

**Minutes of the Meeting of the
Board of University and School Lands
March 31, 2022**

The March 31, 2022 meeting of the Board of University and School Lands was called to order at 9:05 AM by Chairman Doug Burgum.

Members Present:

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

Department of Trust Lands Personnel present:

Joseph Heringer	Commissioner
Kate Schirado	Administrative Assistant
Dennis Chua	Investments
Rick Owings	Administrative Staff Officer
Kristie McCusker	Paralegal
Adam Otteson	Revenue Compliance Director
Michael Shackelford	Investments Director
Lynn Spencer	Minerals Title Specialist
James Wald	Legal Council
Catelin Newell	Administrative Staff Officer
Chris Suelzle	Minerals Division Director
Kayla Spangelo	Surface Range Soils Management Specialist
Peggy Gudvangen	Finance Division Director
Vicki Siegel	Finance
Jessica Fretty	Unclaimed Property
Susan Dollinger	Unclaimed Property
Joseph Stegmiller	Surface Range Soils Management Specialist
Scott Giere	Revenue Compliance
Matthew Reile	IT
Emily Bosch	Unclaimed Property
Christopher Dingwall	Minerals Title Specialist
Mike Humann	Surface Director

Guests in Attendance:

Reice Haase	Office of the Governor
Ryan Norrell	Office of the Governor
Tammy Miller	Office of the Governor
Dave Garner	Office of the Attorney General
Jennifer Verleger	Office of the Attorney General
Kevin Balaod	WithIntelligence (Journalist)
Brady Pelton	NDPC
Madeline Easton	
Geoff Simon	Western Dakota Energy Association
C. Rajala	
Ron Ness	NDPC
Amy Sisk	Bismarck Tribune
Mike McCleary	Bismarck Tribune
Josh Kevan	RVK
Kirby Francis	RVK

(03/31/22)

Yash Gupta
Frank Trotta
Nash Waterman
John Brecker
David Frechette
Brent Burnett

Morgan Stanley
Hamilton Lane
Morgan Stanley
Hamilton Lane
Morgan Stanley
Hamilton Lane

APPROVAL OF MINUTES

A motion to approve the minutes of the March 9, 2022 special meeting was made by Treasurer Beadle and the motion was seconded by Secretary Jaeger and the motion carried unanimously on a voice vote.

REPORTS

Jodi A. Smith Resolution

Resolution thanking and commending former North Dakota Commissioner of University & School Lands, Jodi A. Smith, for her years of service to the State of North Dakota and the Board of University and School Lands.

Motion: **The Board approve the Resolution recognizing former Land Commissioner, Jodi A. Smith.**

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

**NORTH DAKOTA
BOARD OF UNIVERSITY AND SCHOOL LANDS
RESOLUTION**

ADOPTED
MARCH 31, 2022

WHEREAS, Jodi A. Smith served as North Dakota Commissioner of University & School Lands from November 2017 through March 2022; and

WHEREAS, Mrs. Smith faithfully served as the Board of University and School Lands’ agent on countless issues related to prudent and professional management of the Board-managed trust assets; and

WHEREAS, through her dedication and commitment, Mrs. Smith’s many accomplishments and efforts have greatly benefited the citizens of North Dakota, most notably North Dakota students; and

WHEREAS, while leading the Department of Trust Lands, Mrs. Smith encouraged innovation, growth, and accomplishment of goals, notably overseeing vital updates to the Department’s Information Technology systems and leading the Department through a global pandemic; and

WHEREAS, while genuinely caring for Department staff, Mrs. Smith cultivated positive relationships and facilitated the open exchange of ideas, opinions, and information;

WHEREAS, these many accomplishments and years of dedicated service should be recognized;

NOW, THEREFORE, BE IT RESOLVED, that the undersigned, as members of the Board of University and School Lands, do hereby thank and commend Jodi A. Smith for her dedication and service to the State of North Dakota, to the Board and most prominently to the “trusts”, and wish her every success in future endeavors.

Kirsten Baesler
Superintendent of Public Instruction

Alvin A. Jaeger, Secretary of State

Thomas Beadle, State Treasurer

Drew Wrigley, Attorney General

Chairman Doug Burgum, Governor

Commissioner’s Report

- Very busy and productive first weeks on job - March 14 start date
- Professional, dedicated, and helpful team
- Introductory all staff meeting
- Introductory meetings with all five board members, seven leadership team members, HRMS rep., investment consultant RVK, and representatives of major ND oil & gas operator
- Numerous major initiative meetings:
 - Acreage adjustment project
 - Systems update projects
 - Royalty repayments
 - Trust Lands Completion Act
- Three litigation briefings with legal team members
- Our Newfield brief filed March 16; Newfield’s due April 15; our reply brief due 14 days after Newfield’s brief filed
- New Surface Director hired – introduce to Board
- Meeting with legislator regarding pastureland management ideas
- Attended NW Landowners Expo where Surface Director Mike Humann gave a presentation on reclamation
- Attended first SIB meeting – March 25
- Department strategy review meeting with Governor’s office – March 31

Monthly Report of Encumbrances Issued by Land Commissioner

Rights of Way Issued between February 1, 2022 - February 28, 2022

Right of Way R-10006			
Granted To	Oneok Rockies Midstream LLC, Sidney, Montana	Date Issued	2/11/2022
For the Purpose Of	Original Easement - Gas Gathering Pipeline	Total Rods	66.08
		Total Acres	0.83

