

BOARD OF UNIVERSITY AND SCHOOL LANDS

**Peace Garden Room
Ground Floor, State Capitol
September 24, 2020 at 9:00 AM**

AGENDA

➤ = Board Action Requested

1. **Approval of Meeting Minutes – Jodi Smith**
Consideration of Approval of Land Board Meeting Minutes by voice vote.
 - A. August 27, 2020 – pg. 2
 - B. September 9, 2020 – pg. 22
 - C. June 25, 2020 – pg. 29

2. **Reports – Jodi Smith**
 - A. August Report of Encumbrances – pg. 46
 - B. August Unclaimed Property Report – pg. 49
 - C. Quarterly Energy Infrastructure and Impact Office Report – pg. 50
 - D. Investments Update – pg. 51
 - E. Royalty Repayment Report – pg. 52
 - F. IT Update – pg. 53
 - G. Deferred Production Analysis – pg. 54
 - H. 2020 Land Board Meeting Schedule – pg. 79
 - I. Approval of Additional FTE – pg. 80

3. **Operations – Jodi Smith**
 - A. Surface Land Management and Minerals Management Administrative Rules – pg. 81

4. **Energy Infrastructure and Impact Office - Jodi Smith**
 - A. Retirement of Grant – Pherrin Township – pg. 167

5. **Investments – Michael Shackelford**
 - A. JP Morgan Infrastructure Investments – pg. 168
 - B. Investment Fees & Expenses Report – pg. 192

6. **Litigation – Jodi Smith**
 - A. Paul Sorum et al. Civ. No. 09-2018-CV-00089 – pg. 199

7. **Surface – Mike Humann**
 - A. Fall Surface Lease Auction – pg. 202

Next Meeting Date – October 29, 2020

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

The August 27, 2020 meeting of the Board of University and School Lands was called to order at 8:00 AM in the Pioneer Meeting Room of the State Capitol by Chairman Doug Burgum.

Members Present:

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

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Kristie McCusker	Paralegal
Catelin Newell	Administrative Staff Officer
Kate Schirado	Administrative Assistant
Adam Otteson	Revenue Compliance Division Director
Mike Shackelford	Investment Division Director
Dennis Chua	Investment Analyst – via Microsoft Teams
Susan Dollinger	Unclaimed Property Administrator – via Microsoft Teams
David Shipman	Minerals Division Director – via Microsoft Teams

Guests in Attendance:

Dave Garner	Office of the Attorney General
Charles Carvell	Office of the Attorney General
Jennifer Stevens	Historian, Stevens Historical Research Associates
Leslie Bakken Oliver	Governor's Legal Counsel
Reice Haase	Governor's Policy Advisor
Brady Pelton	ND Petroleum Council (Guest)
Jacob Notermann	Guest via Microsoft Teams
Will Miller	Guest via Microsoft Teams
Akila Grewal	Guest via Microsoft Teams
Janet Quarberg	Guest via Microsoft Teams
Amy Hsiang	Guest via Microsoft Teams
Justin	Guest via Microsoft Teams
Azhar Mahmood	Guest via Microsoft Teams
John Zito	Guest via Microsoft Teams
Josh Kevan	Guest via Microsoft Teams
Andrea H. Pfennig	Guest via Microsoft Teams
Josh J Demorrett	Guest via Microsoft Teams
Kari Gibson	Guest via Microsoft Teams
Karleen Fine	Guest via Microsoft Teams

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APPROVAL OF MINUTES

A motion to approve the minutes of the July 29, 2020 regular meeting and August 5th, 2020 special meeting was made by Secretary Alvin Jaeger and seconded by Attorney General Wayne Stenehjem and the motion carried unanimously on a voice vote.

REPORTS

July Shut-In Report

Granted to: **Burlington Resources Oil & Gas Company LP**
 For the Purpose of: COVID-19
 Date Issued: 7/30/2020
 Trust: G – Common Schools
 Lease: OG-04-00196, OG-04-00197, OG-04-00198, OG-04-00199

Granted to: **Bruin E&P Operating**
 For the Purpose of: COVID-19
 Date Issued: 7/14/2020
 Trust: L– Bank of North Dakota
 Lease: OG-11-01098; OG-11-01099; OG-11-01100; OG-11-01101

Granted to: **Resource Energy**
 For the Purpose of: COVID-19
 Date Issued: 7/14/2020
 Trust: E – Ellendale
 Lease: OG-04-01879

Granted to: **NP Resources, LLC**
 For the Purpose of: COVID-19
 Date Issued: 7/10/2020
 Trust: A – Common Schools
 Lease: OG-07-00006; OG-07-00007; OG-07-00008

Granted to: **NP Resouces, LLC**
 For the Purpose of: COVID-19
 Date Issued: 7/10/2020
 Trust: A- Common Schools
 Lease: OG-09-01083; OG-09-01084

Granted to: **Vitesse Energy**
 For the Purpose of: COVID-19
 Date Issued: 7/21/2020
 Trust: U- University of ND
 Lease: OG-10-03223; OG-10-03224

Granted to: **Vitesse Energy**
 For the Purpose of: COVID-19
 Date Issued: 7/14/2020
 Trust: E- Ellendale
 Lease: OG-11-00542
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Granted to: Bruin E & P Operating, LLC
For the Purpose of: COVID-19
Date Issued: 7/24/2020
Trust: L – Bank of North Dakota
Lease: OG-06-02862

Granted to: Crescent Point Energy U.S. Corp.
For the Purpose of: COVID-19
Date Issued: 7/24/2020
Trust: A- Common Schools
Lease: OG-06-02805, OG-06-02806, OG-06-02807, & OG-06-02808

Granted to: Crescent Point Energy U.S. Corp.
For the Purpose of: COVID-19
Date Issued: 7/27/2020
Trust: L – Bank of North Dakota
Lease: OG-06-02859

Granted to: Crescent Point Energy U.S. Corp.
For the Purpose of: COVID-19
Date Issued: 7/27/2020
Trust: L – Bank of North Dakota
Lease: OG-06-02846; OG-06-02847

Granted to: Ritter, Laber and Associates, Inc.
For the Purpose of: COVID-19
Date Issued: 7/21/2020
Trust: L– Bank of North Dakota
Lease: OG-80-00016

Granted to: Crescent Point Energy U.S. Corp.
For the Purpose of: COVID-19
Date Issued: 7/27/2020
Trust: L– Bank of North Dakota
Lease: OG-06-02860

Granted to: Crescent Point Energy U.S. Corp.
For the Purpose of: COVID-19
Date Issued: 7/28/2020
Trust: A– Common Schools
Lease: OG-10-02620, OG-10-02621, OG-10-02622, & OG-10-02623

Granted to: Crescent Point Energy U.S. Corp.
For the Purpose of: COVID-19
Date Issued: 7/28/2020
Trust: L– Bank of North Dakota
Lease: OG-10-02569; OG-09-01783

Granted to: Crescent Point Energy U.S. Corp.
For the Purpose of: COVID-19
Date Issued: 7/28/2020
Trust: A – Common Schools
Lease: OG-09-01784; OG-09-01785; OG-09-01786; OG-09-01787
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<p>Granted to: For the Purpose of: Date Issued: Trust: Lease:</p>	<p>Crescent Point Energy U.S. Corp. COVID-19 7/28/2020 A – Common Schools OG-12-005791</p>
<p>Granted to: For the Purpose of: Date Issued: Trust: Lease:</p>	<p>Crescent Point Energy U.S. Corp. COVID-19 7/28/2020 A – Common Schools OG-09-01784; OG-09-01785; OG-09-01786; OG-09-01787</p>
<p>Granted to: For the Purpose of: Date Issued: Trust: Lease:</p>	<p>Crescent Point Energy U.S. Corp. COVID-19 7/28/2020 A – Common Schools OG-15-00543; OG-15-00544; OG-15-00545; OG-15-00546</p>
<p>Granted to: For the Purpose of: Date Issued: Trust: Lease:</p>	<p>Crescent Point Energy U.S. Corp. COVID-19 7/28/2020 L – Bank of North Dakota OG-09-01782;</p>
<p>Granted to: For the Purpose of: Date Issued: Trust: Lease:</p>	<p>Crescent Point Energy U.S. Corp. COVID-19 7/28/2020 L – Bank of North Dakota OG-09-01772;</p>
<p>Granted to: For the Purpose of: Date Issued: Trust: Lease:</p>	<p>Crescent Point Energy U.S. Corp. COVID-19 7/28/2020 A – Common Schools OG-05-00980; OG-05-00981; OG-05-00982; OG-05-00983</p>
<p>Granted to: For the Purpose of: Date Issued: Trust: Lease:</p>	<p>Cornerstone Natural Resources, LLC COVID-19 7/28/2020 L – Bank of North Dakota OG-05-00191</p>
<p>Granted to: For the Purpose of: Date Issued: Trust: Lease:</p>	<p>Crescent Point Energy U.S. Corp. COVID-19 7/28/2020 A – Common Schools OG-10-02620; OG-10-02621; OG-10-02622; OG-10-02623</p>
<p>Granted to: For the Purpose of: Date Issued: Trust: Lease: (08/27/2020)</p>	<p>Cornerstone Natural Resources, LLC COVID-19 7/28/2020 A – Common Schools OG-05-00980; OG-05-00981; OG-05-00982; OG-05-00983</p>

Granted to: Crescent Point Energy U.S. Corp.
 For the Purpose of: COVID-19
 Date Issued: 7/27/2020
 Trust: A – Common Schools
 Lease: OG-05-01340; OG-05-01341;

Granted to: NP Resources, LLC
 For the Purpose of: COVID-19
 Date Issued: 7/10/2020
 Trust: A – Common Schools
 Lease: OG-12-00072; OG-12-00074; OG-12-00075

Summary of Oil and Gas Lease Auction

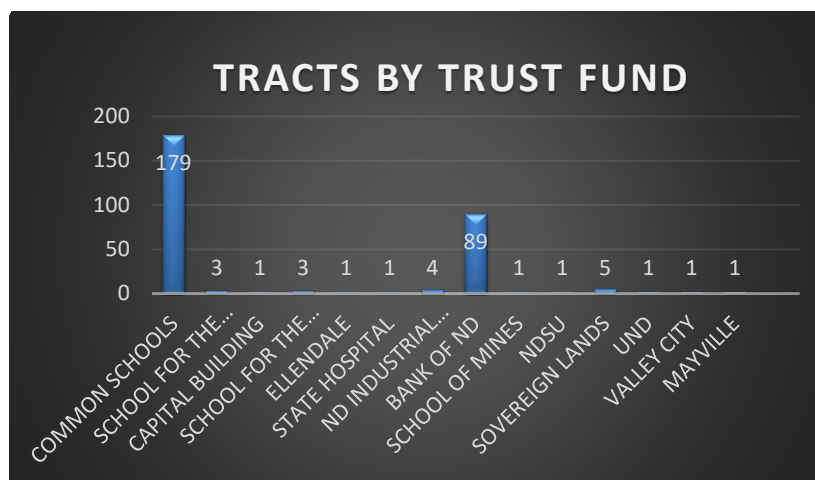
On behalf of the Board, the Department conducted an oil and gas mineral lease auction on www.energynet.com which concluded on August 4, 2020.

There were 288 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 \$334.00 for 40 acres in Mountrail County.

County	Tracts/County	Mineral Acres	Total Bonus	Average Bonus/Acres
Billings	29	3,572.43	\$45,159.94	\$12.64
Burke	56	4,485.45	\$65,661.38	\$14.64
Divide	85	6,837.72	\$191,127.84	\$27.95
Dunn	28	2,147.67	\$56,140.38	\$26.14
McKenzie	51	6,952.02	\$409,571.80	\$58.91
Mountrail	33	2,776.86	\$364,868.56	\$131.40
Williams	6	800	\$98,240.00	\$122.80
GRAND TOTAL	288	27,572.15	\$1,230,769.90	\$44.64

There were 50 registered bidders, 31 of which placed a bid in the 8-day auction. There were bidders from 10 states (CA, CO, MN, MT, NC, ND, TX, UT, VA, and WY).

A total of \$1,230,769.90 of bonus was collected from the auction.



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July Report of Encumbrances

Granted to:	NORTHERN DIVIDE WIND LLC, JUNO BEACH-FL
For the Purpose of:	Easement: Electric-Wind Transmission line
Right-of-Way Number:	RW0008132
Trust:	A – Common Schools
Legal Description:	BRK-161-93-16-SW4
Granted to:	HESS NORTH DAKOTA PIPELINES, LLC, HOUSTON-TX
For the Purpose of:	Permit: Road-Access Road
Right-of-Way Number:	RW0008615
Trust:	A – Common Schools
Legal Description:	WIL-155-96-36-NE4
Granted to:	XTO HOLDINGS, LLC, SPRING-TX
For the Purpose of:	Permit: Road-Access Road
Right-of-Way Number:	RW0008627
Trust:	A – Common Schools
Legal Description:	MCK-150-98-36-SW4
Granted to:	XTO HOLDINGS, LLC, SPRING-TX
For the Purpose of:	Permit: Road-Access Road
Right-of-Way Number:	RW0008632
Trust:	A – Common Schools
Legal Description:	BIL-142-102-16-NE4, NW4
Granted to:	XTO HOLDINGS, LLC, SPRING-TX
For the Purpose of:	Permit: Road-Access Road
Right-of-Way Number:	RW0008639
Trust:	A – Common Schools
Legal Description:	WIL-154-95-16-NE4
Granted to:	DIVIDE COUNTY HWY DEPT, CROSBY-ND
For the Purpose of:	Permit: Temporary Construction
Right-of-Way Number:	RW0008673
Trust:	A – Common Schools
Legal Description:	DIV-161-97-36-NE4, SE4
Granted to:	WHITING OIL & GAS CORPORATION, DENVER-CO
For the Purpose of:	Easement: Site-Tower Site
Right-of-Way Number:	RW0008676
Trust:	A – Common Schools
Legal Description:	MOU-153-91-18-SW4
Granted to:	ND GAME & FISH DEPT, BISMARCK-ND
For the Purpose of:	Permit: Access to School Land
Right-of-Way Number:	RW0008735
Trust:	A – Common Schools
Legal Description:	MOR-135-83-36-NE4, SE4, SW4

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Granted to: **QEP ENERGY COMPANY, DENVER-CO**
 For the Purpose of: Permit: Temporary Water Layflat Line
 Right-of-Way Number: RW0008739
 Trust: A – Common Schools
 Legal Description: MOU-150-92-15-W2SW4

Granted to: **WESTERN ECOSYSTEMS TECHNOLOGY INC BISMARCK-ND**
 For the Purpose of: Permit: Planning & Preconstruction Survey
 Right-of-Way Number: RW0008751
 Trust: A – Common Schools
 Legal Description: N/A

Granted to: **EARTHWORM EXCAVATING, TOLNA-ND**
 For the Purpose of: Permit: Access to School Land
 Right-of-Way Number: RW0008752
 Trust: A – Common Schools
 Legal Description: ADA-129-94-16-NE4

July 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 July 2020, the Division received 123 holder reports with a property value of \$210,494 and paid 228 claims with a total value of \$456,445.

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

Investment Updates

Portfolio Rebalancing Updates

On May 8, 2020 the Treasury Inflation Protected Securities Fund was fully liquidated and the proceeds were transferred to an actively managed "Transition Account". This new account is similar to the Strategic Investment and Improvement Fund Ultra-Short Bonds account and is designed to

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hold all cash proceeds as we continue to do a disciplined liquidation of all the Diversified Inflation Strategy investments.

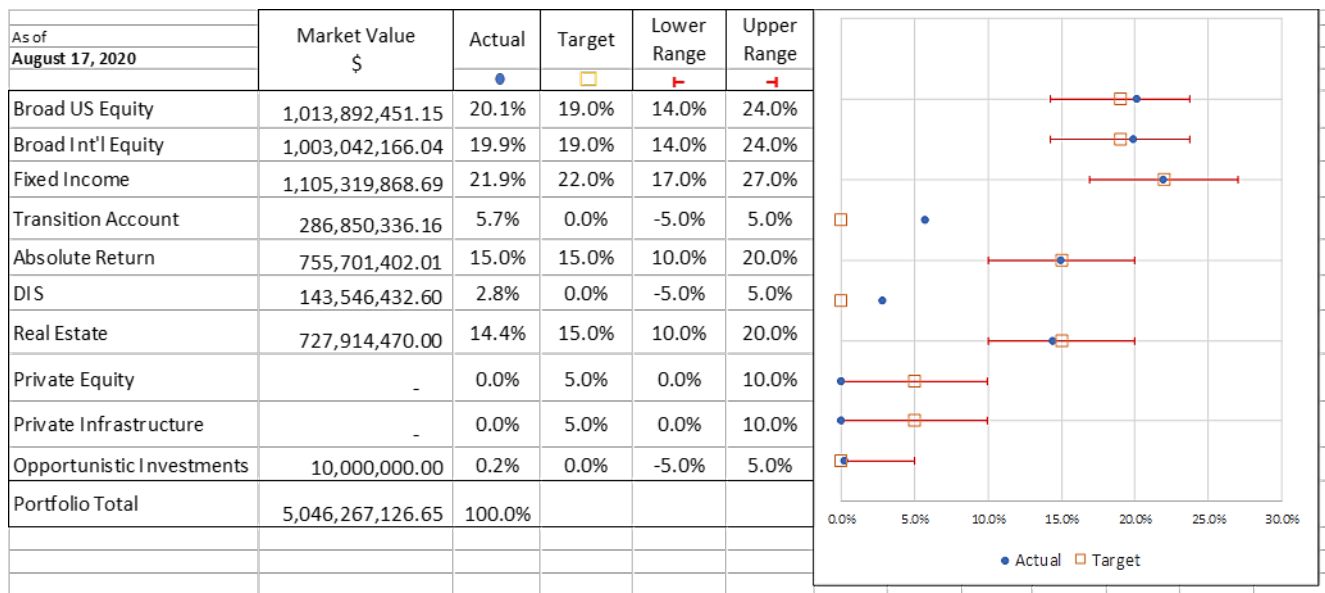
As of August 17, 2020 Gresham, has approximately \$251,000 waiting to be settled in September which will result in the closing of their account. In addition, Van Eck has approximately \$38M remaining while Harvest has approximately \$105M. The Department of Trust Lands (Department) is closely monitoring the trigger points that have been set to complete the redemption of both investments.

On July 1, 2020 the Varde Dislocation Fund LP (Varde) completed a capital call of \$10M leaving \$90M left to fully commit to the Fund.

On July 21, 2020 Angelo Gordon made a capital distribution of \$12M. This brings the capital commitment back down to 92% or \$142M.

Asset Allocation

The table below shows the status of the permanent trusts' asset allocation as of Aug. 17, 2020. The figures provided are unaudited.



Upcoming Investment Manager Meetings

There is no upcoming meeting scheduled.

OPERATIONS

Repeal of Board Payment Schedule – Surface Management Division – Second Reading

Over the course of the last two years, many Board policies were revised and included in Administrative Rules. Other policies were reviewed, and it was determined were better suited to become Department of Trust Lands (Department) policies. Upon further review, it was determined that as the Surface Management Division’s Payment Schedule Board Policy addresses negotiation (08/27/2020)

of compensation for surface management issues, it would be better tailored to be a Department policy rather than a Board policy.

The first reading of the policy was held at the July 30, 2020 meeting. The Commissioner requested the Board provide input on the proposed policy. Additionally, an open comment period was held and no comments were received.

Motion: The Board repeal the North Dakota Board of University and School Lands Payment Schedule Policy – Chapter 3, Surface.

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

Board of University and School Lands Surface Management Payment Schedule Policy was presented to the Board and is available at the Department upon request.

Support for Additional FTE

The Department of Trust Lands (Department) is responsible for managing 706,000 surface and 2.6 million mineral acres for the benefit of North Dakota schools and educational and other public institution trusts. The revenues generated by these assets are invested by the Department, and distributions are made to trust beneficiaries in accordance with Article IX of North Dakota's Constitution.

The Division is responsible for leasing and managing 2.6 million mineral acres including oil, gas, coal, and other subsurface minerals. The Division is responsible for all aspects of leasing of mineral acres, including maintenance of all records and responding to requests pertaining to mineral ownership and leasing activity. The Division tracks and interprets: business transactions by lessees; assignments by depth, formation, wellbore or value; requests for pooling agreements; lease and title disputes interpretation; royalty issues; authorizations for participation in production; overrides; and the analysis of drilling and production data necessary to hold a producing lease. This Division currently employs two FTEs which include the Division Director and one staff member who reviews historical records as well as assesses the unique leasing arrangements requested by lessees, and processes leases, division orders, and assignments.

As of July 30, 2020, the Department managed an interest in over 65 percent of the 17,339 producing wells in North Dakota. Production from 8,110 producing properties, including both unitized fields and wells, was up from 6,342 producing properties in FY 2018.

During the 2017-2019 biennium, the Division offered 764 leases, generating \$6.3 million in bonuses. As of the end of the biennium, 718,991 acres are under 8,713 leases.

The Board also manages state-owned minerals and the oil, gas, and related hydrocarbons within the beds of the State's navigable waters (sovereign minerals). On behalf of the State, the Board oversees the Strategic Investment and Improvements Fund (SIIF) which receives the revenues from sovereign minerals. During the 65th Legislative Assembly, SB 2134 was passed directing the (08/27/2020)

Department of Mineral Resources to conduct a study which would determine the Ordinary High-Water Mark along the Missouri River, for approximately 83 river miles, from New Town to several miles upstream of Williston.

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 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.” The contract’s scope of work concluded twelve months from the date of execution, May 30, 2019, at a total cost of \$1,088,635. Upon the Board’s adoption of the Acreage Adjustment Survey as prepared by KLJ, the Department promptly began updating records to satisfy the Board’s duty under N.D.C.C. § 61-33.1-04(2)(a).

Working with operators and lessees to complete the acreage adjustments will require a significant amount of resources from the Division which compounds the strain on current resources. As fiduciary trust managers, it is imperative the Department has the resources in place to effectively and efficiently manage those assets.

In addition to the day-to-day responsibilities, the Division will begin working with a Land Management Information Technology vendor to implement a new software system. While these systems will create significant efficiencies for the office, the data conversion, training, and implementation of new software will require substantial resources.

The Division has been trying to “keep up,” with the assistance of other Divisions within the Department lending their help. The Surface Land Management and Revenue Compliance Divisions, and all of the administrative support staff, have worked to assist the Division with the increased workload.

The Department currently has available funding in the salary and wages line item to support the addition of a Mineral Title Specialist FTE.

Motion: The Board support the Commissioner in requesting an additional FTE from the Emergency Commission and the Budget Section.

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

Repayment of Unpaid Gas Royalties Update

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

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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 Gas Deduction Compliance Notification 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.

Over the course of the past several months, 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. Nineteen payors have requested royalty data to assist in repayment calculations. Eight gas payors have successfully repaid the Department. One payor repaid deductions going back to October 2013 and requested an extension to November 30, 2020 to repay royalties pre-dating October 2013. As this payor has been working with the Department, the extension request was approved pursuant to the guidance the Board provided the Department on April 8th. Additionally, seven payors have indicated they are working towards coming into compliance by September 30, 2020.

The repayment schedule provided to payors with the April 16, 2020 letter was presented to the Board and is available at the Department upon request.

M I N E R A L S

Mineral Valuation

Senate Bill 1013 of the Sixty-Sixth Legislative Assembly approved one-time funding for a mineral valuation study.

The Department of Trust Lands (Department) has been tasked with conducting a study to determine the estimated value of the mineral assets, 2.6 million acres, held in trust by the Board of University and School Lands (Board).

The Request for Proposal for the Assessment was released September 20, 2019. A Notice of Intent to Award was issued to MineralTracker on January 2, 2020. MineralTracker is based in Watford City, North Dakota, and was founded by petroleum engineers with extensive experience in the valuation of non-operated oil and gas properties, including mineral and royalty interests, in the Williston Basin of North Dakota. On June 30, 2020, MineralTracker was acquired by First International Bank & Trust and continues to provide mineral valuations and mineral management software subscriptions as part of First International's Mineral and Land Services Department.

Joel Brown, a petroleum engineer and appraiser for MineralTracker, will present the opinion of the value using fair market determination in conjunction with directives provided by the Board of University and School Lands Mineral Valuation Policy that was adopted on June 25, 2020.
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The analysis employed to form the opinion of value was conducted in compliance with the Society for Mining, Metallurgy, and Exploration (SME) Standards and Guidelines for the Valuation of Mineral Properties and the Society of Petroleum Engineers (SPE) Petroleum Resource Management System. The valuation techniques that were performed utilized both an Income Approach and a Market Approach to provide a deterministic value of all Subject Minerals, which have been more fully described herein. The data—such as oil and gas production, well information, mapping information, etc.—that was assembled for the purposes of the Mineral Estate Valuation, was obtained from reputable public sources, including the North Dakota Department of Mineral Resources. Additional information related to the ownership of the Subject Minerals was provided by the State.

In consideration of all relevant information, and the interpretation thereof, as thoroughly described in this report, it is the opinion of this qualified appraiser that the value of all Subject Minerals as of December 31, 2019 is \$1,449,002,408.00.

Mineral Estate Valuation document as of December 31, 2019 was provided to the Board and is available at the Department upon request.

I N V E S T M E N T S

Private Equity Investments

On April 8, 2020 the Board of University and School Lands' approved an asset allocation to Private Equity within the broader Strategic Asset Allocation for the Permanent Trust Funds (PTFs).

Fund-of-One Structure: Department staff and RVK agreed upon a customized fund-of-one structure for the initial private equity mandate. In this structure the manager selects private equity funds for a single investor client. The advantages of this structure are: 1. The investor is not subject to the manager's pacing schedule; 2. It still allows for diversification; and 3. The investor can participate in the investment process.

Department staff and RVK began the manager search by requesting RVK compile a list of the highest rated managers on their private equity research list. The top 8 managers on the list were sent a request for proposal (RFP). Seven of the eight managers responded to the RFP (the eighth manager declined to offer a fund-of-one option). After reviewing the RFP responses and holding discussions with RVK, the list of managers was reduced down to four based upon their experience through multiple cycles, performance track record, investment process, experience with fund-of-one structures, willingness to work closely with department staff, etc. Department staff and RVK conducted initial interviews of the four managers. After additional discussions department staff and RVK subsequently re-interviewed its top 2 managers. This due diligence process has resulted in the team recommending GCM Grosvenor to the Board.

GCM Grosvenor is an investment manager founded in 1971 and headquartered in Chicago, with offices throughout the U.S., Europe and Asia. They have over \$56 billion in assets under management and over \$20 Billion in private equity funds, including \$18 billion in customized portfolios. GCM Grosvenor has 162 investment professionals worldwide.

A key component of GCM Grosvenor's business is building customized portfolios for clients, including fund-of-one structures as discussed above. They have extensive experience working with

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first time mandates. They are committed to working closely with department staff and RVK to carefully select underlying managers and assets that fit the risk profile of the PTFs.

Motion: The Board approve up to a \$130 Million investment with GCM Grosvenor in a “fund-of-one” limited partnership as part of the PTF’s Private Equity allocation, 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		

Supporting documents were provided to the Board and are available at the Department upon request.

RVK Investment Performance Report – 2nd Quarter 2020

Josh Kevan from RVK will review the performance of the Board of University and School Land’s (Board) investment program for the period ending June 30, 2020 and discuss current market conditions.

The first report to be reviewed is prepared by RVK to enable the Board to monitor and evaluate the collective performance of the Permanent Trust Funds’ (PTFs) 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.

Supporting documents were provided to the Board and are available at the Department upon request.

Revised Benchmark

On April 8, 2020 the Board of University and School Lands (Board) approved a new Strategic Asset Allocation (SAA) for the Permanent Trust Funds (PTFs). With the new SAA the Board also approved new benchmarks for each new asset class and a new Total Fund Benchmark. The new Total Fund Benchmark is set in the revised Investment Policy Statement (IPS) as follows:

Asset Class	Policy Index	Strategic Asset Allocation Target
Broad US Equity	Russell 3000 Index	19%
Broad International Equity	MSCI ACWI Ex USA IMI	19%
Fixed Income	Barclays US Universal Index	22%

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Absolute Return	Absolute Return Custom Index ¹	15%
Real Estate	NCREIF ODCE Index	15%
Private Equity	Cambridge US Private Equity Index	5%
Private Infrastructure	MSCI World Infrastructure Index	5%

The newly added asset classes (Private Equity and Private Infrastructure) require time to become fully invested. The revised IPS anticipates a timing issue and allows for the Board to approve an Interim Policy benchmark:

“Recognizing that a long-term target allocation to alternative asset classes can often take a matter of years to implement prudently, the Board will also review an Interim Policy benchmark which will be adjusted as the Commissioner makes progress towards its long-term strategic asset allocation target.” (revised IPS)

Instead of setting a single interim benchmark, Department staff and RVK believe the benchmark should adjust each period based on the percentage of assets in each asset class for Private Equity, Private Infrastructure, Diversified Inflation Strategies (DIS) and the transition account. Similarly, DIS should have its benchmark adjusted to reflect its per period holdings (i.e., adjusting and removing Treasury Inflation-Protected Securities, IPS, Commodities, Natural Resource Equities and Master Limited Partnerships as needed). In addition, since the transition account is invested in an ultra-short bond fund, similar to the Strategic Investment and Improvement Fund, it should be benchmarked to cash.

Recommendation: The Board approve modifying the Total Fund benchmark during the transition period by adjusting the percentage of each benchmark related to private equities, private infrastructure, the transition account and diversified inflation strategies (DIS) to coincide with their changing percentage in the fund. The transition account be benchmarked to cash and the DIS benchmark be adjusted to reflect its per period holdings.

No formal action was taken.

LITIGATION

EXECUTIVE SESSION

Under the authority of North Dakota Century Code Sections 44-04-19.1 and 44-04-19.2, the Board close the meeting to the public and go into executive session for purposes of attorney consultation relating to:

- Paul Sorum, et. al. v. State of North Dakota, et. al. – Civ. No. 09-2018-CV-00089
- Newfield Exploration Company, Newfield Production Company, and Newfield RMI LLC, LLC v. North Dakota Department of Trust Lands, Civ. No. 27-2018-CV-00143
- Mandan, Hidatsa, and Arikara Nation vs. United States of America, 1:20-cv-00859-MCW
- Mandan, Hidatsa, and Arikara Nation vs. United States Department of Interior, et al., 1:20-cv-01918

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger		X	X		

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Superintendent Baesler			X		
Treasurer Schmidt			X		
Attorney General Stenehjem	X		X		
Governor Burgum			X		

At 10:16 AM the Board entered executive session 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 via Microsoft Teams
Kirsten Baesler	Superintendent of Public Instruction via Microsoft Teams

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Kristie McCusker	Paralegal
Catelin Newell	Administrative Staff Officer

Guests in Attendance:

Mark Hanson	Nilles Law Firm via Microsoft Teams
Charles Carvell	Attorney General's Office
Dave Garner	Attorney General's Office
Leslie Bakken Oliver	Governor's Legal Counsel
Reice Haase	Governor's Office

Sorum Litigation

Case: Paul Sorum, et. al. v. State of North Dakota, et. al. – Civ. No. 09-2018-CV-00089
Tribunal: Cass County District Court
Judge: John C. Irby
Attorney: Mark Hanson, Nilles Law Firm
Opposing Counsel: Terrance W. Moore, Fintan L. Dooley

Issues: The Board was named as a defendant in the above reference case which was served on January 10, 2018. Plaintiffs have filed this action to challenge the Constitutionality of S.B. 2134 passed during the last legislative session and codified as N.D.C.C. ch. 61-33.1. Under the new legislation, “[t]he state sovereign land mineral ownership of the riverbed segments inundated by Pick-Sloan Missouri basin project dams extends only to the historical Missouri riverbed channel up to the ordinary high water mark.” N.D.C.C. § 61-33.1-02. S.B. 2134 established a process by which the Department of Mineral Resources is directed to procure a “qualified engineering and surveying firm” to “review the delineation of the ordinary high water mark of the corps survey segments” for the portion of the Missouri River designated as the “historical Missouri riverbed channel.” N.D.C.C. § 61-33.1-03(2), (3). Following a review process, which includes a public hearing and public comments, the North Dakota Industrial Commission must adopt final review findings which “will determine the delineation of the ordinary high water mark for the segment of the river addressed by the findings.”

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N.D.C.C. § 61-33.1-03(7). Plaintiffs' complaint requests from the court a declaratory judgment finding that N.D.C.C. ch. 61-33.1 violates the Public Trust Doctrine and the Anti-Gift, Privileges and Immunities, and Local and Special Law Clauses of the North Dakota Constitution. Plaintiffs are also requesting the Court issue an injunction to prevent all state officials from further implementing and enforcing N.D.C.C. ch. 61-33.1.

History:

An Answer was filed. Defendants filed a Motion to Dismiss, which was denied in April 2018. Petition for Supervisory Writ and Exercise of Original Jurisdiction was filed by Defendants and denied in May 2018. A Motion for Preliminary Injunction was brought by Plaintiffs and a hearing was held on May 21, 2018. An Order for Preliminary Injunction was filed June 26, 2018. A Scheduling Conference was held on September 6, 2018 and the following briefing deadlines were set: Summary Judgment Motions were filed October 22, 2018. Response Briefs were filed December 10, 2018. Reply Briefs were due December 21, 2018. A hearing on the Motions for Summary Judgment was held on January 4, 2019. The Order on Cross-Motions for Summary Judgment was issued on February 27, 2019, and Defendants were directed to prepare the proposed Judgment. On March 6, 2019, Defendants filed their proposed Judgment. Plaintiff's filed a letter on March 7, 2019, advising the Court that they felt Defendants' proposed Judgment was deficient and that they would also be submitting a proposed Judgment. Plaintiff's proposed Judgment was filed March 8, 2019. Defendants filed a letter on March 8, 2019 advising the Court that they intended to submit a response to Plaintiffs' proposed Judgment within 14 days. On March 19, 2019, Defendants filed an Objection to Plaintiffs' Proposed Judgment. Thereafter, Plaintiffs filed a letter asking the Court not to rule on Defendants' Objection until Plaintiffs have had the opportunity to be heard and further, that Plaintiffs' intend to bring a Motion for Clarification concerning retroactive royalty refunds within 14 days. Plaintiffs filed their Response to Defendants' Objection to Proposed Judgment and Request for Clarification and their Amended Proposed Order and Judgment on March 29, 2019. Defendants filed their Objection to Plaintiffs' Proposed Order and Judgment (Plaintiffs' Amended Proposed) and Reply to Plaintiffs' Response to Defendants' Objection to Proposed Judgment and Request for Clarification on April 8, 2019. On April 25, 2019, Judge Irby entered an Order for Entry of Judgment ordering the Clerk to enter Defendants' Proposed Order as the Judgment of the Court. Judgment was entered on April 26, 2019. Plaintiffs' filed a Notice of Motion for Attorney Fees, Costs, and Service Award to Plaintiffs scheduling a hearing for 1:30 p.m. June 10, 2019 in Fargo. The Notice of Entry of Order on Cross-Motions for Summary Judgment, Order for Entry of Judgment, and Judgment was filed by Defendants on May 3, 2019. On May 15, 2019, Plaintiffs filed their Motion for Attorney Fees, Costs and Service Award to Plaintiffs and the Memorandum in Support of Motion, together with supporting documents. On May 20, 2019, Plaintiffs filed their Amended Motion for Attorneys Fees, Costs and Service Award to Plaintiffs. Defendants filed an Expedited Motion for Extension of Time to Respond to Plaintiffs' Memorandum in Support of Motion for Attorney Fees, Costs and Service Award to Plaintiffs and requested the June 10, 2019 hearing be postponed. Defendants filed, with the District Court, its Response to Plaintiffs' Memorandum in Support of Motion for Attorneys Fees, Costs and Service Award to Plaintiffs on June 12, 2019. Plaintiffs' filed their Reply Memorandum in Support of Motion for Attorney Fees, Costs and Service Award to Plaintiffs on June 19, 2019. A hearing on the motion for attorneys fees was held before the District Court on July 18, 2019. The State Defendants/Appellants filed a Notice of Appeal to the North Dakota Supreme Court (Supreme Court) on June 27, 2019. Plaintiff/Appellees/Cross-Appellants filed a Notice of Cross-Appeal dated July 10, 2019. Appellants' Briefs were due to the Supreme Court on August 6, 2019. On July 18, 2019, the parties filed a Stipulation and Joint Motion for

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Appellate Briefing Schedule with the Supreme Court to allow for a decision to be rendered in the District Court on the issue of attorneys fees prior to the briefs being due to the Supreme Court. On July 19, 2019, the Joint Motion for Appellate Briefing Schedule was denied and an Order of Remand was entered by the Supreme Court temporarily remanding the case to the trial court for the limited purpose of consideration and disposition of Plaintiffs' Motion for Attorney Fees, Costs and Service Award to Plaintiffs. The briefing schedule for briefs before the Supreme Court is stayed pending the District Court's disposition of the attorneys fees issue. On July 24, 2019, the District Court issued its Order on Plaintiffs' Motion for Attorney Fees, awarding attorney fees to Plaintiffs' attorneys and service awards to Plaintiffs. An Amended Judgment was entered in the District Court on July 31, 2019. On August 1, 2019, State Defendants filed an Amended Notice of Appeal and the Order and Request for Transcript. Also on August 1, 2019, the Supreme Court provided its Notice of Filing Notice of Appeal. On August 7, 2019, the Amended Notice of Cross-Appeal was filed by Plaintiffs. The transcripts requested by the State Defendants of the January 4, 2019 summary judgment hearing and the July 18, 2019 hearing on attorney fees/costs/service award were filed with the North Dakota Supreme Court on October 4, 2019. In light of the filing of those transcripts, the Supreme Court's clerk has advised that the State Defendants' initial appellant brief is to be filed on November 13, 2019. Brief of Defendants, Appellants and Cross-Appellees the State of North Dakota, the Board of University and School Lands of the State of North Dakota, the North Dakota Industrial Commission, the Hon. Douglas Burgum, in his Official Capacity as Governor of the State of North Dakota, and the Hon. Wayne Stenehjem, in his Official Capacity as Attorney General of North Dakota was filed with the Supreme Court on November 13, 2019. A Motion for Leave to File *Amicus Curiae* Brief by the North Dakota Petroleum Council in Support of the Constitutionality of N.D.C.C. ch. 61-33.1 was filed with the Supreme Court on November 13, 2019. The Supreme Court granted the North Dakota Petroleum Council's Motion for Leave to File *Amicus Curiae* Brief on November 14, 2019. Plaintiffs' brief was due to the Supreme Court on or before December 13, 2019. On December 9, 2019, Plaintiff Paul Sorum made a request to the Supreme Court for an extension to file his brief until January 29, 2020. The Supreme Court granted Plaintiff Paul Sorum's request for an extension, giving him until January 21, 2020 to file his brief. On January 29, 2020, Defendants requested an extension of time to file the reply brief until February 14, 2020, due to the amount of information that was filed in the separate briefs and appendixes. On January 30, 2020, an initial letter was issued in which the Supreme Court granted Defendants' request for an extension to file the Reply Brief until February 24, 2020. Thereafter, the Court issued a corrective letter advising reply briefs are due February 14, 2020. On February 13, 2020, Paul Sorum filed the Reply to Appellant Brief of Defense. Defendants filed the Reply Brief of Defendants, Appellants and Cross-Appellees the State of North Dakota, the Board of University and School Lands of the State of North Dakota, the North Dakota Industrial Commission, the Hon. Douglas Burgum, in his Official Capacity as Governor of the State of North Dakota, and the Hon. Wayne Stenehjem, in his Official Capacity as Attorney General of North Dakota on February 14, 2020. Oral Argument before the Supreme Court is scheduled for 1:30 p.m. on March 4, 2020.

