

**Minutes of the Meeting of the  
Board of University and School Lands  
November 24, 2020**

The November 24, 2020 meeting of the Board of University and School Lands was called to order at 8:00 AM via Microsoft Teams by Chairman Doug Burgum.

**Members Present:**

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

**Department of Trust Lands Personnel present:**

Jodi Smith	Commissioner
Michael Humann	Surface Division Director
Kristie McCusker	Paralegal
Catelin Newell	Administrative Staff Officer
Scott Giere	Revenue Compliance
Mike Shackelford	Investment Division Director
David Shipman	Minerals Division Director
Lynn Spencer	Minerals Title Specialist
Peggy Gudvangen	Accounting and Unclaimed Property Director
Adam Otteson	Revenue Compliance Division Director
Susan Dollinger	Unclaimed Property

**Guests in Attendance:**

Dave Garner	Office of the Attorney General
Jennifer Verleger	Office of the Attorney General
Leslie Bakken Oliver	Governor’s Legal Counsel
Reice Haase	Governor’s Office
Amy Hsiang	Guest via Microsoft Teams
Andrea diCenso	Guest via Microsoft Teams
Rena Bloms	Guest via Microsoft Teams
Aaron Carranza	Guest via Microsoft Teams
Ernst	Guest via Microsoft Teams
Jared Mack	Guest via Microsoft Teams
Jess Davies	Guest via Microsoft Teams
Jlm Sakelaris	Guest via Microsoft Teams
Joe Hisdorf	Guest via Microsoft Teams
John Trydahl	Guest via Microsoft Teams
Josh Kevan	Guest via Microsoft Teams
John Paczkowski	Guest via Microsoft Teams
Quentin Obrigewitsch	Guest via Microsoft Teams
Raymond Fox	Guest via Microsoft Teams

**APPROVAL OF MINUTES**

A motion to approve the minutes of the October 29, 2020 meeting, was made by Alvin A. Jaeger Secretary of State and seconded by Attorney General Wayne Stenehjem and the motion carried unanimously on a voice vote.

## R E P O R T S

### October Extension Report

In January 2020, North Dakota Administrative Code § 85-06-01-06 was enacted. It provides the petroleum industry the option to request an extension of their lease.

In October 2020, Continental Resources of Oklahoma City, Oklahoma, received a six-month extension on four leases in Section 30-154N-97W, McKenzie County and two leases in Section 31-154N-97W, McKenzie County. They have a permit to drill the Dallas 4-30 H Well.

### Summary of Oil and Gas Lease Auction

On behalf of the Board of University and School Lands (Board), the Department of Trust Lands conducted an oil and gas mineral lease auction on [www.energynet.com](http://www.energynet.com) which concluded on November 3, 2020

There were five tracts offered and all received competitive bids (If the Board does not receive a competitive bid the lease is awarded to the nominator.) The highest bid per acre was \$311.00 for 80 acres in McKenzie County. All five tracts offered benefit the Common Schools Trust Fund.

County	Tracts/County	Mineral Acres	Total Bonus	Average Bonus/Acres
McKenzie	1	80	\$24,880.00	\$311.00
Williams	4	478.39	\$12,038.14	\$25.16
<b>GRAND TOTAL</b>	<b>5</b>	<b>558.39</b>	<b>\$ 36,918.14</b>	<b>\$66.12</b>

There was a total of 4 bidders who submitted 31 bids on the five tracts. The bidders were from Colorado and North Dakota.

A total of \$36,918.14 of bonus was collected from the auction.