(03/31/22)

Tracts/Trusts					
Legal Description	Subdivision			Trust	
Dunn-146-94-36	SE4			A	
Right of Way Terms		Minimum Amount	Measurement Rate	Measurement Type	Amount
Application Fee	Set Amount				\$250.00
Initial	Set Amount				\$31,388.00

Right of Way R-10029			
Granted To	Tesoro High Plains Pipeline Company LLC, Denver, Colorado	Date Issued	2/10/2022
For the Purpose Of	Original Easement - Oil Gathering Pipeline	Total Rods	582.66
		Total Acres	7.66

Tracts/Trusts					
Legal Description	Subdivision			Trust	
Dunn-146-94-36	NW4			A	
	SE4			A	
	SW4			A	
Right of Way Terms		Minimum Amount	Measurement Rate	Measurement Type	Amount
Application Fee	Set Amount				\$250.00
Initial	Set Amount				\$267,701.50

Right of Way R-8812			
Granted To	Minnkota Power Cooperative Inc, Grand Forks, North Dakota	Date Issued	2/17/2022
For the Purpose Of	Original Easement - Carbon Storage	Total Rods	0.00
		Total Acres	640.00

Tracts/Trusts					
Legal Description	Subdivision			Trust	
Oliver-141-83-16	NE4			A	
	SE4			A	
Oliver-142-84-36	SE4			A	
	SW4			A	
Right of Way Terms		Minimum Amount	Measurement Rate	Measurement Type	Amount
Application Fee	Set Amount				\$250.00
Initial	Set Amount				\$34,500.00
Annually	Amount will vary			Metric Ton	-

Right of Way R-8975					
Granted To	Glacier Peak Midstream LLC, Houston, Texas			Date Issued	2/2/2022
For the Purpose Of	Original Easement - Multiple Pipelines			Total Rods	66.87
				Total Acres	0.84
Tracts/Trusts					
Legal Description	Subdivision			Trust	
McKenzie-151-100-16	SW4			A	
Right of Way Terms		Minimum Amount	Measurement Rate	Measurement Type	Amount
Application Fee	Set Amount				\$250.00
Initial	Set Amount				\$33,524.00

Right of Way R-8983					
Granted To	Marathon Oil Company, Houston, Texas			Date Issued	2/2/2022
For the Purpose Of	Original Easement - Saltwater Pipeline			Total Rods	339.69
				Total Acres	4.29
Tracts/Trusts					
Legal Description	Subdivision			Trust	
Dunn-146-94-36	SE4			A	
	SW4			A	
Right of Way Terms		Minimum Amount	Measurement Rate	Measurement Type	Amount
Application Fee	Set Amount				\$250.00
Initial	Set Amount				\$152,865.00

Right of Way R-10001					
Granted To	Marathon Oil Company, Houston, Texas			Date Issued	2/2/2022

For the Purpose Of Easement Amendment - Multiple Pipelines		Total Rods	0.00
		Total Acres	0.10
Tracts/Trusts			
Legal Description	Subdivision		Trust
Dunn-146-94-36	SW4		A
Right of Way Terms		Minimum Amount	Measurement Rate Measurement Type Amount
Application Fee	Set Amount		\$250.00
Initial	Set Amount		\$7,500.00

Right of Way R-10011			
Granted To	Tesoro High Plains Pipeline Company LLC, Denver, Colorado	Date Issued	2/10/2022
For the Purpose Of	Easement Amendment - Oil Gathering Pipeline	Total Rods	49.71
		Total Acres	0.06
Tracts/Trusts			
Legal Description	Subdivision		Trust
Dunn-146-94-36	SE4		A
Right of Way Terms		Minimum Amount	Measurement Rate Measurement Type Amount
Application Fee	Set Amount		\$250.00
Initial	Set Amount		\$4,971.00

Right of Way R-10047			
Granted To	Oneok Rockies Midstream LLC, Sidney, Montana	Date Issued	2/15/2022
For the Purpose Of	Easement Amendment - Gas Gathering Pipeline	Total Rods	0.00

(03/31/22)

				Total Acres	0.52
Tracts/Trusts					
Legal Description		Subdivision		Trust	
McKenzie-149-96-36		SE4		A	
		SW4		A	
Right of Way Terms		Minimum Amount	Measurement Rate	Measurement Type	Amount
Application Fee		Set Amount			\$250.00

Right of Way R-8815					
Granted To	Mountrail-Williams Electric Cooperative, Williston, North Dakota	Date Issued	2/16/2022		
For the Purpose Of	Easement Amendment - Above Ground Electric Distribution Line	Total Rods	92.90		
			Total Acres 1.16		
Tracts/Trusts					
Legal Description		Subdivision		Trust	
Williams-158-95-36		SW4		A	
Right of Way Terms		Minimum Amount	Measurement Rate	Measurement Type	Amount
Application Fee		Set Amount			\$250.00
Initial		Set Amount			\$1,160.00

Right of Way R-8933			
Granted To	Oneok Rockies Midstream LLC, Sidney, Montana	Date Issued	2/11/2022
For the Purpose Of	Easement Amendment - Gas Gathering Pipeline	Total Rods	362.86

(03/31/22)