**Current
Status:**

- **Terry Moore filed letter with the District Court on July 28, 2020, concerning issue of injunction and release of funds.**

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- On July 29, 2020, the District Court issued a Notice of Hearing scheduling a hearing on Terry Moore's July 28, 2020 letter for August 17 at 1:30 p.m.
- On July 30, 2020, the North Dakota Supreme Court issued its Opinion.
- On July 31, 2020, Mark Hanson filed a letter with the District Court advising of the issuance of the North Dakota Supreme Court Opinion and requesting cancellation of the August 17 hearing. That hearing was cancelled.
- The Supreme Court's Opinion was amended on August 4, 2020, and on August 18, 2020. Neither amendment was substantive.
- Terrance Moore filed with the Supreme Court the Plaintiffs, Appellees, and Cross-Appellants Marvin Nelson, Michael Coachman, Charles Tuttle and Lisa Omlid's Petition for Rehearing on August 12, 2020.

Newfield Litigation

Case: Newfield Exploration Company, Newfield Production Company, and Newfield RMI LLC v. State of North Dakota, ex rel. the North Dakota Board of University and School Lands and the Office of the Commissioner of University and School Lands, a/k/a the North Dakota Department of Trust Lands, Civ. No. 27-2018-CV-00143

Date Filed: March 7, 2018

Court: District Court/McKenzie County

Attorneys: David Garner

Opposing

Counsel: Lawrence Bender - Fredrikson & Byron, P.A. and Michelle P. Scheffler – Haynes and Boone, LLP

Judge: Robin Schmidt

Issues: Plaintiff is seeking a Declaratory Judgment that it is currently paying gas royalties properly under the Board's lease. Specifically, Plaintiff is asking the Court to order that gas royalty payments made by the Plaintiff be based on the gross amount received by the Plaintiff from an unaffiliated third-party purchaser, not upon the gross amount paid to a third party by a downstream purchaser, and that Plaintiff does not owe the Defendants any additional gas royalty payments based on previous payments.

History: A Complaint and Answer with Counterclaims have been filed. Newfield filed an Answer to Counterclaims. A Scheduling conference was held July 27, 2018. Plaintiffs' filed a Motion for Summary Judgment on August 13, 2018 and Defendants filed a Cross-Motion for Summary Judgment. Plaintiffs' Response was filed October 19, 2018 and Defendants' Reply was filed November 9, 2018. A hearing on the Motions for Summary Judgment was held on January 4, 2019 at 1:30 p.m., McKenzie County. An Order on Cross Motions for Summary Judgment was issued on February 14, 2019, granting Plaintiff's motion for summary judgment and denying Defendants' motion for summary judgment. The Judgment was entered March 1, 2019, and the Notice of Entry of Judgment was filed March 4, 2019. Defendants have filed a Notice of Appeal to the North Dakota Supreme Court (Supreme Court). The trial scheduled in McKenzie County District Court for September 10 and 11, 2019 has been cancelled. Defendants/Appellants' Brief to the Supreme Court was filed April 29, 2019. Plaintiffs/Appellees filed their Brief of Appellees and Appendix of Appellees on

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June 7, 2019. Defendants/Appellants filed a reply brief on June 18, 2019. Oral Argument before the Supreme Court was held on June 20, 2019. On July 11, 2019, the Supreme Court entered its Judgment reversing the Judgment of the McKenzie County District Court. On July 25, 2019 Newfield filed Appellee's Petition for Rehearing. Also on July 25, 2019, a Motion for Leave to File Amicus Curiae Brief by Western Energy Alliance in Support of Newfield was filed with the Supreme Court. On July 26, 2019, a Motion for Leave to File Amicus Curiae Brief by North Dakota Petroleum Council in Support of Newfield was filed with the Supreme Court. On August 20, 2019, the North Dakota Supreme Court requested Defendants file a Response to the Petition for Rehearing and the two Amicus Curiae Briefs no later than September 4, 2019. Defendants/Appellants filed their Response to Petition for Rehearing on September 4, 2019. A Corrected Opinion was filed by the North Dakota Supreme Court on September 9, 2019, changing the page number of a citation. On September 12, 2019, the North Dakota Supreme Court entered an order denying Newfield's Petition for Rehearing. On September 20, 2019, the opinion and mandate of the Supreme Court was filed with McKenzie County District Court. A Telephonic Status Conference was held October 8, 2019. On October 9, 2019, the District Court issued an Order Setting Briefing Schedule which ordered "the parties to file a brief regarding how they suggest the case proceed after the Supreme Court's decision." The parties filed briefs with the District Court on November 6, 2019. Notice of Appearance for Michelle P. Scheffler of Hayes and Boone, LLP on behalf of Plaintiffs was filed November 7, 2019. Telephonic Status Conference scheduled for March 17, 2020 before the District Court.

Current Status:

- **On May 14, 2020, the Court scheduled a five-day Court Trial to start on October 4, 2021, McKenzie County Courthouse.**
- **On July 28, 2020, a Stipulated Scheduling Order was entered, setting dates for various deadlines.**

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

The executive session adjourned at 11:43 AM and the Board reconvened in open session.

No formal action was taken.

O T H E R B U S I N E S S

In Lieu Selection Process

In November 2019, the Board of University and School Lands (Board) approved the Commissioner to identify potential tracts for coal acreage exchange with the Federal Government. The identified tracts are to be brought to the Board for approval prior to submission to the Federal Government.

Since this time, the Department of Trust Lands (Department) has been working to draft a Federal bill that would allow the Board to relinquish lands and minerals and select in lieu thereof equal value Federal lands and minerals within North Dakota.

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This opportunity would provide mutual economic benefits for both the Federal Government and the Board by allowing both to control larger contiguous tracts and by potentially protecting more sensitive areas or points of historic significance. It would also allow for more efficient energy development.

The proposed letter of support by the Board will be provided to Senator Hoeven, Senator Cramer and Representative Armstrong.

Motion: The Board sign the letter of support for a Federal bill to allow the Board to relinquish lands and minerals and select in lieu thereof equal value federal lands and minerals within North Dakota.

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

A D J O U R N

There being no further business, the meeting was adjourned at 11:51 AM.

Doug Burgum, Chairman
Board of University and School Lands

Jodi Smith, Secretary
Board of University and School Lands

**Minutes of the Meeting of the
Board of University and School Lands
September 9, 2020**

The September 9, 2020 special meeting of the Board of University and School Lands was called to order at 10:00 AM in the Peace Garden Meeting Room of the State Capitol by Chairman Doug Burgum.

Members Present:

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

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Kristie McCusker	Paralegal
Catelin Newell	Administrative Staff Officer
Kate Schirado	Administrative Assistant
Adam Otteson	Revenue Compliance Division Director
David Shipman	Minerals Division Director – via Microsoft Teams

Guests in Attendance:

Dave Garner	Office of the Attorney General
Leslie Bakken Oliver	Governor's Legal Counsel
Reice Haase	Governor's Policy Advisor
Brady Pelton	ND Petroleum Council
Jeff Herman	Guest via Microsoft Teams
Craig C. Smith	Guest via Microsoft Teams
Eric Sundberg	Guest via Microsoft Teams
Kristen Lingley	Guest via Microsoft Teams
Brent Lohnes	Guest via Microsoft Teams
Amy Hsiang	Guest via Microsoft Teams
Michael Kukuk	Guest via Microsoft Teams
Joel Noyes	Guest via Microsoft Teams
Zachary Weis	Guest via Microsoft Teams
Will Miller	Guest via Microsoft Teams

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, Lyle Kirmis

(09/09/2020)

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

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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.

Current

Status: The North Dakota Supreme Court issued its Opinion of the Court on August 27, 2020.

OTHER BUSINESS

The Commissioner Annual Review process update was discussed; no formal action was taken and no materials were provided.

LITIGATION**Newfield Litigation**

Case: Newfield Exploration Company, Newfield Production Company, and Newfield RMI LLC v. State of North Dakota, ex rel. the North Dakota Board of University and School Lands and the Office of the Commissioner of University and School Lands, a/k/a the North Dakota Department of Trust Lands, Civ. No. 27-2018-CV-00143

Date Filed: March 7, 2018

Court: District Court/McKenzie County

Attorneys: David Garner

Opposing

Counsel: Lawrence Bender - Fredrikson & Byron, P.A. and Michelle P. Scheffler – Haynes and Boone, LLP

Judge: Robin Schmidt

Issues: Plaintiff is seeking a Declaratory Judgment that it is currently paying gas royalties properly under the Board's lease. Specifically, Plaintiff is asking the Court to order that gas royalty payments made by the Plaintiff be based on the gross amount received by the Plaintiff from an unaffiliated third-party purchaser, not upon the gross amount paid to a third party by a downstream purchaser, and that Plaintiff does not owe the Defendants any additional gas royalty payments based on previous payments.

History: A Complaint and Answer with Counterclaims have been filed. Newfield filed an Answer to Counterclaims. A Scheduling conference was held July 27, 2018. Plaintiffs' filed a Motion for Summary Judgment on August 13, 2018 and Defendants filed a Cross-Motion for Summary Judgment. Plaintiffs' Response was filed October 19, 2018 and Defendants' Reply was filed November 9, 2018. A hearing on the Motions for Summary Judgment was held on January 4, 2019 at 1:30 p.m., McKenzie County. An Order on Cross Motions for Summary Judgment was issued on February 14, 2019, granting Plaintiff's motion for summary judgment and denying Defendants' motion for summary judgment. The Judgment was entered March 1, 2019, and the Notice of Entry of Judgment was filed March 4, 2019. Defendants have filed a Notice of Appeal to the North Dakota Supreme Court (Supreme Court). The trial scheduled in McKenzie County District Court for September 10 and 11, 2019 has been cancelled. Defendants/Appellants' Brief to the Supreme Court was filed April 29, 2019.

(09/09/2020)

Plaintiffs/Appellees filed their Brief of Appellees and Appendix of Appellees on June 7, 2019. Defendants/Appellants filed a reply brief on June 18, 2019. Oral Argument before the Supreme Court was held on June 20, 2019. On July 11, 2019, the Supreme Court entered its Judgment reversing the Judgment of the McKenzie County District Court. On July 25, 2019 Newfield filed Appellee's Petition for Rehearing. Also on July 25, 2019, a Motion for Leave to File Amicus Curiae Brief by Western Energy Alliance in Support of Newfield was filed with the Supreme Court. On July 26, 2019, a Motion for Leave to File Amicus Curiae Brief by North Dakota Petroleum Council in Support of Newfield was filed with the Supreme Court. On August 20, 2019, the North Dakota Supreme Court requested Defendants file a Response to the Petition for Rehearing and the two Amicus Curiae Briefs no later than September 4, 2019. Defendants/Appellants filed their Response to Petition for Rehearing on September 4, 2019. A Corrected Opinion was filed by the North Dakota Supreme Court on September 9, 2019, changing the page number of a citation. On September 12, 2019, the North Dakota Supreme Court entered an order denying Newfield's Petition for Rehearing. On September 20, 2019, the opinion and mandate of the Supreme Court was filed with McKenzie County District Court. A Telephonic Status Conference was held October 8, 2019. On October 9, 2019, the District Court issued an Order Setting Briefing Schedule which ordered "the parties to file a brief regarding how they suggest the case proceed after the Supreme Court's decision." The parties filed briefs with the District Court on November 6, 2019. Notice of Appearance for Michelle P. Scheffler of Hayes and Boone, LLP on behalf of Plaintiffs was filed November 7, 2019. Telephonic Status Conference scheduled for March 17, 2020 before the District Court.

Current Status:

- **On May 14, 2020, the Court scheduled a five-day Court Trial to start on October 4, 2021, McKenzie County Courthouse.**
- **On July 28, 2020, a Stipulated Scheduling Order was entered, setting dates for various deadlines.**

Repayment of Unpaid Gas Royalties Update

The North Dakota Board of University and School Lands (Board) manages land, minerals, and proceeds as trustee for the exclusive benefit of constitutionally identified beneficiaries, with much of the income 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 Gas Deduction Compliance Notification 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.

Over the course of the past several months, 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.

- Twenty-one payors have requested royalty data to assist in repayment calculations.
- Eight gas payors, who were originally identified as out of compliance, have successfully repaid the Department.
- One gas payor who was not audited but received the February 2020 Letter determined it was not paying the state per the terms of the Board's lease and came into compliance.
- One gas payor is in the final phase of confirming with the Department the principal amount owed to the Board.
- One payor has asked to enter into a payment agreement. The Department worked with the Attorney General's Office to draft the agreement. The payor is currently reviewing the terms of the agreement.
- One payor repaid deductions going back to October 2013 and requested an extension to November 30, 2020 to repay royalties pre-dating October 2013. As this payor has been working with the Department, the extension request was approved pursuant to the guidance the Board provided the Department on April 8th.
- Three payors have entered into bankruptcy; thus, court involvement is required.
- Ten payors have indicated they are working towards coming into compliance by September 30, 2020.

The memo attachment provided outlines the repayment schedule provided to payors with the April 16, 2020 letter. This memo attachment is available at the Department 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:

- Newfield Exploration Company, Newfield Production Company, and Newfield RMI LLC_LLCC v. North Dakota Department of Trust Lands, Civ. No. 27-2018-CV-00143
- Royalty Repayment Schedule

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

At 10:23 AM the Board entered executive session for the purposes outlined in its adopted motion.

(09/09/2020)

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 via Microsoft Teams

Department of Trust Lands Personnel present:

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

Guests in Attendance:

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

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

The executive session adjourned at 11:00 AM and the Board reconvened in open session.

Motion: **The Board authorizes the Commissioner to extend the deadline for full repayment of unpaid gas royalties; waving penalties and applying an annual interest prime rate plus 4% pursuant to N.D.C.C. Section 47-16-39-.1 from the original September 30, 2020 deadline to April 30, 2021.**

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

A D J O U R N

There being no further business, the meeting was adjourned at 11:51 AM.

 Doug Burgum, Chairman
 Board of University and School Lands

 Jodi Smith, Secretary
 Board of University and School Lands

**Minutes of the Meeting of the
Board of University and School Lands
June 26, 2020**

The June 26, 2020 meeting of the Board of University and School Lands was called to order at 8:05 AM in the Coteau Meeting Room of the State Capitol by Chairman Doug Burgum.

Members Present:

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

Department of Trust Lands Personnel present:

Jodi Smith	Commissioner
Dennis Chua	Investment Analyst – via Microsoft Teams
Susan Dollinger	Unclaimed Property Administrator – via Microsoft Teams
Bradley Fettig	Mineral Title Specialist – via Microsoft Teams
Michael Humann	Surface Division Director
Beverly Jacobson	Revenue Compliance Division
Kristie McCusker	Paralegal
Catelin Newell	Administrative Staff Officer
Adam Otteson	Revenue Compliance Division Director
Rick Owings	Administrative Officer – via Microsoft Teams
Mike Shackelford	Investment Division Director
David Shipman	Minerals Division Director – via Microsoft Teams
Kayla Spangelo	Range Management Specialist – via Microsoft Teams

Guests in Attendance:

Brady Pelton	ND Petroleum Council
Emily Johnson	Kadrmass, Lee & Jackson (KLJ)
Quentin Obrigewitsch	Kadrmass, Lee & Jackson (KLJ)
Gary Hagen	Constituent
Dave Garner	Office of the Attorney General
Charles Carvell	Office of the Attorney General
Leslie Bakken Oliver	Governor's Legal Counsel – via Microsoft Teams
Reice Haase	Governor's Policy Advisor – via Microsoft Teams
Steve Mahanay	Novarca - via Microsoft Teams
Thomas Welsh	Novarca - via Microsoft Teams
Lynn D. Helms	Department of Mineral Resources – via Microsoft Teams
Geoff Simon	Western Dakota Energy Association - via Microsoft Teams
Jack Dura	Bismarck Tribune – via Microsoft Teams
Joel Brown	Mineral Tracker – via Microsoft Teams
Craig C. Smith	Guest via Microsoft Teams
Dave Thompson	Guest via Microsoft Teams
Dee Alexander	Guest via Microsoft Teams
Josh J Demorrett	Guest via Microsoft Teams
Dennis Blank	Guest via Microsoft Teams
Eric Ocwieja	Guest via Microsoft Teams
Ernst	Guest via Microsoft Teams
Kari S Gibson	Guest via Microsoft Teams

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Gloria Cash	Guest via Microsoft Teams
Jacob Notermann	Guest via Microsoft Teams
James Alexander	Guest via Microsoft Teams
Jeremy Turley	Guest via Microsoft Teams
Kevin Thies	Guest via Microsoft Teams
Marcel Staub	Guest via Microsoft Teams
Mary	Guest via Microsoft Teams
Mike Lee	Guest via Microsoft Teams
Peter	Guest via Microsoft Teams
Andrea H. Pfennig	Guest via Microsoft Teams

APPROVAL OF MINUTES

A motion to approve the minutes of the May 28, 2020 meeting was made by Secretary Alvin Jaeger and seconded by Attorney General Wayne Stenehjem and the motion carried unanimously on a voice vote.

REPORTS

May Shut-In Report

Granted to:	Luff Exploration Company
For the Purpose of:	COVID-19
Date Issued:	05/14/2020
Trust:	L– Bank of North Dakota
Lease:	OG-12-01019;OG-12-01020;OG-12-01021

Granted to:	Luff Exploration Company
For the Purpose of:	COVID-19
Date Issued:	05/14/2020
Trust:	A – Common Schools
Lease:	OG-13-00008

Granted to:	Marathon Oil Company
For the Purpose of:	COVID-19
Date Issued:	05/14/2020
Trust:	R – Sovereign Lands
Lease:	OG-09-00949; OG-05-00905;OG-00906; OG-10-00747; OG-10-00748

Granted to:	Prima Exploration
For the Purpose of:	COVID-19
Date Issued:	05/14/2020
Trust:	A – Common Schools
Lease:	OG -12-00866; OG- 12-00867; OG- 12-00868

Granted to:	Prima Exploration
For the Purpose of:	COVID-19
Date Issued:	05/14/2020
Application Fee:	\$10.00
Trust:	A – Common Schools
Lease:	OG- 12-00869
	(06/25/2020)

May Encumbrances Report

Granted to:	EQUINOR PIPELINES LLC, WILLISTON-ND
For the Purpose of:	Pipeline-Multiple Pipelines
Right-of-Way Number:	RW0008466
Trust:	A – Common Schools
Legal Description:	WIL-155-100-36-NW4
Granted to:	LOWER YELLOWSTONE RURAL ELECTRIC INC, SIDNEY-MT
For the Purpose of:	Electric-Transmission Line
Right-of-Way Number:	RW0008633
Trust:	A – Common Schools
Legal Description:	WIL-154-104-36-SE4, SW4
Granted to:	OE2 NORTH LLC, DENVER-CO
For the Purpose of:	Pipeline-Gas Gathering Pipeline
Right-of-Way Number:	RW0008664
Trust:	A – Common Schools
Legal Description:	WIL-156-97-36-SE4
Granted to:	CATES EARTH SCIENCE TECHNOLOGIES INC, BISMARCK-ND
For the Purpose of:	Temporary Water Layflat Line
Right-of-Way Number:	RW0008700
Trust:	A – Common Schools
Legal Description:	MOU-150-92-10-S2SW4
Legal Description:	MOU-151-92-36-W2NE4SW4, NW4SW4, S2SW4

May 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 May 2020, the Division received 55 holder reports with a property value of \$527,441 and paid 501 claims with a total value of \$364,778.

Energy Infrastructure and Impact Office Program Report

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

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The Oil and Gas Impact Grant Fund currently has 28 grants with a balance of \$6,846,538.19 as of June 5, 2020. The following shows grant activity for the last five months:

Oil and Gas Impact Grant Fund	Grants with balances	Current Balance Obligated to Grants
12/31/2019	30	\$14,388,087.28
2/13/2020	21	\$7,207,988.75
5/13/2020	28	\$7,049,556.08
6/5/2020	28	\$6,846,538.19

The Energy Impact Fund, established within Senate Bill 2013 as enacted by the Sixty-fifth Legislative Assembly, was created to supplement the Oil and Gas Impact Grant Fund for the 2017-2019 biennium. This fund currently has three grants with a balance of \$2,394,929.22 as of June 5, 2020. House Bill 1013 of the Sixty-sixth Legislative Assembly requires the Commissioner of University and School Lands to transfer any unexpended funds remaining in the Energy Impact Fund when the fund is repealed on June 30, 2021, to the Oil and Gas Impact Grant Fund. The following shows grant activity for the last five months:

Energy Impact Fund	Grants with balances	Current Balance Obligated to Grants
12/31/2019	4	\$4,108,325.39
2/13/2020	3	\$3,447,448.60
5/13/2020	3	\$2,394,929.22
6/5/2020	3	\$2,394,929.22

The Energy Infrastructure and Impact Office is currently managing 31 grants for a total of \$9,241,467.41. The following shows grant activity for the last four months:

Oil and Gas Impact Grant Fund	Grants with balances	Current Balance Obligated to Grants	Energy Impact Fund	Grants with balances	Current Balance Obligated to Grants	Total between both Funds
12/31/2019	30	\$14,388,087.28	12/31/2019	4	\$4,108,325.39	\$18,496,412.67
2/13/2020	21	\$7,207,988.75	2/13/2020	3	\$3,447,448.60	\$10,655,437.35
5/13/2020	31	\$7,049,556.08	5/13/2020	3	\$2,394,929.22	\$9,444,485.30
6/5/2020	31	\$6,846,538.19	6/5/2020	3	\$2,394,929.22	\$9,241,467.41

EIIO emailed grantees with a current balance reminding them to submit their biannual progress report due on June 20, 2020 per N.D.C.C. § 85-02-03-06.

Progress report.

1. The grantee shall submit to the director a biannual progress report, prescribed by the energy infrastructure and impact office. The biannual progress report must be received by the energy infrastructure and impact office by the twentieth day of June and December of every year of the project.

2. The director may conduct onsite project status visits to review and document utilization of the grant. The director shall provide advance notice to the grantee of any project status

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visits. The grantee shall provide the director with any project documentation upon request by the director; assist with inspection of equipment purchased, completed construction, or review of any other project expenditures; and provide a description of the remaining budget and timeline for the project.

3. If a grantee is delinquent in submitting a progress report or does not comply with the project status visit, the director may delay grant reimbursements.

History: Effective January 1, 2019.
 General Authority: NDCC 28-32-02
 Law Implemented: NDCC 57-62-05

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

Investment Updates

Portfolio Rebalancing Updates

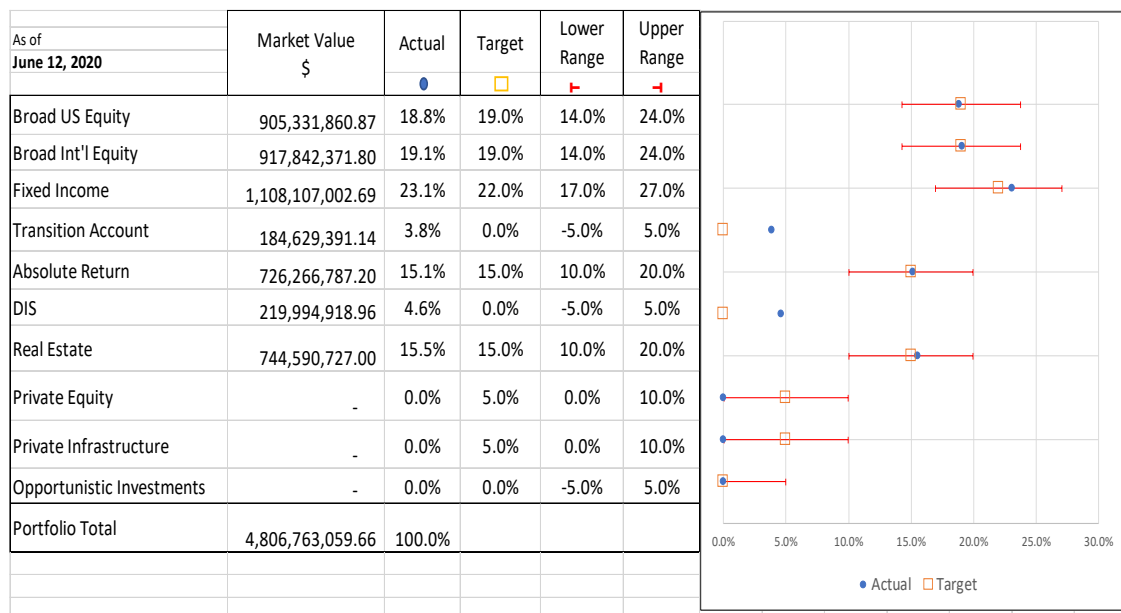
On May 8, 2020, the Treasury Inflation-Protected Securities (TIPS) Fund was liquidated and the proceeds were transferred to an actively managed “Transition Account”. This new account is similar to the SIIF-UltraShort Bonds account and is designed to hold all cash proceeds as we continue to do a disciplined liquidation of all the Diversified Inflation Strategy (DIS) investments.

As of June 12, 2020, \$30M has been withdrawn from Gresham. Additionally, Van Eck liquidations have reached a total of \$52M. Thus far, \$184.5M has been withdrawn from DIS and transferred to the Transition Account. Future liquidations will depend on the market situation with the end of June as the target of full redemption.

All legal documents had been reviewed and submitted for the \$100M commitment to the Varde Dislocation Fund LP and the Department of Trust Lands staff is waiting for the initial capital call.

Asset Allocation

The table below shows the status of the permanent trusts’ asset allocation as of June 12, 2020. The figures provided are unaudited.



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Upcoming Investment Manager Meetings

There are no upcoming meetings scheduled.

I N V E S T M E N T S

Novarca - Investment Fees and Costs Analysis Services Consultant Update

On March 28, 2019, the Board directed the Commissioner to engage Novarca to review the investment fees of the assets under the Board's authority. Novarca's general approach involved a detailed look at costs experienced by a given investment mandate, with a focus on identifying and reducing fees and expenses related to managing, transacting, and holding assets. The firm reviewed expenses and identified options that serve as a basis to renegotiate fee arrangements with investment managers.

The Commissioner entered into an agreement with Novarca on June 13, 2019, under which Novarca would conduct a study of the fees of the Board's various investment mandates and negotiate with investment managers to reduce fees paid by the Board's trust funds. Novarca is compensated solely through a contingency fee in which they are only paid a portion of realized savings in the amount of 27.5% of any fee savings the Board's trust funds realized by Novarca's efforts.

Novarca began a study of the investment fees of the Board's various investment mandates in June 2019 and completed the study in December 2019. Generally, Novarca found that the fees paid by the Board's trust funds were competitive with the industry. Nevertheless, Novarca believed there was opportunity for further fee savings with certain managers. In January 2020, Novarca began negotiating with several investment managers to reduce management fees paid by the Board's trust funds.

Result: Novarca was able to successfully negotiate a lower fee with Payden & Rygel on the Long-Term Bond mandate. The new fee terms are in line with the fees paid on the JP Morgan Intermediate Bond mandate, which had been lowered just prior to engaging Novarca. The net fee savings are approximately \$83,400 for the first year and may be higher if the mandate grows over time. This represents 0.024% savings on the mandate and 0.002% for the permanent trust funds.

Novarca has not been successful on any other mandates, which would indicate the Board's trust funds' fees remain industry competitive.

Theodore Roosevelt Presidential Library and Museum Endowment Fund Asset Management Agreement

Senate Bill 2001 of the Sixty-Sixth Legislative Assembly created a \$50 million endowment for the proposed Theodore Roosevelt Presidential Library and Museum. The state-funded endowment will be created if \$100 million in private donations is first raised for construction of the library and museum. The fund's earnings will be used for operations and maintenance of the library and museum once the Theodore Roosevelt Presidential Library Foundation has raised or secured binding pledges for \$100 million.

Attached is the proposed Theodore Roosevelt Presidential Library and Museum Endowment Fund Asset Management Agreement (Agreement) by and between the Office of the North Dakota Governor, the Board of University and School Lands (Board), and the Theodore Roosevelt Presidential Library Foundation to manage the assets of the Theodore Roosevelt Presidential Library and Museum Endowment Fund.

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The Agreement provides for the establishment of an investment account maintained by the Board. It provides for the investment of assets as a permanent trust fund to be managed under the prudent investor rule, pursuant to N.D.C.C. §15-03-04.

The Agreement further provides for the distribution of investment returns for the uses specified in N.D.C.C. § 54-07-12:

There is created in the state treasury the Theodore Roosevelt presidential library and museum endowment fund. The governor may provide for the fund to be invested under the supervision of the board of university and school lands. The interest and earnings of the fund are appropriated to the governor on a continuing basis to pay interest expenses on a loan from the Bank of North Dakota and to provide grants pursuant to this section.

The Agreement will replace the Agreement executed in September 2019 and provides additional guidance regarding the distribution of funds and a mechanism for the Department of Trust Lands to cover expenses associated with the management of the endowment. This final version is available at the Department upon request.

Motion: The Board enter into the Theodore Roosevelt Presidential Library and Museum Endowment Fund Asset Management Agreement with the Office of the North Dakota Governor and the Theodore Roosevelt Presidential Library Foundation to manage the assets of the Theodore Roosevelt Presidential Library and Museum Endowment Fund with the prudent investment of the fund assets as a permanent trust fund.

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

MINERALS MANAGEMENT

Acreage Adjustment Survey

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) subject to inundation by Pick-Sloan Missouri basin project dams.” The bill directed the North Dakota Department of Mineral Resources (DMR) to procure a qualified engineering and surveying firm to conduct a review of the US Army Corp of Engineers (USACE) survey segments limited only to the corps survey segments from the northern boundary of the Fort Berthold Indian reservation to the southern border of sections 33 and 34, township 153 north, range 102 west
(06/25/2020)

The Historical OHWM review as prepared by Wenck Associates, Inc. (Review) was presented to the North Dakota Industrial Commission (NDIC) on April 17, 2018. Thereafter, the NDIC issued its September 27, 2018 Order of the Commission, Order No. 29129, approving the Review. Information concerning the Review can be found on DMR's website.

In response to comments, NDIC Order No. 29129 found, among other things, that:

1. "[T]he Wenck Study was not intended to provide accurate acreage allocations for property transfer which is outside the scope of the legislation; the data sets provided to Wenck for use in calculating acreages represent the most efficient method for determination of areas necessary for decisions by the [NDIC]; no land surveying was done nor contracted to be done in the course of [the Wenck] study." Order at 4.
2. "[T]he cost to complete the necessary research and surveys to apportion property significantly exceeds the appropriated funds." Id.
3. "[A]dequate documentation and data for parties to determine how interests might be impacted were provided in the Wenck Study and subsequent communications." Id.

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 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." The contract's scope of work concluded twelve months from the date of execution, May 30, 2019, at a total cost of \$1,088,635. KLJ dedicated 35 team members and over 7,000 hours to completing the project.

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. 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 will be available on the Department's website.

The Department will not be recommending approval of the south half of T153N, R102W Sections 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 34, and 36. will be necessary (Attachment 1). Additionally, the Department will not be recommending approval of T152N R93W Section 11 Lot 2 and Section 10 Lot 6 (Attachment 2).

Upon the Board's adoption of the Acreage Adjustment Survey 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 (06/25/2020)

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. Within the 83 miles reviewed by Wenck, the Department has approximately 600 active leases covering 44,700 acres.

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 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.

Due to the failure of lessees to submit assignments to the Department for approval as required by Department policies and the Board’s lease, the Department’s records do not always accurately reflect the current lessee of any given lease. This could impact the timeliness of refunds. Refunds of bonus will be issued to the current lessee, based on the records of the Department, and royalty payments will be returned to the current operator of each applicable spacing unit.

Barring delays due to legal challenges or unresponsive lessees, it is anticipated the Department could complete approximately 25 lease corrections each month, resulting in completion of 600 lease corrections within two years of the Board’s adoption of KLJ’s acreage adjustment calculations.

Motion:

- (1) 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 except T152N R93W Section 10 Lot 6 ,Section 11 Lot 2 and T153N, R102W Sections 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 34, and 36.**
- (2) The Board formally requests the North Dakota Industrial Commission complete further review of T152N R93W Section 11 Lot 2 and Section 10 Lot 6.**
- (3) The Board formally requests the North Dakota Industrial Commission complete further review of T153N, R102W Sections 33 and 34 until a zero accretion point can be determined.**

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

KLJ presented maps of T153N R102W Sections 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 34, 36 and T152N R93W Section 10 and Section 11. All presented materials are available at the Department upon request.

O P E R A T I O N S

Commissioner Annual Review

Motion: **(1) The Board approves a salary increase of 2.5% as recommended by the 66th Legislative Assembly for the Commissioner. (2) The State Treasurer and Governor's Office will work collaboratively to create an annual review process for the Commissioner's position.**

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

The Commissioner's Phased Strategic Plan for the Department was provided to the Board and is available at the Department upon request.

Fee Policy – Second Reading

The Board of University and School Land's (Board) current fee schedule was established on July 25, 1985 and was last reviewed by the Board on June 26, 2014. The recommended action will revise the 2014 fee schedule.

"Fees" in the context of the Study are those payments which are not specific to any trust fund or tract of land but are deposited in the maintenance fund, which serves as the Department of Trust Land's (Department) operating fund.

Attached is the proposed Fee Policy. Fees were revised based upon the Department's expenditures related to the purposes for which the fee is imposed and if the fee is determined by the Board or the Commissioner.

The substantive changes include the following:

- A unified fee for certified copies has been established.
- Application and certain assignment, extension, and amendment fees have been established for leasing based upon the internal expenses associated with processing the application.
- Fees that are determined by the Commissioner have been removed from the Board's Fee Policy and placed in a Department's Fee Policy.
 - Coal Amendment, renewal request fee
 - Coal Extension request fee
 - Oil and Gas Application and Nomination fee
 - Oil and Gas Application Shut-In Application Fee per Unit
 - Subsurface Mineral Lease Assignment Filing Fee
 - Salt-Water Disposal Site Application, Extension and Renewal Fee

The first reading of the policy was held at the May 28, 2020 meeting. The Commissioner requested the Board provide input on the proposed policy. Additionally, an open comment period was held and no comments were received.

Motion: The Board adopt the proposed North Dakota Board of University and School Lands Fee Policy – Chapter 2, General.

Action Record	Motion	Second	Aye	Nay	Absent
Secretary Jaeger			X		
Superintendent Baesler			X		

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Treasurer Schmidt	X		X		
Attorney General Stenehjem		X	X		
Governor Burgum			X		

Board of University and School Lands Fee Policy is available at the Department upon request.

Continuing Appropriation Authority Policy – Second Reading

The following North Dakota Century Code pronounces continuing authority:

- N.D.C.C. § 15-03-16
- N.D.C.C. § 15-04-23
- N.D.C.C. § 15-04-24
- N.D.C.C. § 15-05-19
- N.D.C.C. § 15-06-22
- N.D.C.C. § 15-07-22
- N.D.C.C. § 15-08-04
- N.D.C.C. § 15-68-06
- N.D.C.C. § 47-30.1-23
- N.D.C.C. § 57-02.3-07

In 2016, the Board provided clarification on certain expenses allowed through continuing appropriation as outlined below:

**Board of University and School Lands
Continuing Appropriation Authority Policy**

Continuing appropriation authority is provided in state law for certain operating expenditures.

A. Unclaimed Property - Continuing Authority.

Unclaimed property expenses as outlined in NDCC Section 47-30.1-23 may be paid under continuing appropriation authority including, but not limited to: payments of claims, service charges for address verification and updates, advertising costs, audit services, legal costs and outreach efforts.

B. Grant Land, Non-Grant Land and Mineral Leases - Continuing Authority.

NDCC Sections 15-04-24, 15-07-22 and 15-05-19 permit expenditures to be considered as continuing appropriation expenditures. These sections appropriate annually the expenses determined by the Board as necessary to manage, preserve, and enhance the value of the trust land and mineral assets.

Specifically authorized by the Board as continuing appropriation authority:

1. Salaries and travel expenses for temporary field men who conduct inspections to ensure rangeland integrity and surface reclamation.
2. Advertising surface and mineral lease auctions. Section 15-04-09 of the NDCC requires the Board to publish multiple notices of surface and mineral leases auctions. Advertising of the lease auctions are done to ensure the trusts receive competitive bids to enhance the trusts' value.
3. Legal expenditures that are incurred by a specific trust or trusts to maintain their value and integrity.

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4. Costs of hiring independent contract firms to perform accounting, audit, compliance review or collection efforts to ensure the proper payment of oil, gas, coal or other mineral royalty.

The Commissioner has reviewed, in conjunction with the Attorney General's Office, the Continuing Appropriation Authority Policy and is recommending changes based upon statutory changes and to accommodate the consideration of technology as a continuing appropriation.

The first reading of the policy was held at the May 28, 2020 meeting. The Commissioner requested the Board provide input on the proposed policy. Additionally, an open comment period was held and no comments were received.

Recommendation: The Board adopt the proposed North Dakota Board of University and School Lands Continuing Appropriation Authority Policy – Chapter 2, General.

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

With changes made to the Continuing Appropriation Authority Policy the Board considers June 25, 2020 the first reading and no formal action was taken.

The Continuing Appropriation Authority Policy is available at the Department upon request.

Mineral Valuation Policy – Second Reading

Senate Bill 1013 of the Sixty-Sixth Legislative Assembly approved one-time funding for a mineral valuation study.

The Department of Trust Lands (Department) has been tasked with conducting a study to determine the estimated value of the mineral assets, 2.6 million acres, held in trust by the Board of University and School Lands (Board).

The oil and gas mineral estate assessment (Assessment) will reflect the estimated value of oil and gas mineral assets managed by the Board. This Assessment is complicated by the mineral assets' sheer size, variance in geological aspects, and topography. MineralTracker, LLC was awarded the project and is working with the Department to complete the Assessment.

As a part of the Assessment, MineralTracker needs three variables to be approved by the Board: (1) the commodity effective date, (2) commodity price schedule, and (3) the discount rate.

The Department consulted with MineralTracker and the US Department of the Interior's Division of Minerals Evaluation during the process of drafting the proposed policy.