### October Report of Encumbrances Issued by Land Commissioner

**Granted to:** **PETRO-HUNT LLC, DALLAS-TX**  
 For the Purpose of: On-lease Activity: Well-Horizontal Oil Well  
 Right-of-Way Number: RW0008596  
 Trust: A - Common Schools  
 Legal Description: MOU-158-91-16-SE4, SW4

**Granted to:** **TESORO HIGH PLAINS PIPELINE COMPANY LLC, SAN ANTONIO-TX**  
 For the Purpose of: Easement-Amend: Pipeline-Multiple Pipelines  
 Right-of-Way Number: RW0008775  
 Trust: A - Common Schools  
 Legal Description: MCK-147-104-36-NW4

**Granted to:** **DENBURY ONSHORE LLC, PLANO-TX**  
 For the Purpose of: Permit: Seismic  
 Right-of-Way Number: RW0008781  
 Trust: A - Common Schools  
 Legal Description: BOW-131-105-16-NE4, NW4, SW4  
 (11/24/20)

**Granted to:** CAPITAL ELECTRIC COOPERATIVE INC, BISMARCK-ND  
 For the Purpose of: Easement-Amend: Electric-Buried Distribution Line  
 Right-of-Way Number: RW0008783  
 Trust: A - Common Schools  
 Legal Description: BRL-139-80-36-SW4 LESS ACRES SOLD

**Granted to:** WHITING OIL & GAS CORPORATION, DENVER-CO  
 For the Purpose of: Assignment: Well-Salt Water Disposal Well  
 Right-of-Way Number: RW0008784  
 Trust: A - Common Schools  
 Legal Description: WIL-154-98-16-NE4

**Granted to:** MOUNTAIN PLAINS LLC, BISMARCK-ND  
 For the Purpose of: Permit: Planning & Preconstruction Survey  
 Right-of-Way Number: RW0008799  
 Trust: A - Common Schools  
 Legal Description: N/A

### **October 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 October 2020, the Division received 1,701 holder reports with a property value of \$8,524,433 and paid 175 claims with a total value of \$457,134.

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

### **Investment Updates**

#### Portfolio Rebalancing Updates

As Van Eck Natural Resources was fully liquidated October 16, 2020. Harvest is the only investment in the Diversified Inflation Strategies asset class with approximately \$102M. The Department Staff and RVK continuously monitor the trigger points set for the account and will complete the liquidation when appropriate.

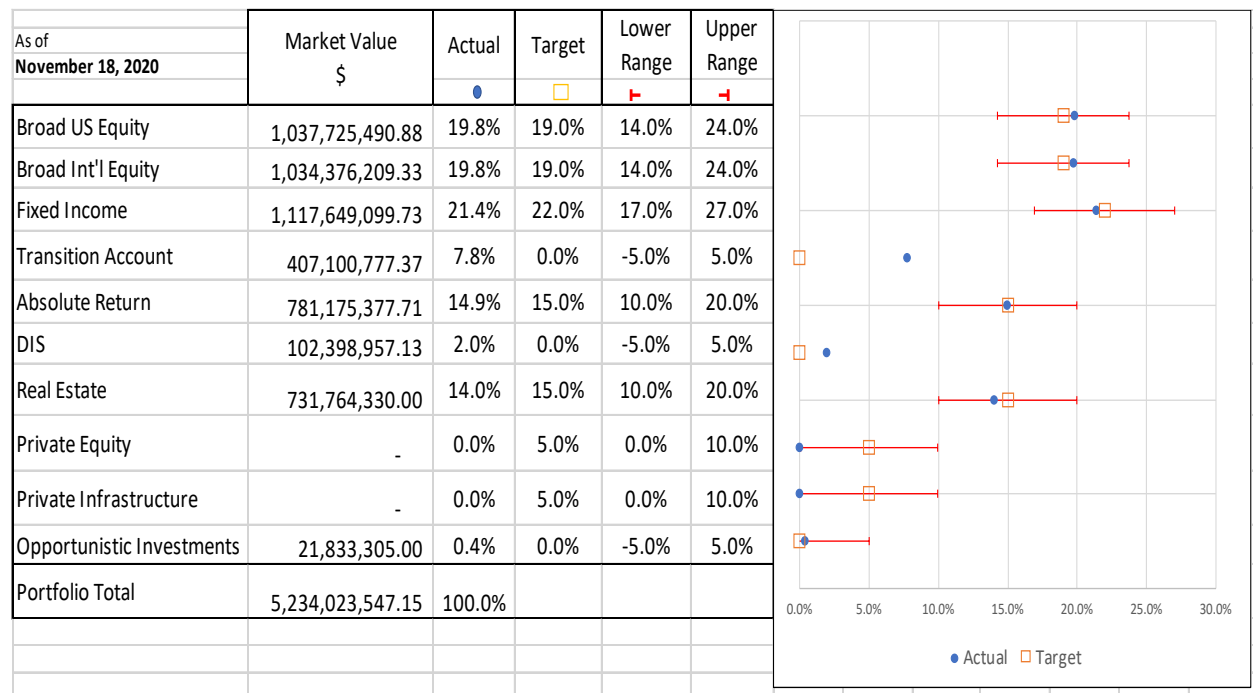
Since being approved for a \$100M investment commitment, Apollo Accord Fund IV LP (Fund), an Opportunistic Investment, has called on a total of \$5.5M bringing the remaining unfunded commitment to \$94,500,000.