				Total Acres	4.80
Tracts/Trusts					
Legal Description		Subdivision		Trust	
Dunn-146-94-36		SE4		A	
		SW4		A	
Right of Way Terms		Minimum Amount	Measurement Rate	Measurement Type	Amount
Application Fee	Set Amount				\$250.00

Right of Way R-8980					
Granted To		Ovintiv USA Inc, Denver, Colorado		Date Issued	2/15/2022
For the Purpose Of		Easement Amendment - Subsurface Well		Total Rods	0.00
				Total Acres	0.00
Tracts/Trusts					
Legal Description		Subdivision		Trust	
McKenzie-153-96-16		NE4		A	
		NW4		A	
Right of Way Terms		Minimum Amount	Measurement Rate	Measurement Type	Amount
Application Fee	Set Amount				\$250.00

Right of Way R-10025					
Granted To		Northwest Water Transfer LLC, Williston, North Dakota		Date Issued	2/2/2022
For the Purpose Of		Original Permit - Temporary Layflat Line		Total Rods	3.03
				Total Acres	0.04

Tracts/Trusts					
Legal Description	Subdivision			Trust	
Mountrail-154-89-16	SW4			A	
Right of Way Terms		Minimum Amount	Measurement Rate	Measurement Type	Amount
Application Fee	Set Amount				\$250.00
Initial	Set Amount				\$50.00
Right of Way R-10028					
Granted To	Select Energy Services LLC, Gainesville, Texas		Date Issued	2/2/2022	
For the Purpose Of	Original Permit - Temporary Layflat Line		Total Rods	635.88	
			Total Acres	7.95	
Tracts/Trusts					
Legal Description	Subdivision			Trust	
Dunn-147-96-36	E2SE4			A	
	NE4			A	
	NW4			A	
Right of Way Terms		Minimum Amount	Measurement Rate	Measurement Type	Amount
Application Fee	Set Amount				\$250.00
Initial	Set Amount				\$10,492.00
Right of Way R-10048					
Granted To	West Dakota Water LLC, Williston, North Dakota		Date Issued	2/15/2022	
For the Purpose Of	Original Permit - Temporary Layflat Line		Total Rods	160.00	
			Total Acres	2.00	
Tracts/Trusts					
Legal Description	Subdivision			Trust	
Mountrail-154-91-24	W2NW4, SE4NW4			A	
Right of Way Terms		Minimum Amount	Measurement Rate	Measurement Type	Amount
Application Fee	Set Amount				\$250.00
Initial	Set Amount				\$2,640.00

Total Initial Payment Amount \$546,791.50

February 2022 Report of Shut-Ins Approved by Land Commissioner

Granted to:	Marathon Oil Company
For the Purpose of:	Operations
Date Issued:	02/11/2022
Application Fee:	\$100.00
Trust:	SIIF – Strategic Investment and Improvements Fund
Leases:	OG-04-00701, OG-04-00702

February 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. In January 2020, the Division enacted North Dakota Administrative Code ch. 85-03. During the 67th Legislative Assembly (2021), the Revised Uniform Unclaimed Property Act (RUUPA) was passed under Senate Bill 2048, codified as N.D.C.C. ch. 47-30.2.

For the month of February 2022, the Division received 83 holder reports with a property value of \$211,060 and paid 1,151 claims with a total value of \$409,570.

The Financial Report (Unaudited) for period ending December 31, 2021 was presented to the Board for review and is available at the Department upon request.

Investment Updates

Portfolio Rebalancing Updates

Documents of both Apollo Defined Return Fund LP and SSGA US REIT Index CF were signed and submitted. Angelo Gordon (AGDL-BUSL) Fund documents are still being reviewed. \$25M investment for SSGA US REIT Index CF will be funded on Mar. 28.

Since the last Board meeting, GCM Secondary Opportunities Fund made a capital distribution amounting to around \$7M thereby increasing its unfunded commitment to \$128M. While Ares Pathfinder and Harrison Street Core Property Fund both made capital call, \$10M due Mar. 30 and \$39.4M due Apr. 5 respectively.