The first reading of the policy was held at the May 28, 2020 meeting. The Commissioner requested the Board provide input on the proposed policy. Additionally, an open comment period was held and no comments were received.

(06/25/2020)

Motion: The Board adopts the proposed North Dakota Board of University and School Lands Minerals Valuation Policy – Chapter 5 - Minerals.

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		

The Minerals Valuation Policy is available at the Department upon request.

Surface Land Management and Minerals Management Administrative Rules

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

The Department of Trust Lands (Department) considered existing rules, together with policies and procedures, to incorporate necessary wording from those into rules which comply with the North Dakota Administrative Code. The Board’s rules are included in Title 85 of the North Dakota Administrative Code. As the Department determines additional rules are needed, those are drafted and presented to the Board for review.

Land Sale and Land Exchange Administrative Rules

By the 1970s, approximately 80% of the original 3.2 million acres of the land granted to trusts had been sold, and the Board began an informal policy of not selling surface lands. While often encouraged to sell trust lands to private citizens to put it on the tax rolls, the Board has historically experienced opposition to land sales from the Game and Fish Department, Wildlife Federation, Medora Grazing Association, ND Farmers Union, sportsmen, and other outside entities. The Board formalized its policy of not selling land in 1981 when it limited land sales to smaller and isolated tracts, and to parcels that caused management problems. The Board has had a limited land sale policy ever since. The history of the land sale policy is attached as Attachment 1.

In the 1990s, the Department evaluated the historic return on investment of land in North Dakota and the impact on the value of trust lands to the permanent trust funds. The initial study encompassed land rents and values from 1960 through the 1990s; it was later updated through 2001. The results of this study indicated that land is similar to and should be treated like other asset classes in which the Board invests. In October 1998, the Board formally designated surface lands as an asset class to be managed within the Board’s overall investment portfolio.

Considering land as an investment is central to its management for the long-term best interests of the trusts. Land as an asset class means that it is recognized for its characteristics of value, income, stability and liquidity that are inherent in investments. It also means that investment principles, such as risk versus reward, should be applied to land just as to any other investment asset class.

The study led to a proposal that certain lands with an income return of less than 0% be considered for sale. However, due in large part to public opposition to the sale of trust lands, these tracts were not sold to private owners. Nonetheless, the work done in this area helped demonstrate that the

(06/25/2020)

consistent cash flows generated by trust land and its inherent nature as a store of value, make it a stabilizer in the Board's overall asset portfolio.

On March 26, 2015 the Board revised its land sale policy to:

1. Clarify the general policy to sell land only if certain conditions are met;
2. Add language requiring that sales of larger tracts be coupled with a "no net loss" of acres provision;
3. Remove language specifically related to rates of return and low potential for development as reasons for consideration of a sale of trust lands; and
4. Add a provision to consider selling land in higher value urban locations.

The provision of no net loss of "leasable trust land" was adopted to provide an option to consider tracts that are larger than 80 grassland acres and 40 crop acres being offered for sale without reducing the trust's leasable real estate holdings. It allows for a sale of trust land and a donation of land to the trust from which the original land was sold. To date, the no net loss policy has not been used and no procedures have been developed to implement the policy. See Attachment 1.

On September 28, 2017, the Board directed the Commissioner to investigate and explore procedural options to implement the Board's no net loss of "leasable trust land" policy through land exchanges of like or equal acres and value. Attachment 2 are the proposed Land Exchange and Land Sales (under N.D.C.C. ch. 15-06, 15-07, and 15-09) Administrative Rules, which take into consideration the requirements of the North Dakota Century Code and the North Dakota Constitution. It provides the Board the ability to sell under-utilized or difficult to manage acquired tracts of land.

The following is a brief review of the Land Exchange and Land Sales (under N.D.C.C. ch. 15-06, 15-07, and 15-09) Administrative Rules, compared to the Board's Land Retention and Sales Policy:

Grant Land Sales (N.D.C.C. ch. 15-06):

- Unchanged from the Board's Land Retention and Sales Policy with the exception that any letter of application received will be subject to public comment prior to Board review of the application.
- Maintains the provision of no net loss of leasable original grant land through public sale and subsequent land donation to the trust from which the original grant land was sold.
- Maintains the small acreage requirement (land tracts totaling less than 80 acres in size, more or less, for grassland and less than 40 acres in size, more or less, for cropland) as a sales requirement, with such sales not subject to the no net loss of leasable grant land provision.

Acquired Land Sales (N.D.C.C. ch. 15-07):

- Requires any letter of application received for the purchase of acquired lands to be subject to public comment prior to Board review.
- Removes the no net loss of leasable land requirement from land acquired prior to 1980 (these lands were private lands acquired through foreclosure or deed in-lieu of foreclosure and were at one time on the County tax rolls).
- Acquired land sales would not be subject to any acreage restrictions.

Sales of Lands for Public or Quasi-Public Purpose (N.D.C.C. ch. 15-09):

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- Sales for this chapter were not subject to the Land Retention and Sales Policy.
- Requires any application received for a public purpose or quasi-public purpose be subject to public comment prior to Board review.

Land Exchange:

- No previous policy.
- Establishes an evaluation process for land exchanges.
- Currently the Constitution and Statutes only allow for exchanges of Federal and State Land and does not allow for exchanges of private and tribal lands.

Offset Well Administrative Rule

The current Policy of the Board and University and School Lands for the Enforcement of 1979 Oil and Gas Lease Form Provisions Relating to Offset Wells has been administered since 1987. It provides a procedure to administer the provisions in the Board’s oil and gas lease which requires our lessee to exercise an option in order to protect the state-owned interest from drainage due to wells drilled on adjacent acreage. The proposed Administrative Rule moves the policy into the rule format with minimal substantial changes. See Attachment 2.

Motion: The Board authorizes the Commissioner to proceed with the next steps in the review of the initial draft of the proposed Administrative Rules for Land Sale, Land Exchange and Offset Wells, including formal review by the Office of Attorney General, preparation for public hearings and collection of comments, and submittal to Legislative Council.

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

The following items were provided to the Board and are available at the Department upon request: The Board of University and School Lands History of Land Sale Policy and Administrative Rules General Administration (red-lined) Surface Land Management, and Minerals Management.

Repayment of Unpaid Gas Royalties Update

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

The Board recently received comments asserting that the Department’s website provides guidance that deductions can be taken from gas royalties. At the February 27, 2020 Board meeting the Board requested additional information regarding the Department’s website, specifically the instructions provided to payors on how to calculate deductions and payments.

(06/25/2020)

In 2014, the Department began the process of developing a required royalty reporting form. The Department consulted with other states, industry partners, and software developers when developing its royalty reporting form. During this process several questions were consistently raised. To address these questions, frequently asked questions (FAQ's) were posted on the Departments website in conjunction with the new royalty reporting form and instructions. Two of the FAQ's address deductions and what is allowed. On June 25th, 2015 an email and letter were sent to royalty payors notifying them of the new royalty reporting form to be used starting October 2015.

The North Dakota Supreme Court has recently stated, however, that deductions are not allowed to be taken from royalty payments thereby addressing the questions the Department received following publication of its website. The Court stated “[t]he Department of Land Trust’s website contains guidance regarding the payment of royalties from oil and gas leases. The Department’s guidance is consistent with our decision in *West* and provides as follows: ‘gross proceeds of sale means income before deduction of expenses. Basically, it means the price you sell the oil for, regardless of what expenses go into arriving at that price.’” *Newfield Expl. Co. vs. State ex rel. N.D. Bd. of Univ. & Sch. Lands*, 2019 ND 193, ¶ 8, 931 N.W.2d 478.

Below are the FAQ's that related to deductions that are currently on the Departments website. This guidance has been on the Departments website since 2015. Although the format and location of the website have changed, the guidance has remained the same. Consistent with the Supreme Court's interpretation of the Board's lease and the website instructions, the guidance contained in the FAQ's is consistent with the Boards position on deductions.

[What deductions are allowed on oil?](#)

Royalty on oil is calculated based on the greater of 1) the highest posted price for the field where produced and when run, 2) the highest market price paid for the area where produced and when run, or 3) the gross proceeds of sale.

Gross proceeds of sale means income before deduction of expenses. Basically it means the price you sell the oil for, regardless of what expenses go into arriving at that price. For example, if you transport the oil to an off-lease location for sale and delivery, the royalty is calculated based on the gross price you receive at the ultimate point of sale and delivery. In this example you may NOT deduct or “net out” the expenses incurred in transporting the oil to the ultimate point of sale and delivery.

[What deductions are allowed on gas?](#)

Royalty on gas is calculated based on the gross proceeds of sale, where the sale constitutes an arm's length transaction. For a description of what gross proceeds of sale means see “What deductions are allowed on oil.” If a sale of gas does not constitute an arm's length transaction, Board of University and School Lands Oil & Gas Rule 85-06-06-08 governs calculation of royalties.

LITIGATION

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:

- United States Department of Interior M - 37056

(06/25/2020)

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

At 10:35 PM the Board entered executive session 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
Catelin Newell	Administrative Staff Officer

Guests in Attendance:

Charles Carvell	Attorney General's Office
Dave Garner	Attorney General's Office
Leslie Bakken Oliver	Governor's Legal Counsel – via Microsoft Teams
Reice Haase	Governor's Office – via Microsoft Teams

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

The executive session adjourned at 11:10 AM and the Board reconvened in open session.

No formal action was taken.

A D J O U R N

There being no further business, the meeting was adjourned at 11:10 AM.

Doug Burgum, Chairman
Board of University and School Lands

Jodi Smith, Secretary
Board of University and School Lands

(06/25/2020)

MEMORANDUM TO THE BOARD OF UNIVERSITY AND SCHOOL LANDS

September 24, 2020

RE: August Report of Encumbrances Issued by Land Commissioner
(No Action Requested)

Granted to: XTO HOLDINGS, LLC, SPRING-TX
For the Purpose of: Road-Section Line Access Road
Right-of-Way Number: RW0008640
Date Issued: 8/5/2020
Application Fee: \$100.00
Right-of-way Income: N/A
Damage Payment to Lessee: N/A
Trust: A – Common Schools
Length (Rods): 159.94
Area (Acres): 2.00
Legal Description: WIL-154-96-16-NE4

Granted to: XTO HOLDINGS, LLC, SPRING-TX
For the Purpose of: Road-Section Line Access Road
Right-of-Way Number: RW0008641
Date Issued: 8/5/2020
Application Fee: \$100.00
Right-of-way Income: N/A
Damage Payment to Lessee: N/A
Trust: A – Common Schools
Length (Rods): 78.66
Area (Acres): 0.98
Legal Description: WIL-159-96-16-NW4

Granted to: CONTINENTAL RESOURCES INC, OKLAHOMA CITY-OK
For the Purpose of: Road-Access Road
Right-of-Way Number: RW0008648
Date Issued: 8/28/2020
Application Fee: \$100.00
Right-of-way Income: \$4,917.00
Damage Payment to Lessee: \$59.01
Trust: A – Common Schools
Length (Rods): 376.18
Area (Acres): 9.41
Legal Description: MCK-152-97-36-NW4, SW4

Granted to: MCKENZIE ELECTRIC COOP INC, WATFORD CITY-ND
For the Purpose of: Release of Easement
Right-of-Way Number: RW0008656
Date Issued: 8/13/2020
Application Fee: \$ N/A
Right-of-way Income: \$ N/A
Damage Payment to Lessee: \$ N/A
Trust: A – Common Schools
Length (Rods): 40.15
Area (Acres): 0.50
Legal Description: DUN-148-96-36-SW4

Granted to: **MOUNTRAIL-WILLIAMS ELECTRIC COOP, WILLISTON-ND**
For the Purpose of: Drop Line-Buried Electric Distribution Line
Right-of-Way Number: RW0008687
Date Issued: 8/13/2020
Application Fee: \$100.00
Right-of-way Income: \$1,210.00
Damage Payment to Lessee: N/A
Trust: A – Common Schools
Length (Rods): 96.81
Area (Acres): 1.21
Legal Description: MOU-153-92-16-NW4

Granted to: **ONEOK ROCKIES MIDSTREAM LLC, SIDNEY-MT**
For the Purpose of: Release of Easement
Right-of-Way Number: RW0008702
Date Issued: 8/12/2020
Application Fee: \$ N/A
Right-of-way Income: \$ N/A
Damage Payment to Lessee: \$ N/A
Trust: A – Common Schools
Length (Rods): 132.58
Area (Acres): 1.66
Legal Description: MCK-153-94-16-NW4, SW4

Granted to: **MOUNTRAIL-WILLIAMS ELECTRIC COOP, WILLISTON-ND**
For the Purpose of: Drop Line-Buried Electric Distribution Line
Right-of-Way Number: RW0008731
Date Issued: 8/14/2020
Application Fee: \$100.00
Right-of-way Income: \$1,590.00
Damage Payment to Lessee: N/A
Trust: A – Common Schools
Length (Rods): 126.99
Area (Acres): 1.59
Legal Description: MOU-152-92-23-NE4NW4

Granted to: **VERENDRYE ELECTRIC COOP INC, VELVA-ND**
For the Purpose of: Electric-Buried Distribution Line
Right-of-Way Number: RW0008755
Date Issued: 8/5/2020
Application Fee: \$250.00
Right-of-way Income: \$79.64
Damage Payment to Lessee: N/A
Trust: Z – Valley/Mayville
Length (Rods): 79.64
Area (Acres): 1.0
Legal Description: MCH-156-76-22-E2SW4

Granted to: **OVINTIV USA INC, DENVER-CO**
For the Purpose of: Road-Access Road
Right-of-Way Number: RW0008766
Date Issued: 8/13/2020
Application Fee: \$250.00
Right-of-way Income: N/A
Damage Payment to Lessee: N/A
Trust: A – Common Schools
Length (Rods): 144.79
Area (Acres): 1.81
Legal Description: MCK-153-96-16-SE4

Granted to: **INTERSTATE ENGINEERING INC, MANDAN-ND**
For the Purpose of: Planning & Preconstruction Survey
Right-of-Way Number: RW0008768
Date Issued: 8/5/2020
Application Fee: \$250.00
Right-of-way Income: \$500.00
Damage Payment to Lessee: N/A
Trust: A – Common Schools
Length (Rods): N/A
Area (Acres): N/A
Legal Description: N/A

Granted to: **MINNKOTA POWER COOPERATIVE INC, GRAND FORKS-ND**
For the Purpose of: Seismic
Right-of-Way Number: RW0008769
Date Issued: 8/20/2020
Application Fee: \$250.00
Right-of-way Income: \$3,590.00
Damage Payment to Lessee: N/A
Trust: A – Common Schools
Length (Rods): N/A
Area (Acres): 359.0
Legal Description: OLI-141-83-16-NE4, SE4
OLI-142-84-36-SE4, SW4

MEMORANDUM TO THE BOARD OF UNIVERSITY AND SCHOOL LANDS

September 24, 2020

RE: August Unclaimed Property Report
(No Action Requested)

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 August 2020, the Division received 153 holder reports with a property value of \$306,487 and paid 332 claims with a total value of \$558,932.

ITEM 2B

MEMORANDUM TO THE BOARD OF UNIVERSITY AND SCHOOL LANDS

September 24, 2020

**RE: Energy Infrastructure and Impact Office
Quarterly Program Report
(No Action Requested)**

The Energy Infrastructure and Impact Office (EIIO) is a division within the Department of Trust Lands (Department). EIIO provides financial assistance to local units of government that are impacted by oil and gas activity. In turn, EIIO receives a portion of the Oil and Gas Gross Production Tax. The office has been a part of the Department since 1977 and was formally known as the Energy Development Impact Office created under N.D.C.C. ch. 57-62. Over the course of the past 40 years, EIIO has dispersed over \$626 million in funding.

The Oil and Gas Impact Grant Fund currently has 22 grants with a balance of \$5,282,832.07 as of September 9, 2020. The following shows grant activity for the last seven months:

Oil and Gas Impact Grant Fund	Grants with balances	Current Balance Obligated to Grants
2/13/2020	21	\$7,207,988.75
5/13/2020	28	\$7,049,556.08
9/9/2020	22	\$5,282,832.07

The Energy Impact Fund, established within Senate Bill 2013 as enacted by the Sixty-fifth Legislative Assembly, was created to supplement the Oil and Gas Impact Grant Fund for the 2017-2019 biennium. This fund currently has three grants with a balance of \$2,394,929.22 as of September 9, 2020. House Bill 1013 of the Sixty-sixth Legislative Assembly requires the Commissioner of University and School Lands to transfer any unexpended funds remaining in the Energy Impact Fund when the fund is repealed on June 30, 2021, to the Oil and Gas Impact Grant Fund. The following shows grant activity for the last seven months:

Energy Impact Fund	Grants with balances	Current Balance Obligated to Grants
2/13/2020	3	\$3,447,448.60
5/13/2020	3	\$2,394,929.22
9/9/2020	3	\$2,394,929.22

EIIO is currently managing 25 grants for a total of \$7,677,761.29. The following shows grant activity for the last seven months:

Oil and Gas Impact Grant Fund	Grants with balances	Current Balance Obligated to Grants	Energy Impact Fund	Grants with balances	Current Balance Obligated to Grants	Total between both Funds
2/13/2020	21	\$7,207,988.75	2/13/2020	3	\$3,447,448.60	\$10,655,437.35
5/13/2020	28	\$7,049,556.08	5/13/2020	3	\$2,394,929.22	\$9,444,485.30
9/9/2020	22	\$5,282,832.07	9/9/2020	3	\$2,394,929.22	\$7,677,761.29

MEMORANDUM TO THE BOARD OF UNIVERSITY AND SCHOOL LANDS
September 24, 2020

RE: Investment Updates
(No Action Requested)

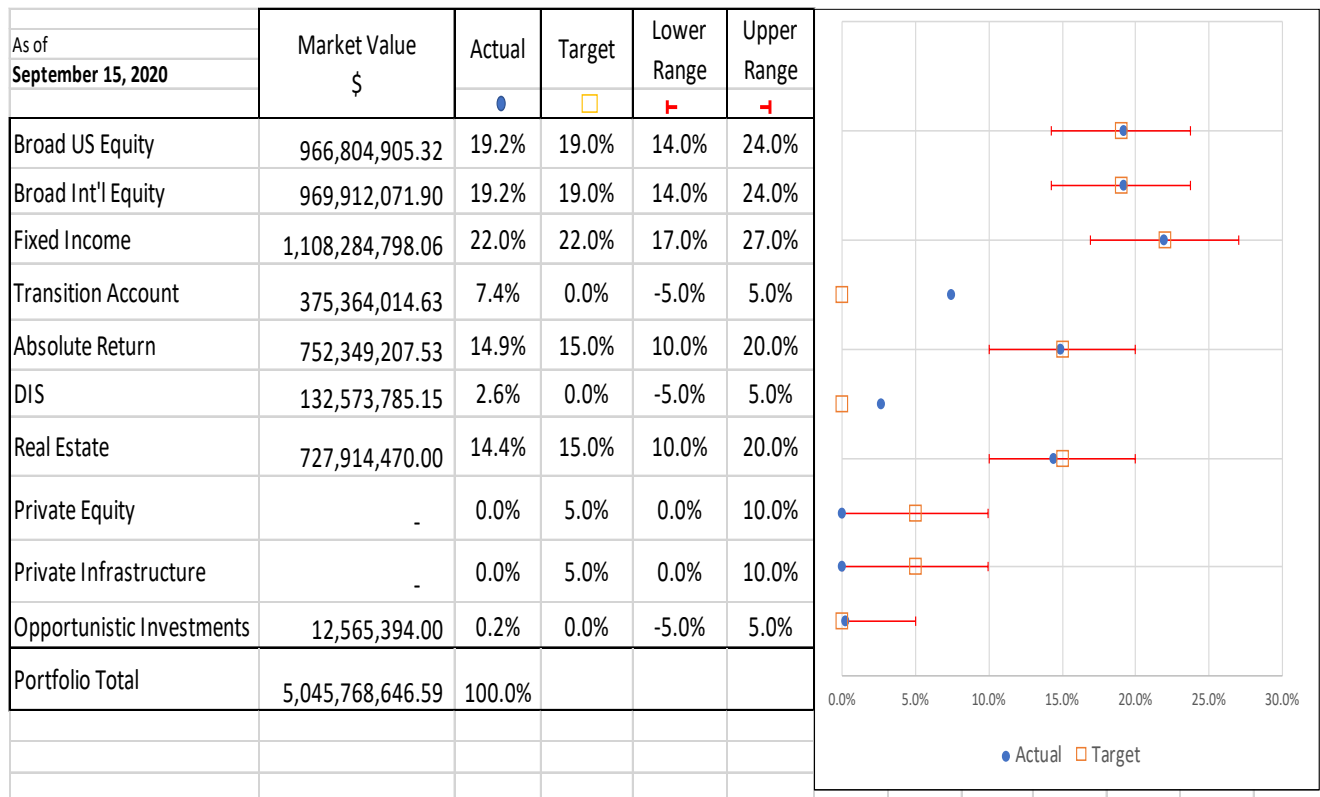
Portfolio Rebalancing Updates

In April 2020, the Board of University and School Lands (Board) approved a new Strategic Asset Allocation. The Department of Trust Lands (Department) staff, along with RVK staff, developed a transition plan to liquidate the TIPS, Commodities, MLPs, and Natural Resource Equities' holdings in the Permanent Trust Funds (PTFs) in a manner that is consistent with the best interests of the PTFs and as market conditions allow. The Department staff and RVK continuously monitoring the trigger points set for these accounts and redemption of investments are completed when appropriate. As of September 15, 2020, Van Eck has approximately \$38M remaining while Harvest has approximately \$94M.

In July 2020, the Board approved \$100M new investment commitment to the Apollo Accord Fund IV, LP (Fund), for an Opportunistic Investment. The Fund has now called on an initial \$2,565,393.79 that was funded on September 15, 2020. The remaining unfunded commitment is now at \$97,434,606.21.

Asset Allocation

The table below shows the status of the permanent trusts' asset allocation as of Sept. 15, 2020. The figures provided are unaudited.



Upcoming Investment Manager Meetings

There is no upcoming meeting scheduled.

MEMORANDUM TO THE BOARD OF UNIVERSITY AND SCHOOL LANDS

September 24, 2020

RE: Repayment of Unpaid Gas Royalties Report

(No Action Requested)

Gas Royalty Payors Out of Compliance*

Abraxas Petroleum	Murex
Armstrong Operating	Newfield
BTA	Oasis
Citation Oil and gas LLC	Petro Hunt
Condor Petroleum	Rampart Energy
Conoco Phillips	Resource Energy
Continental Resources	RIM Operating
Denbury	Ritter, Laber & Associates
EOG	Scout Energy Management
Fidelity	Sinclair
Gadeco LLC	Slawson
Hess	Thunderbird Resources
Hunt Oil	Whiting
Kraken Oil & Gas	Windridge Operating
Liberty Resources	XTO
Luff Exploration	Zavanna
Marathon	

*Based upon improper deductions taken as discovered in completed audits. As of the time of the report, deductions have not yet been repaid.

Since the September 9, 2020, Board of University and School Lands meeting, one payor has come into compliance:

- Crescent Point

Note, the majority of payors issue payment with their monthly royalty payment made the last week of every month.

MEMORANDUM TO THE BOARD OF UNIVERSITY AND SCHOOL LANDS

September 24, 2020

RE: Information Technology Project Status Update

(No Action Requested)

The Department of Trust Land's (Department) 2017-2019 biennial budget appropriation includes \$3.6 million to replace legacy information technology (IT) systems as authorized by Senate Bill 2013 of the Sixty-fifth Legislative Assembly.

Severe limitations in the current IT system, including redundant manual processes, have hampered efficiencies. Many of the Department's core data management systems were developed in the 1980s and 1990s, using designs and tools no longer supported by vendors. Some supplemental system improvements and purchases have been implemented; however, the outdated database structure restricts many potential improvements.

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

On July 1, 2020 the new system for Financial Management and Accounting was successfully launched.

On September 14, 2020 the Revenue Compliance Division successfully launched the migrated and updated software system.

During April 2020 the Investment Division participated in three demonstrations by vendors to implement the Microsoft Dynamics 365 product. On April 27, 2020 the RFP was issued to all three vendors. The Department received responses from all three vendors and is in the process of awarding the contract. The Investments Division, Commissioner and Project Manager are working to determine a go-live for software estimated to be in December 2020.

On December 16, 2019, the Department issued the RFP for the Land Management system. The Executive Steering Committee approved the Department moving forward with a Microsoft Dynamics solution. The Project Sponsor, Commissioner and Project Manager are working on determining a kick-off date.

MEMORANDUM TO THE BOARD OF UNIVERSITY AND SCHOOL LANDS

September 24, 2020

RE: North Dakota Department of Trust Lands Deferred Production Analysis
(No Action Requested)

North Dakota received \$1.25 billion from the Coronavirus Relief Fund as part of the \$2.2 trillion Coronavirus Aid, Relief, and Economic Security (CARES) Act. The North Dakota Budget Section voted in April to utilize more than half a billion dollars in federal funding for North Dakota's COVID-19 response and recovery efforts, with the majority of the money directed to support economic recovery.

The Department of Trust Lands received \$20,000 to complete an analysis of shut-in and deferred producing wells analysis based upon various economic scenarios to anticipate production and the resulting direct impact on cash flow for the Department. The analysis will allow the Department to better manage cash flows and disbursement obligations through cash deposits versus being required to sell investments. An analysis was presented at the May 28, 2020, Board of University and School Lands meeting. Attached is an updated analysis for review.

Attachment 1 – North Dakota Department of Trust Lands Deferred Production Analysis



**NORTH DAKOTA
DEPARTMENT OF TRUST LANDS**

Deferred Production Analysis (2nd Iteration)

Submitted: September 18, 2020



MINERAL TRACKER
MINERAL MANAGEMENT SOFTWARE

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INTRODUCTION

This report has been constructed to provide an analysis of the impact of deferred production of oil and natural gas as it relates to future royalty payments expected to be received by the North Dakota Department of Trust Lands (the “State”). For the purpose of this report, the term “deferred production” shall refer to those volumes of oil and gas intentionally withheld from the market by means of operator intervention, in response to inadequate commodity prices. Deferred production shall include volumes from wells that are shut-in, as well as volumes from wells from which production is intentionally reduced by limiting flow rates or lessening pump times. Reductions to production experienced at this time should not be viewed as “lost” production, but rather as “deferred” because the oil and gas reserves intentionally left in the reservoir may be recovered at some point in the future.

The COVID-19 pandemic, which has impacted nearly all aspects of global socioeconomic markets, is the leading cause of depressed oil and gas prices throughout most of 2020. Economic shut-downs effected a precipitous decrease in global demand which led to a swift supply and demand imbalance. On March 9, 2020, West Texas Intermediate (“WTI”) oil prices fell to a low of \$28.57 per barrel, a 39% drop from the previous trading day’s high of \$46.69. The rapid decrease in oil price was the greatest experienced over nearly two decades prior. Based on fears of falling global demand due to the COVID-19 pandemic, WTI prices continued to plummet to points below \$10 per barrel in April, even dipping into negative territory for some contracts traded during that time. In May, oil prices began to recover, though not to levels experienced at the beginning of the year. At the time of this report, WTI is currently trading near \$40 per barrel.

Oil being sold in the state of North Dakota has historically traded below WTI due to the upstream production’s distance from downstream markets. As such, a decrease in oil price has a more significant impact on operators in North Dakota than in many other states where downstream markets are easily accessible. In April and May 2020, an unprecedented number of wells were shut-in across the state, and production was reduced in many more producing wells, resulting in statewide production dropping from 1.4-million barrels of oil per day (“BOPD”) in January to 860-thousand BOPD in May. With improving oil prices, deferred production is being brought back online, and in July 2020, statewide oil production averaged 1-million BOPD.

MineralTracker is operated by petroleum engineers with the goal of implementing innovative technology to provide meaningful support to the mineral owners of North Dakota. In order to provide likely outcomes of the current economic environment, MineralTracker has constructed a comprehensive database including all oil and gas wells in which the State holds royalty interest, along with each well’s projected production through the use of decline curve analysis. This analysis has been completed to update the previous Deferred Production Analysis report submitted to the State on May 12, 2020.

Though there is not currently an accurate way to predict the ongoing effects of production being deferred, it is possible to forecast the anticipated outcome of multiple scenarios based on varying circumstances. MineralTracker has employed its decline curve database to forecast varying scenarios and project the resulting royalty payments to the State.

EXECUTIVE SUMMARY

In order to forecast oil and gas production from the State's royalty position, two factors must be considered: 1) the natural decline in production as a result of decreasing reservoir pressure over time, and 2) the operational impact of deferred production resulting from poor economic factors.

In order to account for the natural decline in production, it is necessary to perform a decline curve analysis for each well in which the State owns a royalty interest. Employing the Arps Equation, a mathematical relationship employed to project oil and gas decline curves, MineralTracker constructed a complete database including all State wells and each well's forecasted oil and gas production. By multiplying the State's interest by the forecasted gross production for each well, MineralTracker was able to calculate the anticipated "net production" proportional to the State's interests. Including all units in which the State holds interests, a total of 9,734 wells were considered for this analysis.

MineralTracker has constructed multiple scenarios for varying levels of deferred production impact utilizing the decline curve database. Further, the impact to royalty income will be subject to changing commodity prices, the most important of which is the price of oil. To account for changing oil prices, each scenario has been sensitized to oil price to provide a wide range of possible outcomes.

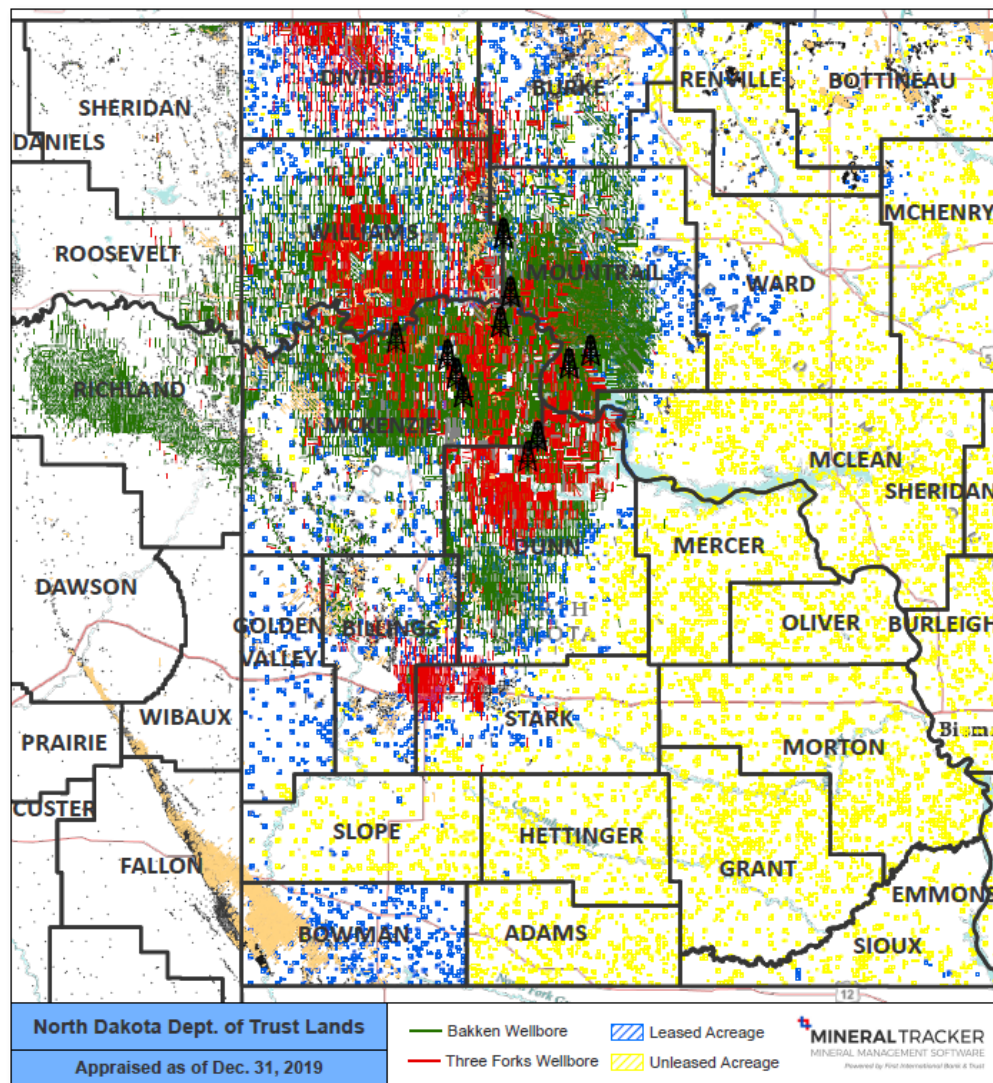


Figure 1: Royalty Position Overview Map

DEFERRED PRODUCTION TO DATE

Throughout 2020, North Dakota has experienced unprecedented impacts to oil and gas production due to shut-ins and other forms of deferred production. The State's royalty position has experienced a proportional effect, realizing significant swings in net production.

For the purpose of this report, the term "hard shut-in" shall refer to a well that produced no oil or gas for a full month of reported production. The term "soft shut-in" shall refer to a well that produced oil and/or gas for a month of reported production, but at a level significantly reduced from the production capacity of the well. In order to estimate soft shut-in counts and quantities of deferred production, historical production was compared to estimated projections over the same timeframe. A well was classified as a soft shut-in for a given month if its reported production was less than 50% of its projected production estimate.

Figure 2 depicted below excludes any interests subject to recent litigation where funds are currently being held in suspense. Figure 2 illustrates a growing number of hard and soft shut-in wells from April through June, resulting in decreasing net production and a growing amount of estimated deferred barrels of oil. It is estimated that 45% of the State's net production was deferred in June 2020. Wells being brought back online in July has resulted in a substantial increase in net production, though it is estimated that 34% of the State's production was still shut-in through July.

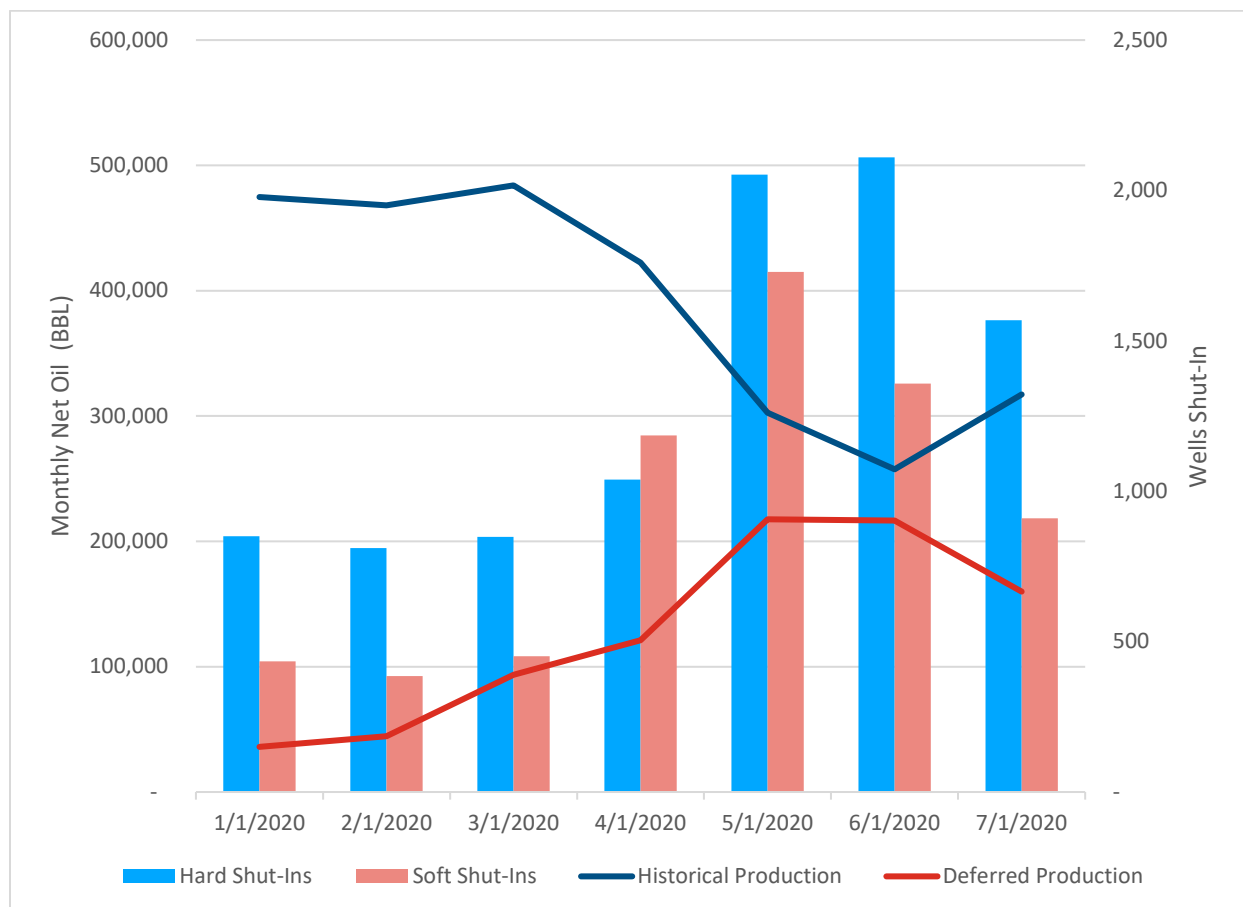


Figure 2: Past Deferred Production and Shut-ins

FORECASTED ECONOMIC SCENARIOS

The following economic scenarios were derived from the decline curve database constructed for the analysis of the State's royalty income. For each scenario, wells under litigation, as identified by the State, have been removed from the primary cash flow forecasts and are displayed separately as denoted by the "Litigation" label.

1. 0% Deferred Case
2. 10% Deferred Case
3. 20% Deferred Case
4. 30% Deferred Case
5. 40% Deferred Case

Each scenario, shown in the tables and figures below, is based on varying rates of deferred production. Although the WTI oil price is slightly above \$40 per barrel at the time of this report; North Dakota crude oil is typically selling for approximately \$33 per barrel according to the most recent pricing information published by the North Dakota Department of Mineral Resources ("DMR").