Varde Dislocation Fund IV LP, an Opportunistic Investment, has called on another \$5M from our capital commitment bringing our total investment to \$15M. The remaining unfunded commitment is \$85M.

The Department Staff is actively working on both the Agreements for GCM Grosvenor (Private Equity Manager) and JP Morgan (Private Infrastructure Manager) that were approved at the August 27, 2020 and September 24, 2020 Board of University and School Lands meetings.

### Asset Allocation

The table below shows the status of the permanent trusts' asset allocation as of Nov. 18, 2020. The figures provided are unaudited.



### **Upcoming Investment Manager Meetings**

There is no upcoming meeting scheduled.

## **S U R F A C E**

### **Fall Surface Lease Auctions**

The 2020 fall lease auctions were conducted online from October 12, 2020 to October 23, 2020. The majority of leases that qualified for Last Minute Bid Competition Policy have been completed. Additionally, those tracts that were approved to be re-opened at the October 29, 2020 Board of University and School Lands (Board) meeting were completed, see list of tracts below:

- T155N, R99W, SECTION 16: NW4
- T155N, R99W, SECTION 16: SE4
- T155N, R99W, SECTION 16: SW4
- T158N, R101W, SECTION 16: SE4
- T130N, R90W, SECTION 7: NE4

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The Department of Trust Lands (Department) has received six protests to the online surface lease auction outcomes. Per N.D.A.C. 84-04-01-09. Board review.

Within thirty days of a decision under these rules, an aggrieved party may request the commissioner review the decision. The aggrieved party seeking review shall submit any information required by the commissioner as part of this request. Within thirty days of the commissioner's review, the aggrieved party may request board review and the commissioner shall recommend if board review is warranted.

The Department has received a formal protest of the auction results on one quarter-section of land that does not qualify for the Last Minute Bid Competition. Mr. Trever Sorenson is protesting:

- T158N, R101W, SECTION 16: NE4

The Department has received a formal protest of the auction results on three quarter-sections of land that do not qualify for the Last Minute Bid Competition. Mr. Rick Thorlaksen is protesting:

- T159N, R93W, SECTION 16: NW4
- T159N, R93W, SECTION 16: SE4
- T159N, R93W, SECTION 16: SW4

The Department has received a formal protest of the auction results on two quarter-sections of land that do not qualify for the Last Minute Bid Competition. Mr. Raymond Fox is protesting:

- T157N, R90W, SECTION 16: SE4
- T157N, R90W, SECTION 16: SW4

The Department has received a formal protest of the auction results on one quarter-section of land that does not qualify for the Last Minute Bid Competition. Mr. Jason Folvag is protesting:

- T158N, R101W, SECTION 16: NW4

The Department has received a formal protest of the auction results on one quarter-section of land that does not qualify for the Last Minute Bid Competition. Mr. James Voigt is protesting:

- T146N, R92W, SECTION 16: S2S2

The Department has received a formal protest of the auction results on one quarter-section of land that does not qualify for the Last Minute Bid Competition. Mr. Brian Zingleman is protesting:

- T148N, R98W, Section 16: NE4

The Department has received a formal protest of the auction results on the auction results on three quarter-sections of land. These tracts qualify for the Last Minute Bid Competition Policy. The request from Mr. Stephen Kranz is to open the bidding at the fair-market value price instead of the last bid price. The tracts being protested are:

- T147N, R82W, SECTION 28: NE4
- T147N, R82W, SECTION 28: NW4
- T149N, R82W, SECTION 25: SE4

The Board will need to make the final determination if the Department is going allow for the bidding to continue on:

- T158N, R101W, SECTION 16: NE4
- T159N, R93W, SECTION 16: NW4
- T159N, R93W, SECTION 16: SE4
- T159N, R93W, SECTION 16: SW4
- T157N, R90W, SECTION 16: SE4
- T157N, R90W, SECTION 16: SW4
- T158N, R101W, SECTION 16: NW4
- T146N, R92W, SECTION 16: S2S2
- T147N, R82W, SECTION 28: NE4
- T147N, R82W, SECTION 28: NW4
- T149N, R82W, SECTION 25: SE4
- T148N, R98W, Section 16: NE4

A final summary will be provided during an upcoming Board meeting.

**Motion: The Board moves to include those that have applied for the formal appeal process to be included in the tracts moving forward in the telephone auction with the opening bid starting at the high bid from the EnergyNet online auction. Those tracts to be included are as follows: T158N, R101W, SECTION 16: NE4, T159N, R93W, SECTION 16: NW4, S2, T157N, R90W, SECTION 16: S2, T158N, R101W, SECTION 16: NW4, T146N, R92W, SECTION 16: S2S2, T147N, R82W, SECTION 28: N2, T149N, R82W, SECTION 25: SE4, T148N, R98W, Section 16: NE4 .**

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

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

In House Bill 1300, the Sixty-fifth Legislative Assembly directed the Board of University and School Lands (Board) no longer be exempt from the Administrative Agencies Practice Act (Act). In Senate Bill 2264, the Sixty Sixth Legislative Assembly directed the Board be exempt from the adjudicative proceeding requirements and procedures under North Dakota Century Code §§ 28-32-21 through 28-31-51 of the Act.

The Board's Administrative Rules are found in Title 85 of the North Dakota Administrative Code. Revisions to rules concerning General Administration and rules for Surface Land Management and Minerals Management are currently before the Legislative Administrative Rules Committee. Those rules were reviewed by the Attorney General's Office and are currently scheduled to be presented to the Administrative Rules Committee on December 1, 2020, to become effective January 1, 2021. If those rules become effective January 1, 2021, it will be necessary to simultaneously repeal certain Board policies and to implement new Board policies.

The Board currently has a Policy Manual (Board Policy Manual) which includes sections titled Governance, General, Surface Land Management, Investments, and Minerals. It is necessary to

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revise certain Board policies due to the proposed Administrative Rules. The Department recommends the following current policies be repealed and replaced with the revised policies upon enactment of the proposed Administrative Rules as follows:

- Land Retention and Sales Policy, to become Limited Land Sales Policy
- Acquired Properties Management, to become Non-Grant Land Acquired After January 1, 2020 Through Foreclosure or Deed in Lieu of Foreclosure

Other policies have been incorporated into the proposed Administrative Rules and can be repealed upon enactment of the proposed Administrative Rules as follows:

- Chapter 15-09 Sales Policy
- Sale of State Land for Landfills
- Criteria for Retaining Foreclosed Property
- Enforcement of 1979 Oil and Gas Lease Form Provisions Relating to Offset Wells

If the Administrative Rules become effective January 1, 2021, the Board Policy Manual will be revised to remove repealed policies and to include those proposed new policies. Should the Administrative Rules not become effective January 1, 2021, there will be no repeal of the current Board policies or implementation of the revised policies. Therefore, the repeal of the Board Policies and implementation of those new policies is contingent on the Administrative Rules being adopted, with the Board Policy Manual being revised to remove those repealed policies and add the revised policies effective the date the Administrative Rules are implemented.