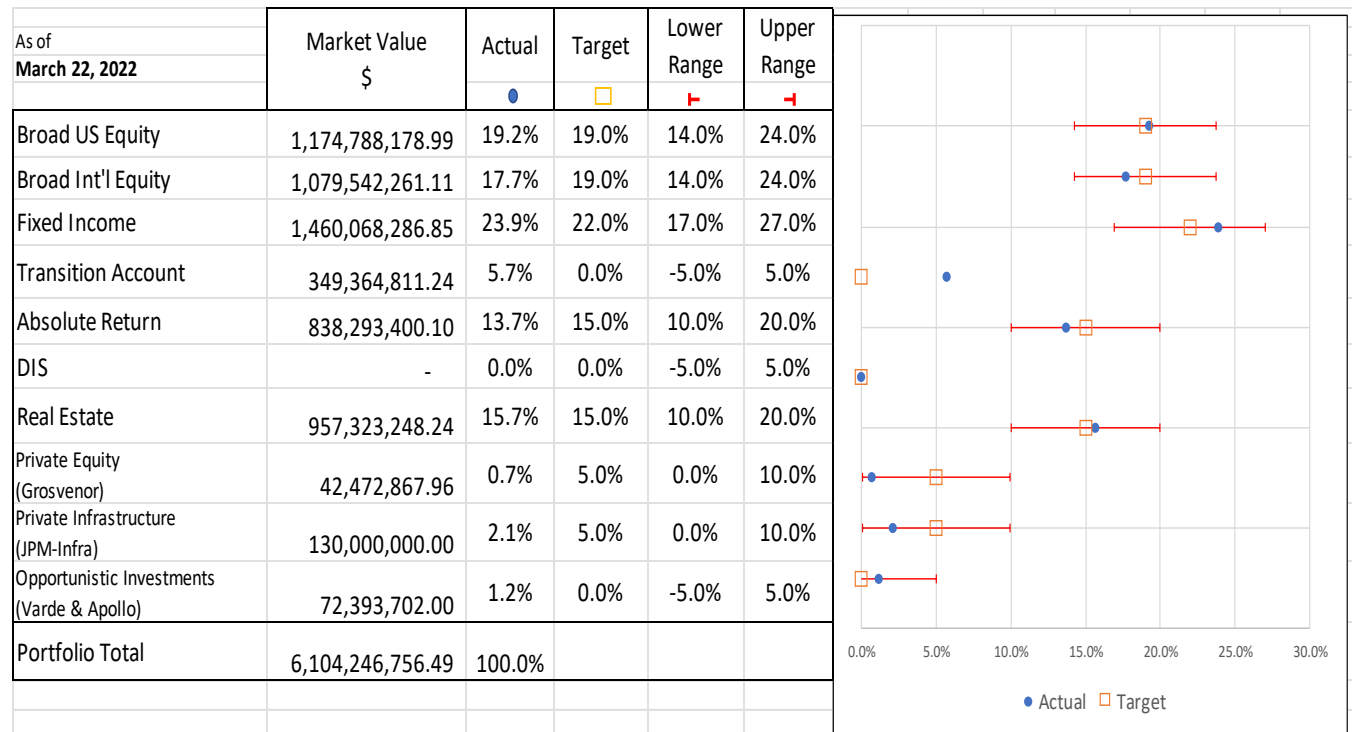
Unfunded commitments after the distribution and calls will be at \$774.9M. These are:

1. Apollo Defined Return Fund, \$200M
2. Varde Dislocation Fund, \$42.5M
3. GCM Private Equity, \$110M
4. ARES Pathfinder Fund, \$54.4M
5. Angelo Gordon DL IV, \$25M
6. Owl Rock Diversified Lending, \$35M

7. GCM Secondary Opportunities Fund, \$128M
8. Harrison Street Core Property Fund LP, \$30M
9. FSI GDIF (Infrastructure), \$150M

Asset Allocation

The table below shows the status of the permanent trusts' asset allocation as of Mar. 22, 2022. The figures provided are unaudited.



ENERGY INFRASTRUCTURE AND IMPACT

Quarterly 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. 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 with funding being distributed from the Energy Development Impact Fund. Over the course of the past 40 years, the EIIO has dispersed over \$626 million in funding as appropriated by the Legislative Assembly.

Prior to 2019, the Energy Development Impact Fund received a portion of the oil and gas gross production taxes collected by the State of North Dakota. During the 2019-2021 biennium, under House Bill No. 1013, the Legislative Assembly transferred \$2,000,000 from the Strategic Investment and Improvement fund to the Energy Development Impact Fund for grant distribution. For the 2021-2023 biennium, no funding was provided by the Legislative Assembly.

As of March 15, 2022, the current balance in the Energy Development Impact Fund is \$415,430.08, of which \$33,893.76 has been awarded but not yet reimbursed to the three (3) remaining grantees. In addition, remaining funds are used for administrative expenses per Senate Bill No. 2013, Section 4.

(03/31/22)

The following shows grant activity for the last six months:

Oil and Gas Impact Grant Fund	Grants with balances	Current Balance Obligated to Grants
9/7/2021	6	\$794,932.56
12/7/2021	4	\$297,596.76
3/14/2022	3	\$33,893.76

Vacancy of EIO Director

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

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

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

Motion: **The Board appoint Land Commissioner Joseph Heringer to the position of EIO Director.**

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

INVESTMENTS

Private Equity

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). The Board has since approved investments with GCM Grosvenor (GCM) in a "Fund-of-One" structure and GCM's Secondary Opportunities Fund III. The most recent investment in PE secondaries was aimed at taking advantage of two positive traits inherent in PE secondaries: 1. The visibility into some or all the underlying PE portfolio assets; 2. The ability to shorten or avoid the J-curve, which is the period of negative cashflow versus positive cashflow (or capital calls vs distributions).

Within PE there are two types of secondary transactions: Limited Partner (LP) led deals and General Partner (GP) led deals. LP-led secondaries are PE interests sold by LPs (investors like the PTFs) who want to reduce or eliminate their PE positions. GP-led deals, or continuation funds,

are secondaries where the GP wants to effectively extend the life of an existing fund which may have one or two assets left. The GP has high conviction around the remaining asset(s) and wants to continue holding it (them) to execute on their value creation strategy. To show their conviction, the GP will typically rollover their incentive fees into the continuation fund and/or add capital alongside the new LPs. The GCM Secondary Opportunities Fund III has a mix of both LP-led and GP-led deals.

Department Staff and RVK discussed adding another secondaries manager to the PTFs' PE allocation. Staff and RVK reviewed managers within RVK's PE manager database and conducted due diligence. This due diligence process has resulted in Staff and RVK recommending Morgan Stanley's Ashbridge Transformational Secondaries Fund II. Morgan Stanley's Ashbridge platform aims to invest solely in GP-led secondaries due to the visibility of underlying assets and the high conviction of GPs in realizing higher returns. Additionally, Morgan Stanley will provide a fee break for being both an existing Morgan Stanley client and RVK client.