Month	0% Deferred	10% Deferred	20% Deferred	30% Deferred	40% Deferred
Jan. 2020	15,318	15,318	15,318	15,318	15,318
Feb. 2020	16,141	16,141	16,141	16,141	16,141
Mar. 2020	15,614	15,614	15,614	15,614	15,614
Apr. 2020	14,083	14,083	14,083	14,083	14,083
May. 2020	9,761	9,761	9,761	9,761	9,761
Jun. 2020	8,584	8,584	8,584	8,584	8,584
Jul. 2020	10,236	10,236	10,236	10,236	10,236
Aug. 2020	14,007	12,607	11,206	9,805	8,404
Sep. 2020	13,393	12,054	10,715	9,375	8,036
Oct. 2020	12,874	11,587	10,299	9,012	7,725
Nov. 2020	12,425	11,182	9,940	8,697	7,455
Dec. 2020	12,029	10,826	9,623	8,420	7,218
Jan. 2021	11,670	10,503	9,336	8,169	7,002
Feb. 2021	11,361	10,225	9,089	7,953	6,817
Mar. 2021	11,080	9,972	8,864	7,756	6,648
Apr. 2021	10,812	9,731	8,649	7,568	6,487
May. 2021	10,564	9,508	8,452	7,395	6,339
Jun. 2021	10,335	9,301	8,268	7,234	6,201
Annual Decline	21%	29%	37%	45%	53%

Table 1: Net Production Forecasts (Barrels of Oil Per Day)

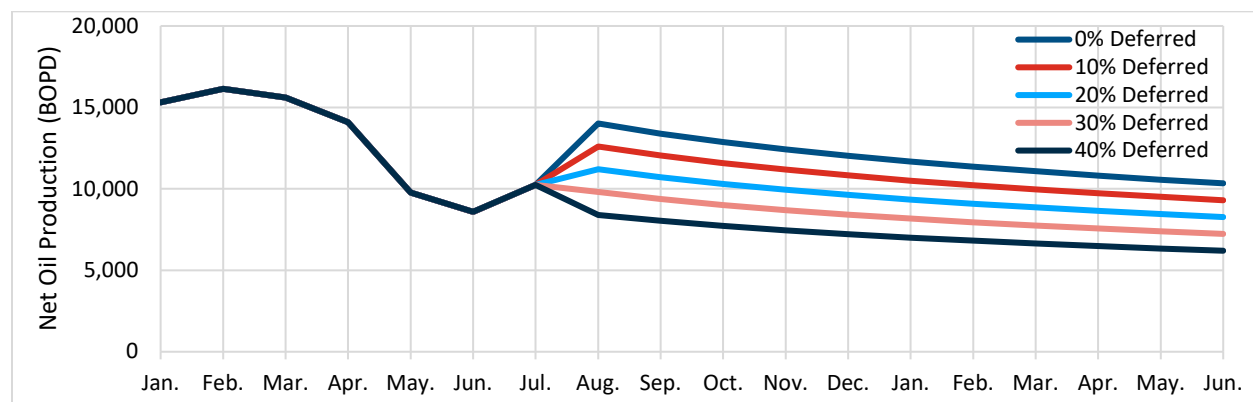


Figure 3: Net Production Forecasts

0% DEFERRED CASE

The 0% Deferred Case represents a situation in which all wells currently deferring production immediately resume producing at capacity, but no new wells are completed. The previous iteration of this report showed that the base rate decline, which represents the annual decline of an asset in which no new wells are added, was 37%. It should be noted that the 0% Deferred Case shows a 2020 annual decline rate of 21%, which illustrates the effect of deferred production in comparison to lost production.

Oil Price	\$50/BBL	\$45/BBL	\$40/BBL	\$35/BBL	\$30/BBL	\$25/BBL	\$20/BBL
Aug. 2020 - Jun. 2021 Royalties	\$209M	\$190M	\$170M	\$150M	\$130M	\$110M	\$90M

Table 2: 0% Deferred Case Aug. 2020 thru Jun. 2021 Royalty Forecast

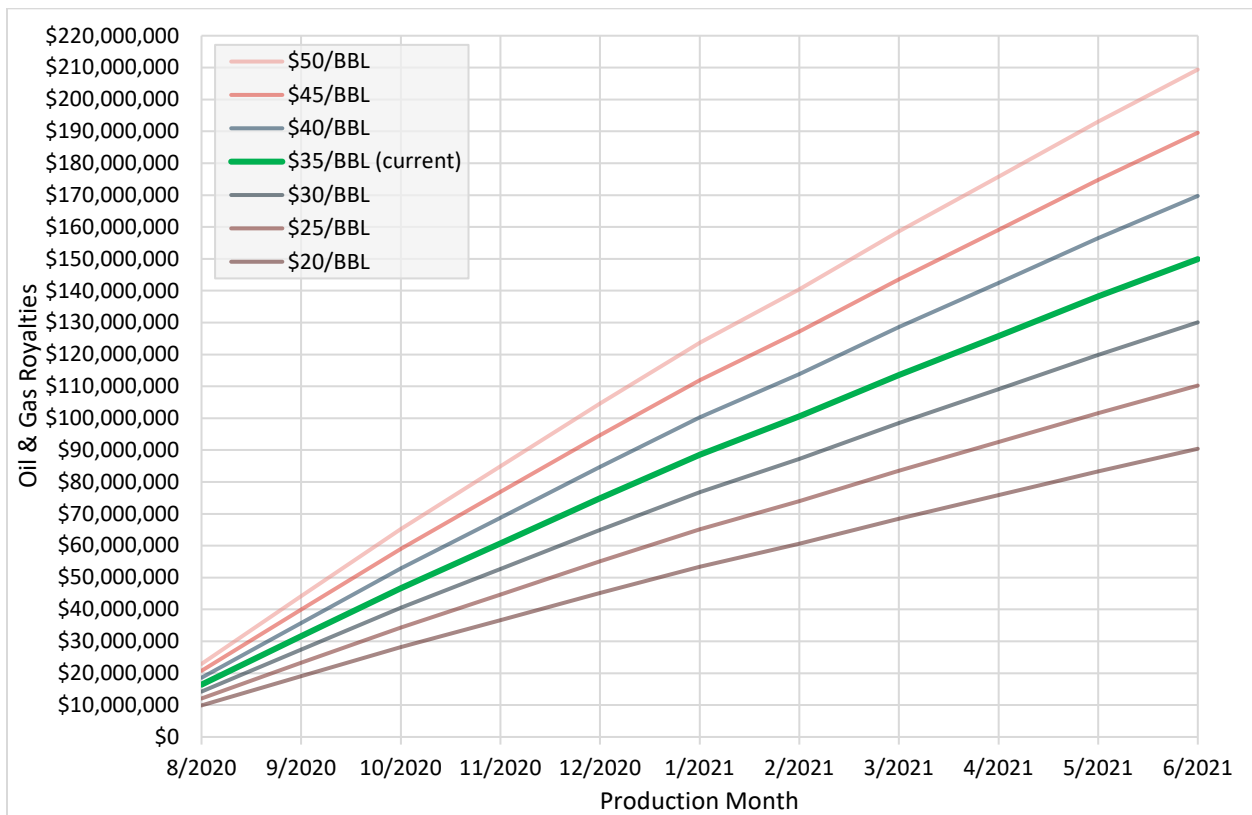


Figure 4: 0% Deferred Case Aug. 2020 thru Jun. 2021 Royalty Forecast

0% Deferred Case: Wells Under Litigation

Oil Price	\$50/BBL	\$45/BBL	\$40/BBL	\$35/BBL	\$30/BBL	\$25/BBL	\$20/BBL
Aug. 2020 - Jun. 2021 Royalties	\$30M	\$27M	\$25M	\$22M	\$19M	\$16M	\$13M

Table 3: Wells Under Litigation – 0% Deferred Case Aug. 2020 thru Jun. 2021 Royalty Forecast

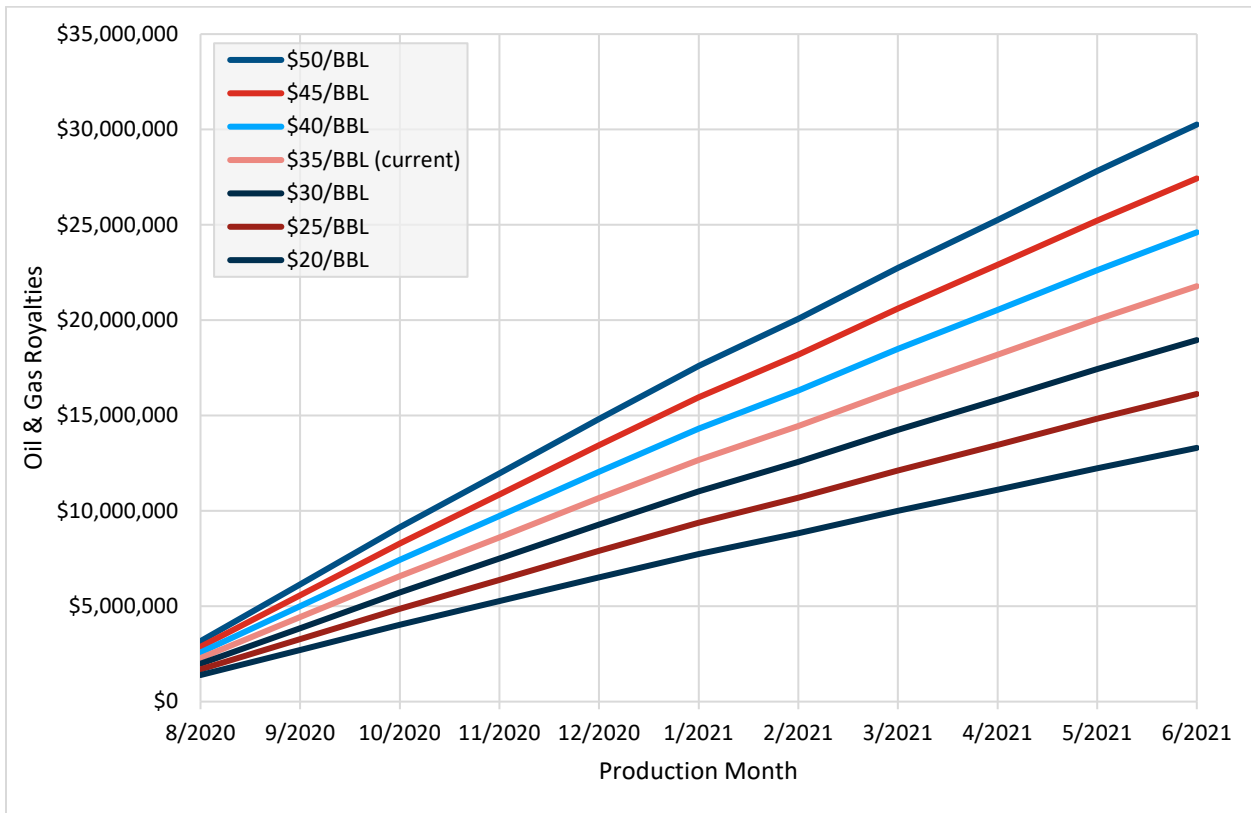


Figure 5: Wells Under Litigation – 0% Deferred Case Aug. 2020 thru Jun. 2021 Royalty Forecast

10% DEFERRED CASE

The 10% Deferred Case represents a situation in which no new wells are completed, but the deferred production rate is reduced from its current level of 34% to 10%.

Oil Price	\$50/BBL	\$45/BBL	\$40/BBL	\$35/BBL	\$30/BBL	\$25/BBL	\$20/BBL
Aug. 2020 - Jun. 2021 Royalties	\$188M	\$171M	\$153M	\$135M	\$117M	\$99M	\$81M

Table 4: 10% Deferred Case Aug. 2020 thru Jun. 20201 Royalty Forecast

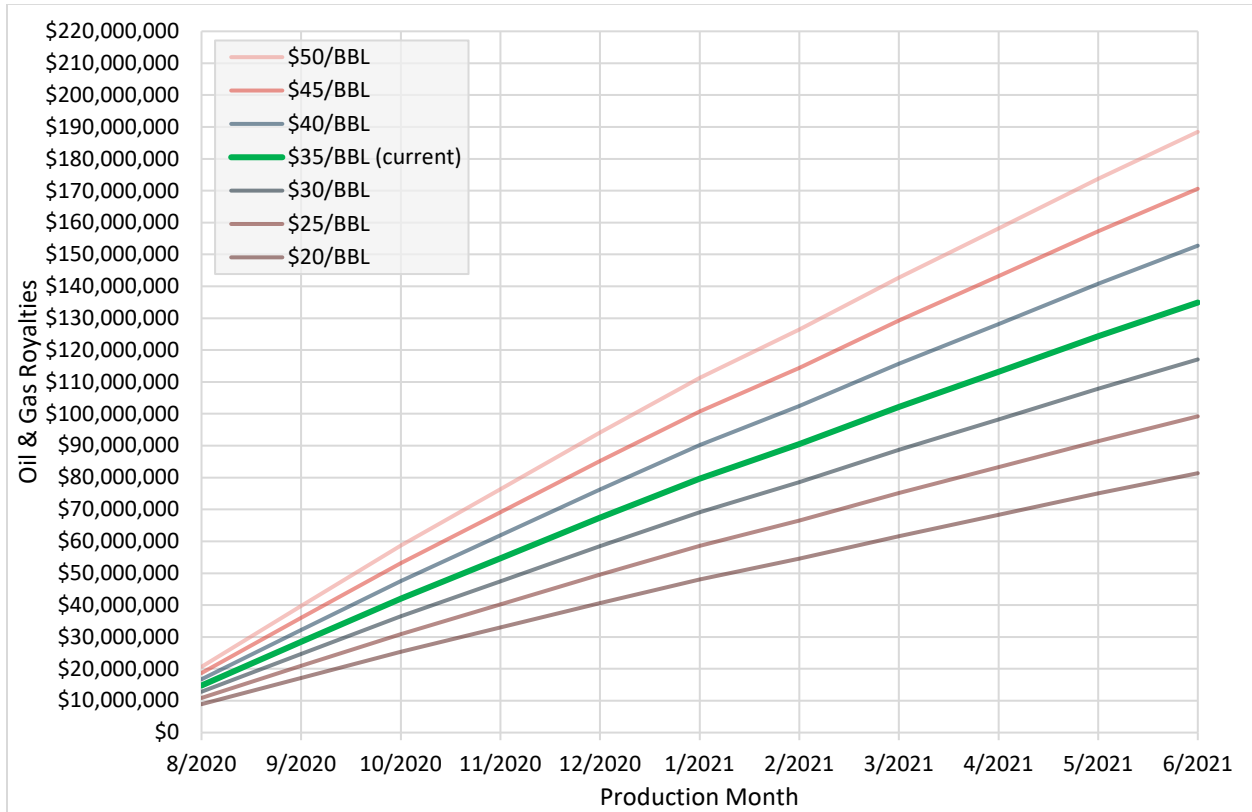


Figure 6: 10% Deferred Case Aug. 2020 thru Jun. 20201 Royalty Forecast

10% Deferred Case: Wells Under Litigation

Oil Price	\$50/BBL	\$45/BBL	\$40/BBL	\$35/BBL	\$30/BBL	\$25/BBL	\$20/BBL
Aug. 2020 - Jun. 2021 Royalties	\$27M	\$25M	\$22M	\$20M	\$17M	\$15M	\$12M

Table 5: Wells Under Litigation – 10% Deferred Case Aug. 2020 thru Jun. 2021 Royalty Forecast

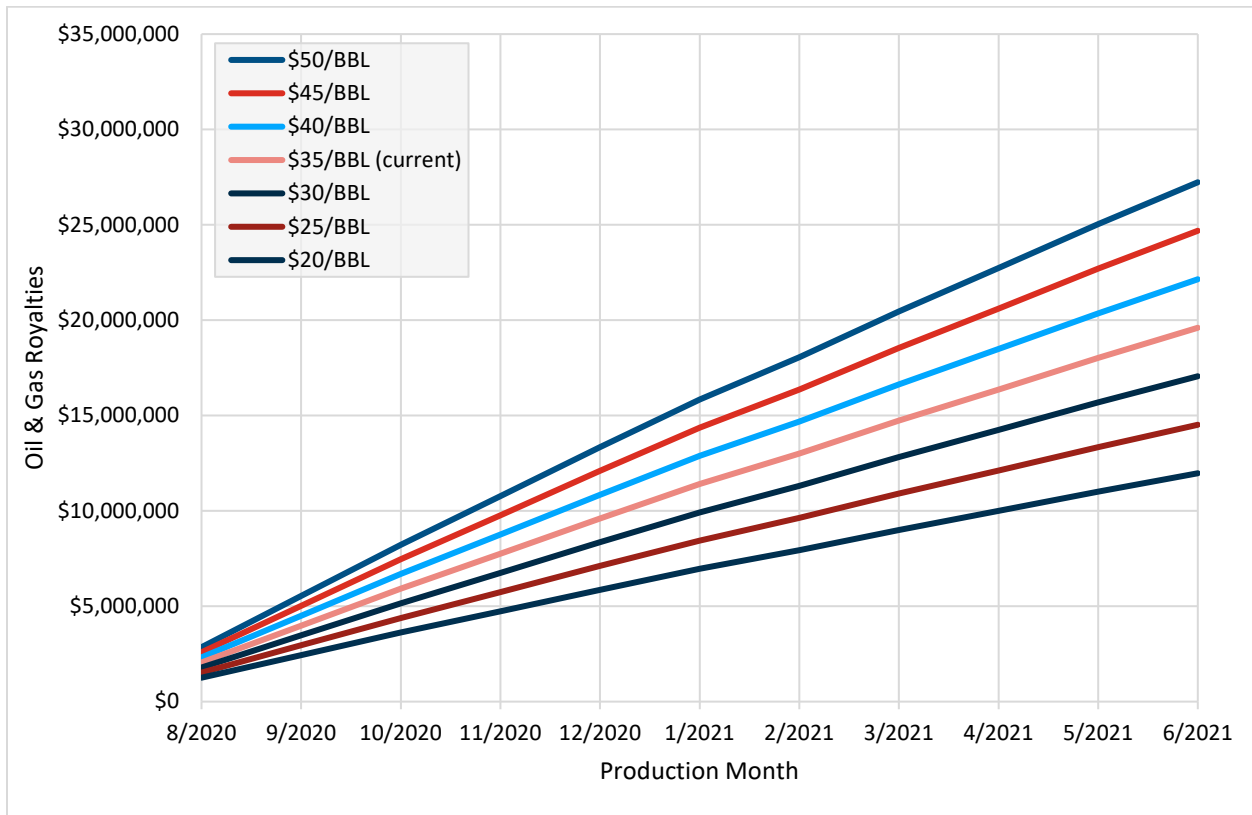


Figure 7: Wells Under Litigation – 10% Deferred Case Aug. 2020 thru Jun. 2021 Royalty Forecast

20% DEFERRED CASE

The 20% Deferred Case represents a situation in which no new wells are completed, but the deferred production rate is reduced from its current level of 34% to 20%.

Oil Price	\$50/BBL	\$45/BBL	\$40/BBL	\$35/BBL	\$30/BBL	\$25/BBL	\$20/BBL
Aug. 2020 - Jun. 2021 Royalties	\$168M	\$152M	\$136M	\$120M	\$104M	\$88M	\$72M

Table 6: 20% Deferred Case Aug. 2020 thru Jun. 20201 Royalty Forecast

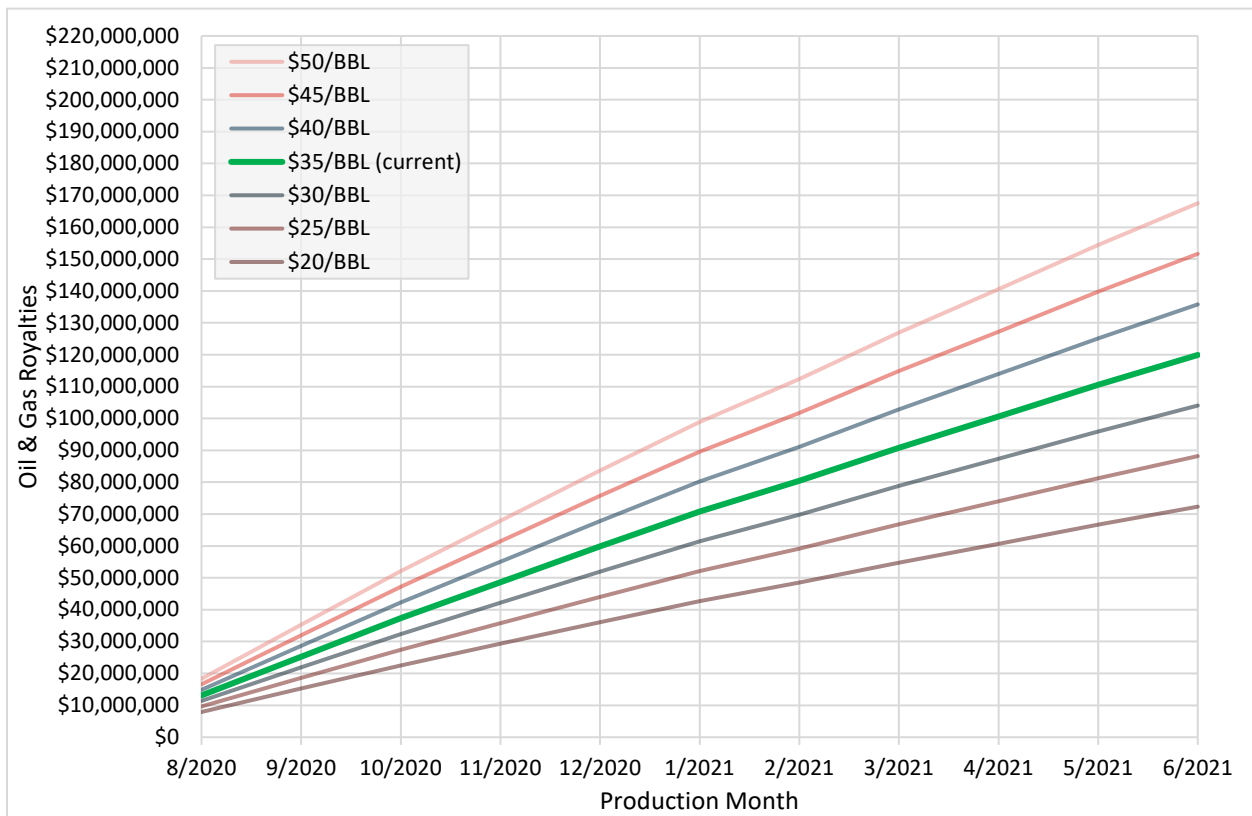


Figure 8: 20% Deferred Case Aug. 2020 thru Jun. 20201 Royalty Forecast

20% Deferred Case: Wells Under Litigation

Oil Price	\$50/BBL	\$45/BBL	\$40/BBL	\$35/BBL	\$30/BBL	\$25/BBL	\$20/BBL
Aug. 2020 - Jun. 2021 Royalties	\$24M	\$22M	\$20M	\$17M	\$15M	\$13M	\$11M

Table 7: Wells Under Litigation – 20% Deferred Case Aug. 2020 thru Jun. 2021 Royalty Forecast

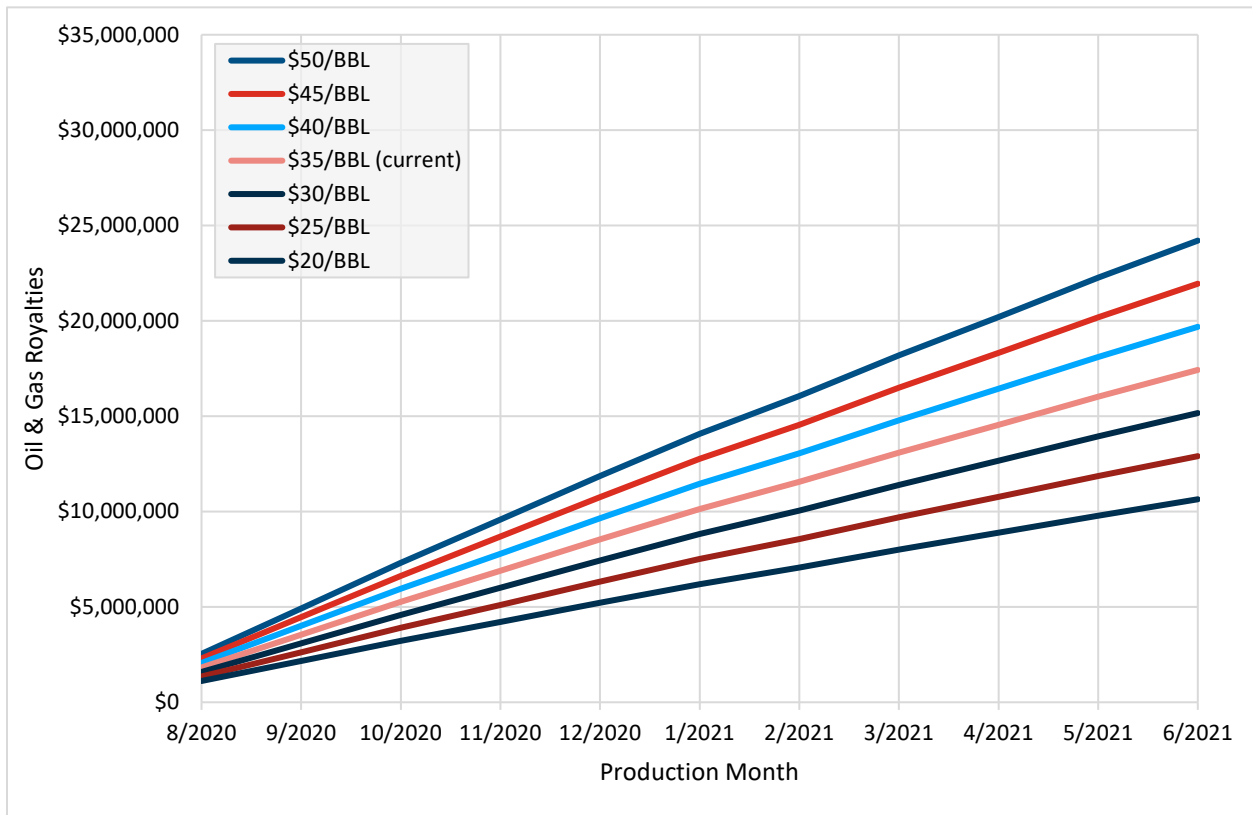


Figure 9: Wells Under Litigation – 20% Deferred Case Aug. 2020 thru Jun. 2021 Royalty Forecast

30% DEFERRED CASE

The 30% Deferred Case represents a situation in which no new wells are completed, but the deferred production rate is only slightly reduced from its current level of 34% to 30%.

Oil Price	\$50/BBL	\$45/BBL	\$40/BBL	\$35/BBL	\$30/BBL	\$25/BBL	\$20/BBL
Aug. 2020 - Jun. 2021 Royalties	\$147M	\$133M	\$119M	\$105M	\$91M	\$77M	\$63M

Table 8: 30% Deferred Case Aug. 2020 thru Jun. 2021 Royalty Forecast

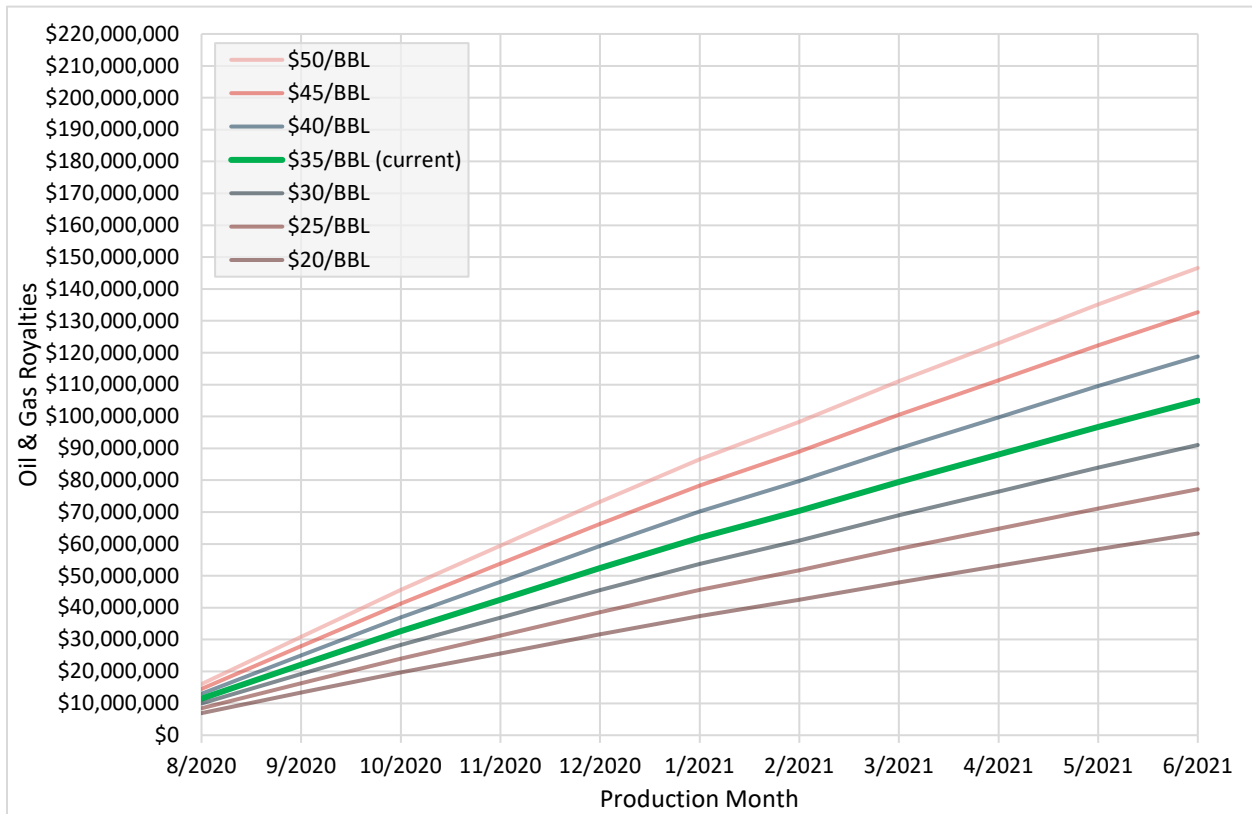


Figure 10: 30% Deferred Case Aug. 2020 thru Jun. 2021 Royalty Forecast

30% Deferred Case: Wells Under Litigation

Oil Price	\$50/BBL	\$45/BBL	\$40/BBL	\$35/BBL	\$30/BBL	\$25/BBL	\$20/BBL
Aug. 2020 - Jun. 2021 Royalties	\$21M	\$19M	\$17M	\$15M	\$13M	\$11M	\$9M

Table 9: Wells Under Litigation – 30% Deferred Case Aug. 2020 thru Jun. 2021 Royalty Forecast

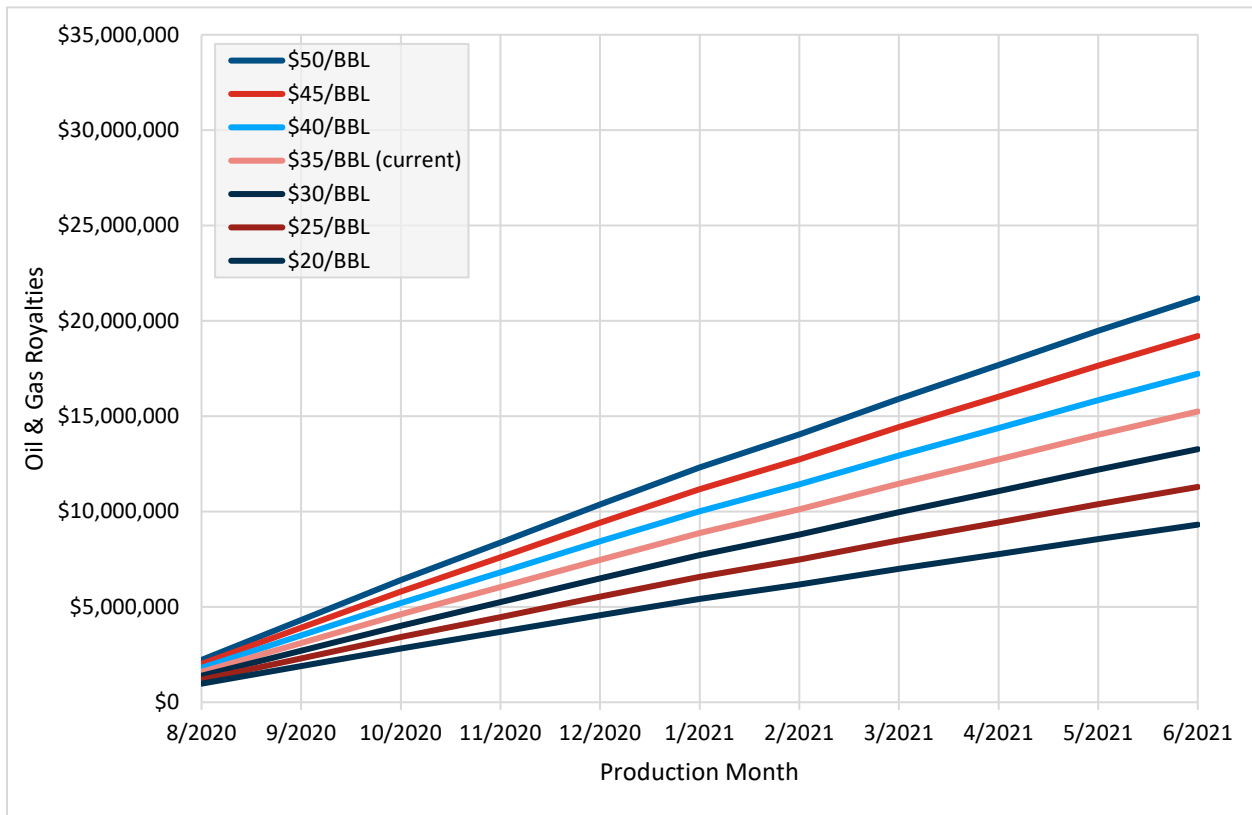


Figure 11: Wells Under Litigation – 30% Deferred Case Aug. 2020 thru Jun. 2021 Royalty Forecast

40% DEFERRED CASE

The 40% Deferred Case represents a situation in which no new wells are completed, and the deferred production rate is increased from its current level of 34% to 40%.

Oil Price	\$50/BBL	\$45/BBL	\$40/BBL	\$35/BBL	\$30/BBL	\$25/BBL	\$20/BBL
Aug. 2020 - Jun. 2021 Royalties	\$126M	\$114M	\$102M	\$90M	\$78M	\$66M	\$54M

Table 10: 40% Deferred Case Aug. 2020 thru Jun. 20201 Royalty Forecast

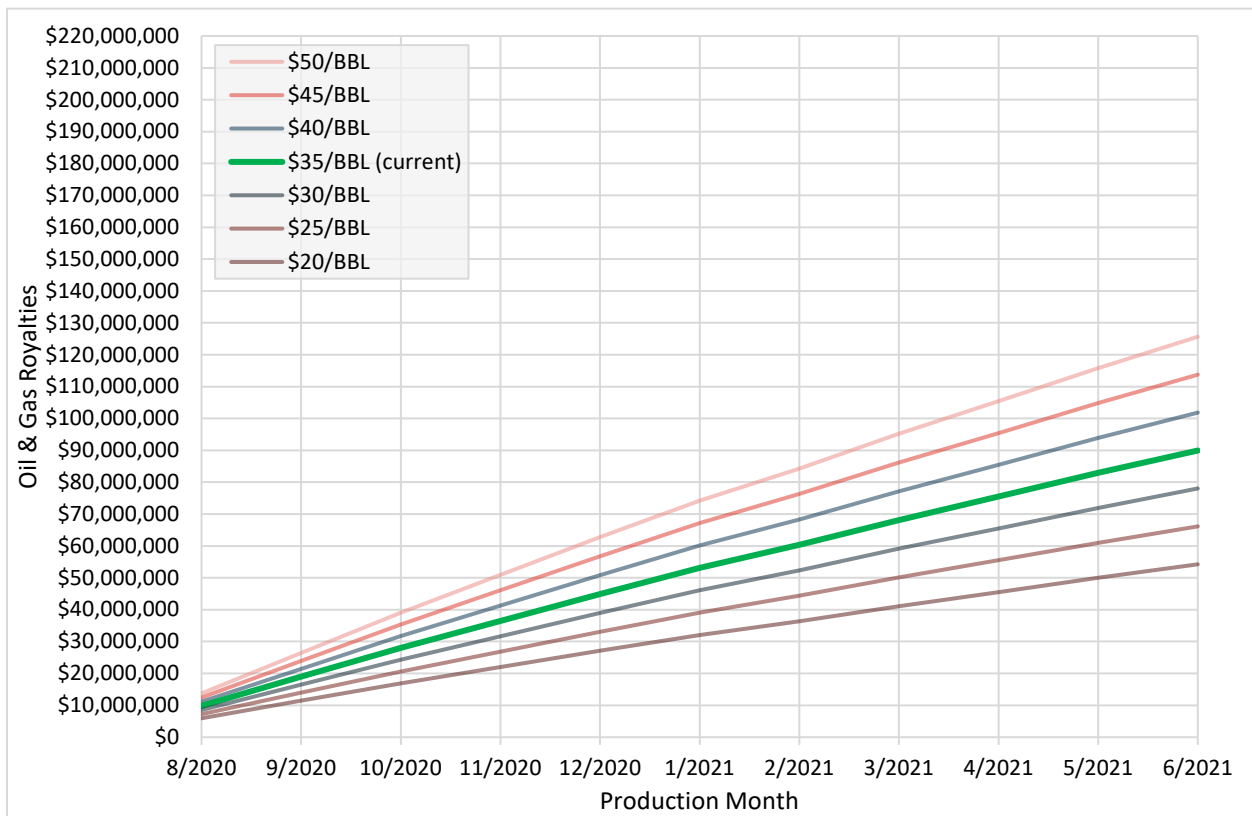


Figure 12: 40% Deferred Case Aug. 2020 thru Jun. 20201 Royalty Forecast

40% Deferred Case: Wells Under Litigation

Oil Price	\$50/BBL	\$45/BBL	\$40/BBL	\$35/BBL	\$30/BBL	\$25/BBL	\$20/BBL
Aug. 2020 - Jun. 2021 Royalties	\$18M	\$16M	\$15M	\$13M	\$11M	\$10M	\$8M

Table 11: Wells Under Litigation – 40% Deferred Case Aug. 2020 thru Jun. 2021 Royalty Forecast

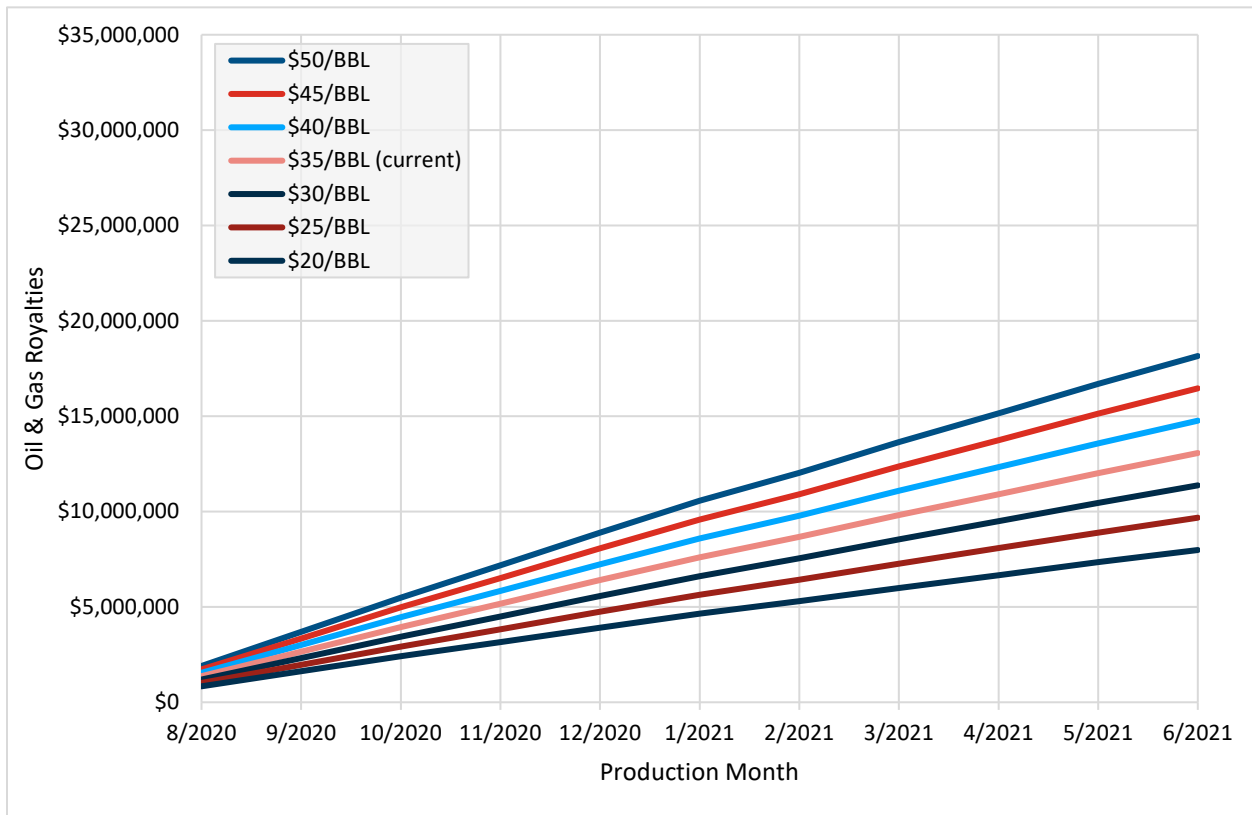


Figure 13: Wells Under Litigation – 40% Deferred Case Aug. 2020 thru Jun. 2021 Royalty Forecast

CONCLUSION

The cumulative forecasted revenues for the various scenarios considered herein for oil production from August 2020 through June 2021 is detailed in Table 12 below.