In addition, the Board repealed a policy on August 30, 2018 titled Railroad Rights-of-Way Ownership. It was later determined that a Board policy would be helpful in memorializing the position of the Board concerning Abandoned Railroad Right of Way Ownership and the attached proposed policy was created. The policy on Abandoned Railroad Right of Way Ownership should be implemented on January 1, 2021, regardless of the enactment of the Administrative Rules as it is not addressed by the proposed Administrative Rules.

The Commissioner is requesting the Board provide input on the proposed revised North Dakota Board of University and School Lands policies. This is the “first reading” of the proposed policies, with suggestions being taken into consideration and a “second reading” to occur on December 17, 2020.

Board of University and School Lands Limited Land Sales Policy, Board of University and School Lands Non-Grant Land Policy, Board of University and School Lands Abandoned Railroad Right of Way Ownership documents were provided to the Board and are available at the Department upon request.

## **OPERATIONS**

### **Audited Financial Statements for the Year Ended June 30, 2020**

Eide Bailly CPAs and Business Advisors has completed its review of the financial statements of the Department of Trust Lands for the year ended June 30, 2020 and provided an opinion on the fair presentation of the financial statements.

The draft report identified no audit findings or recommendations.

The electronic version of the audited financial statement had not been posted, but when it finalized it will be available on the State Auditor's website at: [www.nd.gov/auditor/trust-lands-nddepartment](http://www.nd.gov/auditor/trust-lands-nddepartment) and on the Department of Trust Lands website at: [www.land.nd.gov](http://www.land.nd.gov).

The Department of Trust Lands Audited Financial Statement Fiscal Year 2020 is available upon request.

### **Proposed Legislation for 2021**

The Department of Trust Lands (Department) intends to propose legislation, including but not limited to the following:

#### **2016 Revised Uniform Unclaimed Property Act**

The Department is recommending the adoption of the 2016 Revised Uniform Unclaimed Property Act to provide necessary updates to the 1981 Act that was implemented in 1985.

#### **Grant North Dakota Game and Fish Authority to Enforce State Laws and Rules on Trust Lands**

The Department is seeking to modify N.D.C.C. § 20.1-02-15.1 to grant North Dakota Game and Fish authority to enforce state laws and rules on lands owned and managed by the Board of University and School Lands to allow the Department to better manage assets.

#### **Surface Leasing**

The Department is seeking authority for surface lease auctions held after January 1, 2022, to be held at a regional public auctions, with the regions to be provided in the Board's Administrative Rules, instead of being held in each county seat.

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

### **Fixed Income – Core Bond Manager**

During its October 29, 2020 meeting, the Board of University and School Lands' (Board) approved changes to the Fixed Income Asset Allocation for the Permanent Trust Funds (PTFs) "to convert the JP Morgan Intermediate bond mandate into a core bond mandate with a manager to be approved by the Board November 2020."

At that meeting, to increase portfolio yield and return, the Department of Trust Lands' (Department) and RVK recommended termination of the JP Morgan (JPM) Intermediate Bond mandate and replacing it with a core bond mandate. The JPM Intermediate Bond fund has underperformed with core bond funds including JPM's Core Bond Fund as well as the US aggregate bond index. The underperformance is primarily due to the limits on duration risk the manager can add to the fund. A core bond mandate will have more flexibility to extend duration prudently when the risk environment warrants and thus pick-up incremental yield.

The Department and RVK began the manager search by compiling a list of four of the top performing core bond managers within RVK's database, including JPM's Core Bond Fund. The performance and risk history of each manager was reviewed, along with fees, asset quality, asset characteristics, and investment structures. Each of the four managers were interviewed by the Department and RVK to review their investment strategies and investment processes.

After conducting a thorough due diligence of each manager, the Department and RVK recommend the Board continue its relationship with JPM in a core bond mandate. JPM's Core



Bond mandate has performed well on a risk/return basis and its fees, including the relationship discount, make it attractive for the PTFs.

JPM is headquartered in New York and has offices throughout the U.S. and the world. JPM has over \$658 Billion in fixed income assets under its management and over 265 fixed income investment professionals with expertise in various areas of the fixed income market.