Morgan Stanley has \$1.6 trillion in assets under management with over \$2.4 billion committed to GP-led secondaries. The firm has 55 offices worldwide and over 1,100 investment professionals. The secondaries team has 15 investment professionals and another 100 professionals in support.

Attachment 1: RVK Recommendation Memo

Attachment 2: Morgan Stanley Presentation

Motion: The Board approve up to a \$25 Million investment in Morgan Stanley's Ashbridge Transformational Secondaries Fund II, LP, 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	X		
Attorney General Wrigley			X		
Governor Burgum			X		

RVK Recommendation Memo and Morgan Stanley Presentation were presented to the board and are available upon request.

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**
- **Royalty Offers**

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

The Board entered into executive session at 9:58 AM.

EXECUTIVE SESSION**Members Present:**

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

Department of Trust Lands Personnel present:

Joseph Heringer	Commissioner
Kate Schirado	Administrative Assistant
Catelin Newell	Administrative Staff Officer
Kristie McCusker	Paralegal
Adam Otteson	Revenue Compliance Director
Rick Owings	Administrative Staff Officer
Chris Suelzle	Minerals Division Director

Guests in Attendance:

Dave Garner	Office of the Attorney General present for Royalty
Jen Verleger	Office of the Attorney General present for Wilkinson
Reice Haase	Office of the Governor
Ryan Norrell	Office of the Governor

The executive session adjourned at 11:02 AM 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.

LITIGATION**Wilkinson Litigation**

Case: William S. Wilkinson, et. al. v. Board of University & School Lands, Brigham Oil & Gas, LLP; EOG Resources, Inc.; Case No. 53-2012-CV-00038

Date Filed: January, 2012

Court: Williams County District Court

Judge: Paul Jacobson

Attorney: Jennifer Verleger/Matthew Sagsveen/David Garner

Opposing Counsel: Josh Swanson/Rob Stock, Lawrence Bender, John Ward

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

On July 1, 2014, the Plaintiffs filed an amended complaint in the case and added claims of unconstitutional takings, conversion, constructive trust and unjust enrichment, civil conspiracy and deprivation of rights under 42 U.S.C. § 1983. Plaintiffs assert in their amended complaint that the Board should be issuing leases on the west side of the Highway 85 bridge pursuant to the Phase II Investigation – the estimated location of the ordinary high watermark (OHWM) prior to inundation

of Lake Sakakawea – rather than the Phase I Delineation – current location of the OHWM. Plaintiffs argue that the subject property is located under Lake Sakakawea, which did not exist at statehood, and thus the state did not acquire title to it as sovereign lands. Therefore, the State’s title to the Missouri River is limited to the channel as it existed prior to inundation of Lake Sakakawea as determined by the Phase II investigation.

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

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

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

History:

Due to the passage of S.B. 2134, the District Court ordered the case stayed and all deadlines be held in abeyance until the final review findings under S.B. 2134 are issued by the North Dakota Industrial Commission (NDIC). Plaintiff, after NDIC issued the review findings, requested a status conference with the Court to set a new trial date and other deadlines. The Board and State Engineer filed a Motion for Continued Stay of Proceedings on October 11, 2018. The telephonic status conference scheduled for November 2, 2018 was cancelled. A Hearing on the Motion for Continued Stay was held November 30, 2018. Defendants submitted a proposed Order and the Judge asked for Plaintiffs to submit a proposed Order, which was filed December 4, 2018. The Court issued its Order on December 12, 2018, denying the Motion for Continued Stay and requiring the parties confer on a scheduling order and submit a Rule 16 scheduling order by January 26, 2019. The State filed a Motion for Proposed Scheduling Order on January 28, 2019, and Plaintiffs filed a notice of hearing on January 31, 2019, and filed their Response to State’s Motion for Proposed Scheduling Order and Plaintiffs’ Request for Rule 16(F) Sanctions on February 1, 2019. State Defendants filed a Reply Brief in Support of Motion for Proposed Scheduling Order on February 8, 2019. Statoil & Gas LP filed a Response to State’s Motion for Proposed Scheduling Order and Plaintiff’s Proposed Scheduling Order on February 11, 2019. Plaintiffs scheduled a hearing in District Court on the Motion for Scheduling Order which was held March 5, 2019, at 2:00 p.m. The District Court didn’t rule on the scheduling motions but granted Plaintiffs’ request to file a motion for Summary Judgment within 30 days of the