August 2020 - June 2021 Royalties							
Oil Price	\$50/BBL	\$45/BBL	\$40/BBL	\$35/BBL	\$30/BBL	\$25/BBL	\$20/BBL
0% Deferred	\$209M	\$190M	\$170M	\$150M	\$130M	\$110M	\$90M
10% Deferred	\$188M	\$171M	\$153M	\$135M	\$117M	\$99M	\$81M
20% Deferred	\$168M	\$152M	\$136M	\$120M	\$104M	\$88M	\$72M
30% Deferred	\$147M	\$133M	\$119M	\$105M	\$91M	\$77M	\$63M
40% Deferred	\$126M	\$114M	\$102M	\$90M	\$78M	\$66M	\$54M

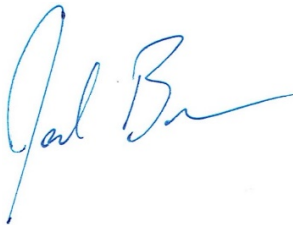
Table 12: Aug. 2020 thru Dec. 2021 Royalty Forecast – All Cases

A study of the State's royalty production in March through July 2020 appears to indicate that operators will continue to increase production from existing wells that are currently shut-in, so long as North Dakota oil prices remain above \$30 per barrel. If the trend from June to July 2020 were to continue linearly, the State's royalty assets would resume producing at capacity by October; however, lower producing wells may remain offline until commodity prices improve beyond the current rates. It is anticipated that any negative impact towards the realized oil price in North Dakota may hinder production recovery, and could potentially lead to further shut-ins if warranted.

Forecasted monthly volumes and revenue sensitivities have been included in the appendix of this report.

MineralTracker appreciates this opportunity to provide this meaningful analysis in support of the State of North Dakota.

Respectfully Submitted,



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APPENDIX

Appendix A: Monthly Revenue Forecasts – 0% Deferred Case

Appendix B: Monthly Revenue Forecasts – 10% Deferred Case

Appendix C: Monthly Revenue Forecasts – 20% Deferred Case

Appendix D: Monthly Revenue Forecasts – 30% Deferred Case

Appendix E: Monthly Revenue Forecasts – 40% Deferred Case

APPENDIX A: MONTHLY REVENUE FORECASTS - 0% DEFERRED CASE

Note: the figures listed below exclude all forecasted royalties under recent litigation

Month	Oil (BBL)	Gas (MCF)	\$50/BBL	\$45/BBL	\$40/BBL	\$35/BBL (current)	\$30/BBL	\$25/BBL	\$20/BBL
Aug. 2020	434,230	832,795	\$22,923,209	\$20,752,060	\$18,580,911	\$16,409,761	\$14,238,612	\$12,067,463	\$9,896,314
Sep. 2020	401,802	771,925	\$21,213,263	\$19,204,252	\$17,195,241	\$15,186,230	\$13,177,218	\$11,168,207	\$9,159,196
Oct. 2020	399,100	767,038	\$21,071,048	\$19,075,547	\$17,080,046	\$15,084,546	\$13,089,045	\$11,093,544	\$9,098,043
Nov. 2020	372,743	716,491	\$19,679,630	\$17,815,916	\$15,952,203	\$14,088,489	\$12,224,776	\$10,361,062	\$8,497,349
Dec. 2020	372,904	717,178	\$19,688,717	\$17,824,195	\$15,959,672	\$14,095,150	\$12,230,628	\$10,366,105	\$8,501,583
Jan. 2021	361,779	695,846	\$19,101,395	\$17,292,501	\$15,483,607	\$13,674,713	\$11,865,819	\$10,056,926	\$8,248,032
Feb. 2021	318,120	611,760	\$16,796,131	\$15,205,529	\$13,614,927	\$12,024,325	\$10,433,723	\$8,843,121	\$7,252,519
Mar. 2021	343,470	660,374	\$18,134,360	\$16,417,008	\$14,699,657	\$12,982,305	\$11,264,954	\$9,547,602	\$7,830,251
Apr. 2021	324,352	623,473	\$17,124,762	\$15,503,001	\$13,881,240	\$12,259,479	\$10,637,718	\$9,015,957	\$7,394,196
May. 2021	327,498	629,505	\$17,290,817	\$15,653,328	\$14,015,839	\$12,378,351	\$10,740,862	\$9,103,373	\$7,465,885
Jun. 2021	310,043	595,790	\$16,369,031	\$14,818,816	\$13,268,600	\$11,718,384	\$10,168,169	\$8,617,953	\$7,067,737

APPENDIX B: MONTHLY REVENUE FORECASTS – 10% DEFERRED CASE

Note: the figures listed below exclude all forecasted royalties under recent litigation

Month	Oil (BBL)	Gas (MCF)	\$50/BBL	\$45/BBL	\$40/BBL	\$35/BBL (current)	\$30/BBL	\$25/BBL	\$20/BBL
Aug. 2020	390,807	749,516	\$20,630,888	\$18,676,854	\$16,722,820	\$14,768,785	\$12,814,751	\$10,860,717	\$8,906,682
Sep. 2020	361,622	694,732	\$19,091,937	\$17,283,827	\$15,475,717	\$13,667,607	\$11,859,496	\$10,051,386	\$8,243,276
Oct. 2020	359,190	690,334	\$18,963,943	\$17,167,992	\$15,372,042	\$13,576,091	\$11,780,140	\$9,984,190	\$8,188,239
Nov. 2020	335,468	644,842	\$17,711,667	\$16,034,324	\$14,356,982	\$12,679,640	\$11,002,298	\$9,324,956	\$7,647,614
Dec. 2020	335,614	645,460	\$17,719,845	\$16,041,775	\$14,363,705	\$12,685,635	\$11,007,565	\$9,329,495	\$7,651,425
Jan. 2021	325,601	626,261	\$17,191,255	\$15,563,251	\$13,935,246	\$12,307,242	\$10,679,237	\$9,051,233	\$7,423,228
Feb. 2021	286,308	550,584	\$15,116,518	\$13,684,976	\$12,253,435	\$10,821,893	\$9,390,351	\$7,958,809	\$6,527,267
Mar. 2021	309,123	594,337	\$16,320,924	\$14,775,307	\$13,229,691	\$11,684,075	\$10,138,458	\$8,592,842	\$7,047,226
Apr. 2021	291,917	561,125	\$15,412,286	\$13,952,701	\$12,493,116	\$11,033,531	\$9,573,946	\$8,114,362	\$6,654,777
May. 2021	294,748	566,554	\$15,561,735	\$14,087,995	\$12,614,255	\$11,140,516	\$9,666,776	\$8,193,036	\$6,719,296
Jun. 2021	279,039	536,211	\$14,732,128	\$13,336,934	\$11,941,740	\$10,546,546	\$9,151,352	\$7,756,158	\$6,360,964

APPENDIX C: MONTHLY REVENUE FORECASTS – 20% DEFERRED CASE

Note: the figures listed below exclude all forecasted royalties under recent litigation

Month	Oil (BBL)	Gas (MCF)	\$50/BBL	\$45/BBL	\$40/BBL	\$35/BBL (current)	\$30/BBL	\$25/BBL	\$20/BBL
Aug. 2020	347,384	666,236	\$18,338,567	\$16,601,648	\$14,864,729	\$13,127,809	\$11,390,890	\$9,653,970	\$7,917,051
Sep. 2020	321,442	617,540	\$16,970,611	\$15,363,402	\$13,756,193	\$12,148,984	\$10,541,775	\$8,934,566	\$7,327,357
Oct. 2020	319,280	613,630	\$16,856,838	\$15,260,438	\$13,664,037	\$12,067,637	\$10,471,236	\$8,874,835	\$7,278,435
Nov. 2020	298,194	573,193	\$15,743,704	\$14,252,733	\$12,761,762	\$11,270,791	\$9,779,821	\$8,288,850	\$6,797,879
Dec. 2020	298,324	573,742	\$15,750,974	\$14,259,356	\$12,767,738	\$11,276,120	\$9,784,502	\$8,292,884	\$6,801,266
Jan. 2021	289,423	556,677	\$15,281,116	\$13,834,001	\$12,386,886	\$10,939,771	\$9,492,656	\$8,045,540	\$6,598,425
Feb. 2021	254,496	489,408	\$13,436,905	\$12,164,423	\$10,891,942	\$9,619,460	\$8,346,979	\$7,074,497	\$5,802,015
Mar. 2021	274,776	528,299	\$14,507,488	\$13,133,606	\$11,759,725	\$10,385,844	\$9,011,963	\$7,638,082	\$6,264,201
Apr. 2021	259,482	498,778	\$13,699,810	\$12,402,401	\$11,104,992	\$9,807,583	\$8,510,175	\$7,212,766	\$5,915,357
May. 2021	261,998	503,604	\$13,832,653	\$12,522,663	\$11,212,672	\$9,902,681	\$8,592,690	\$7,282,699	\$5,972,708
Jun. 2021	248,035	476,632	\$13,095,225	\$11,855,053	\$10,614,880	\$9,374,708	\$8,134,535	\$6,894,362	\$5,654,190

APPENDIX D: MONTHLY REVENUE FORECASTS - 30% DEFERRED CASE

Note: the figures listed below exclude all forecasted royalties under recent litigation

Month	Oil (BBL)	Gas (MCF)	\$50/BBL	\$45/BBL	\$40/BBL	\$35/BBL (current)	\$30/BBL	\$25/BBL	\$20/BBL
Aug. 2020	303,961	582,957	\$16,046,246	\$14,526,442	\$13,006,637	\$11,486,833	\$9,967,029	\$8,447,224	\$6,927,420
Sep. 2020	281,262	540,347	\$14,849,284	\$13,442,976	\$12,036,669	\$10,630,361	\$9,224,053	\$7,817,745	\$6,411,437
Oct. 2020	279,370	536,927	\$14,749,734	\$13,352,883	\$11,956,032	\$10,559,182	\$9,162,331	\$7,765,481	\$6,368,630
Nov. 2020	260,920	501,544	\$13,775,741	\$12,471,141	\$11,166,542	\$9,861,942	\$8,557,343	\$7,252,744	\$5,948,144
Dec. 2020	261,033	502,024	\$13,782,102	\$12,476,936	\$11,171,771	\$9,866,605	\$8,561,439	\$7,256,274	\$5,951,108
Jan. 2021	253,245	487,092	\$13,370,976	\$12,104,751	\$10,838,525	\$9,572,299	\$8,306,074	\$7,039,848	\$5,773,622
Feb. 2021	222,684	428,232	\$11,757,292	\$10,643,871	\$9,530,449	\$8,417,028	\$7,303,606	\$6,190,185	\$5,076,763
Mar. 2021	240,429	462,262	\$12,694,052	\$11,491,906	\$10,289,760	\$9,087,614	\$7,885,468	\$6,683,321	\$5,481,175
Apr. 2021	227,047	436,431	\$11,987,333	\$10,852,101	\$9,716,868	\$8,581,635	\$7,446,403	\$6,311,170	\$5,175,937
May. 2021	229,248	440,653	\$12,103,572	\$10,957,330	\$9,811,088	\$8,664,845	\$7,518,603	\$6,372,361	\$5,226,119
Jun. 2021	217,030	417,053	\$11,458,322	\$10,373,171	\$9,288,020	\$8,202,869	\$7,117,718	\$6,032,567	\$4,947,416

APPENDIX E: MONTHLY REVENUE FORECASTS - 40% DEFERRED CASE

Note: the figures listed below exclude all forecasted royalties under recent litigation

Month	Oil (BBL)	Gas (MCF)	\$50/BBL	\$45/BBL	\$40/BBL	\$35/BBL (current)	\$30/BBL	\$25/BBL	\$20/BBL
Aug. 2020	260,538	499,677	\$13,753,925	\$12,451,236	\$11,148,546	\$9,845,857	\$8,543,167	\$7,240,478	\$5,937,788
Sep. 2020	241,081	463,155	\$12,727,958	\$11,522,551	\$10,317,144	\$9,111,738	\$7,906,331	\$6,700,924	\$5,495,517
Oct. 2020	239,460	460,223	\$12,642,629	\$11,445,328	\$10,248,028	\$9,050,727	\$7,853,427	\$6,656,126	\$5,458,826
Nov. 2020	223,646	429,895	\$11,807,778	\$10,689,550	\$9,571,322	\$8,453,093	\$7,334,865	\$6,216,637	\$5,098,409
Dec. 2020	223,743	430,307	\$11,813,230	\$10,694,517	\$9,575,803	\$8,457,090	\$7,338,377	\$6,219,663	\$5,100,950
Jan. 2021	217,067	417,508	\$11,460,837	\$10,375,501	\$9,290,164	\$8,204,828	\$7,119,492	\$6,034,155	\$4,948,819
Feb. 2021	190,872	367,056	\$10,077,679	\$9,123,318	\$8,168,956	\$7,214,595	\$6,260,234	\$5,305,873	\$4,351,512
Mar. 2021	206,082	396,225	\$10,880,616	\$9,850,205	\$8,819,794	\$7,789,383	\$6,758,972	\$5,728,561	\$4,698,150
Apr. 2021	194,611	374,084	\$10,274,857	\$9,301,801	\$8,328,744	\$7,355,688	\$6,382,631	\$5,409,574	\$4,436,518
May. 2021	196,499	377,703	\$10,374,490	\$9,391,997	\$8,409,504	\$7,427,010	\$6,444,517	\$5,462,024	\$4,479,531
Jun. 2021	186,026	357,474	\$9,821,419	\$8,891,289	\$7,961,160	\$7,031,031	\$6,100,901	\$5,170,772	\$4,240,642

MEMORANDUM TO THE BOARD OF UNIVERSITY AND SCHOOL LANDS

September 24, 2020

RE: Board of University and School Lands Meeting Dates For 2021
(No Action Requested)

North Dakota Century Code 15-01-03 states that the Board shall meet on the last Thursday of each month, unless it appears a quorum will not be present at which time it may be rescheduled. Special meetings of the Board may be held at any time at the written call of the chairman, the commissioner, or any two members of the Board.

The statutory meeting dates serve as the starting point in efforts to schedule meetings of the Board. The meetings are set at 9:00 AM in the Governor's Conference Room, unless otherwise noted. Board members should anticipate the meetings will last two hours each month except for meetings that include the Investment quarterly update which will last three hours as noted below.

The following dates will be shared with Board members' offices for scheduling purposes.

- January 28, 2021 9:00 AM – 11:00 AM
- February 25, 2021 9:00 AM – 12:00 PM
- March 25, 2021 9:00 AM – 11:00 AM
- April 29, 2021 9:00 AM – 11:00 AM
- May 27, 2021 9:00 AM – 12:00 PM
- June 24, 2021 9:00 AM – 11:00 AM
- July 29, 2021 9:00 AM – 11:00 AM
- August 26, 2021 9:00 AM – 12:00 PM
- September 30, 2021 9:00 AM – 11:00 AM
- October 28, 2021 9:00 AM – 11:00 AM
- November 23, 2021 9:00 AM – 12:00 PM Tuesday before Thanksgiving
- December 21, 2021 9:00 AM – 11:00 AM Tuesday before Christmas Eve

MEMORANDUM TO THE BOARD OF UNIVERSITY AND SCHOOL LANDS

September 24, 2020

RE: Approval of Additional FTE

On August 27, 2020, the Board of University and School Lands supported the Commissioner in requesting an additional FTE from the Emergency Commission and the Budget Section.

On September 8, 2020, the Emergency Commission approved the Department of Trust Lands (Department) request for an additional FTE for the Minerals Division to assist in the management of 2.6 million mineral acres.

On September 17, 2020 the North Dakota Legislative Budget Section approved the Department's request for one FTE for the Minerals Division to assist in the management of 2.6 million mineral acres.

The approval did not require additional funding be appropriated as Department currently has available funding in the salary and wages line item to support the FTE.

MEMORANDUM TO THE BOARD OF UNIVERSITY AND SCHOOL LANDS

September 24, 2020

RE: Surface Land Management and Minerals Management Administrative Rules

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 (the Act). In Senate Bill 2264, the Sixty-sixth Legislative Assembly directed the Board of University and School Lands be exempt from the adjudicative proceeding requirements and procedures under North Dakota Century Code §§ 28-32-21 through 28-32-51 of the Act.

The Department of Trust Lands (Department) considered existing rules, together with policies and procedures, to incorporate necessary wording from those into rules which comply with the North Dakota Administrative Code. The Board's rules are included in Title 85 of the North Dakota Administrative Code. As the Department determines additional rules are needed, those are drafted and presented to the Board for review.

Land Sale and Land Exchange Administrative Rules

By the 1970s, approximately 80% of the original 3.2 million acres of the land granted to trusts had been sold, and the Board began an informal policy of not selling surface lands. While often encouraged to sell trust lands to private citizens to put it on the tax rolls, the Board has historically experienced opposition to land sales from the Game and Fish Department, Wildlife Federation, Medora Grazing Association, ND Farmers Union, sportsmen, and other outside entities. The Board formalized its policy of not selling land in 1981 when it limited land sales to smaller and isolated tracts, and to parcels that caused management problems. The Board has had a limited land sale policy ever since. The history of the land sale policy is attached as Attachment 1.

In the 1990s, the Department evaluated the historic return on investment of land in North Dakota and the impact on the value of trust lands to the permanent trust funds. The initial study encompassed land rents and values from 1960 through the 1990s; it was later updated through 2001. The results of this study indicated that land is similar to and should be treated like other asset classes in which the Board invests. In October 1998, the Board formally designated surface lands as an asset class to be managed within the Board's overall investment portfolio.

Considering land as an investment is central to its management for the long-term best interests of the trusts. Land as an asset class means that it is recognized for its characteristics of value, income, stability and liquidity that are inherent in investments. It also means that investment principles, such as risk versus reward, should be applied to land just as to any other investment asset class.

The study led to a proposal that certain lands with an income return of less than 0% be considered for sale. However, due in large part to public opposition to the sale of trust lands, these tracts were not sold to private owners. Nonetheless, the work done in this area helped demonstrate that the consistent cash flows generated by trust land and its inherent nature as a store of value, make it a stabilizer in the Board's overall asset portfolio.

On March 26, 2015 the Board revised its land sale policy to:

1. Clarify the general policy to sell land only if certain conditions are met;
2. Add language requiring that sales of larger tracts be coupled with a "no net loss" of acres provision;
3. Remove language specifically related to rates of return and low potential for development as reasons for consideration of a sale of trust lands; and
4. Add a provision to consider selling land in higher value urban locations.

The provision of no net loss of “leasable trust land” was adopted to provide an option to consider tracts that are larger than 80 grassland acres and 40 crop acres being offered for sale without reducing the trust’s leasable real estate holdings. It allows for a sale of trust land and a donation of land to the trust from which the original land was sold. To date, the no net loss policy has not been used and no procedures have been developed to implement the policy. See Attachment 1.

On September 28, 2017, the Board directed the Commissioner to investigate and explore procedural options to implement the Board’s no net loss of “leasable trust land” policy through land exchanges of like or equal acres and value.

The proposed Administrative Rules presented to the Board in June 2020 provided changes from the Board’s Land Retention and Sales Policy as follows:

Grant Land Sales (N.D.C.C. ch. 15-06):

- Unchanged from the Board’s Land Retention and Sales Policy with the exception that any sale will be subject to public comment prior to Board review of the application.
- Maintains the provision of no net loss of leasable original grant land through public sale and subsequent land provided to the trust from which the original grant land was sold.

Acquired Land Sales (N.D.C.C. ch. 15-07):

- Requires any sale of acquired lands to be subject to public comment prior to Board review.
- Acquired land sales would not be subject to any acreage restrictions.

Sales of Lands for Public or Quasi-Public Purpose (N.D.C.C. ch. 15-09):

- Sales for this chapter were not subject to the Land Retention and Sales Policy.
- Requires any application received for a public purpose or quasi-public purpose be subject to public comment prior to Board review.

Land Exchange:

- No previous policy.
- Establishes an evaluation process for land exchanges.
- Currently the Constitution and Statutes only allow for exchanges of Federal and State Land and does not allow for exchanges of private and tribal lands.

In June 2020, the Board authorized the Commissioner to proceed with a public comment period and the collection of comments. Additionally, the Board authorized the Commissioner to submit to Legislative Council the Administrative Rules.

The Department received comments relating to the Definitions, a significant number of comments pertaining Land Exchange and Sales, and one comment regarding the proposed Offset Well rules. The Department is recommending revising the originally proposed Administrative Rules, as shown in the attached red-line version (Attachment 2), prior to submitting to the Attorney General’s Office for review. Attachment 3 is a summary of the comments received, the discussion and review by the Department, and the action taken concerning the proposed rules and changes made based on the comments and discussions.

The following is a summary of the changes provided in Attachment 2, the proposed Administrative Rules as revised after the public comment period. These rules do not promote the sale of trust lands but provide the Board the ability to sell in certain circumstances. Changes after comments include:

Grant Land Sales (N.D.C.C. ch. 15-06):

- Removed the definition of high value land and revised rules to reference residential, commercial and industrial zoning.
- Rearranged language to fit with other revisions and to provide consistency through rules.
- Added requirements of sale to provide for no net loss in certain circumstances and for land to be provided in payment.
- Added additional requirements to the sale procedure and removed potential for sales without public comment.

Acquired Land Sales (N.D.C.C. ch. 15-07):

- Added criteria for the sale of acquired lands.
- Rearranged language to fit with other revisions and to provide consistency through rules.
- Added requirements of sale to provide for no net loss in certain circumstances and for land to be provided in payment.
- Added additional requirements to the sale procedure and removed potential for sales without public comment.

Sales of Lands for Public or Quasi-Public Purpose (N.D.C.C. ch. 15-09):

- Added formal challenge to the criteria considered by the Department and removed significant controversy from the criteria.

Land Exchange:

- Revised language to provide consistency through rules.
- Concerning the Department’s consideration of features not reflected by the market price, language was changed to require mandatory rather than permissive consideration.

Offset Well Administrative Rule

The current Policy of the Board and University and School Lands for the Enforcement of 1979 Oil and Gas Lease Form Provisions Relating to Offset Wells has been administered since 1987. It provides a procedure to administer the provisions in the Board’s oil and gas lease which requires the lessee to exercise an option in order to protect the state-owned interest from drainage due to wells drilled on adjacent acreage. The proposed Administrative Rule moves the policy into the rule format with minimal substantial changes. Changes were made after comments to reference application of the rule to vertical oil and gas wells only. A definition of vertical oil and gas well was also added. See Attachment 2.

Recommendation: The Board approves the Commissioner to proceed in submitting the proposed revised Administrative Rules for Land Sale, Land Exchange and Offset Wells.

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

- Attachment 1 – Board of University and School Lands History of Land Sale Policy
- Attachment 2 – Administrative Rules General Administration (red-lined)
- Attachment 3 – Summary of Comments

HISTORY OF LAND BOARD SALE AND RETENTION POLICY

1971	ND Game and Fish Dept. completed a study of all school lands, classifying them by recreational value.
October 27, 1971	ND Natural Resources and Environmental Management Council chaired by Governor Guy, passed a resolution urging the Board to place a minimum 5 year moratorium on sales of school lands.
November 29, 1971	Board placed sales moratorium on lands rated as fair and good for wildlife habitat in the Game and Fish 1971 study.
April 4, 1973	SCR 4008 Urged the Board to rescind the November 29, 1971, policy and also to retain land of value to other agencies.
May 31, 1973	Board approved rescinding the moratorium on the sale of University and School Lands. Applied for tracts would be submitted to agencies represented on the North Dakota Natural Resources and Environmental Management Council inviting them to appear if they object to the sale. A hearing would be scheduled if objections were received.
1973	Considerable opposition to sales was experienced with the following appearing in opposition to sales: Game and Fish Department, Bureau of Sport Fisheries and Wildlife, Medora Grazing Association, ND Farm Union, UND, Cass Co. Supt. of Schools, and the Bureau of Reclamation.
October 25, 1973	ND Wildlife Federation requested a moratorium on sales of school lands.
January 25, 1974	Board postponed all sales and applications until July 1, 1974.
February 28, 1974	Board rescinded sales moratorium of January and made all sales subject to a "detailed land use study completed" by the Land Department.
March 18, 1974	ND Outdoor Recreation Agency passed a resolution asking for land sale moratorium until the proposed school land department land use plan has been completed.
August 29, 1974	Board rejected all protested land sales applications pending legislative consideration in 1975 of sales issue.
March 24, 1975	HCR 3041 urged Board to sell lands privately rather than to governmental units.
May 20, 1975	Board voted to continue with the policy of not selling lands until they were reviewed and found to be of low public value. Essentially, the Department reviewed Game and Fish 1971 study listing of school lands for low value tracts.
1976 - 1978	A period of sporadic sales. Board minutes do not show an established sale policy but by reviewing the rejected applications, it is apparent that there was at least an informal policy that limited sales.
September 27, 1979	Board minutes refer to rejecting a sale application consistent with sale policy. Again, no formal policy could be found in the minutes except for the 1975 policy.
May 28, 1981	Board promulgates a land sale policy.
1983	Legislature defeated a resolution encouraging the Board to sell school lands while

	passing one that encouraged the Federal government to sell all federal lands (Sagebrush Rebellion).
October 25, 1990	Board revised the land sale policy to define “small tracts”.
1992	Constitutional amendment to allow land exchanges with private citizens was defeated in a general election.
February 23, 1994	Board reviewed the sale policy but chose not to change it .
December 14, 1995	Board directed the Commissioner to explore the 0% return concept and added it to the land sale policy.
1996	Constitutional amendment to allow exchanges of land and mineral interest between the Board and private owners and Indian tribes and to eliminate the requirement that the Board reserve mineral rights in all land transfers was defeated in a primary election.
1999	Board instructs the Commissioner to explore the concept of selling tracts with a net cash return of 0% or less. A series of eight regional public meetings was held to gather comments on 183 tracts identified as having a net rate of return of 0% or less. Several groups and individuals also inspect these tracts and submitted written comments. Most did not support sales and the idea of basing the value of trust lands solely on the net rate of return was widely unpopular.
March 26, 2015	Board amended the land sale policy: 1) to clarify the general policy of requiring certain conditions be met prior to selling land; 2) to add that sales of larger tracts be coupled with a “no net loss” of acres provision; 3) to adjust the language specifically referencing the tract’s revenue generating history; and 4) to add a provision for considering selling land in higher value urban locations.
February 25, 2016	Board added an addendum to the Land Retention and Sales Policy concerning a High Value Land Sale Procedure (paragraph 202.B(3)), which included nomination details, earnest deposit and appraisal requirements.

**ARTICLE 85-01
GENERAL ADMINISTRATION**

Chapter
85-01-01 Definitions and General Provisions

**CHAPTER 85-01-01
DEFINITIONS AND GENERAL PROVISIONS**

Section
85-01-01-01 Definitions
85-01-01-02 Exception

85-01-01-01. Definitions.

The following definitions, in addition to the definitions in North Dakota Century Code chapters 15-05, 15-06, 15-07, 15-08, 15-08.1, 38-09, 47-06, 47-30.1, and 57-62, apply to this title:

1. "Acquired lands" includes all property defined as "nongrant" and "other than original grant lands" in North Dakota Century Code section 15-07-01.
- ~~1-2.~~ "Arm's length transaction" means a transaction between parties with adverse economic interests in which each party to the transaction is in a position to distinguish its economic interest from that of the other party and does not mean a transaction made by a corporation or other entity with itself, or a parent, subsidiary, or interrelated corporation or entity, or between partners or co-joint venturers, or between corporations or other entities having interlocking directorships or close business relationships that may compromise their individual interests.
- ~~2-3.~~ "Agricultural use" includes the use of trust lands for the purpose of grazing, cropping, haying, and honey bee pasture or meadow.
- ~~3-4.~~ "Board" means the board of university and school lands.
- ~~4-5.~~ "Bonus" means the monetary consideration paid by a lessee for the execution of a lease by the board.
6. "Certified appraiser" means a person who holds a valid permit as a certified residential or general appraiser.
- ~~5-7.~~ "Coal" means a dark-colored compact and earthy organic rock with less than forty percent inorganic components, based on dry material, formed by the accumulation and decomposition of plant material. The term includes consolidated lignitic coal, in both oxidized and nonoxidized forms, and leonardite, having less than eight thousand three hundred British thermal units per pound [453.59 grams], moist and mineral matter free, whether or not the material is enriched in radioactive materials.
- ~~6-8.~~ "Coal lease" means a contract entered between the board and a third party for a coal mining operation on trust lands.
- ~~7-9.~~ "Coal leased premises" means the land subject to a given coal lease.
- ~~8-10.~~ "Coal mining operation" means any type of activity conducted to discover, or prospect for, the presence of coal, or to remove the coal so discovered from its original position on or in the land by any means whatsoever.
- ~~9-11.~~ "Commercial quantities" means whether:

- a. The well yields a profit exceeding operating costs over a reasonable period of time; and
- b. A reasonably prudent operator would continue operating a well in the manner being operated under the facts and circumstances.

- ~~40-12.~~ "Commissioner" means the commissioner of university and school lands.
- ~~44-13.~~ "Construction aggregate" means gravel, sand, scoria, road material, building stone, colloidal or other clays, and cement materials.
- ~~42-14.~~ "Construction aggregate lease" means a contract entered between the board and a third party for mining of construction aggregate on trust lands.
- ~~43-15.~~ "Construction aggregate leased premises" means the land area subject to a given construction aggregate lease.
- ~~44-16.~~ "Construction aggregate mining operation" means any type of activity conducted to discover, or prospect for, the presence of construction aggregate, or to remove the construction aggregate so discovered from its original position on or in the land by any means whatsoever.
- ~~45-17.~~ "Custodial agreement" means an agreement between the lessee and a third party in which the lessee agrees to take custody of livestock not owned by the lessee for a specified period of time and to provide day-to-day care for the livestock.
- ~~46-18.~~ "Delay rental" means the annual minimum payment given to maintain a lease in the absence of production in commercial quantities during the primary term.
- ~~47-19.~~ "Department" means the office of the commissioner and the department of trust lands.
- ~~48-20.~~ "Disturbed" means any alteration of the surface or subsurface of any lands subject to a lease or encumbrance with the board.
- ~~49-21.~~ "Encumbrance" means a right other than an ownership interest in real property. The term includes easements, permits, surface damage agreements and any other restrictions, encroachments, licenses, mortgages, and liens that relate to trust lands, and specifically excludes leases for agricultural use, construction aggregate, sodium sulfate, chemical substances, metallic ores, uranium ores, and oil, gas, and coal which are administered separately.
- ~~20-22.~~ "Fair market value" means the price set by the commissioner after an analysis of prices paid for similar products or services in the local area under article 85-04.
- ~~24-23.~~ "F.O.B." means free on board.
- ~~22-24.~~ "Gas" means all natural gas and all other gaseous or fluid hydrocarbons not defined as oil, but does not include coal, lignite, oil shale, or similar hydrocarbons.
- ~~23-25.~~ "Gas well" means a well producing gas or natural gas from a common source of gas supply as determined by the North Dakota industrial commission, other than from coalbed methane.
- ~~24-26.~~ "Gross proceeds" means the sum of all consideration in whatever form or forms, paid for the gas attributable to the lease.
- 27. ~~"High value land" means land where the surrounding land use has changed from agricultural to a land use that has an increased value that cannot be realized by the trusts except through a sale.~~

- ~~25.28.~~ "Invasive species" means a species that is nonnative to the ecosystem under consideration and whose introduction causes or is likely to cause economic or environmental harm or harm to human health.
- ~~26.2928.~~ "Market value" means the price a willing buyer would pay a willing seller in an arm's length transaction in which the buyer is not compelled to buy or the seller is not compelled to sell.
- ~~27.3029.~~ "Net construction aggregate interest" means the undivided portions of the total construction aggregate estate on a given tract of land.
- ~~3130.~~ "Offset drainage" means the drainage of oil or gas to an adjoining tract of land on which a well is being drilled or is already in production.
- ~~3231.~~ "Offset well" means any well drilled opposite another well on adjoining property with the specific purpose of preventing drainage to the adjoining property.
- ~~28.3332.~~ "Oil" means crude petroleum oil and other hydrocarbons regardless of gravity produced in liquid form and the liquid hydrocarbons known as distillate or condensate recovered or extracted from gas, other than gas produced in association with oil and commonly known as casinghead gas.
- ~~29.3433.~~ "Oil and gas lease" means a contract entered between the board and a third party for oil and gas production.
- ~~30.3534.~~ "Oil and gas leased premises" means the land subject to a given oil and gas lease.
- ~~31.3635.~~ "Oil well" means a well capable of producing oil and which is not a gas well as defined herein.
- ~~3736.~~ "Original grant lands" means all those lands granted to the state of North Dakota by virtue of the Enabling Act of 1889, as further defined in North Dakota Century Code section 15-06-01.
- ~~32.3837.~~ "Payor" means either the lessee or an entity other than the lessee who assumes, or agrees to perform, any of the lessee's rights and responsibilities under a lease.
- ~~33.3938.~~ "Pest" means any insect, rodent, nematode, fungus, weed, any form of terrestrial or aquatic plant or animal life, viruses, bacteria, or other micro-organisms, except viruses, bacteria, or other micro-organisms, whose presence causes or is likely to cause economic or environmental harm or harm to human health.
- ~~34.4039.~~ "Surface land lease" means a contract entered between the board and a third party for agricultural use on trust lands.
- ~~35.4140.~~ "Surface land leased premises" means the land area subject to a given surface land lease.
- ~~36.4241.~~ "Terminate," unless otherwise provided, has the same meaning as the word "cancel."
- ~~37.4342.~~ "Trust lands" means any property owned by the state of North Dakota and managed by the board.
- ~~38.4443.~~ "Trusts" means permanent trusts and other funds managed or controlled by the board.
- ~~39.4544.~~ "Vehicle" means every device in, upon, or by which any person or property may be transported or drawn upon a public highway or trail, except devices moved by human power.
- ~~45.~~ "Vertical oil and gas well" means a well, the wellbore of which is drilled on a vertical or directional plane into a non-shale formation and is not turned or curved horizontally to allow the wellbore additional access to the oil and gas reserves in the formation.

40.4646. "When run" means that point in the time when the production from a well is removed or sold from the leased premises and delivered to the purchaser or user of such production; for purposes of computing royalties, that point in time must be considered to be 7:00 a.m., on the day the production is delivered, using central standard time, to the purchaser or user regardless of the actual time delivered.

History: Effective January 1, 2019; amended effective January 1, 2020.

General Authority: NDCC 15-05-05, 15-07-20, 15-08.1-06, 28-32, 61-33-06

Law Implemented: NDCC 4.1-47-04, 15-01, 15-04, 15-05, 15-07, 15-08, 15-08.1

ARTICLE 85-04
SURFACE LAND MANAGEMENT

Chapter	
85-04-01	Leasing Trust Lands for Agricultural Use
85-04-02	Construction Aggregate
85-04-03	Permanent Improvements
85-04-04	Encumbrances of Trust Lands
85-04-05	Public Access and Use
85-04-06	<u>Land Exchange</u>

CHAPTER 85-04-06
LAND EXCHANGE

Section	
<u>85-04-06-01</u>	<u>Approval of Land Exchange</u>
<u>85-04-06-02</u>	<u>Criteria for Land Exchange</u>
<u>85-04-06-03</u>	<u>Application for Land Exchange</u>
<u>85-04-06-04</u>	<u>Evaluation of Application</u>
<u>85-04-06-05</u>	<u>Comments and Notice</u>
<u>85-04-06-06</u>	<u>Exchange Report</u>
<u>85-04-06-07</u>	<u>Board Authorization</u>

85-04-06-01. Approval of land exchange. The board may approve an exchange of trust lands, which it determines is in the best interests of the trusts and complies with current law. Under North Dakota Century Code section 15-06-01, any land received under an exchange of original grant land maintains its status as “original grant lands.”

History: Effective _____

General Authority: N.D. Constitution article IX, § 6; NDCC 28-32-02

Law Implemented: N.D. Constitution article IX, § 6; NDCC 15-06-01, 15-06-19.1

85-04-06-02. Criteria for land exchange. The department shall consider the criteria listed below numbered one through six in any land exchange. Land exchanges are not required to satisfy all six criteria outlined below.