JPM has agreed to maintain the separate account structure and related fees that were in effect for the intermediate bond mandate. If approved, the transition would occur over the next few months as market conditions allow.

**Motion: The Board approves a conversion of the JP Morgan Intermediate Bond mandate to a core bond mandate with JP Morgan, 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		
Treasurer Schmidt	X		X		
Attorney General Stenehjem		X	X		
Governor Burgum			X		

RVK Recommendation Memo and JP Morgan Core Bond Presentation were presented to the Board for review and are available at the Department upon request.

### **Fixed Income – Multi-Sector Manager**

At its October 29, 2020 meeting, the Board of University and School Lands' (Board) approved changes to the Fixed Income Asset Allocation for the Permanent Trust Funds (PTFs) "to liquidate sufficient amounts in the Payden & Rygel and JP Morgan fixed income mandates, along with the cash from the Brandywine termination, to fund the addition to Private Credit and a new Multi-Sector fixed income.

As a result of underperformance, Department of Trust Lands (Department) and RVK recommended terminating the Brandywine Global Opportunity mandate (~\$185 Million) and replacing it with a new Multi-Sector Bond mandate (\$100 Million). The Brandywine mandate has underperformed both the PTFs' core and intermediate bond mandates, the global aggregate bond index, and the multi-sector funds contemplated as replacements. In addition, RVK research shows the Brandywine mandate has a worse risk/return profile versus the multi-sector funds and the global aggregate bond index. Moving to a multi-sector mandate is expected to decrease portfolio risk while increasing returns.

The Department and RVK began the manager search by compiling a list of three of the top performing Multi-Sector bond 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. Each of the three managers were interviewed by the Department and RVK to review their investment strategies and investment processes.

After conducting a thorough due diligence of each manager, the Department and RVK recommend the Board approve a Multi-Sector Bond mandate with Loomis Sayles. Loomis Sayles is an investment manager headquartered in Boston, with offices in the U.S., Europe and Asia. They have over \$240 Billion in fixed income assets under its management and over 180 fixed

income investment professionals with expertise in various areas of the fixed income market. Loomis Sayles has a strong and transparent investment process and portfolio characteristics that the Staff and RVK felt would best suit the PTFs.

**Motion: The Board approve a \$100 Million investment with Loomis Sayles in a Multi-Sector bond mandate, 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 Schmidt		X	X		
Attorney General Stenehjem			X		
Governor Burgum			X		

RVK Recommendation Memo and Loomis Sayles Multi-Sector Bond Presentation were presented to the Board for review and are available at the Department upon request.

### **3rd Quarter Investment Update 2020**

Josh Kevan from RVK reviewed the performance of the Board of University and School Land's (Board) investment program for the period ending September 30, 202.

The first report to be reviewed was prepared by RVK to enable the Board to monitor and evaluate the collective performance of the permanent trusts' investments and the performance of individual managers within the program. In order to provide an overview of the program and highlight critical information, an executive summary has been incorporated into the Board report. A more comprehensive, detailed report is also available.

Next, Josh will touch on the performance of the Ultra-Short portfolio in which the Strategic Investment and Improvements Fund, the Coal Development Trust Fund and the Capitol Building Fund are invested.

RVK Permanent Trust Fund Performance Report and RVK Ultra-short Performance Report were presented to the Board for review and is available at the Department upon request.

## **O T H E R**

### **Commissioner Annual Review**

Treasurer Schmidt proposed tabling the Commissioner Annual Review agenda item until the December regular meeting; the Board agreed to table the item.

## **M I N E R A L S**

### **Acreage Adjustment Survey Relating to T152N R93W Section 11 Lot 2 and Section 10 Lot 6**

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.

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.

Senate Bill 2211 of the Sixty-Sixth Legislative Assembly amended N.D.C.C. ch. 61-33.1 relating to the ownership of mineral rights of land subject to inundation by Pick-Sloan Missouri basin project dams. Under N.D.C.C. § 61-33.1-03(8), the Board contracted with Kadrmas, 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." KLJ has provided the Department of Trust Lands (Department) with a Final Report for Acreage Determination along the Ordinary High Water Mark as adopted by the North Dakota Industrial Commission Order No. 29129 which is available on the Department's website.

