposes. The red-line version of the Surface Land Lease is attached.

Additionally, as a result of the current drought, the Department of Trust Lands, the Water Commission and the Governor's Office are proposing a solution for permanent water supply on trust lands. The Water Commission will need to authorize the expenditure of \$1M to supplement the Department's current cost share program to ensure the water development is fully reimbursed. The permanent water development improvement will belong to the Board of University and School Lands while the non-improvements which are normally the property of the surface lessee (such as equipment to pump and power a well) will be property of the State of North Dakota. Additionally, the Department of Water Resources may access and use any of the water wells for aquifer observation. Pending approval of the \$1M in funding from the Water Commission Surface, leases will need to be amended with an additional lease provision where the State of North Dakota provides funding for non-permanent improvements to clarify ownership of non-permanent improvements.

**Motion: The Commissioner recommends the Board approve the changes to the Surface Land Lease as referenced above and shown in the attached redlined Surface Land Lease. Additionally, the Commissioner recommends the Board approve the use of necessary amendments to the Surface Land Lease upon approval of the permanent water supply funding from the Water Commission.**

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		

## MINERALS

### **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 Kadrmass, 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.) On November 24, 2021, the State Engineer presented a technical memorandum to the Board. The Board requested the Department provide the Board with an outline of options for the Board to review.

On January 28, 2021, the Board was presented with options relating to T153N, R102W Sections 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 34, and 36. The Board requested the Department work with the State Engineer's Office to provide additional insight.

**Motion: The Board authorizes the Commissioner to request that KLJ complete the Acreage Adjustment Survey for T153N, R102W Sections 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 34, and 36; applying the Wenck Line as presented by the Industrial .**

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

## REVENUE COMPLIANCE

### Repayment of Royalties

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 oil, gas and other hydrocarbons underlying sovereign lands for the State of North Dakota.

The Board has requested royalty repayment offers from gas payors be discussed during executive session.

#### 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:**

- William S. Wilkinson et al. Case No. 53-2012-CV-00038
- Newfield Exploration Company et al Civ. No. 27-2018-CV-00143
- Royalty Repayment Offers

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		

(07/29/21)

The Board entered into executive session at 10:55 AM.

**EXECUTIVE SESSION**

**Members Present:**

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

**Department of Trust Lands Personnel present:**

Jodi Smith	Commissioner
Catelin Newell	Administrative Staff Officer
Kristie McCusker	Paralegal
Kate Schirado	Administrative Assistant
Adam Otteson	Revenue Compliance Director

**Guests in Attendance:**

Dave Garner	Office of the Attorney General
Jen Verleger	Office of the Attorney General-only present for Wilkinson
Leslie Bakken Oliver	General Counsel
Reice Haase	Governor's Policy Advisor
John Paczkowski	Office of the State Engineer-only present for Wilkinson
Aaron Carranza	Office of the State Engineer-only present for Wilkinson
Jerry Heiser	Office of the State Engineer-only present for Wilkinson

---

The executive session adjourned at 12:30 PM and the Board returned to the open session and Teams meeting to rejoin the public. During the executive session 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 12:30 PM.

---

Doug Burgum, Chairman  
Board of University and School Lands

---

Jodi Smith, Secretary  
Board of University and School Lands