1. Equal or greater value.
 - a. In connection with any exchange the department may use information, provided by the applicant or the department’s own knowledge, regarding lands and resources to estimate value for purposes of a preliminary evaluation, including completion of an environmental assessment. The commissioner shall procure appraisals, completed by a certified appraiser, to determine the value of the trust lands and the proposed exchange land. The same appraiser shall conduct appraisals of the trust lands to be exchanged and the proposed exchange land. In the event the commissioner is not satisfied with the appraisals, the commissioner may require additional appraisals by alternative certified appraisers.
 - b. The department shall advise the appraiser regarding the scope of work to ensure the value of the trust lands to be exchanged is determined by the highest and best use of the land, not simply the present use. For example, if an exchange is proposed in which the trust lands to be exchanged are currently leased for ~~grazing grassland~~ but the land is in the path of ~~residential, urban or~~ commercial, or industrial development, the trust lands to be exchanged must be appraised for

the highest and best use for residential, ~~or commercial~~, or industrial development rather than its current use as grassland.

- c. The department ~~may~~ shall consider features not reflected in the market price that are difficult to assign a monetary value, including location, proximity to public lands, recreational opportunities, scenery, other amenities, and results of cultural resources inventories in evaluating the relative value of trust lands to be exchanged.
2. Equal or greater income to the trusts. A land exchange must result in the board receiving equal or greater income to the trusts. The projected income for the proposed exchange land will be estimated using the board's minimum lease rate. The minimum lease rate for the proposed exchange land will be compared to the present income received by the trusts from the trust lands to be exchanged, including all current and potential future revenue streams from surface leases, encumbrances, development of natural resources, and other sources, and any tax liability.
3. Acreage. Land exchanges should result in the board receiving equal or greater acreage. The board may, however, consider receiving less acreage in return for substantially higher value or income, or both.
4. Consolidation of trust lands. The proposed land exchange must not fragment trust land holdings by creating isolated parcels of trust land. In all exchanges, the board shall reserve all minerals underlying the trust lands to be exchanged pursuant to North Dakota Constitution article IX, § 5, subject to applicable law.
5. Potential for long-term appreciation. The proposed exchange land must have similar revenue potential as the trust lands to be exchanged.
6. Access. A land exchange must not diminish access to trust lands. Accessible trust lands should be exchanged with lands that offer equal or improved access.

History: Effective _____

General Authority: N.D. Constitution article IX, § 6; NDCC 28-32-02

Law Implemented: NDCC 15-06-19.1, 15-06-22, 15-07-02

85-04-06-03. Application for land exchange. An applicant shall submit a written letter of application to the commissioner to request a land exchange. The application must include:

1. Legal description of the trust lands to be exchanged;
2. Legal description of the proposed exchange land;
3. Applicant's estimated valuation of the proposed exchange land;
4. The most recent tax assessment for the proposed exchange land;
5. Statement of ownership of the proposed exchange land, including owners' names and ownership interest;
6. Purpose of exchange request; and
7. A non-refundable application fee as determined by the board.

History: Effective

General Authority: N.D. Constitution article IX, § 6; NDCC 28-32-02

Law Implemented: NDCC 15-06-19.1

85-04-06-04. Evaluation of application. The department shall evaluate the application and may request the applicant provide additional information. After the department's evaluation:

1. The commissioner may reject an application:
 - a. If the application does not meet the requirements of sections 85-04-06-02(1) and (2); or
 - b. If the application fails to comply with North Dakota law.
2. If the commissioner determines an application meets the requirements of section 85-04-06-02, the commissioner shall present the application to the board to determine if the application reflects a tract the board is willing to exchange.

History: Effective

General Authority: N.D. Constitution article IX, § 6; NDCC 28-32-02

Law Implemented: NDCC 15-06-19.1

85-04-06-05. Comments and notice.

1. Upon receipt of an application for land exchange and a determination by the board that the application covers a tract the board is willing to exchange, the department shall post on the department's website a notice of the application for land exchange, any supporting documentation, and instructions for submitting public comments. The department shall also publish notice of an application for land exchange in the official newspaper of the county where the proposed exchange land and proposed trust lands to be exchanged are located and in the Bismarck Tribune. Notice must be published once each week for three consecutive weeks prior to the deadline for comments. The notice must contain the legal description of the proposed exchange land and proposed trust lands to be exchanged and the deadline for comments. Should publication of any notice be inadvertently omitted by any newspaper or the notice contains typographical errors, the department may proceed with the scheduled comment period if it appears the omission or error is not prejudicial to the department's interest.
2. All comments must be in writing and contain the following:
 - a. Name and address of the interested person;
 - b. Applicant's name and address;
 - c. The legal description of the proposed exchange land and proposed trust lands to be exchanged as shown on the published notice; and
 - d. A detailed statement as to whether the interested person supports or opposes the proposed land exchange.
3. The department shall give notice of the proposed exchange to any entity having a property interest in any portion of trust lands involved in the exchange as reflected

in the records of the department and if the land is leased, the commissioner shall notify the lessee of the intent to exchange the property during the months of October through January.

History: Effective _____

General Authority: N.D. Constitution article IX, § 6; NDCC 28-32-02

Law Implemented: NDCC 15-06-19.1

85-04-06-06. Exchange report. Following the department's application evaluation, the board's determination that the application covers a tract the board is willing to exchange, and expiration of the public comment period, the department shall prepare an exchange report to be presented to the board, which will include the following:

1. A summary discussion of how the exchange meets or exceeds any of the six criteria for land exchange under section 85-04-06-02;
2. A summary of public comments received on the proposed exchange;
3. The department's concerns or opinions of the merits of the proposed exchange;
4. The department's recommendations for board direction regarding further review, if needed, of the proposed exchange; and
5. The applicant's commitment to fund the costs of the department's detailed review, including appraisals, title examinations, advertising costs, recording fees, and other costs as may be necessary to complete an exchange as determined by the department. The applicant shall be responsible for payment of all costs, unless payment of the costs is otherwise waived by the board or shared by the parties to the exchange.

History: Effective _____

General Authority: N.D. Constitution article IX, § 6; NDCC 28-32-02

Law Implemented: NDCC 15-06-19.1

85-04-06-07. Board authorization. Upon receipt of the department's exchange report, the board shall consider the specific recommendations of the department and public comments and evaluate the merits of the land exchange. The board shall determine whether further review and public comment are required.

Where a proposed exchange satisfies the exchange criteria, the board may exercise its discretion to suspend further review and disapprove the application as not in the best interests of the trusts.

Alternatively, the board may direct the commissioner to complete specific tasks relating to the merits of the proposed exchange and report back to the board with findings before proceeding further. When the board is satisfied that the department and applicant have generated all information necessary for its decision, the board shall review and determine whether the proposed exchange is in the best interests of the trusts.

The commissioner is authorized to complete all documents for the exchange on the board's behalf if the board approves the exchange.

History: Effective _____

General Authority: N.D. Constitution article IX, § 6; NDCC 28-32-02

Law Implemented: NDCC 15-06-19.1

**ARTICLE 85-04
SURFACE LAND MANAGEMENT**

Chapter	
85-04-01	Leasing Trust Lands for Agricultural Use
85-04-02	Construction Aggregate
85-04-03	Permanent Improvements
85-04-04	Encumbrances of Trust Lands
85-04-05	Public Access and Use
85-04-06	<u>Land Exchange</u>
85-04-07	<u>Land Sales Under North Dakota Century Code Chapter 15-06</u>
85-04-08	<u>Land Sales Under North Dakota Century Code Chapter 15-07</u>
85-04-09	<u>Land Sales Under North Dakota Century Code Chapter 15-09</u>

**CHAPTER 85-04-07
LAND SALES UNDER NORTH DAKOTA CENTURY CODE
CHAPTER 15-06**

Section	
85-04-07-01	<u>Sale of Original Grant Lands</u>
85-04-07-02	<u>Requirements of Sale</u>
85-04-07-0203	<u>Sale Procedure</u>
85-04-07-0304	<u>Payment of Costs</u>
85-04-07-0405	<u>Board Review</u>

85-04-07-01. Sale of original grant lands. The board shall retain and manage original grant lands to produce revenue consistent with the long-term maintenance of the original grant lands' income producing potential and ecological health. The commissioner may propose, or accept letters of application for, the sale of original grant lands after the original grant lands have been evaluated by the commissioner for "highest and best use" as defined in North Dakota Century Code section 15-02-05.1 and the department considers the following criteria:

1. If the tract is high-value land has been zoned residential, commercial, or industrial;
2. The tract's potential for mineral development, including sand, gravel, clay, and scoria;
3. If the tract has been a source of persistent management problems, resulting in the sale of the tract being prudent from a long-term financial point of view;
4. If the tract and adjacent trust land tracts total less than eighty acres in size, more or less, for grassland and less than forty acres, more or less, for cropland or hayland, except those tracts which are severed by a highway, road, railroad, canal, river or lake, which may be sold if the severed portion is less than these amounts; or
5. If the tract and adjacent trust land tracts exceed eighty acres in size, more or less, for grassland or more than forty acres in size, more or less, for cropland, the commissioner may bring to the board an application for purchase.

which complies with one of the following:

- a. The proposed sale would result in no net loss of leasable original grant land; and

~~b. The applicant agrees to donate accessible and leasable land equal or greater in acres and value to the trust from which the original grant land was sold.~~

History: Effective

General Authority: N.D. Constitution article IX, § 6; NDCC 28-32-02

Law Implemented: NDCC 15-06, 15-08

85-04-07-02. Requirements of sale. Any sale of original grant lands, with the exception of tracts provided in section 85-04-07-01(1) is subject to the following:

1. The proposed sale would result in no net loss of leasable original grant lands;
2. The applicant agrees to provide accessible and leasable land equal or greater in acres and value to the trust from which the original grant lands were sold, for which the department shall then consider the criteria listed below in subsections a through f in any no net loss sale. Land provided for a no net loss sale is not required to satisfy all six criteria outlined below.

a. Equal or greater value.

(1) In connection with any no net loss sale the department may use information, provided by the applicant or the department's own knowledge, regarding lands and resources to estimate value for purposes of a preliminary evaluation, including completion of an environmental assessment. The commissioner shall procure appraisals in accordance with North Dakota Century Code sections 15-06-22 and 15-06-23, and shall request additional appraisals be completed by a certified appraiser, to determine the value of the trust lands and the proposed no net loss sale land. The same appraiser shall conduct appraisals of the trust lands and the proposed no net loss sale land. In the event the commissioner is not satisfied with the appraisals, the commissioner may require additional appraisals by alternative certified appraisers.

(2) The department shall advise the appraiser regarding the scope of work to ensure the value of the trust lands is determined by the highest and best use of the land, not simply the present use. For example, if a no net loss sale is proposed in which the trust lands are currently leased for grassland but the land is in the path of residential, commercial, or industrial development, the trust lands must be appraised for the highest and best use for residential, commercial, or industrial development rather than its current use as grassland.

(3) The department shall consider features not reflected in the market price that are difficult to assign a monetary value, including location, proximity to public lands, recreational opportunities, scenery, other amenities, and results of cultural resources inventories in evaluating the relative value of trust lands.

b. Equal or greater income to the trusts. A no net loss sale must result in the board receiving equal or greater income to the trusts. The projected income for the proposed no net loss sale land will be estimated using the board's minimum lease rate. The minimum lease rate for the proposed no net loss sale land will be compared to the present income received by the trusts from the trust lands, including all current and potential future revenue streams from surface leases, encumbrances, development of natural resources, and other sources, and any tax liability.

- c. Acreage. A no net loss sale should result in the board receiving equal or greater acreage. The board may, however, consider receiving less acreage in return for one or more of the following:
- (1) Improved dedicated access;
 - (2) Substantially higher value; or
 - (3) Substantially higher income.
- d. Consolidation of trust lands. The proposed no net loss sale must not fragment trust land holdings by creating isolated parcels of trust land. In all no net loss sales, the board shall reserve all minerals underlying the trust lands pursuant to North Dakota Constitution article IX, § 5, subject to applicable law.
- e. Potential for long-term appreciation. The proposed no net loss sale land must have similar revenue potential as the trust lands.
- f. Access. A no net loss sale must not diminish access to trust lands. The no net loss land should provide equal or improved access.
3. Any land acquired pursuant to a sale of original grant lands, subject to no net loss, shall be treated by the board as “original grant lands.”

History: Effective _____

General Authority: N.D. Constitution article IX, § 6; NDCC 28-32-02

Law Implemented: NDCC 15-06, 15-08

85-04-07-0203. Sale procedure.

1. A letter of application for purchase of original grant lands meeting the criteria in section 85-04-07-01 may be accepted at any time. An application must include:
- a. a non-refundable application fee in an amount set by the board;:-
 - b. Legal description of the trust lands; and
 - c. Legal description of the lands to be provided to ensure no net loss.

Upon board approval, a sale of original grant lands must be conducted in conformance accordance with North Dakota Century Code chapter 15-06.

- 1.2. Upon receipt of a letter of application to purchase a tract, the potential sale must be presented to the commissioner for preliminary approval or rejection.

- 2.3. The commissioner may recommend to the board that a tract meeting the criteria of section 85-04-07-01 may be sold-offered for sale even though no letter of application has been received. ~~If the commissioner or board determines it is in the best interests of the trusts to proceed with the sale, the sale may proceed without the requirement of a public comment period.~~

Upon a determination that the application covers a tract the board is willing to sell, the department shall post on the department’s website a notice of the application for sale, any

supporting documentation, and instructions for submitting public comments. The department shall also publish notice of a letter of application for sale in the official newspaper of the county where the nominated tract is located and in the Bismarck Tribune. Notice must be published once each week for three consecutive weeks prior to the deadline for comments. The notice must contain the legal description of the proposed tract and the deadline for comments. Should publication of any notice be inadvertently omitted by any newspaper or the notice contains typographical errors, the department may proceed with the scheduled comment period if it appears the omission or error is not prejudicial to the department's interest. All comments must be in writing and contain the following:

- a. Name and address of the interested person;
- b. Applicant's name and address;
- c. The legal description of the proposed tract for sale as shown on the published notice; and
- d. A detailed statement as to whether the interested person supports or opposes the sale.

~~4. The department shall secure a real property appraisal in accordance with North Dakota Century Code sections 15-06-22 and 15-06-23 and may secure additional appraisals from certified appraisers.~~

~~5. The board shall review all appraisals, any public comments, other relevant information including title examinations, and determine whether to proceed with the sale. If the board decides to proceed with the sale, the board shall establish a minimum acceptable sale price.~~

~~6.5. If the land is leased, the commissioner shall notify the lessee of the intent to sell the property during the months of October through January.~~

~~7.6. The department shall notify the applicant, if any, of the price set by the board, which must be the minimum acceptable sale price.~~

~~8.7. The department may contract a legal metes and bounds survey for the tract to be sold at public auction under North Dakota Century Code chapter 15-06.~~

~~9.8. If the applicant desires to proceed, the applicant shall submit to the department a formal offer to purchase. The formal offer to purchase must serve as the opening bid at the public sale. The applicant shall provide five percent of the minimum sale price as earnest money, as a condition of the formal offer to purchase.~~

~~10.9. Land must be advertised for sale at public auction under North Dakota Century Code chapter 15-06.~~

~~11.10. If no bids are received on a tract for which no formal application was received, the tract may be sold for the board established minimum acceptable sale price to the first interested party at a private sale during the six months following the date of the auction.~~

~~12.11. The sale of any tract under this chapter may be by:~~

- a. Contract under article IX, section 6 of the Constitution of North Dakota; or
- b. A ~~cash sale purchase agreement~~ requiring twenty percent payment of the purchase price on the day of the sale, which may include earnest money paid, and the balance

due within sixty calendar days. The balance due date may be extended at the commissioner's discretion, up to a maximum of one hundred eighty days from the date of the sale. Interest must be charged on any remaining balance, beginning sixty days after the date of sale, at the Bank of North Dakota base rate plus one percent.

History: Effective _____

General Authority: N.D. Constitution article IX, § 6; NDCC 28-32-02

Law Implemented: NDCC 15-06, 15-08

85-04-07-0304. Payment of costs. The purchaser shall be responsible for payment of all costs, including appraisals, title examinations, and other costs as may be necessary to complete the sale.

History: Effective _____

General Authority: N.D. Constitution article IX, § 6; NDCC 28-32-02

Law Implemented: NDCC 15-06, 15-08

85-04-07-0405. 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.

History: Effective _____

General Authority: N.D. Constitution article IX, § 6; NDCC 28-32-02

Law Implemented: NDCC 15-06, 15-08

CHAPTER 85-04-08
LAND SALES UNDER NORTH DAKOTA CENTURY CODE
CHAPTER 15-07

Section

85-04-08-01 Sale of Acquired Lands

85-04-08-02 Requirements of Sale

85-04-08-0203 Sale Procedure

85-04-08-0304 Payment of Costs

85-04-08-0405 Board Review

85-04-08-01. Sale of acquired lands. The board shall retain and manage acquired lands to produce revenue consistent with the long-term maintenance of the acquired lands' income producing potential and ecological health until sold. The commissioner may propose, or accept a letter of application for, the sale of acquired lands if the department has reviewed its potential for mineral development and the acquired lands ~~has~~ have been evaluated by the commissioner for "highest and best use" as defined in North Dakota Century Code section 15-02-05.1, ~~and the department considers the following criteria:~~

1. If a tract is acquired through foreclosure or deed in lieu of foreclosure from the Board's loan pool account, established under North Dakota Century Code section 15-03-04.1, after January 1, 2020;
2. If the tract has been zoned residential, commercial, or industrial;
3. The tract's potential for mineral development, including sand, gravel, clay, and scoria;
4. If the tract has been a source of persistent management problems, resulting in the sale of the tract being prudent from a long-term financial point of view;
5. If the tract and adjacent trust land tracts total less than eighty acres in size, more or less, for grassland and less than forty acres, more or less, for cropland or hayland, except those tracts which are severed by a highway, road, railroad, canal, river or lake, which may be sold if the severed portion is less than these amounts; or
6. If the tract and adjacent trust land tracts exceed eighty acres in size, more or less, for grassland or more than forty acres in size, more or less, for cropland.

History: Effective _____

General Authority: N.D. Constitution article IX, § 6; NDCC 28-32-02

Law Implemented: NDCC 15-07, 15-08

85-04-08-02. Requirements of sale. Any sale of acquired lands, with the exception of tracts provided in section 85-04-08-01(1) and (2), is subject to the following:

1. The proposed sale would result in no net loss of leasable acquired lands; and
2. The applicant agrees to provide accessible and leasable land equal or greater in acres and value to the trust from which the acquired lands were sold, for which the department shall then consider the criteria listed below in subsections a through f in any no net loss sale. Land provided for a no net loss sale is not required to satisfy all six criteria outlined below.
 - a. Equal or greater value.

(1) In connection with any no net loss sale the department may use information, provided by the applicant or the department's own knowledge, regarding lands and resources to estimate value for purposes of a preliminary evaluation, including completion of an environmental assessment. The commissioner shall procure appraisals, completed by a certified appraiser, to determine the value of the trust lands and the proposed no net loss sale land. The same appraiser shall conduct appraisals of the trust lands and the proposed no net loss sale land. In the event the commissioner is not satisfied with the appraisals, the commissioner may require additional appraisals by alternative certified appraisers.

(2) The department shall advise the appraiser regarding the scope of work to ensure the value of the trust lands is determined by the highest and best use of the land, not simply the present use. For example, if a no net loss sale is proposed in which the trust lands are currently leased for grassland but the land is in the path of residential, commercial, or industrial development, the trust lands must be appraised for the highest and best use for residential, commercial, or industrial development rather than its current use as grassland.

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(3) The department shall consider features not reflected in the market price that are difficult to assign a monetary value, including location, proximity to public lands, recreational opportunities, scenery, other amenities, and results of cultural resources inventories in evaluating the relative value of trust lands.

b. Equal or greater income to the trusts. A no net loss sale must result in the board receiving equal or greater income to the trusts. The projected income for the proposed no net loss sale land will be estimated using the board's minimum lease rate. The minimum lease rate for the proposed no net loss sale land will be compared to the present income received by the trusts from the trust lands, including all current and potential future revenue streams from surface leases, encumbrances, development of natural resources, and other sources, and any tax liability.

c. Acreage. A no net loss sale should result in the board receiving equal or greater acreage. The board may, however, consider receiving less acreage in return for one or more of the following:

(1) Improved dedicated access;

(2) Substantially higher value; or

(3) Substantially higher income.

d. Consolidation of trust lands. The proposed no net loss sale must not fragment trust land holdings by creating isolated parcels of trust land. In all no net loss sales, the board shall reserve all minerals underlying the trust lands pursuant to North Dakota Constitution article IX, § 5, subject to applicable law.

e. Potential for long-term appreciation. The proposed no net loss sale land must have similar revenue potential as the trust lands.

- f. Access. A no net loss sale must not diminish access to trust lands. The no net loss land should provide equal or improved access.

History: Effective

General Authority: N.D. Constitution article IX, § 6; NDCC 28-32-02

Law Implemented: NDCC 15-07, 15-08

85-04-08-0203. Sale procedure.

1. A letter of application for salepurchase of acquired lands meeting the criteria in section 85-04-08-01 may be accepted at any time. An application must include:

- a. aA non-refundable application fee in an amount set by the board;
- b. Legal description of the trust lands; and
- c. Legal description of the lands to be provided to ensure no net loss.-

Upon board approval, a sale of acquired lands must be conducted in conformance with North Dakota Century Code sections 15-06-25 and 15-07-04.

- 1.2. Upon receipt of a letter of application for sale of a tract, the potential sale must be presented to the commissioner for preliminary approval or rejection.

- 2.3. The commissioner may recommend to the board that a tract be sold even though no letter of application for sale has been received. ~~If the commissioner or board determines it is in the best interests of the trusts to proceed with the sale, the sale may proceed without the requirement of a public comment period.~~

- 3.4. Upon a determination that the application covers a tract the board is willing to sell, the department shall post on the department's website a notice of the application for sale, any supporting documentation, and instructions for submitting public comments. The department shall also publish notice of a letter of application for sale in the official newspaper of the county where the nominated tract is located and in the Bismarck Tribune. Notice must be published once each week for three consecutive weeks prior to the deadline for comments. The notice must contain the legal description of the proposed tract and the deadline for comments. Should publication of any notice be inadvertently omitted by any newspaper or the notice contains typographical errors, the department may proceed with the scheduled comment period if it appears the omission or error is not prejudicial to the department's interest. All comments must be in writing and contain the following:

- a. Name and address of the interested person;
- b. Applicant's name and address;
- c. The legal description of the proposed tract for sale as shown on the published notice; and
- d. A detailed statement as to whether the interested person supports or opposes the sale.

5. ~~The department shall secure a real property appraisal in accordance with North Dakota Century Code sections 15-06-22 and 15-06-23 and may secure additional appraisals from certified appraisers.~~

The board shall review all appraisals, public comments received, and any other relevant information, and determine whether to proceed with the sale. If the board decides to

proceed with the sale, the board shall use the appraisal to establish a sale price. The board reserves the right to increase the sale price if it deems the appraised value is inadequate.

76. If the land is leased, the commissioner shall notify the lessee of the intent to sell the property during the months of October through January.

87. The department shall notify the applicant, if any, of the price set by the board, which must be the minimum acceptable sale price.

98. The department may contract a legal metes and bounds survey for the tract to be sold at public auction under North Dakota Century Code chapter 15-07.

9. If the applicant desires to proceed, the applicant shall submit to the department a formal offer to purchase. The formal offer to purchase must serve as the opening bid at the public sale. The applicant shall provide five percent of the minimum sale price as earnest money, as a condition of the formal offer to purchase.

10. The department shall determine if acquired lands will be advertised for sale at public auction or by sealed bids, with the sale price set by the board as the minimum bid. If no bids are received on property for which an application has been received, the acquired lands may be sold to the applicant at the minimum bid.

1211. If no bids are received on property for which no formal application was received, the property may be sold for the board established minimum acceptable sale price to the first interested party at a private sale during the six months following the date of the auction.

1312. The sale of land may be by:

a. Contract under article IX, section 6 of the Constitution of North Dakota; or

b. A ~~cash sale~~ purchase agreement requiring twenty percent payment of the purchase price on the day of the sale, which may include earnest money paid, and the balance due within sixty calendar days. The balance due date may be extended at the commissioner's discretion, up to a maximum of one hundred eighty days from the date of the sale. Interest must be charged on any remaining balance, beginning sixty days after the date of sale, at the Bank of North Dakota base rate plus one percent.

1413. Acquired lands **acquired after January 1, 2020** may be sold to any mortgagor or a member of the mortgagor's immediate family under North Dakota Century Code section 15-07-10. The sale must be for cash only with twenty percent payment of the purchase price on the day of the sale, which may include earnest money paid, and the balance due within sixty calendar days. The balance due date may be extended at the commissioner's discretion, up to a maximum of one hundred eighty days from the date of the sale. Interest must be charged on any remaining balance, beginning sixty days after the date of sale, at the Bank of North Dakota base rate plus one percent.

History: Effective _____

General Authority: N.D. Constitution article IX, § 6; NDCC 28-32-02

Law Implemented: NDCC 15-07, 15-08

85-04-08-0304. Payment of costs. The purchaser shall be responsible for payment of all costs, including appraisals, title examinations, and other costs as may be necessary to complete the sale.

History: Effective _____

General Authority: N.D. Constitution article IX, § 6; NDCC 28-32-02

Law Implemented: NDCC 15-07, 15-08

85-04-08-0405. 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.

History: Effective _____

General Authority: N.D. Constitution article IX, § 6; NDCC 28-32-02

Law Implemented: NDCC 15-07, 15-08

CHAPTER 85-04-09
LAND SALES UNDER NORTH DAKOTA CENTURY CODE
CHAPTER 15-09

Section

<u>85-04-09-01</u>	<u>Sale of Lands for Public or Quasi-Public Purpose</u>
<u>85-04-09-02</u>	<u>Sale Procedure</u>
<u>85-04-09-03</u>	<u>Payment of Costs</u>
<u>85-04-09-04</u>	<u>Fencing</u>
<u>85-04-09-05</u>	<u>Reversion Clause</u>
<u>85-04-09-06</u>	<u>Board Review</u>

85-04-09-01. Sale of lands for public or quasi-public purpose. The department shall consider the following criteria when reviewing an application for sale under North Dakota Century Code chapter 15-09:

1. The tract is required for the purposes stated in the application and issuance of the patent or deed must not have a significant negative impact on the remainder of the trust lands;
2. Environmental impacts are minimal or are required to be mitigated in an acceptable manner;
3. Impacts on the value of the remainder of the trust lands are minimal or are required to be mitigated in an acceptable manner;
4. Impacts to significant archaeological and historical sites are minimal, or are required to be mitigated in an acceptable manner;
5. The sale must produce a positive financial return to the trusts;
6. There is no known ~~significant controversy~~ **formal challenge** regarding the project;
7. The surface lessee has been notified of the project; and
8. If the application is for a sale of land for use as a landfill by a public entity, the following requirements must be met:
 - a. Applicants shall work with the state department of environmental quality to ensure the operation of the proposed landfill is in accordance with state and federal laws, rules, and regulations;
 - b. Before final approval of a sale is given, the applicant shall submit evidence that the site meets appropriate geological, hydrological, and other requirements established by the state department of environmental quality and the United States environmental protection agency. A permit for feasibility testing may be issued prior to final approval of a sale.
 - c. When determining the purchase price, the board shall consider the following additional factors:
 - (1) The unique geological and hydrological characteristics which make the site suitable for use as a landfill;
 - (2) The effect on the value of adjacent state properties caused by using the site as a landfill; and

(3) The price paid by other purchasers for similar landfill sites.

History: Effective _____

General Authority: N.D. Constitution article IX, § 6; NDCC 28-32-02

Law Implemented: NDCC 15-09

85-04-09-02. Sale procedure.

1. An application for purchase of land may be accepted and the land sold in conformance with North Dakota Century Code chapter 15-09. An application must be submitted using a paper application provided by the department upon request and be completed and signed by authorized personnel and must include a non-refundable application fee in an amount set by the board unless waived by the commissioner. The application must meet the requirements of North Dakota Century Code section 15-09-01 and may require, depending on the land to be purchased, the following:
 - a. A siting and environmental review completed by the department; and
 - b. A "metes and bounds" survey of the land to be purchased, including both a plat and written narrative of the survey completed by the applicant. The narrative must include the distances and angles between points of intersection and points of entry and exit tied into the section corners, quarter section corners, or lot corners, and a breakdown of the acreage in the parcel for each separate quarter section or lot included in the purchase.
2. If the land is leased, commissioner shall notify the lessee of the intent to sell the property during the months of October through January.
3. Upon receipt of an application for sale of lands for public or quasi-public purpose and a determination that the application covers a tract the commissioner is willing to consider for sale, the department shall post on the department's website a notice of the application for sale of lands for public or quasi-public purpose, any supporting documentation, and instructions for submitting public comments. All comments must be in writing and contain the following:
 - a. Name and address of the interested person;
 - b. Applicant's name and address;
 - c. The legal description of the proposed tract as shown on the published notice; and
 - d. A detailed statement as to whether the interested person supports or opposes the sale.
4. The department shall secure a real property appraisal in accordance with North Dakota Century Code sections 15-06-22 and 15-06-23 and may secure additional appraisals from certified appraisers. Appraisals must consider the matter of severance of adjacent trust lands caused by the sale and the effect on the value of adjacent trust lands, which may reflect a higher appraisal.
- 4.5. The department shall provide the board a report of all appraisals, public comments, and any other relevant information to allow the board to determine whether to proceed with the sale. If the board decides to proceed with the sale, the board shall establish a minimum acceptable sale price. The board reserves the right to increase the sale price if it deems the appraised value is inadequate.

5-6. The board shall obtain fair market value for all land sold under North Dakota Century Code chapter 15-09 and must consider its "highest and best use" as defined in North Dakota Century Code section 15-02-05.1.

6-7. The department shall notify the applicant, if any, of the price set by the board, which must be the approved sale price.

7-8. The notice of the application and the board approved sale price must be published and a hearing must be held in conformance with North Dakota Century Code section 15-09-03. Should publication of any notice be inadvertently omitted by any newspaper or the notice contains typographical errors, the department may proceed with the scheduled hearing if it appears the omission or error is not prejudicial to the department's interest.

8-9. Any comments made at the hearing must be brought to the board, along with the department's recommendations regarding those comments.

9-10. If the applicant desires to purchase the property at the price set by the board and pays full purchase price, the commissioner is authorized to complete the sale on the board's behalf. If an agreement as to price cannot be reached, the applicant may proceed under North Dakota Century Code section 15-09-05.

History: Effective

General Authority: N.D. Constitution article IX, § 6; NDCC 28-32-02

Law Implemented: NDCC 15-09

85-04-09-03. Payment of costs. The purchaser shall be responsible for payment of all costs, including appraisals, title examinations, and other costs as may be necessary to complete the sale.

History: Effective

General Authority: N.D. Constitution article IX, § 6; NDCC 28-32-02

Law Implemented: NDCC 15-09

85-04-09-04. Fencing. A no-fencing clause may be added to the conveyance in order to keep trust lands from being severed.

History: Effective

General Authority: N.D. Constitution article IX, § 6; NDCC 28-32-02

Law Implemented: NDCC 15-09

85-04-09-05. Reversion clause. Any conveyance must contain a reversion clause stipulating that if the property is at any time not used for its stated purpose at the time of purchase, the board may terminate the estate created by the conveyance and repossess the property. The power of termination and re-entry may be exercised by the board without reimbursement to the purchaser of any part of the purchase price, and without payment of any other consideration.

History: Effective

General Authority: N.D. Constitution article IX, § 6; NDCC 28-32-02

Law Implemented: NDCC 15-09

85-04-08-06. 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.

History: Effective _____

General Authority: N.D. Constitution article IX, § 6; NDCC 28-32-02

Law Implemented: NDCC 15-09

**ARTICLE 85-06
MINERALS MANAGEMENT**

Chapter	
85-06-01	Oil and Gas
85-06-02	Coal

**CHAPTER 85-06-01
OIL AND GAS**

Section	
85-06-01-01	Oil and Gas Lease Nomination
85-06-01-02	Advertisement for Public Auction
85-06-01-03	Public Auction
85-06-01-04	Rejection of Nomination and Bids
85-06-01-05	Form and Term of Oil and Gas Lease
85-06-01-06	Assignment, Amendment, or Extension
85-06-01-07	Voluntary Release
85-06-01-08	Royalties
85-06-01-09	Disputed Title Royalty Escrow Account
85-06-01-10	Breach of Oil and Gas Lease
85-06-01-11	Board Review
85-06-01-12	Reports of Lessee - Delinquency Penalty
85-06-01-13	Audit and Examination
85-06-01-14	Request for Shut-In Status for Oil
85-06-01-15	Offset Obligations <u>for Vertical Oil and Gas Wells</u>

85-06-01-15. Offset Obligations for vertical oil and gas wells.

1. If an **vertical** oil and gas well has been drilled and is producing in commercial quantities from mineral acreage owned by another or from adjacent trust lands leased at a lesser royalty, which **vertical oil and gas** well is within one thousand feet of the trust lands, the lessee of the trust lands shall, within one hundred twenty days after completion of such **vertical oil and gas** well, exercise one of the following options:
 - a. Diligently begin in good faith the drilling of a corresponding offset well on the leased trust lands, or on lands pooled therewith;
 - b. Pay a compensatory royalty, as determined by the commissioner, in lieu of the drilling of an offset well. If a lessee elects to pay a compensatory royalty, the lessee shall submit to the commissioner, within thirty days of the date such election, a proposed compensatory royalty agreement based on the estimated drainage area of the **vertical oil and gas** well located within one thousand feet of the trust lands. Geological, engineering, or other evidence in the form of a narrative and/or maps which form the basis for the offset drainage computation must be included with the proposed agreement;
 - c. Release the leased acreage to avoid the offset requisites; or
 - d. Submit a request to the commissioner for a waiver of the offset obligation as follows:
 - (1) A request for a waiver of the offset obligation must be in writing and provide the grounds for the request. If a request is made, the lessee shall submit to the commissioner, within thirty days of the request, geological, engineering or other evidence in the form of a narrative and/or maps which, in the opinion of the lessee, indicates that an additional **offset** well need not be drilled to reasonably develop or protect the trust lands from offset drainage due to the **vertical oil and gas** well located within one thousand feet on trust land. After a review of the evidence required to be submitted, the commissioner may:

- (a) Request that the lessee supply additional evidence to support:
 - 1. The request for a waiver of the offset obligation; or
 - 2. The proposed compensatory royalty agreement submitted by the lessee.
 - (b) Grant a waiver of the offset obligation;
 - (c) Approve the proposed compensatory royalty agreement of the lessee;
 - (d) Require the lessee to pay compensatory royalties as determined by the commissioner;
 - (e) Take such other action as the commissioner may deem appropriate, including the acceptance of a release either in whole or in part as to all or less than all strata included in the lease; or
 - (f) Cancel the lease in accordance with section 85-06-01-10.
- (2) A waiver of offset obligation is effective from the date of approval by commissioner. The commissioner may revoke a waiver of offset obligation if the commissioner determines the action is in the best interests of the trusts. If a waiver of offset obligation is revoked, the department shall provide notice to the lessee by certified mail. In the event of revocation, lessee shall have one hundred twenty days from the date of revocation to exercise one of the options under this section.
 - (3) Lessee shall submit a report as to the conditions regarding offset drainage from an offset well every five years from the date of approval of waiver of offset obligation. If there is a change of conditions regarding offset drainage from an offset well at any time, lessee shall be required to submit a report notifying the department of the change within one hundred twenty days of the change of conditions.
 - (4) The commissioner shall notify the lessee of the commissioner's decision.
- 2. If the lessee fails to exercise any of the options in subsection (1) the oil and gas lease is subject to cancellation under section 85-06-01-10.
 - 3. The commissioner is authorized to approve compensatory royalties on the board's behalf in accordance with this section.
 - 4. If an application does not comply with this section, or if the commissioner determines board review is desirable, the application may be brought before the board for its consideration.

History: Effective _____.

General Authority: NDCC 15-05-09, 15-07-20, 15-08.1-06, 61-33-06

Law Implemented: NDCC 15-05-09, 61-33-06, 61-33.1

SUMMARY OF COMMENTS ON ADMINISTRATIVE RULES

Public Hearing Held August 26, 2020

Comment Period Ending September 8, 2020

ADMIN. RULE SECTION	DATE RECEIVED	COMMENTS RECEIVED		COMMENT	DISCUSSION	ACTION TAKEN
		ORAL OR WRITTEN	COMMENTS RECEIVED			
85-04-07-01	7/2/20	Oral	Mike Humann	Section 5(b) should read: The applicant agrees to donate provide accessible and leasable land equal or greater in acres and value to the trust from which the original grant land was sold.	The Department agrees with this comment.	The rules were renumbered due to revisions after comments. This is now part of 85-04-07-02(2).
Lands Sales to Private Parties	7/24/20	Written – email	Mark Mazarheri	Please take this as my certain and unequivocal opposition to the sale of ANY State trust lands to any entity other than, perhaps another State Agency. Sales to private parties, individuals, or companies should be absolutely prohibited.	For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold. 15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.	For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.
Sale of Trust Lands	8/19/20	Written – email	Cayla Bendel	As a citizen of North Dakota I wanted to provide comment on the proposed rules and amendments to the ND Department of Trust Lands Admin. Code Title 85 which alters the sale process of School Trust Lands. As an avid sportswomen, user of public lands, and concerned conservationist I DO NOT support the proposed changes for the following reasons: - North Dakota has already sold off 75% of School Trust Lands which provide critical public access for hunting, fishing, wildlife viewing, etc.. This is of particular concern as we see an increasingly	For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold. 15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.	For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.