On June 25, 2020, the Board formally requested NDIC complete further review of T152N R93W Section 11 Lot 2 and Section 10 Lot 6. NDIC approved Order No. 31104 providing the Department with necessary information to complete the acreage adjustment survey in T152N R93W Section 11 Lot 2 and Section 10 Lot 6.

KLJ has completed the acreage adjustment calculations in T152N R93W Section 11 Lot 2 and Section 10 Lot 6. The project utilized all available data, records, and resources including the Review, the PLSS, Bureau of Land Management (BLM) General Land Office (GLO) updated Master Title Plats (available at the BLM), original GLO Survey Plats (available at the North Dakota State Water Commission), BLM field notes, and any other relevant data, records and resources. Where previous survey data was not available, lacking, or otherwise unusable, the KLJ project was required to conduct the field work necessary to supply the necessary data to complete and/or verify accurate boundaries within the Project Area. KLJ is available to review the methodology they used to calculate the acreage adjustments and answer any questions the Board may have regarding the acreage adjustment results.

Upon the Board's adoption of the Acreage Adjustment Survey for T152N R93W Section 11 Lot 2 and Section 10 Lot 6, as prepared by KLJ, the Department will promptly begin updating records to satisfy the Board's duty under N.D.C.C. § 61-33.1-04(2)(a). This process will be extensive and will require a review of each parcel within each spacing unit located within the Project Area. Each parcel will be reviewed for changes to the database, Correction of Oil and Gas Leases will be prepared for execution, requests for refunds of bonus and royalties will be prepared, each well will need a new royalty management unit to ensure future royalties will be allocated to the correct trust, the Department's shapefiles will be updated, and the Department will need to track the documentation for each lease correction.

Prior to any issuance of refunds, appropriate documentation for each parcel requiring adjustment must be reviewed by the Department's Director of Minerals Management and the Director of the Revenue Compliance Division. Following final review by the Commissioner, a refund authorization will be submitted to the Accounting Division. Once refunds are issued, Correction of Oil and Gas Lease documentation will be mailed to the operator and current lessee of record

based on the records of the Department. If the lessee fails to return an executed copy or cash the check, the Department will need to take additional steps.

**Motion: The Board adopts the acreage adjustment survey on a quarter-quarter basis or government lot basis above and below the ordinary high water mark as delineated by the final review findings of the North Dakota Industrial Commission for T152N R93W Section 11 Lot 2 and Section 10 Lot 6.**

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

Map T152N R93W Section 11 and Section 10 was presented to the Board for review and is available at the Department upon request.

### **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.)

**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:**

- **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					
Superintendent Baesler					
Treasurer Schmidt					
Attorney General Stenehjem	<b>X</b>				
Governor Burgum					

At 9:56 AM the Board entered executive session via Microsoft Teams for the purposes outlined in its adopted motion.

**EXECUTIVE SESSION****Members Present:**

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

**Department of Trust Lands Personnel present:**

Jodi Smith	Commissioner
Kristie McCusker	Paralegal
David Shipman	Minerals Director
Catelin Newell	Administrative Staff Officer

**Guests in Attendance:**

Dave Garner	Attorney General's Office
Jennifer Verleger	Attorney General's Office
Leslie Bakken Oliver	Governor's Legal Counsel
Reice Haase	Governor's Office
Aaron Carranza	Office of the State Engineer
John Paczkowski	State Engineer

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During the executive session, the Board was provided information from its attorney.

The executive session adjourned at 10:58 AM and the Board reconvened in open session.

The Board requested additional information be brought to a subsequent meeting and no formal action was taken.

**A D J O U R N**

There being no further business, the meeting was adjourned at 10:59 AM.

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Doug Burgum, Chairman  
Board of University and School Lands

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Jodi Smith, Secretary  
Board of University and School Lands