hearing. On April 15, 2019, Plaintiffs' filed with the District Court a Notice of Motion, Motion for Summary Judgment, Brief in Support of Motion for Summary Judgment, Affidavit of Joshua Swanson, Notice of Hearing (requesting a hearing be held at the earliest possible date available on the Court's calendar), and proposed Order Granting Plaintiffs' Motion for Summary Judgment. On April 17, 2019, Plaintiffs' filed a Notice of Hearing scheduling a hearing for 2:00 p.m. on July 30, 2019 before the Honorable Paul W. Jacobson, at the Williams County Courthouse, Williston. The parties entered into a Stipulation Extending Time to Respond to Plaintiffs' Motion for Summary Judgment and Plaintiffs' Time to Reply which was entered May 1, 2019. The Order Extending Time to Respond was entered May 2, 2019, extending Defendants' time to respond to June 14, 2019, and extending Plaintiffs' deadline to file reply to July 1, 2019. On June 10, 2019 Statoil & Gas LP filed its Opposition to Plaintiffs' Motion for Summary Judgment. Also, on June 10, 2019, the Stipulated Motion to Dismiss Defendant XTO Energy Inc. was filed in which Plaintiffs, Cross-claimant EOG, and Defendant XTO stipulated and requested the Court dismiss XTO from the action with prejudice and without costs and disbursements to any party, as it holds no ownership interest in, right to, claim or title to any mineral interests as alleged by Plaintiffs. The Board of University and School Lands filed its Brief in Opposition to Plaintiffs' Motion for Summary Judgment on June 14, 2019. Also filed on June 14, 2019 where the State Engineer's Response to Brief in Opposition to Plaintiffs' Motion for Summary and the Response of EOG Resources, Inc., to Plaintiffs' Motion for Summary Judgment. On June 17, 2019, the Court entered its Order Dismissing Defendant XTO Energy, Inc. from the Action. On July 1, 2019, Plaintiff's filed their Reply Brief in Support of Motion for Summary Judgment. The hearing on the Motion for Summary Judgment was held on July 30, 2019. Order Granting Plaintiffs' Motion for Summary Judgment was entered on September 6, 2019. The proposed Judgment was submitted on September 12, 2019. The Judgment and Notice of Entry of Judgment were filed with the District Court on September 16, 2019. Board of University and School Lands' Notice of Appeal to the North Dakota Supreme Court was filed on November 15, 2019. State Engineer's Notice of Appeal to the North Dakota Supreme Court was filed on November 15, 2019. Notice of Appeal to North Dakota Supreme Court filed by Statoil Oil & Gas LP f/k/a Brigham Oil & Gas, LLP on November 27, 2019. Appellant's Initial Briefs were due December 12, 2019; however, a Joint Motion for Extension of Time to File Briefs was filed and an extension was granted on December 13, 2019, with all briefs being due to the Supreme Court as follows:

- Appellants' (including Board of University and School Lands) Initial Briefs - January 13, 2020;
- Appellees' Response Briefs – March 2, 2020; and
- Appellants' (including Board of University and School Lands) Reply Briefs – March 16, 2020.

On January 13, 2020, the Brief of Appellant, Board of University and School Lands was filed with the Supreme Court. Appellant North Dakota State Engineer's Principal Brief was also filed on January 13, 2020. Plaintiffs/Appellees Response Brief filed with the Supreme Court on March 2, 2020. Plaintiffs/Appellees Response Brief filed with the Supreme Court on March 2, 2020. Reply Brief of Defendant and Appellant, Board of University and School Lands filed on March 16, 2020. Appellant North Dakota State Engineer's Reply Brief filed March 16, 2020. The North Dakota Supreme Court issued its Opinion of the Court on August 27, 2020. On September 18, 2020 a Notice of Hearing was filed in the District Court setting a status conference for October 13, 2020, at 3:30 p.m. The Court issued an Order After Status Conference dated October 13, 2020, stating that a two day bench trial will be scheduled. A telephonic scheduling conference was scheduled for October 29, 2020, at 10:00 a.m. On October 23, 2020, the Supreme Court Judgment/Opinion was filed with the District Court. On October 30, 2020, the Court issued its Order