				<p>urban population without access to outdoor recreation</p> <ul style="list-style-type: none"> - The proposed change would simply allow land to go to the highest bidder, and likely outcompete local farmers and ranchers supporting our remaining rural communities - We cannot simply make more public land, and School Trust Lands account for a significant portion of current public lands open for access - Finally, most School Trust Lands represent tracts of native prairie that if sold, would likely be converted to cropland or development resulting in loss of critical wildlife habitat for many species of migratory birds, pollinators, and upland game species 		
Sale of Trust Lands	8/20/20	Written – email	Mark A. Anderson	<p>I am opposed to the sale of any of the remaining Trust Land acreage. Most of the remaining acreage is native prairie, a natural resource that is greatly under-appreciated by most people. The Trust Lands are important to farmers, ranchers, outdoor enthusiasts, and the health of the environment. If put on the auction block;</p> <ul style="list-style-type: none"> • Many of the tracts will be priced out of reach for many or most farmers and ranchers that depend on them to make a living. • Wealthy non-residents will likely buy many of the tracts for their own recreational use and eliminate access to North Dakota residents. 	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>

				<ul style="list-style-type: none"> ● Prairie tracts bought as private hunting reserves and not grazed would deteriorate in condition. ● Some of the tracts might be used for housing developments. It is likely that North Dakota's population will decline in the future; new housing projects, encouraged by taxpayer-subsidized low interest rates, will be a double-edged waste. ● Sale of Trust Lands will eliminate an important long-term source of revenue to fund education. ● Many of the prairie tracts will be converted to other uses that will diminish or eliminate wildlife habitat value. Conversion of prairie tracts to cropland will only add to crop surpluses, consequential economic difficulty for farmers, and more demand for taxpayer subsidies that have plagued North Dakota (and the USA) for much of the State's history. ● Native prairie is the most environmentally sound use of Trust lands, providing maximum carbon sequestration in the native sod, providing quality food with minimal fossil fuel inputs, providing optimum erosion control, and providing pollinator and wildlife habitat. ● Selling Trust Lands will only add to the very undesirable trend of more and more land being accumulated by a few wealthy landowners, while 		
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				<p>family-size farm and ranch owners dwindle or disappear.</p> <ul style="list-style-type: none"> • Selling Trust Lands will result in the unnecessary conversion of grassland to other uses that fragment habitat, i.e., will negatively impact the habitat value of adjacent land. • By law, the state of North Dakota retains mineral rights. Selling the surface will promote more split ownership (surface owner vs. mineral owner) conflicts. <p>North Dakota can't make more public land. Keeping these Trust Lands in state ownership and improving management for agriculture and outdoor recreation will increase economic benefits to our main street businesses. Less than 5% of North Dakota is publicly owned. ND Department of Trust Lands is the second largest owner of lands available for hunter access. Trust lands make up about 15 to 20% of public-outdoor recreation land in North Dakota. Please stop pursuing the sale of Trust Lands for the immediate gratification of a few, at the permanent expense/harm to the vast majority.</p>		
Sale of Trust Lands	8/20/20	Oral – phone conversation	Perry Montplaisir	<p>Wanted to express displeasure with sale of public lands; wants to keep public land public; understands getting the value for the property (sale of high value land compared to renting for agriculture) but is concerned people will take advantage of trust lands. Some people cannot afford to buy hunting land and he doesn't want the rich people to be able to buy up the land.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>

					types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.	
Sale of Trust Lands	8/20/20	Written email	Jeff Weaver	Public lands are very vital to the people of North Dakota. The #1 reason people stop hunting, fishing, and outdoor recreation is the lack of areas to go. If you sell off more public land you're hurting the residents and non residents for generations to come. Notice of Intent to Adopt and Amend Administrative Rules August 26, 2020 is an absolutely terrible plan. Please reconsider.	For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold. 15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.	For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.
Sale of Trust Lands	8/20/20	Written email	John Torfin	I am writing as a citizen fully opposed to any legislation that puts our great state's remaining public land in jeopardy. Since statehood, we've already lost 75% of what was granted. Our remaining 706k acres are precious to those who rely on them to enjoy the outdoors. Not only do state trust land acres support recreation, the are also a lifeline for farmer/ranchers who rent them. What is being proposed will make sale of said lands much easier. Whatever money you may think our state may gain by selling trust lands (sale/taxes) short term is not worth it once you factor the long term dollars from the farmers, ranchers, and outdoorsmen/women who use these acres. I fiercely oppose the sale of even one acre of public land in North Dakota.	For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold. 15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.	For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.

				<p>If the state is having trouble managing money, there are much better solutions than selling something that belongs to everyone that we will never get back. There are thousands more like me, and that number will grow as word of this grows.</p>		
Sale of Trust Lands	8/20/20	Written email	Marc Rue	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>Not net loss of our public land please!</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>
Sale of Trust Lands	8/20/20	Written email	Andree Bates (Andrew)	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>Please maintain these public lands.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>

Sale of Trust Lands	8/20/20	Written email	Larry Lindemoen	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>I grew up hunting and fishing in North Dakots/Minnesota and have seen the effects of public land sales in Minnesota and refuse to let that happen to North Dakota. Public land is just that public land</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>
Sale of Trust Lands	8/20/20	Written email	Mason Seiges	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>North Dakota sportsmen and women count on access to public land to recreate on - many of us can't afford to pay for private land for hunting or fishing. Please remember this when making your decision.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>
Sale of Trust Lands	8/20/20	Written email	Kerry Whipp	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>Access to adequate hunting acres in North Dakota has dwindled every year with the loss of CRP and other grasslands to agriculture and the oil industry. Selling off Trust Lands will only</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>

				compound the issue. Please protect and preserve our state lands.	government agencies and agencies with authority to condemn land to benefit the public.	
Sale of Trust Lands	8/20/20	Written email	Anthony Webb	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>I am an Air Force veteran that stayed in ND to raise my family. I have no land of my own to hunt or fish so it is important to myself and my family to have public land to enjoy together.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>
Sale of Trust Lands	8/20/20	Written email	Aaron Esquibel	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>Over my lifetime I've watched the land available for me and my family to hunt all but disappear. Please don't allow anything to change that runs the risk for further access loss.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>

Sale of Trust Lands	8/20/20	Written email	Brock Wahl	<p>I am writing in opposition to the proposed rules which will allow for an easier path to the sale of State Trust Land Sales. I urge the Land Department to change their stance to No-Net-Loss of Trust Land Acres.</p> <p>The State of North Dakota has already sold or divested 75% of the original 2.6 million acres of land granted to ND upon statehood and to sell more would be short sighted and unwise. As we have already seen oil booms and busts, stock market bubbles pop, and roller coaster economies, the Department of Trust Lands would be wise to hang on to every single acre of land that is in the current inventory. Not only for the sake of diversification of the Land Department's portfolio, but for the good of the people and schools of North Dakota.</p> <p>As a hunter, I've witnessed reduced access and habitat in our state during my lifetime. These Trust lands represent accessible public land to sportsmen, and some of the few remnants of prairie left in North Dakota. The sportsmen of North Dakota are more reliant on public land than they have ever been to pursue and uphold outdoor traditions. They cannot afford the loss of more public land.</p> <p>Please deny these rules changes and take a stance of NO-NET-LOSS of State Trust Land acres, future generations depend on it.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>
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Sale of Trust Lands	8/20/20	Written email	Matthew Bradley	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>Public lands for recreation are essential for people in our great state, please keep these lands public for all of us.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>
Sale of Trust Lands	8/20/20	Written email	Logan Anderson	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>State School Trust lands are an important part of the public land system within North Dakota and need to be kept. Providing an affordable access to forage and grazing for the states cattle producers is especially important in these volatile times for agriculture. And also providing opportunity for hunting and recreational activities to the citizens of this state. Please reconsider this rule change or at least amend it with a no net loss policy.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>
Sale of Trust Lands	8/20/20	Written email	Jack Sorum	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>As a life long resident of North Dakota I have enjoyed the access we as</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>

				<p>residents have had to the great outdoors. Increasingly with loss of private access, public lands have become a large part of our hunting activities each year for myself and my two sons. Loss of any of these lands is unacceptable, so the proposed amendments by the State Land Board is both alarming and potentially damaging to the future of hunting and outdoor recreation in the state of ND. 75% of all federal land grant lands to the state of ND have already been sold, please do not add to that number.</p>	<p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	
Sale of Trust Lands	8/20/20	Written email	Andrew Hillier	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>As a life long ND resident I am asking you to preserve our state owned lands. No net loss of public land is the only way forward.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>
Sale of Trust Lands	8/20/20	Written email	Rusty Stroschein	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>north Dakota</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>

					condemn land to benefit the public.	
Sale of Trust Lands	8/20/20	Written email	Joel Sorum	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>I reside in California but spend much time on our family farm near Devils Lake, ND. I also enjoy hiking, hunting and fishing in North Dakota and want to preserve as much open and public land as possible for not only myself but for future generations. We need to expand not lose publicly accessible lands for the health and well being of all.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>
Sale of Trust Lands	8/20/20	Written email	Peter Finck	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>I hunt nothing but public land in the state because most private land is leased or pay hunting please don't make hunting for only the rich give all of our kids somewhere to recreate not just the wealthy. Thank you</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>

Sale of Trust Lands	8/20/20	Written email	Brad Hoffarth	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>We need to protect the land that we already have. We do not want to trade land for inferior land. You need to do what is right for the people and the outdoors people of North Dakota.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p> <p>The rules are designed against any possibility of receiving inadequate compensation for trust lands.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>
Sale of Trust Lands	8/20/20	Written email	Matthew Wetterling	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>ND state lands have provided me, my family, and my friends with a lot of great opportunity to enjoy the outdoors. As a father of 2 young children, I feel it is my responsibility to do all that I can to ensure they have the same opportunities to enjoy public land for their lifetime as well. Please do all that you can to protect our state lands.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>
Sale of Trust Lands	8/20/20	Written email	Seth Rorem	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>

				ND	will maintain the status held by the property that was sold. 15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.	
Sale of Trust Lands	8/20/20	Written email	Alan Webster	I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy. The loss of public lands drives outdoor sports further away from average people. Keep outdoor sports affordable by maintain public lands not selling them off.	For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold. 15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.	For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.
Sale of Trust Lands	8/20/20	Written email	Andy Tomanek	I do not support the sale of ND state Owned land!	For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold. 15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.	For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.

Sale of Trust Lands	8/20/20	Written email	Chris Upton	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>The State of North Dakota has sold or divested 75% of their original 2.5 million acres of Federal land grant acreage. The 706,600 acres of remaining State Trust lands are the second largest public land holding in North Dakota, only behind the US Forest Service lands. With a renewed focus on public land value and decreasing access to private lands, access to these state lands is vital to maintaining the long standing North Dakota traditions of hunting, fishing, and recreating on these lands.</p> <p>From an economic standpoint the outdoor industry is an important contributor to the states economy. Data from the Congressional Sportsmen's Foundation indicates that North Dakota's 116,000 sportsmen contribute over \$222 million into the state economy and support 3,464 jobs. Loss of access has shown to result in loss of hunters, conservation funding, and negative economic impacts as well. State Trust land provides funding for public education and loss of these lands will have negative long term effects on this funding stream.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>
Sale of Trust Lands	8/20/20	Written email	Charlie Theobald	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>

				Please. As a lifelong North Dakota resident who has no family ties to privately owned land, the only way to share the love and beauty of outdoors with my children is thru public lands. The sale of state owned lands severely restricts this.	15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.	
Sale of Trust Lands	8/20/20	Written email	Kyle Hanshew	I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy. ND	For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold. 15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.	For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.
Sale of Trust Lands	8/20/20	Written email	Dave Brandt – attached to Brock Wahl email	Could add something about the amount of money ND has in the Legacy fund or whatever it is called that comes from oil and gas and how that industry has impacted our public lands. The amount in that fund is more than enough to eliminate any need for using these lands for financial reasons.	For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold. 15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.	For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.

Sale of Trust Lands	8/20/20	Written email	Justin Spletsoer	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>ND</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>
Sale of Trust Lands	8/20/20	Written email	Benjamjn Brickey	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>I traveled here to work and moved here for the hunting and land access. Please don't take this from us.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>
Sale of Trust Lands	8/20/20	Written email	Mike Miller	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>Keep it public.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>

					government agencies and agencies with authority to condemn land to benefit the public.	
Sale of Trust Lands	8/20/20	Written email	Anthony Paul	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>The first time I ever hunted on public land in North Dakota was on state trust land while hunting for antelope. If it was not for that trust land I would have not had the opportunity to chase after my very first antelope. I hope you will take into consideration on how many sportsman, especially young children, rely on these public lands in North Dakota where there is very minimal public lands to enjoy the outdoors on.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.
Sale of Trust Lands	8/20/20	Written email	Matt Bitzegaio	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>My family and I regularly use public lands in North Dakota for recreational use. It is an important part of our heritage, and it is important to me that we preserve those opportunities for them and their own children in the future.</p> <p>Thanks for your attention to this important issue facing our state.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.

Sale of Trust Lands	8/20/20	Written email	Jefferson Moore – J. Wil Moore	<p>Please do not sell public land access. I would be happy to share with you the potential health and environmental consequences.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>
Sale of Trust Lands	8/20/20	Written email	Dayton Krebsbach	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>There is no need actions like this should even be considered. Once they are gone, they're gone! Preserve what we are so fortunate to have and share with our younger generations.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>
Sale of Trust Lands	8/20/20	Written email	Brock Wahl	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>Hunting and fishing access is more and more difficult to come by. They provide opportunities for outdoorsman, the ranching community, and are a strong</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>

				hold for native prairie in ND. Do not sell 1 acre of state trust lands.	government agencies and agencies with authority to condemn land to benefit the public.	
Sale of Trust Lands	8/20/20	Written email	Paul Wollmuth	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>The public land recreation movement has exploded in the last few years. This has been a great contributor to our economy and has us sharing public land like never before. Help us keep people new to outdoor adventures involved instead of pushing them away by removing access to the amazing lands we call home.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>
Sale of Trust Lands	8/20/20	Written email	Eric Viall	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>My family and I love using state lands to examine wild flowers in the spring. State land has some of the best native prairie in the state and seeing it go would be a great shame.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>

Sale of Trust Lands	8/20/20	Written email	Aaron Novak	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>I hunt nothing but public land and at least half of it is school trust land. I have hunted one particular school section my entire life and have harvested variety of wild life with it. Please don't allow these wild, tax payer owned, lands be sold or disappear for any reason!</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>
Sale of Trust Lands	8/20/20	Written email	Jason Matthews	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>ND</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>
Sale of Trust Lands	8/20/20	Written email	John Grossbauer	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>Being that I do not personally own land that I am able to hunt on, all state and federal public lands are what I hunt. Selling these lands would take away opportunities for all who do not own land</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>

				to come into the sport and for those who rely on these lands every season to enjoy the outdoors.	government agencies and agencies with authority to condemn land to benefit the public.	
Sale of Trust Lands	8/20/20	Written email	Jade Ulmer	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>My family and I like to use our public lands to go out hunting and for recreation. For alot of people that would like a chance to hunt mule deer or elk our public land is the only available option. I am strongly against any legislation that would make it easier for our public land to be sold. Please take into consideration that our public lands mean alot to the non land owner. Our small town business depend on people using this public land when they visit and recreate. Please keep he public land public by not making it easier to sell the public lands. Thank you</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.
Sale of Trust Lands	8/20/20	Written email	Sheldon Geiger	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>I hunt on a lot of state lands, landowners don't want hunters on their lands, than you want to take the few public lands away from all tax payers is pretty crappy, if you need some extra funds than maybe see if outdoorsman are willing to pay for a state land stamp like Montana.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.

Sale of Trust Lands	8/21/20	Written email	Darin Underhill	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>I rely on these public land for hunting and outdoor recreation. I look forward to taking my kids to these areas to enjoy in the future. We need to keep land like this public in order keep hunting and conservation alive.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>
Sale of Trust Lands	8/21/20	Written email	Sarah Underhill	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>Please do not sell our public lands.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>
Sale of Trust Lands	8/21/20	Written email	Eric Veidel	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>My family and I use these responsibly to hunt, fish, camp, & recreate in nature. It's created stronger values and respect for animals, plants, & people with my children. Health and wellness of our</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>

				communities and land is better off with more areas that people can enjoy. We should be working to obtain more lands and not divesting of it.	government agencies and agencies with authority to condemn land to benefit the public.	
Sale of Trust Lands	8/21/20	Written email	Travis Hennings	Our public lands are not for sale! Thousands of people recreate on these lands every year. These lands are vital to our youth for generations to come. I do not support the sale of 1 acre of our public lands!	For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold. 15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.	For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.
Sale of Trust Lands	8/21/20	Written email	Jacob Krebsbach	I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy. North Dakota has very little public land as it is. Please, let's not get rid of any more.	For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold. 15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.	For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.

Sale of Trust Lands	8/21/20	Written email	Mason Brudevold	<p>North Dakota public land is not for sale! Not a single acre of it is for sale! It is ours not yours! You can't sell our land!</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>
Sale of Trust Lands	8/21/20	Written email	Bradi Thompson	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>I really enjoy public land for recreation, hunting and fishing, not everyone can afford to be a land owner and the public lands continue to dissipate and more and more land owners do not allow the general public to hunt big game on their lands, more importantly the lands play a big role in wildlife habitat, selling the land will result in greater loss of natural habitat and a decline in wildlife. I do not want to see the land turned into private ranches that are overrun with cattle.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>
Sale of Trust Lands	8/21/20	Written email	Todd Schaffer	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>I'm a born and raised North Dakotan and value the wild places we have available</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>

				in our state. I want my children and future grandchildren to be able to experience nature the same way I have been able to. Losing access to public lands has profound negative consequences for people who love the outdoors but aren't directly employed in the outdoors industry.	15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.	
Sale of Trust Lands	8/21/20	Written email	Paul and Susan Bultsma	As a landowner in Sheridan County I do not want to see the State Land Department selling off the trust lands. I support the livestock owners that want to graze them and the hunters that want to hunt there on. Stop messing with something that is not broke.	For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold. 15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.	For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.
Sale of Trust Lands	8/24/20	Written email	Justin Beyer	I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy. Please don't make it any easier to sell our public state land. The land is held in trust by State trust dept. for the people of the state of ND and we don't want it sold. Not everyone has family land that they can hunt and recreate on, state land allows everyone the opportunity a place to go. Please don't steal that opportunity from the generation now and generations yet to come,	For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold. 15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.	For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.

Sale of Trust Lands	8/24/20	Written email	Taylor Linder	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>North Dakota truly is a special place for our residents and citizens to enjoy the great outdoors in this capacity. Through my past 10 years, I have lived in seven different states, and North Dakota is one of the few that are lucky to be able to explore so many options for public land hunting and angling. I write today to urge you to keep public lands for public use, and this especially to uphold a no net loss of state trust lands. I understand that there may be economic benefits in selling off these lands, but I strongly urge you to reconsider the other benefits we lose as North Dakotans to these areas. I really appreciate your service to the residents of North Dakota, and I know that you will make the right decision to NOT vote in favor of this amendment.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>
Sale or Exchange of Public Land	8/24/20	Written – email	Rodney O'Clair	<p>Regarding the upcoming hearing on Administrative Rules Changes, I will flatly state I am not in favor of 2. I have no problem with definition changes or offset wells although i believe royalty agreements are better than a new well on public lands.</p> <p>I have much distaste for the other two rule changes. I read them as ways of making the sale or exchange of public lands easier for the board to accomplish when ND already has a shortage of public lands. With a meager 700,000 acres of the original trust land granted to the state remaining, you should be able</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>

				<p>to realize sale of trust land has been easy enough already. There has never been enough public disclosure when trust lands have been sold in the past.</p> <p>Nearly 20% of PUBLIC RECREATION occurs on less than 1% of ND's surface. The Trust lands are that important to the public. NDGF or ND Parks should always have first option to obtain.</p> <p>The Board cannot create more Trust land so should strive to save every last acre unless cost to maintain exceeds public value. Sale ends income potential. Do not trade, exchange or sell.</p> <p>Turn down the adoption of the two dispersal rules.</p>	The rules are designed against any possibility of receiving inadequate compensation for trust lands.	
Changes Proposed	8/24/20	Oral – phone call	John Bradley – ND Wildlife Federation	<p>Why changes now? Explained that these are policies that were in place and are being made part of admin rules per the legislative requirements that we be part of the admin rules process. Explained that there were some changes for acquired property, no net loss continued on original grant land.</p>	No discussion needed.	No changes needed.
Sale of Trust Lands	8/25/20	Written – email	Nick Lawonn	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>Public lands are important to everyone sportsmen and women and outdoor recreators. We need the public lands to keep current and younger generations involved in the outdoors.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other</p>	For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.

				I oppose any sale of state land and support a "no net loss of public land" for North Dakota.	government agencies and agencies with authority to condemn land to benefit the public.	
Sale of Trust Lands	8/25/20	Written-email	Casey Guetter	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>State lands are some of the few remaining acres left that have never been plowed under. This makes them a unique part of North Dakota. It also makes state lands some of the better opportunities for hunting. I hunt almost every week from September to January and all I hunt are lands open to the public. Those types of acres are limited in North Dakota and I don't want to see any more acres taken away.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.
Sale of Trust Land	8/25/20	Written – email	Vince Gray	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>ND state lands are an incredibly important part of what makes this a great state. ANY loss of public land in ND is a huge loss to its citizens and I strongly oppose anything that would make ND lose any of its public land. Public lands are an incredibly important thing to me and any politician that voted against keeping our state lands would result in me voting for somebody else.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.

85-06-01-15 - Offset Obligations	8/26/20	Oral & Written – Kristin Hammond read an August 26, 2020 letter signed by Ron Ness, President	North Dakota Petroleum Council	<p>Thank you for the opportunity to provide comments on the proposed Board of University and School Lands (Land Board) Administrative Rules changes. The North Dakota Petroleum Council (NDPC) is a trade association that represents more than 650 companies involved in all aspects of the oil and gas industry, including oil and gas production, refining, pipeline, transportation, mineral leasing, consulting, legal work, and oil field service activities in North Dakota, South Dakota, and the Rocky Mountain Region.</p> <p>We appreciate the time and effort promulgation of these rules has required. ND PC's central interest in the proposed rules surround those applicable to proposed N.D.A.C. section 85-06-01-15 - Offset Obligations and the associated definitions of "offset drainage" and "offset well" as proposed in N.D.A.C. 85-01-01-01, subsections 31 and 32. Based on communications from the Land Commissioner, it is NDPC's understanding that the majority of the proposed offset obligations rule language is simply a formal codification of language within the existing standard state oil and gas lease. Upon further review by NDPC membership, this is largely correct.</p> <p>Despite the similarities between the proposed offset obligations and what has existed in standard oil and gas lease language since 1979, NDPC urges the Land Board to exercise a moment of pause before formally adopting the proposed Section 15 rules into the Administrative Code.</p> <p>Existing language pertaining to offset obligations of a state oil and gas minerals lessee may be found in Section</p>	The Department sought clarification from the NDPC concerning its comments. The Department's discussion is reflected below in response to NDPC's September 16, 2020 letter.	The Department sought clarification from the NDPC concerning its comments. The Department's action taken is reflected below in response to NDPC's September 16, 2020 letter.
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				<p>state oil and gas leases for decades. In order to best protect state-owned resources from drainage, current oil development techniques and data should be considered. The current proposed offset obligation rules, adapted from outdated standard state lease language, do not adequately address potential scenarios in today's oil production environment.</p> <p>NDPC is willing and able to assist in bringing offset obligation language into the 21st century. Such an endeavor should take an appropriate amount of time and result in widespread language changes to any proposed rule - not simply a carbon copy of what has been in effect since the 1980s.</p> <p>We look forward to working with the Department of Trust Lands in developing appropriate offset obligation language reflective of today's oil production conditions. For the time being, NDPC encourages the Land Board to withhold approval of the proposed offset obligations until these factors are addressed.</p> <p>Given the relationship the oil and gas industry shares with the Land Board and the State of North Dakota as a whole, we look forward to working with you in ensuring the final administrative rules on offset obligations reflect a regulatory structure that is updated, responsible, and sound.</p>		
Land Sales	8/26/20	Oral – said intends to provide written comments too	John Bradley – Executive Director of the North Dakota Wildlife Federation	<p>Land sales are a potential threat to recreational land access and additional erosion of the amount of land. There were 2.5 million acres and the state got rid of 75% of those. The state's 706,000 acres is the second largest land holding in ND behind the US Forest Service. They play a critical role in outdoor heritage and economy. Access provides</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>

			<p>hunters and others great opportunity to recreation in the state. Sales would make a private ownership blockade to trust lands. Hunting is good for the economy. Brings people into small towns. 116,000 sportsmen in ND provide \$222 million in economy. Loss of access can be loss of hunters, conservation funding and negative impacts. It will increase economic benefits to keep trust lands open. 15-20% of public outdoor recreation land is trust land. Hunters do not support any additional loss of habitat and access. There should be a no net loss for publicly accessible land. They are open to a case by case basis, if there is an exchange for like land if there is better public access or provides enhanced wildlife habitat. They don't want to see the acreage reduced. Most trust lands are Native prairies – if sold this would likely be converted to nongrassland or development property which would be a detriment to wildlife and habitat. Conversation will exasperate difficulty livestock producers have in finding grazing and hayland. Would like 85-04-06-02(c) to be changed from may to shall – shall take into consideration features of trust lands – scenery, land use, ecosystems, land use. This would make it is easier to sell acquired with no net loss. Newly acquired could be sold under 85-04-07-05 (a) & (b). There needs to be a better definition of significant controversy. Needs to better develop significant controversy. For rancher to lose land to highest bidder is significant. To hunters and sportsman, the loss of any public access is significant. Tighten up the definition. Who the controversy is coming from and how much to be considered significant</p>	<p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p> <p>The Department reconsidered the issue of public comment not being required for some sales. It was determined that all sales should allow for public comment.</p> <p>In 85-04-06-02(1)(c), 85-04-07-02(2)(a)(3), and 85-04-08-02(2)(a)(3), the language was revised from may to shall.</p> <p>The Department reconsidered the use of the language “significant controversy” in 85-04-09-01 and revised that to “formal challenge.”</p> <p>The Department reviewed the definition of high value land and determined it would better read as residential, commercial or industrial development.</p> <p>The rules are designed against any possibility of receiving inadequate compensation for trust lands.</p>	<p>The Department revised the language to allow for public comment on all land sales.</p> <p>In 85-04-06-02(1)(c), 85-04-07-02(2)(a)(3), and 85-04-08-02(2)(a)(3), the language was revised from may to shall.</p> <p>The Department revised “significant controversy” in 85-04-09-01 and to “formal challenge.”</p> <p>High value land definition was removed.</p>
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				controversy. High Value Land definition. Should be broadened to include habitat, ecosystem services they provide (high value green space).		
Sale of Trust Lands	8/26/20	Oral	Mark Anderson	Takes issue with the sale procedure 85-04-07-02(3) – states if the commissioner or board determines to proceed with sale, can do so without public comment period. Ignorance is not bliss. Finds this offensive and absolutely disgusting. The public has a right to comment, to be heard, and to know what is going on.	The Department reconsidered the issue of public comment not being required for some sales. It was determined that all sales should allow for public comment.	The Department revised the language to allow for public comment on all land sales.
Sale of Trust Lands	8/26/20	Written – email	Nicholas Strand	I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy. Access is the biggest hurdle for new hunters getting into the outdoors. North Dakota's State Trust lands make up the second largest publicly accessible lands in the state and provide access for hunters, anglers, trappers, and other non-consumptive ushers across the entire state. I urge you to implement and maintain a No Net Loss policy on State Trust lands.	For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold. 15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.	For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.
Sale of Trust Lands	8/26/20	Written – email	Daniel Ackerman	I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy. ND State Lands are important for me as I recreate, mostly hunt, a wide variety of our states animals across this great state of North Dakota. As a hunter without readily accessible private land, I really on our public lands for access and	For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold. 15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and	For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.

				opportunities. I stand with Backcountry Hunters and Anglers and want you to uphold a "no net loss" of publicly accessible state lands policy.	agencies with authority to condemn land to benefit the public.	
Sale of Trust Lands	8/26/20	Written – email	Michael Bush	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>North Dakota's public lands and hunting heritage are part of what make this state so great and legendary. Losing even a single acre means a loss for who we are as citizens of North Dakota, and makes it that much tougher for me to bring my little boy out into the prairie.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.
Sale of Trust Lands	8/26/20	Written – email	Paul Moch	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>Public land should be open to the public- and not utilized only for private business interests. I know land board is required to profit from these lands- but they do by the quality of life here in ND. My MN transplants still come back to ND because we can hunt public lands.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.

Sale of Trust Lands	8/26/20	Written – email	Stacy Kessler	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>Available hunting land has diminished over the years due to various factors. Maintaining "No Net Loss" will help to preserve what remains for available hunting land for non-land owners for future generations.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>
Sale of Trust Lands	8/26/20	Written – email	Taylor Ells	<p>We (residents of ND) once had 2.6 million acres, and are now down to 706k. ND is the 19th largest state sq. mile wise, and we are down to 34th as far as public acreage (just 9%, hell MN is 23.5% public). We need to keep what few we have left. Trust lands are not only valuable to outdoorsmen, they are crucial to the farmer/ranchers who rent them. This is not the answer...only the easy answer which in-return only hurts the PEOPLE of ND!</p> <p>I DO NOT SUPPORT selling of ANY Public lands! We have so little already and if ND goes to No-Tresspass (which is coming) this only handcuffs all the current outdoorsmen/women even more!</p> <p>HUNTING and FISHING is our national heritage....funny how we forget that! Actions like these only make it harder on the good people who enjoy the great outdoors!</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>

Sale of Trust Lands	8/26/20	Written – email	Jacob Stokes	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>The land that is public has been industrialized by the oil/gas and wind energy development. Enough is enough we need to keep public land public.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>
Sale of Trust Lands	8/27/20	Written – email	Andrew Leer	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>I have hunted in North Dakota my entire life and many times I have hunted on State Land. Public land is incredibly important to me and State Land should be highly valued. I grew up in Williston and was able to do a quick drive to the Little Missouri National Grasslands if I wanted to hunt. Now, I live in Bismarck, and there are few Public lands to use around this part of the state. The State Lands that are around the area are important for sportsmen and women and should be protected. I urge you to have a "No Net Loss" approach to State Lands in North Dakota.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>
Sale of Trust Land	8/27/20	Written – email	Chad Marquart	<p>What is the reasoning we would be selling our state trust land ???</p> <p>And if so what are u going to be doing with the money???</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the</p>

				As a land owner and a huge hunter I think this is the craziest thing I've ever heard !!!!	will maintain the status held by the property that was sold. 15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.	status held by the property that was sold.
Sale of Trust Land	8/28/20	Written – email	Ty Hanson	I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy. Hunting and fishing are a long standing tradition in ND enjoyed by citizens of all ages. State trust land are unique in that they provide revenue, provide ag. use, and offer a place for the citizens of ND to enjoy the great outdoors. North Dakota has very little public land the way it is, please don't allow the loss of another acre.	For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold. 15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.	For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.
Sale of Trust Land	8/28/20	Written – email	Brian Schwartz	I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy. I live near these lands, recreat and help friends and family that make a living from these lands.	For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold. 15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.	For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.

Sale of Trust Land	8/28/20	Written – email	Rick Nelson	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>We have very little public land in North Dakota. The small amount we have is important for a wide variety of recreational opportunities.</p> <p>We should not lose any of our limited public lands.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>
Sale of Trust Land	8/28/20	Written – email	Darin Thoreson	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>The state lands are what me and my family have come to enjoy in our outdoor recreational activities. To lose these lands would be a disaster to our outdoor community.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>
Sale of Trust Land	8/28/20	Written – email	Sam Devries	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>All of my recreation is completed on state and federal property in North Dakota. This recreation is expensive, and my money is spent in the small town around North Dakota as I travel through,</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>

				<p>stopping at restaurants and gas stations, not to mention the equipment needed for hunting, fishing, hiking, camping or just generally being outside. It's one of the great reasons I choose North Dakota to be my home, and I hope to raise a family with with my wife, where we can all enjoy the outdoors. It's understandable that the state looks towards sales of property that they deem "not revenue producing" during such unknown times, but I urge you to think of the revenues that they produce for the small towns, and the memories that can be made for the citizens of the state.</p>	<p>government agencies and agencies with authority to condemn land to benefit the public.</p>	
Sale of Trust Land	8/28/20	Written – email	William Bauman	<p>I join North Dakota Backcountry Hunters in urging the North Dakota State Land Board to maintain important public hunting and fishing access by implementing a "No Net Loss" of publicly accessible state lands policy.</p> <p>Public lands here in North Dakota are special places for hunting, fishing, and recreating. I use them all the time and don't want to see any sold off! These are places for us to have and enjoy, NOT TO SELL!</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>
Sale of Trust Lands	Rec'd 9/1/20; dated 8/31/20	Written – letter via email	North Dakota Backcountry Hunters and Anglers Board of Directors	<p>On behalf of the North Dakota chapter of Backcountry Hunters & Anglers (NDBHA), a North American conservation organization dedicated to the conservation of backcountry fish and wildlife habitat and sustaining and protecting access to important public lands, the chapter is writing in opposition to the "North Dakota State Land Board proposed rules and amendments that addresses additional Definitions, Surface Land Management</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>

				<p>Land Exchange and Land Sales, and Minerals Management Offset Obligations". It is the opinion of the NDBHA that the proposed rules and amendments would essentially allow the State Land Board to sell state lands including original grant lands or acquired lands. The North Dakota chapter of BHA has over 400 members contributing to 40,000 USA and Canadian members, making us the fastest growing conservation organization in the continent.</p> <p>North Dakota State Land Board proposed rules and amendments as they relate to land sales is a threat to the future of public access to these lands and additional erosion of the original 2.5 million acre Federal Land Grant. The State of North Dakota has sold or divested 75% of the original 2.5 million acres of Federal land grant acreage. The 706,600 acres of remaining State Trust lands is the second largest public land holding in North Dakota, only behind the US Forest Service lands. With a renewed focus on public land values and decreasing access to private lands, access to these state lands is vital to maintaining the long standing North Dakota traditions of hunting, fishing, and recreating on these lands.</p> <p>From an economic standpoint the outdoor industry is an important contributor to the state's economy. Data from the Congressional Sportsmen's Foundation indicates that North Dakota's 116,000 sportsmen contribute over \$222 million into the state economy and support 3,464 jobs. Loss of access has shown to result in loss of hunters, conservation funding, and negative</p>	<p>government agencies and agencies with authority to condemn land to benefit the public.</p> <p>The rules are designed against any possibility of receiving inadequate compensation for trust lands.</p>	
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			<p>economic impacts. State Trust land provide funding for public education and loss of these lands will have negative long-term effects on this funding stream. According to the National Survey of Hunting, Fishing, and Wildlife-Associated Recreation, a report issued by the U.S. Fish and Wildlife Service the nation lost 2.2 million hunters between 2011 and 2016. As stated in this document the number one reason for this decline was loss of access. If North Dakota wishes to continue recruitment and retaining new hunters, access to land is a critical component.</p> <p>The North Dakota Chapter of Backcountry Hunters and Anglers has a no net loss of public land stance. If State Trust lands are proposed to be traded for an equivalent parcel of land which offers better public access or provides enhanced wildlife habitat, that could be reviewed on a case-by-case basis as long as the land exchange results in no net loss of public land.</p> <p>The North Dakota Chapter of Backcountry Hunters and Anglers urges the State Land Board to consider these comments and stand with North Dakota's hunters, anglers, and outdoor enthusiasts in keeping our state lands in public domain for all to enjoy for generations to come.</p> <p>Thank you for the opportunity to comment on this State Land Board proposal</p>		
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Sale of Trust Lands	9/2/20	Written – email	Joe Vetter	<p>This State Trust should not be sold.</p> <p>This State land is mostly native prairie and there isn't much left in ND.</p> <p>Only about 700,000 acres is State Trust Land. 75% has already been sold off.</p> <p>Only 3% of ND is public land. This includes Federal, State, County and Cities. 97% is already privately owned.</p> <p>As more private land is being posted no trespassing, there is a greater need for access to public land for recreation (hunting, fishing and picking wild fruit).</p> <p>In 2013 the legislature established the ND OUTDOOR HERITAGE FUND PROGRAM. It provides grants for wildlife habitat preservation, outdoor recreation areas and access to public lands. State Game and Fish is also paying private land owners under the PLOT program to allow hunting on their land.</p> <p>On one hand the State is willing to spend for more outdoor recreation but on the other sell public land that's already available to the public.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>
Sale of Trust Land	9/8/20	Written – letter received by email	John Bradley, Executive Director, ND Wildlife Federation	<p>Thank you for considering our comments on the Proposal to Adopt and Amend Administrative Rules for the Department of Trust Lands. The North Dakota Wildlife Federation (NDWF) is the oldest statewide wildlife conservation organization in North Dakota. For over 85 years, NDWF has been at the table to protect North Dakota's fish and wildlife, lands and waters, and outdoor heritage. At the very core of our comments is related to</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>

			<p>sustaining a no net loss policy for Trust lands. As the Trust lands have a wide diversity of constituencies and outcomes for the citizens of North Dakota, we believe it is critical that the inventory of Trust lands be maintained.</p> <p>Original and Acquired Lands There are some stipulations for "no net loss of leasable original grant land". 85-04-06-01. Approval of land exchange. The board may approve an exchange of trust lands, which it determines is in the best interests of the trusts and complies with current law. Under North Dakota Century Code section 15-06-01, any land received under an exchange of original grant land maintains its status as "original grant lands." Sportsmen and women want to see a "no net loss" policy applied to both original and acquired Trust lands.</p> <p>Criteria for Land Exchanged NDWF believes that the language should be changed from "may" to "shall" in 85-04-06-02. Subsection C. The Department should take into consideration features of Trust Land not reflected in the market price. Recreational opportunities, scenery and green space, land type, ecosystem services, future value, etc. should all be taken into consideration before a decision is made.</p> <p>Public Input In 85-04-08-02. Section 3. the proposed rules state "The commissioner may recommend to the board that a tract be sold even though no letter of application for sale has been received. If the commissioner or board determines it is in the best interests of the trusts to proceed with the sale, the sale may proceed without the requirement of a public comment period." We believe that</p>	<p>government agencies and agencies with authority to condemn land to benefit the public.</p> <p>The Department reconsidered the issue of public comment not being required for some sales. It was determined that all sales should allow for public comment.</p> <p>In 85-04-06-02(1)(c), 85-04-07-02(2)(a)(3), and 85-04-08-02(2)(a)(3), the language was revised from may to shall.</p> <p>The Department reconsidered the use of the language "significant controversy" in 85-04-09-01 and revised that to "formal challenge."</p> <p>The rules are designed against any possibility of receiving inadequate compensation for trust lands.</p>	<p>The Department revised the language to allow for public comment on all land sales.</p> <p>In 85-04-06-02(1)(c), 85-04-07-02(2)(a)(3), and 85-04-08-02(2)(a)(3), the language was revised from may to shall.</p> <p>The Department revised "significant controversy" in 85-04-09-01 and to "formal challenge."</p>
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				<p>the public should be given notice in any sale, and that there is an adequate public comment and protest period. Keeping the public informed and engaged is a critical component of a transparent process.</p> <p>Lastly, the issue is the definition of “significant controversy” in 85-04-09-01 “Land board is to take into consideration if ‘There is no known significant controversy regarding the project.’” “Significant controversy” needs to be better defined. Loss of any Trust land acreages and public access to Trust lands are considered significant losses to sportsmen and women.</p> <p>Conclusion Keeping Trust Lands in state ownership and improving management for agriculture and outdoor recreation will increase economic benefits to North Dakota. ND Department of Trust Lands is the second largest owner of lands available for hunter access. Trust lands make up about 15 to 20% of public-outdoor recreation land in North Dakota. Resident and non-resident hunters do not support any additional loss of habitat and access. The current economic value of these lands is derived from minerals, agricultural production, investments, etc. But not accounted for in the direct and indirect income stream to the State are the untold recreation opportunities and economic values these state owned lands provide to citizen users such as hunters, bird watchers, hikers and other recreationists, as well as water quality and soil quality health benefits. It is important to keep these lands state owned providing local farmers and</p>		
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				ranchers an opportunity to lease them providing income for their local operations and for North Dakota school kids. And in turn, keeping these 700,000 acres available for hunting and other recreational opportunities and dollars they generate for the state of North Dakota and local main street businesses.		
Land Sales and Exchange	9/8/20	Written – letter by email	Michael McEnroe	<p>As drafted, the proposed rules would allow for the sale of virtually any and all Department of Trust Lands (State School) lands at the discretion of the Commissioner or interest by a potential buyer. I do not agree with the proposed sale of Trust Lands for the following reasons:</p> <ol style="list-style-type: none"> 1) North Dakota has approximately 700,000 acres of Trust lands, roughly 25 % of what was granted to North Dakota at statehood. These lands are a tremendous asset to the citizens of the State. Most States have regretted the sale of their School lands after they have been sold. 2) The current economic value of these Trust lands is from agricultural leases and mineral leases and royalties. 3) There is great potential for these lands to be sold for subdivision and ranch-ettes or “hobby” ranch development, which would likely preclude continued public access for recreation or private agricultural use by the current ranchers and farmers. 4) Most Trust lands are currently still native prairie, a rapidly disappearing natural resource in 	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p> <p>The rules are designed against any possibility of receiving inadequate compensation for trust lands.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>