After Scheduling Conference. The matter was set for Court Trial on April 16, 2021, for one day and July 23, 2021, also for one day. Defense council expressed concerns with a conflict with other scheduled trials. Therefore, a status conference was set for February 4, 2021 to determine if any conflicts have been obviated. The Court indicated it would consult with the scheduling clerk to determine second priority dates for one day trials in 2021. The Court set backup Court Trial dates of May 27, 2021 and May 28, 2021. Plaintiffs' Combined Discovery Requests to Defendant, the Board of University and School Lands of the State of North Dakota were served on the Board on January 26, 2021. The Board has 30 days to respond. On February 25, 2021, the Board served its Answers to Plaintiffs' Combined Discovery Requests to Defendant, the Board of University and School Lands of the State of North Dakota, and the State Engineer served its answers to interrogatories. State Engineer's Interrogatories, Request for Admissions, and Request for Production of Documents Regarding Damages (Request II) was served March 12, 2021. On March 19, 2021, Defendant Statoil Oil and Gas, LP's Answers to Plaintiffs' Combined Discovery Requests to Defendant, Statoil Oil & Gas, LP was served. On March 22, 2021, Defendant Statoil Oil and Gas, LP's First Supplemental Answers to Plaintiffs' Combined Discovery Requests to Defendant, Statoil Oil & Gas, LP was served. Plaintiff's Responses to State Engineer's Interrogatories, Requests for Admissions, and Requests for Production of Documents regarding Damages (Request II) was served April 14, 2021. On April 20, 2021, Plaintiffs filed their Motion for Attorneys' Fees and Costs against the State of North Dakota. Plaintiffs scheduled a hearing on this motion for July 22, 2021. Plaintiffs scheduled a status conference for April 27, 2021. At that hearing, it was decided that the trial for May 2021 would be scheduled for July 22 & 23, 2021, in Williston. On May 18, 2021, the Board of University and School Lands and the State Engineer filed their Response Brief Opposing Plaintiffs' Motion for Attorneys Fees and Costs. On June 8, 2021, Plaintiffs filed their Reply to State's Response Brief Opposing Plaintiffs' Motion for Attorneys' Fees and costs. On June 22, 2021, Plaintiffs filed their Pretrial Statement and Defendants, Board and State Engineer, filed their Pre-Trial Brief. Brigham Oil & Statoil brought a Motion to Dismiss on July 7, 2021. On July 8, 2021, the parties exchanged their witness and exhibit lists. Motions in Limine were filed on July 8, 2021 by Brigham Oil and Statoil and the Board and State Engineer. The parties shared various drafts of witness and exhibit lists prior to trial. On July 12, 2021, the State filed its Motion in Limine to Exclude Evidence Regarding Statutory Interest of 6.5% or 18% on Royalties and Motion in Limine to Exclude Evidence Regarding S&P Vanguard 500 Index Fund Investor Shares (VFINX) Damages. On July 14, 2021, Statoil and Brigham filed Brigham Oil & Gas, L.P. s and Statoil Oil & Gas, L.P. s nka Equinor Energy, O.P. s (Collectively Statoil) Unopposed Request for Leave to Allow Witness Amy Becker to Appear by Reliable Electronic Means and the request was granted the same day. On July 15, 2021, Plaintiffs Plaintiffs' Request for Witness to Participate by Telephone or Electronic Means and the requested was granted the same day. On July 19, 2021, Plaintiffs filed Supplemental Affidavit of Joshua A. Swanson in Support of Plaintiffs' Motion for Attorneys' Fees and Costs against the State of North Dakota. On July 21, 2021, Plaintiffs filed Plaintiff s Brief in Response to Defendant Brigham Oil & Gas LP s (Collectively Statoil) Motion to Dismiss, Plaintiffs Response Brief in Opposition to Brigham Oil & Gas, L.P. s nka Equinor Energy, LP s (Collectively Statoil) Motion in Limine, Plaintiffs Response Brief in Opposition to Board of University and School Lands and North Dakota State Engineer s Motion in Limine Regarding S&P 500 Vanguard 500 Index Fund Investor Shares (VFINX) Damages, Plaintiffs Response Brief in Opposition

to Board of University and School Lands and North Dakota State Engineer's Motion in Limine Regarding Statutory Interest. The trial was held on July 22 and 23, 2021. On July 22, 2021, the parties filed a joint exhibit list. On July 28, 2021, Brigham Oil & Gas, L.P.'s and Statoil Oil & Gas L.P.'s nka Equinor Energy, L.P.'s (Collectively "Equinor") Reply Brief in Support of Motion to Dismiss was filed, as was the Stipulation/Agreement to Dismiss Plaintiffs' Claims Against Defendant EOG Resources, Inc. On July 30, 2021, the Order Dismissing Plaintiffs' Claims Against Defendant EOG Resources, Inc. was filed. On August 11, 2021 the parties stipulated and the court entered its Order Dismissing Crossclaims Between Defendant EOG Resources, Inc., and Defendant Statoil Oil & Gas LP. On October 4, 2021, an Order Granting Extension of Time for Brigham and Statoil to File Reply Filings was filed. On October 5, 2021 Plaintiffs filed their Post-Trial Reply Brief and the Board and the State Engineer filed their Post Trial Response Brief. On December 10, 2021, the Court entered the Order for Judgment, which ordered:

- Statoil's motion to dismiss (Index #594) is denied.
- Statoil's motion in limine (Index #600) is denied as moot.
- The State's motions in limine (Index #607 and #615) are denied as moot.
- Petrogulf's crossclaims against EOG (Index #84) are dismissed with prejudice for failure to prosecute.
- EOG's counterclaim against Plaintiffs and crossclaims against the Land Board, OXY USA, Inc., and Petrogulf (Index #65) are dismissed with prejudice for failure to prosecute.
- Statoil's counterclaims against the Plaintiffs are dismissed because it is a prevailing party.
- Based on the Supreme Court's ruling in *Wilkinson II* and the application of N.D.C.C. ch. 61-33.1 to the Disputed Property "the State of North Dakota does not own title to the mineral interests in the [Disputed] Property."
- The takings claims in Counts II and III against the State are dismissed with prejudice.
- The conversion claims in Count IV against Statoil and the State are dismissed with prejudice.
- The unjust enrichment and constructive trust claims in Count V against Statoil and the State are dismissed with prejudice.
- The civil conspiracy claims in Count VI against Statoil and the State are dismissed with prejudice.
- The 42 U.S.C. § 1983 claim in Count VII against the State is dismissed with prejudice.
- The Plaintiffs are not entitled to statutory damages under either N.D.C.C. § 47-16-39.1 or N.D.C.C. § 28-20-34, and are prohibited from claiming statutory damages until June 2022 under N.D.C.C. § 61-33.1-04(2)(b).
- The Plaintiffs are not entitled to special damages attributable to lost investment opportunities in the S&P 500 VFINX.
- The Plaintiffs request for \$1,441,086.73 in interest is denied.
- The Plaintiffs are not entitled to damages under N.D.C.C. § 32-03-23(3) for Jon Patch's time. The request for \$180,000 in damages is denied.

- The Plaintiffs are not entitled to damages for unjust enrichment and the Plaintiffs' request for bonus/rental payments and royalty payments through disgorgement under the State's contracts in the amount of \$207,336.61 is denied.
- The Plaintiffs are not entitled to attorneys' fees or costs. The Plaintiffs' requests for attorneys' fees and costs are denied.
- Let Judgment be entered accordingly.

On January 10, 2022, the Judgment was entered. On January 10, 2022, the Judgment was entered. On January 13, 2022, the clerk's office sent a letter to Crowley Fleck regarding return of the surety bond. On January 25, 2022, Plaintiffs filed a Notice of Appeal with the Supreme Court.

**Current
Status:**

- **On March 14, 2022, Wilkinsons filed the Brief of Appellants. The Board's brief is due April 13, 2022.**

M I N E R A L S

Repayment of Unpaid Gas Royalties Update

The 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 going towards 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 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. Royalty audits began in the late 1980's and a Revenue Compliance Division was created in 2011 to ensure that royalty and other collections made on behalf of the trusts and other funds are complete and accurate.

A letter regarding Formal Notification of Gas Royalty Repayment Obligations dated February 11, 2020 (February 2020 Letter), was sent to all entities required to pay royalties to the Board pursuant to the Board's lease. The February 2020 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. Entities were advised that penalties and interest continue to accrue on any unpaid amounts in accordance with the February 2020 Letter until payment is received. On April 8, 2020, the Board extended the date to come into compliance with gas royalty payments, as outlined in the February 2020 Letter, to September 30, 2020. At the August 27, 2020, Board meeting, the Board extended the date to come into compliance with gas royalty payments, as outlined in the February 2020 Letter, to April 30, 2020.

Since the issuance of the February 2020 Letter, the Department has been working with payors who have been deducting post production costs from royalty payments made to the Department to ensure that they are in compliance with the terms of the Board's lease.

The Department will present offers as received to the Board in executive session pursuant to N.D.C.C. §§ 44-04-19.1 and 44-04-19.2.

I N V E S T M E N T S

Private Infrastructure

In April 2020, the Board of University and School Lands' (Board) approved an asset allocation to Private Infrastructure within the broader Strategic Asset Allocation (SAA) for the Permanent Trust Funds (PTFs). The Board has since approved investments with two core infrastructure managers, J.P. Morgan and First Sentier Investors.

Department Staff began the manager search by reviewing the managers previously compiled by RVK within their private infrastructure manager database. Staff and RVK discussed the managers and concluded that it is time to make an investment in a non-core manager. Non-core managers look for value creation opportunities, whether by operational improvement, platform growth, or value-add capital infusion.

Many non-core infrastructure managers take a private equity approach to investing with higher return targets and reasonably higher risk versus core infrastructure. Nevertheless, they rely on core infrastructure investing concepts, such as, attractive purchase price, high barriers to entry, pricing power, limited commodity risk, contracted cashflows, and low risk of technological disruption.

This due diligence process has resulted in Staff and RVK recommending Hamilton Lane's Infrastructure Opportunities Fund to the Board. Hamilton Lane has over 30 years of private markets investment experience. They have a globally diversified portfolio with low exposure to revenue sources that mirror the PTFs' revenues. Hamilton Lane has over \$850 Billion in assets under management, including \$43 Billion in infrastructure, managed by 520 employees located out of 19 offices worldwide. Additionally, Hamilton Lane will provide a significant fee break to the PTFs for being a client of RVK.

Attachment 1: RVK Infrastructure Recommendation Memo

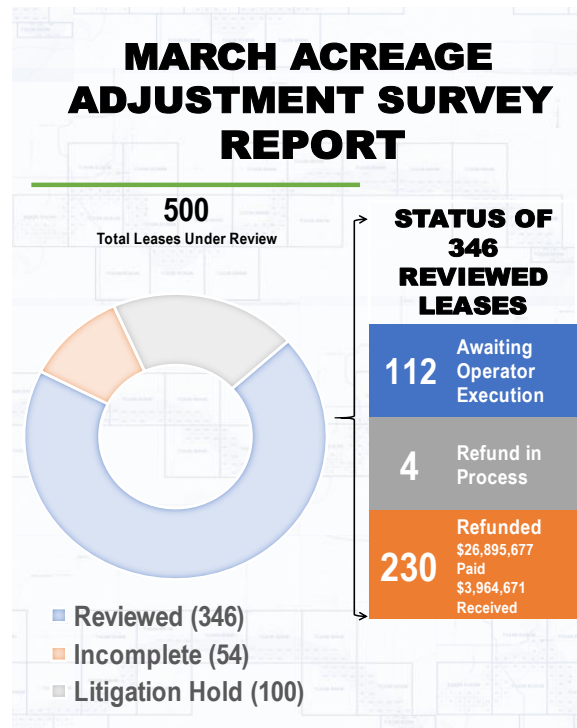
Attachment 2: Hamilton Lane Presentation

Motion: The Board approve up to a \$25 Million initial investment in the Hamilton Lane Infrastructure Opportunities 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 Wrigley		X	X		
Governor Burgum			X		

RVK Infrastructure Recommendation Memo and Hamilton Lane Presentation were presented to the board and are available upon request.

MINERALS



NDDTL River Tracts map and outstanding requests for acreage adjustment stipulation and lease correction were presented to the Board and are available upon request.

A D J O U R N

There being no further business, the meeting was adjourned at 12:22 PM.

Doug Burgum, Chairman
Board of University and School Lands

Joseph Heringer, Secretary
Board of University and School Lands