				<p>North Dakota. Sale of these lands for development threatens that resource.</p> <ol style="list-style-type: none"> 5) There have been several attempts in past Legislative sessions to sell all or selected tracts of Trust lands. All of these previous attempts have failed to pass the Legislature. 6) The 700,000 or so acres of Trust lands represent an asset value of perhaps \$ 350-700 million (at an estimated value of \$ 500-1,000/acre). This contributes to a diversified portfolio of assets in support of the State's educational programs. The estimated value of these lands, subject to sale, also seems to contradict the Department's assertion that there is less than \$ 50,000 of impact on the regulated community. 7) North Dakota is unlikely to create or establish more "public lands". Loss of any or all of these Trust lands or State School lands, through sale represents a huge loss to the sportsmen and women, outdoor recreationists, and the citizens of North Dakota. <p>In review of these proposed rules, there do not appear to be any changes or amendments that would make them less onerous, especially if the intent is to make all Trust lands available for sale. Therefore I must object to the proposed rules in entirety.</p>		
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				Thank you for the opportunity to comment on these proposed administrative rules.		
Land Sales & Exchange	9/8/20	Written – letter sent by email	Renee Tomala, Field Representative, Pheasants Forever	<p>Pheasants Forever (PF) is a 501(c) (3) non-profit organization dedicated to the conservation of pheasants, quail, and other wildlife through habitat improvements, public awareness, education and land management policies and programs. Formed in 1982 in response to declining pheasant populations, PF has over 126,000 members and 740 chapters across North America. North Dakota is currently home to 28 Pheasants Forever chapters, 200 volunteers and more than 3,700 members. Along with our membership, in 2018, North Dakota boasted over 58,000 upland hunters. Those hunters contributed to the \$186.6 million in direct expenditures during the 2017-2018 season. Our member's interest in hunting access and public lands membership base and coupled with the economic contributions of hunting Pheasants Forever wishes to submit the comments below regarding the proposed rules and amendments to N.D Admin. Code Title 85.</p> <p>Original and Acquired Lands – Pheasants Forever would like to see a “no net loss” policy applied to both original and acquired Trust lands.</p> <p>Criteria for Land Exchanged – 85-04-06-02. Subsection C: Pheasants Forever feels the language should be changed from “may” to “shall”. Pheasants Forever would like the Department to take into consideration</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p> <p>The Department reconsidered the issue of public comment not being required for some sales. It was determined that all sales should allow for public comment.</p> <p>In 85-04-06-02(1)(c), 85-04-07-02(2)(a)(3), and 85-04-08-02(2)(a)(3), the language was revised from may to shall.</p> <p>The Department reconsidered the use of the language “significant controversy” in 85-04-09-01 and revised that to “formal challenge.”</p> <p>The rules are designed against any possibility of receiving</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>The Department revised the language to allow for public comment on all land sales.</p> <p>In 85-04-06-02(1)(c), 85-04-07-02(2)(a)(3), and 85-04-08-02(2)(a)(3), the language was revised from may to shall.</p> <p>The Department revised “significant controversy” in 85-04-09-01 and to “formal challenge.”</p>

			<p>features of Trust Land not reflected in the market price, including but not limited to recreational opportunities, scenery and green space, land type, ecosystem services, future value, etc.</p> <p>Public Input – 85-04-08-02. Section 3: The proposed rules states: <i>“The commissioner may recommend to the board that a tract be sold even though no letter of application for sale has been received. If the commissioner or board determines it is in the best interests of the trusts to proceed with the sale, the sale may proceed without the requirement of a public comment period.”</i></p> <p>Pheasants Forever believes that the public should be given notice in any sale and provided a public comment and protest period. Keeping the public informed and engaged is a critical component of a transparent process. Definition of “significant controversy” – Section 85-04-09-01: <i>“Land board is to take into consideration if ‘There is no known significant controversy regarding the project.’”</i> To provide clarity “Significant controversy” needs to be better defined. Pheasants Forever believes that the loss of any Trust land acreages and public access to Trust lands are considered significant losses to sportsmen and women.</p> <p>We appreciate the opportunity to provide comments to this process.</p>	<p>inadequate compensation for trust lands.</p>	
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Sale of Trust Lands	9/8/20	Written – email	John L. Devney, Senior Vice President, Delta Waterfowl	<p>Below, please see comments from Delta Waterfowl on the current proposal to Adopt and Amend Administrative Rules on the transfer or sale of Trust lands</p> <p>I am writing today on behalf of Delta Waterfowl, an organization which has twin mandates of securing both the future of ducks and duck hunting. We believe the issue before you has a significant nexus with both elements of our organization’s mission as the transfer or sale of Trust lands have consequences for both wildlife habitat and sportsmen and women.</p> <p>At the very core of our comments is related to sustaining a no net loss policy for Trust lands. As the Trust lands have a wide diversity of constituencies and outcomes for the citizens of North Dakota, we believe it is critical that the inventory of Trust lands be sustained. This is described in 85-04-07-01 Sale of Original Grant Lands Section 5a. and 5b. We believe in the circumstances where exchanges are appropriate that acquired Trust lands are also subject to the no net loss standard.</p> <p>Additionally, we suggest that 85-04-06-02. Subsection C. be changed from “may” to “shall.” This provides the opportunity for the Department to consider a full range of unique property features that may not translate directly into an appraised or market price.</p> <p>We take exception that the proposal in 85-04-08-02 could allow disposition of Trust lands without public input. As described earlier, as Trust lands have a</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p> <p>The Department reconsidered the issue of public comment not being required for some sales. It was determined that all sales should allow for public comment.</p> <p>In 85-04-06-02(1)(c), 85-04-07-02(2)(a)(3), and 85-04-08-02(2)(a)(3), the language was revised from may to shall.</p> <p>The Department reconsidered the use of the language “significant controversy” in 85-04-09-01 and revised that to “formal challenge.”</p> <p>The rules are designed against any possibility of receiving inadequate compensation for trust lands.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>The Department revised the language to allow for public comment on all land sales.</p> <p>In 85-04-06-02(1)(c), 85-04-07-02(2)(a)(3), and 85-04-08-02(2)(a)(3), the language was revised from may to shall.</p> <p>The Department revised “significant controversy” in 85-04-09-01 and to “formal challenge.”</p>
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				<p>broad range of value to North Dakotans, we believe it is absolutely essential that the public be provided public notice of any sale or transfer and afforded a comment period. This will ensure that all interested parties can offer perspective to the Board in determining the most appropriate course of action.</p> <p>Again, we appreciate the opportunity to present these comments for your consideration and we thank you for your stewardship of the State's Trust lands.</p>		
Sale of Trust Lands	9/8/20	Written	David Dewald, President, Lewis and Clark Wildlife Club, Bismarck/Mandan	<p>On behalf of approximately 100 members of the Lewis and Clark Wildlife Club we strongly oppose any sale of Trust Lands. I personally hunt Trust Lands annually. I enjoy the opportunity to walk these lands in pursuit of sharp-tailed grouse and deer. Our members recognize that it is important that these lands provide an opportunity for maintaining North Dakota's hunting heritage for the future. The remaining 700,000 acres are a public asset and must remain as such. Sale of these lands will not necessarily support local ranchers and farmers, but will be bought up by the highest bidder to gain the opportunity for private access and a gratis elk or deer tag. Please keep these lands in state ownership providing local farmers and ranchers the opportunity to continue to lease these lands for their ag. operations at the same time providing hunting and other recreational opportunities for resident and non-residents hunters alike.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p>

Land Sales and Exchanges	9/8/20	Written – letter submitted by email	Ryan Taylor, Director of Public Policy, Ducks Unlimited	<p>On behalf of Ducks Unlimited and its more than 4,000 members in the state of North Dakota, I am pleased to offer the following comments on the proposed rules and amendments to N.D. Administrative Code Title 85. Our mission at DU is to conserve, restore, and manage wetlands and associated habitats for North America's waterfowl. These habitats also benefit other wildlife and people. Our members in North Dakota are proud stakeholders in the use and management of the Trust Lands portfolio and we see tremendous value in the habitat and public hunting opportunities provided by those lands in our cherished state. Constitutionally protected as “pasturage and meadow” grant lands, they offer pristine, natural habitat for waterfowl, other wildlife and people, while providing working agricultural benefit to the state’s ranching and livestock grazing community. We thank you for your management of this treasure, and we thank you for putting into administrative rules these public accountable processes for sale or exchange of that treasure.</p> <p>We would like you to consider a couple clarifications and changes to the proposed rules. We believe it is important to have no net loss of leasable original grant land in the event of sales or exchanges. Losing any acres of grant lands would almost surely be a loss of native grassland habitat and a loss of public hunting access in North Dakota. It appears that land acquired in exchange would still be considered ‘original grant land’ and subject to no net loss. We are in complete support of that protection. Extending the no net loss to smaller tracts should be considered.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, the department determined it would be beneficial to revise the language to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>15-09 sales will not contain a no net loss requirement. Those types of sales are to other government agencies and agencies with authority to condemn land to benefit the public.</p> <p>The Department reconsidered the issue of public comment not being required for some sales. It was determined that all sales should allow for public comment.</p> <p>In 85-04-06-02(1)(c), 85-04-07-02(2)(a)(3), and 85-04-08-02(2)(a)(3), the language was revised from may to shall.</p> <p>The Department reconsidered the use of the language “significant controversy” in 85-04-09-01 and revised that to “formal challenge.”</p> <p>The rules are designed against any possibility of receiving inadequate compensation for trust lands.</p>	<p>For sales under N.D.A.C. chs. 85-04-07 and 85-04-08, language was revised to clearly provide for no net loss and so the property will maintain the status held by the property that was sold.</p> <p>The Department revised the language to allow for public comment on all land sales.</p> <p>In 85-04-06-02(1)(c), 85-04-07-02(2)(a)(3), and 85-04-08-02(2)(a)(3), the language was revised from may to shall.</p> <p>The Department revised “significant controversy” in 85-04-09-01 and to “formal challenge.”</p>
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				<p>We believe that features not reflected in market price (recreation, ecosystem value, scenery, proximity, etc.) “shall” be considered rather than “may” be considered in 85-04-06-02(C). We also ask that there should be public notice in any sale of Trust lands and would warn against sales proceeding “without the requirement of a public comment period” as currently stated in the proposal for 85-04-08-02(3). Our members, and other citizens of North Dakota, should be informed and have the opportunity to comment on any sale of their public lands. There also seems to be a need to define more clearly what constitutes a “significant controversy” as the term is used in 85-04-09-01(6).</p> <p>Generally, we appreciate these proposed administrative rules in achieving a process that protects our Trust lands from being sold or exchanged without careful thought or input. Again, thank you for your wise management for this significant resource for all of us who have affection for conservation, livestock agriculture, education funding for our young people, and the beauty of North Dakota. Please consider us a ready and willing partner in the work you do.</p>		
Offset Obligations	9/16/20	Written – letter by email	Brady Pelton, General Counsel and Director of Government Affairs – North Dakota Petroleum Council	<p>In a September 11, 2020 email from the Land Commissioner, reference was made to a written comment submitted by NDPC regarding N.D.A.C. section 85-06-01-15 – Offset Obligations. Specifically, the comment referenced states: “The current proposed offset obligation rules, adapted from outdated standard state lease language, do not adequately address potential scenarios in today’s oil production environment.</p>	<p>It appears the comment’s main issue was to provide for differentiation between vertical and horizontal wells. A request was made to modernize the rule as it relates to horizontal wells. The Department is not in a position at this time to propose language applicable to horizontal wells; therefore, it was determined that we would</p>	<p>The Department revised the language to reference specifically vertical oil and gas wells, and a definition of vertical oil and gas well was added.</p>

			<p>NDPC is willing and able to assist in bringing offset obligation language into the 21st century.”</p> <p>At the request of the Department of Trust Lands, NDPC wishes to clarify this statement as to what current oil development techniques and data should be considered when developing this rule. Several prominent changes in oil development techniques have occurred in the time between 1979 when existing language pertaining to offset obligations of a state oil and gas minerals lessee was made effective and present.</p> <p>First, as noted in NDPC’s initial comments to this rulemaking, there has been a monumental shift in the very type of resource being targeted for development in the state. Prior to the technological breakthroughs in horizontal drilling and hydraulic fracturing of the Bakken and Three Forks shale formations, oil development consisted of predominantly conventional vertical wells targeting pools of oil resources below the surface. Such techniques necessitated protections to prevent drainage of oil within one leased tract from other vertical wells located on adjacent leased areas. Offset obligations provide those protections against resource drainage and have been in standard state oil and gas lease language since 1979.</p> <p>Given that the vast majority (approximately 96 percent) of oil development within North Dakota now takes place within the Bakken and Three Forks tight shale formations, such protections against resource drainage need not be so tightly proscribed for all development of state minerals. The nature of tight shale formations like</p>	<p>apply this rule to vertical wells only.</p>	
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			<p>those in North Dakota is such that mineral resources do not flow easily and are not nearly as susceptible to drainage as mineral resources in pools. Unlike shale development, many vertical wells targeted small pools within structural traps or other geological features that may or may not cross section lines. A vertical well could be located, for example, 660' from the adjoining section line and state oil and gas lease. The original offset well covenant was designed to protect the offsetting mineral acreage by requiring an offset well if drainage was occurring.</p> <p>Compared to conventional vertical well development, the reservoir is continuous and tight in Bakken/Three Forks shale development, as previously noted. In addition, the North Dakota Industrial Commission (NDIC) requires protection of correlative rights, including the prevention of drainage, with its well spacing and location rules. For example, the NDIC will not allow the first well in a Bakken spacing unit to be located closer than 1,220 feet from a section line, which is further than the 1,000-foot distance specified in the proposed offset rule. Furthermore, as infill wells are developed, it would generally not make sense to require an offset well where the adjoining spacing unit already has an existing producing well to protect from drainage. The proposed offset well provisions, if strictly construed, could result in unnecessary review every time a new development well is drilled in an existing producing spacing unit and where the adjoining spacing unit already has multiple wells.</p>		
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			<p>NDPC recognizes that development of state resources using conventional vertical drilling techniques can and does occur at present. Offset obligations are appropriate when these techniques are utilized. However, applying such high offset well obligation standards as those in the proposed Section 15 administration rules to oil and gas development occurring within the state's tight shale formations may not be appropriate.</p> <p>Consequently, NDPC continues to urge the Land Board to exercise pause before formally adopting what may amount to an awkward rule and regulatory overkill as we believe exists within the proposed Section 15 rules. Separate offset obligations for conventional and unconventional resource development may indeed be necessary to reduce unintended consequences of applying broad offset obligations to situations when such broad obligations are not necessary and may potentially hinder production of state trust mineral acres.</p> <p>NDPC remains willing to work with the Land Board and the Department of Trust Lands in developing offset obligation language that is appropriate for today's oil production conditions. Utilizing the resources and expertise of the ND Department of Mineral Resources may also prove to be valuable in developing more appropriate rule language. Due to the present lack of clarity and potential unforeseen impacts that may result, NDPC respectfully requests the Land Board to withhold formal approval of the proposed offset obligations at this time.</p>		
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MEMORANDUM TO THE BOARD OF UNIVERSITY AND SCHOOL LANDS

September 24, 2020

**RE: Energy Infrastructure and Impact Office
Retirement of Grants**

Pherrin Township was awarded a grant in the amount of \$300,000.00 in Fiscal Year 2015 to assist in upgrades to the 54th street road project. The project included road cuts, culverts, road fills, grading roads and ditches, erosion control, and adding guard rails for the crossings to address safety concerns.

Political Sub	Grant	Awarded	Paid	Balance	Project
PHERRIN TOWNSHIP	G15230	\$300,000.00	\$288,520.80	\$11,479.20	54 TH STREET ROAD PROJECT
				\$11,479.20	

On February 29, 2016, this grant was put into suspension status due state revenue shortfalls. The Energy Infrastructure and Impact Office (EIO) contacted all political subdivisions which had a grant balance. Those that had not started their projects were told to discontinue their projects as their grants were going to be temporarily suspended until funds became available. Political subdivisions that had begun working on their projects could continue, with the funds being retained for those entities that were already receiving invoices.

On February 1, 2017, the suspension of this grant was lifted as funds became available to honor the grants awarded during the revenue shortfall.

On August 24, 2020, Pherrin Township was paid their final disbursement and the project was completed under budget. The remaining amount of \$11,479.20 can be reverted to the Oil and Gas Impact Grant Fund.

Recommendation: The Board retire the grant identified in the sum of \$11,479.20. Subsequently, that the Board declare these funds within the Oil and Gas Impact Grant Fund as contingent for future unmet needs.

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

MEMORANDUM TO THE BOARD OF UNIVERSITY AND SCHOOL LANDS

September 24, 2020

RE: Private Infrastructure Investments

On April 8, 2020 the Board of University and School Lands' approved an asset allocation to Private Infrastructure within the broader Strategic Asset Allocation for the Permanent Trust Funds (PTFs).

For the PTFs initial investment in infrastructure, Department staff and RVK determined:

- Open-end fund structure which allows for reinvestment potential without conducting a new RFP or waiting for a new fund to open. Ability to withdraw investment under partnership terms. Provides greater manager flexibility to hold and trade assets, and generally have greater diversity of assets (both sector and geography).
- Core infrastructure strategy which has higher expected yields and lower risk versus non-core which has higher expected total return and a higher risk profile.
- Low exposure to fossil fuels to reduce correlation to PTF contributions.
- Geographically diverse, primarily in developed countries.

Department staff and RVK began the manager search by requesting RVK compile a list of the highest rated managers on their private infrastructure research list. The top six managers on the list were sent a request for proposal (RFP). After reviewing the six RFP responses and holding discussions with RVK, the list of managers was reduced to three managers based upon their experience, performance track record, investment process, etc. Department staff and RVK conducted interviews with the three managers. This due diligence process has resulted in the team recommending JP Morgan's Infrastructure Investments Fund (IIF) to the Board.

JP Morgan's IIF was founded in 2006 and headquartered in New York and London. They have over \$12.5 billion in assets under management with 16 portfolio companies and over 500 assets in 25 countries. JP Morgan has over 50 infrastructure investment professionals in addition to portfolio company board of director appointments.

Recommendation: The Board approve up to a \$130 Million investment in J.P. Morgan Investment Management Inc.'s Infrastructure Investments Fund as a currency hedged limited partner (IIF Hedged LP) as part of the Permanent Trust Fund's Private Infrastructure allocation, 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					
Superintendent Baesler					
Treasurer Schmidt					
Attorney General Stenehjem					
Governor Burgum					

Attachment 1: RVK Infrastructure Recommendation Memo

Attachment 2: JP Morgan Infrastructure Presentation



Memorandum

To	North Dakota Board of University and School Lands
From	RVK, Inc.
Subject	Private Infrastructure Request For Proposal
Date	September 11, 2020

The purpose of this memo is to report to the North Dakota Board of University and School Lands (“NDBUSL” or “the Board”) the manager search process that NDBUSL Staff (“Staff”) and RVK utilized for a core, open-end infrastructure request for proposal (“RFP”).

Search Objective

The objective of this search process was to identify an investment manager able to source, diligence, and implement a portfolio of infrastructure investments in a commingled, open-ended structure. The strategy is expected to invest across multiple infrastructure sectors, including power transmission, transportation, and contracted power generation. This allocation will assist the NDBUSL in meeting its 5% target allocation to infrastructure.

Recommendation Summary

Staff and RVK’s overall recommendation with regard to the NDBUSL can be summarized as follows:

- Achieve part of the asset allocation target of approximately 5% of the NDBUSL assets to infrastructure, consistent with the current investment policy statement;
- Invest in an open-end, core infrastructure fund on behalf of the NDBUSL, and;
- Consistent with the issued request for proposal, invest approximately \$130 million in the currency-hedged vehicle of the Infrastructure Investments Fund managed by J.P. Morgan.

Private Infrastructure Background & Structure Recommendation

Private Infrastructure is a complex asset class, offering investors multiple different risk, return, and yield profiles. Investors can choose from a menu of open-end core private infrastructure and draw down style, non-core infrastructure strategies, with each fund offering a different mix of underlying infrastructure assets. Infrastructure sectors, examples of which include power distribution & transmission, utilities, airports, toll roads, midstream energy, and contracted power generation, offer differing levels of return, yield, and inflation protection. Finally, the market for infrastructure assets contains a large number of non-U.S. opportunities, often requiring investment managers to access multiple geographies in order to access some infrastructure sectors.

In general, core infrastructure funds offer greater yield and lower risk while non-core infrastructure offers a higher return target and commensurately greater risk. In an open-end fund structure, the manager expects to hold portfolio assets indefinitely, admitting new investors in a queue as capital is needed for new investments. Investors have the ability to withdraw their investment and exit the fund, usually after a multi-year lockup period. Open-end funds are commonly well diversified



across multiple sectors and geographies. Though not the focus of this RFP, non-core infrastructure funds are typically higher risk, higher returning strategies that opportunistically purchase assets, improve the value of those assets, and then realize investments after four to six years.

RVK and staff discussed the potential options and, given the return and correlation goals for the NDBUSL, believe that a mix of core and non-core funds is most likely to meet the needs of the Board. We expect to implement additional infrastructure strategies at a later date. Infrastructure portfolios commonly use a core-satellite approach, where a larger open-end core fund investment is complimented by multiple, smaller non-core fund investments. Given the higher risk and concentration of the non-core funds, this insulates the portfolio from risk while maintaining an acceptable level of complexity and administrative oversight. Staff and RVK collectively agreed that implementing the core investment first would allow future non-core investments to be made in context of the core portfolio.

Candidate Selection Process

RVK has conducted multiple similar search mandates in the past and regularly meets with and conducts diligence on the primary providers in the space. Given the economies of scale and specialized nature of open-end infrastructure providers, there are a relatively small number of firms that meet institutional standards. Based on their tenure of the proposed product, strong investment returns, and ability to navigate turbulent markets, Staff and RVK jointly decided to send formal requests for proposal to the following managers:

- Brookfield
- CBRE
- Fiera Capital
- First State Investments
- IFM Investors
- J.P. Morgan

RFI Issuance & Manager Evaluation Process

An RFP was issued on May 29, 2020 with responses received on June 19, 2020. The criteria set forth in the RFP outlined the NDBUSL's structure and investment goals and requested responses offering core, open-end infrastructure funds best suited to the NDBUSL's investment objectives.

After receiving responses to the RFP, Staff and RVK independently evaluated each response. On June 26, 2020 Staff and RVK held a conference call to discuss their findings. RFP participants were evaluated on the strength of their team and organization, philosophy, investment process, performance, and fees. After some discussion, Staff and RVK decided to invite three of the six managers to present to the group via conference call. The three firms included First State



Investments, IFM Investors, and J.P. Morgan.

On July 14 and 16, 2020, Staff and RVK held 60 minute calls with each of the three candidates noted above. Participants included key investment professionals associated with each strategy. The investment managers were asked to review the firm's history with respect to infrastructure, introduce the investment professionals for the account, present the strategy of the proposed mandate, and discuss the current assets each fund held. On July 20, 2020 Staff and RVK discussed the presentations given by each manager.

After reviewing the proposed products and the merits of each firm, Staff and RVK concurred that J.P. Morgan was the preferred candidate. RVK would note that RVK's research professionals have been onsite multiple times with the firm and have reviewed the Infrastructure Investments Fund as part of other similar processes.

Proposal Economics

Each firm's response to the RFP included a proposal detailing the product's economics and fee schedule. Within infrastructure, open-end funds providers generally charge a management fee on invested capital. RVK can confirm that, based on the other proposals within this search and other similar processes conducted within the last 18 months, J.P. Morgan's proposal is at or below current market rates.

Currency Hedging

As noted above, RVK recommends the Board invest in the currency hedged vehicle of the Infrastructure Investments Fund. Given core infrastructure, as an asset class, offers expected volatility below that of equity markets and frequently contains substantial non-U.S. exposure, RVK typically recommends clients utilize a currency hedged structure in order to minimize volatility resulting from currency movements. While our view is that this additional volatility commonly has limited effects over the long term, in the short term, changes in exchange rates can meaningfully impact asset values. The cost of a hedging structure is very low, often less than 20 basis points. J.P. Morgan has operated a hedged sleeve of the Infrastructure Investments Fund since 2018 successfully and has over \$5 billion of capital invested through this structure.

Next Steps

RVK and Staff recommend the Board evaluate J.P. Morgan's Infrastructure Investments Fund at the NDBUSL meeting on September 24, 2020. If the recommendation to hire J.P. Morgan is approved, RVK will support Staff through the contracting and implementation process.

Strategy Summary

As of June 30, 2020



Investment Manager:	J.P. Morgan	Asset Class:	Infrastructure
Product:	Infrastructure Investments Fund	Strategy:	Core
Vehicle:	Open-end commingled	Inception Date:	2006
Ranking:	Positive	Profile Date:	September 2020

Sector Exposure:	Diversified	Geography:	Global
Fund Level Leverage:	\$2 billion line of credit	Current Assets	\$13 billion
Asset Level Leverage:	~50%	Portfolio Companies:	18
Minimum Investment:	US \$2.5 million	Investment Queue:	6 to 12 months

Executive Summary & Key Points Supporting Rankings Status

J.P. Morgan's Infrastructure Investments Fund is the firm's core infrastructure strategy and one of the largest open-ended core infrastructure funds. The strategy was established in 2006, making it one of the longest standing infrastructure funds. J.P. Morgan's investment team has managed the strategy through multiple market cycles and the fund's assets have grown substantially over time.

The fund has a moderate risk profile and invests in diversified infrastructure assets globally across a broad range of sectors including transportation, utilities, energy transmission & distribution, and renewable power. J.P. Morgan focuses on a framework of diversification, inflation protection, and yield and all assets within the portfolio offer some combination of these attributes. Additionally, assets targeted by the fund typically offer monopolistic market positions, high barriers to entry, limited demand elasticity, long lives, a history of stable cash flows, and a predictable regulatory environment. Geographically, the Infrastructure Investments Fund focuses on North America and Europe but invests in other developed economies as well. The strategy expects to buy-and-hold attractive infrastructure assets but will exit assets opportunistically based on market conditions.

Merits

- Focus on Core & Core Plus assets – J.P. Morgan remains focused on infrastructure assets with meaningful downside protection, limiting the strategy's exposure to broader economic downturns.
- Currency hedging – J.P. Morgan offers a currency hedged vehicle for the Infrastructure Investments Fund, which allows investors to hedge currency volatility.
- Fees – The Infrastructure Investments Fund has low fees relative to competitors, charging a tiered management fee beginning at 0.95% alongside a 15% incentive fee over a 7% hurdle.

Considerations

- Size – The Infrastructure Investments Fund is one of the largest open-ended infrastructure funds and is likely to continue to grow in size.

Firm

J.P. Morgan is one of the world's largest financial services companies, with total assets of more than \$2.5 trillion. The firm is headquartered in New York, New York. The firm offers services across investment banking, treasury services, asset management, and private banking. J.P. Morgan's founding dates back over 150 years to the merger of the Bank of the Manhattan Company and Chase National Bank. J.P. Morgan is publically traded under the ticker JPM and is part of the Dow Jones Industrial Average. The firm estimates that approximately 3% of shares are held by employees.

The Infrastructure Investments Fund is part of J.P. Morgan Asset Management, which has managed external capital for more than 50 years. The Infrastructure Investments Group is part of J.P. Morgan's alternatives business and is supported by J.P. Morgan Asset Management's risk management, insurance services, technology, legal and fund administration teams. The Infrastructure Investments Group was previously housed within the firm's Real Assets team, but has been in its own practice area since 2016.

Team

J.P. Morgan's infrastructure investment team consists of more than 50 dedicated investment professionals based in New York and London. The team commingles investment and asset management professionals within geographies, ensuring that the individuals who execute a deal also manage the same investment. Paul Ryan (Portfolio Manager), Matthew LeBlanc (CIO), and Brian Goodwin (Head of Asset Management) have overall responsibility for the infrastructure strategy and the investment team. The investment team is supported by a client service, finance, and tax group of more than ten professionals.

Within the Infrastructure Investments Group, each senior investment professional sits on the board of two to three portfolio companies while also looking to source new transactions. The group also relies on more than 70 independent directors who are not J.P. Morgan personnel in serving on the boards of the fund's portfolio companies. These directors are experts in their respective strategies and able to lend specific knowledge to the management of each portfolio company. To assist with the management of each portfolio company, the team's mid-level and junior professionals assist with project based work around growth and profitability.

The Infrastructure Investments Fund is managed by an investment committee, which oversees the investment process and approves all investment decisions. The IC is informed throughout the diligence process and full presentations are made prior to investment. The Infrastructure Investments Group Investment Committee is comprised of three internal members and two broader J.P. Morgan Asset Management members. Investments require unanimous approval.

Philosophy / Process

The Infrastructure Investments Fund targets a range of unlisted, "core" and "core-plus" assets with a focus on forecastable and predictable contracted and regulated cash flows. These cash flows typically drive a majority of investor returns in the form of cash yield. The Infrastructure Investments Fund primarily invests in North America, Western Europe, Australia, and secondarily in other OECD countries. Broadly, the investment team expects to deploy between 30% to 60% of capital in North America, 30% to 60% of capital in Western Europe, and 0% to 20% in other OECD countries. The fund targets majority and control positions to mitigate risks and enact growth plans at each portfolio company. The infrastructure team at J.P. Morgan views capital deployment into existing portfolio companies as key to the strategy, as around 63% of new capital has been deployed through strategic platform investments since 2013.

The Infrastructure Investments Fund focuses on middle-market investment opportunities with a target investment size ranges of USD 300 – 700 million of equity. However, in the case of add-on investments, the fund will invest in significantly smaller transactions given the ease of management and attractive rates of return. Since 2013, IIF's average equity transaction size has been approximately USD 60 million. The fund invests in mature, operating assets with a history of strong cash flow generation and expects to hold these assets indefinitely. The IIF will occasionally sell assets if market valuations exceed the investment team's expectations or the thesis behind the

investment has materially changed.

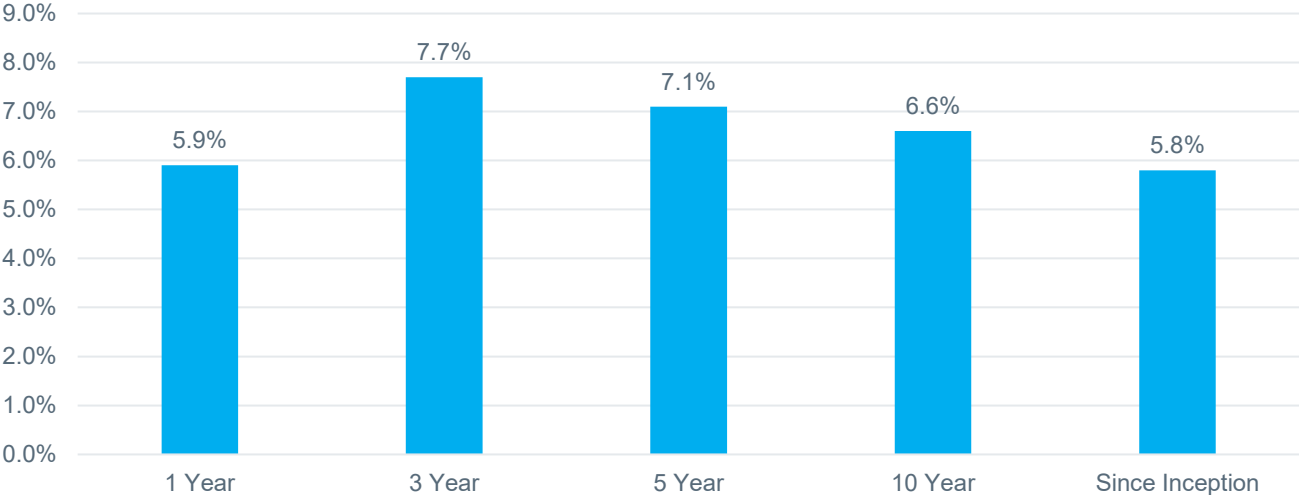
The Infrastructure Investments Fund uses a multi-stage investment process to ensure adequate review occurs for each potential investment. The process is as follows:

- The infrastructure team sources opportunities through the team’s personal and professional networks, through existing portfolio companies, and through J.P. Morgan’s contacts and reputation in the industry. Weekly pipeline discussions are held with the team to discuss and review potential opportunities.
- Once an opportunity is considered a potential fit for the portfolio, it enters the initial review stage of diligence. A transaction team, including senior and junior investment professionals, is organized. This group prepares a “heads-up” memo for the investment committee.
- If the investment committee directs the transaction team to move forward, the group reviews financial and business models and conducts due diligence on the portfolio company’s management team. Third party advisors are engaged if required. This step frequently includes legal, tax, commercial, technical, environmental, insurance, ESG, and cybersecurity reviews. The Infrastructure Investments Fund also has its own research group from which it can request an independent review of macroeconomic, capital markets, and industry trends.
- Before binding commitments are made, the investment committee holds a formal review meeting with a full presentation of the investment opportunity. The decision to proceed requires an unanimous vote among the members.

Performance (as of 6/30/2020)

The Infrastructure Investments Fund seeks to achieve a target return of 8% to 10% annually on a net basis, depending on the point in the economic cycle. Annual returns are expected to be driven by cash flow and capital appreciation. The fund has also achieved greater than a 6.0% net cash yield annually since 2014. Returns shown represent the local currency returns of the fund, which approximate a hedged track record.

J.P. Morgan Infrastructure Investments Fund
(Local Currency Net of Fees Performance)



RVK Due Diligence

Update Meeting

Date & Location: 03/25/2020, Conference Call
RVK Attendee: Kirby Francis, Taylor Bowman
Manager Attendee: Nick Moller (Product Specialist), Rich Forslund (Marketing), Gerard Fancovic (Marketing)

Update Meeting

Date & Location: 01/22/2020, RVK Offices
RVK Attendee: Kirby Francis
Manager Attendee: Pulkit Sharma

Update Meeting

Date & Location: 11/12/2020, Conference Call
RVK Attendee: Kirby Francis
Manager Attendee: Nick Moller (Product Specialist), Gerard Fancovic (Marketing)

Update Meeting

Date & Location: 03/14/2019, RVK Offices
RVK Attendee: Kirby Francis
Manager Attendee: Matt LeBlanc (CIO), Nick Moller (Product Specialist)

Update Meeting

Date & Location: 02/15/2018, RVK Offices
RVK Attendee: Kirby Francis
Manager Attendee: Serkan Bahceci (Head of Infrastructure Research)

On-Site Visit

Date & Location: 12/13/2017
RVK Attendee: Kirby Francis
Manager Attendee: Brian Goodwin (Managing Director), Andrew Kapp (Managing Director), Hai-Gi Li (Managing Director), Nick Moller (Product Specialist), Gerard Fancovic (Marketing)

Infrastructure Investments Fund (“IIF” or “Fund”) *Established 2006*

North Dakota Board of University and School Lands

September 24th, 2020

Jim Sakelaris, *Managing Director, Client Advisor*

Nicholas Moller, *Executive Director, Investment Specialist*

As of June 30, 2020 and in U.S. dollar terms unless otherwise specified.

The Investment Adviser seeks to achieve the stated objectives. There can be no guarantee the objectives will be met.

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J.P.Morgan
Asset Management

Today's Presenters



Jim Sakelaris, *Managing Director*, is a ***Client Advisor*** within J.P. Morgan Asset Management's North America Institutional group. Jim serves the investment needs of large corporate and public retirement plans. As a Client Advisor, his role is to marshal the firm's extensive resources in the delivery of tailored solutions across a spectrum of traditional and alternative asset classes aiming to exceed the strategic and tactical investment objectives of his clients. An employee since 1990, Jim has held various roles within the organization including credit analyst, commercial loan officer and manager of Fixed Income Credit Research. Prior to joining the firm, he was employed as a financial futures specialist for Kidder, Peabody & Co. and was responsible for the management of regional and national institutional financial futures investment portfolios. Jim obtained a B.G.S. in economics and political science from the University of Michigan and an M.B.A. in finance from the University of Chicago. He also holds Series 3, 7, 63, and 65 licenses.



Nicholas Moller, *Executive Director*, is an ***Investment Specialist*** within the Infrastructure Investments Group ("IIG") at J.P. Morgan Asset Management. Nick is a senior member of the team that leads IIG's fundraising and investor relations efforts. Nick has worked at J.P. Morgan since 2006 and joined IIG in early 2014. Prior to joining IIG, Nick was a member of the J.P. Morgan Investment Bank's Public Finance Transportation and Infrastructure Group. In that role Nick advised both public sector and private sector clients on executing infrastructure and Public Private Partnership transactions. In addition, Nick structured and executed several billion dollars of taxable and tax-exempt financings both for publicly and privately owned infrastructure assets. Nick graduated from the University of Auckland (New Zealand) with a Bachelor of Commerce in Finance (First Class Honors).

There can be no assurance that these professionals will continue to be involved with JPMIM or the Investment Advisor, or that the past performance or success of any such professional serves as an indicator of such professional's future performance or success.

Core/Core+ Infrastructure is Essential



Essential services that often operate on a monopolistic basis either by regulatory structure or long-term contract, which drives visibility into strong EBITDA margins & cash yield



For illustrative purposes only. Diversification does not guarantee investment returns and does not eliminate the risk of loss.

1. Source: JPMAM Guide to Alternatives Q1-2020. 10 year correlation of MSCI AC World Index vs. MSCI Global Quarterly Infrastructure Asset Index

2. Source JPMAM Guide to Alternatives Q1-2020. U.S. utilities' return on equity and inflation ROE (2-year lagged), CPI % change vs. prior year, 1980-2018

IIF – Quality Open Ended Core/Core+ Infrastructure Portfolio

Diversification, inflation protection, stable cash yield (“D.I.Y.”)

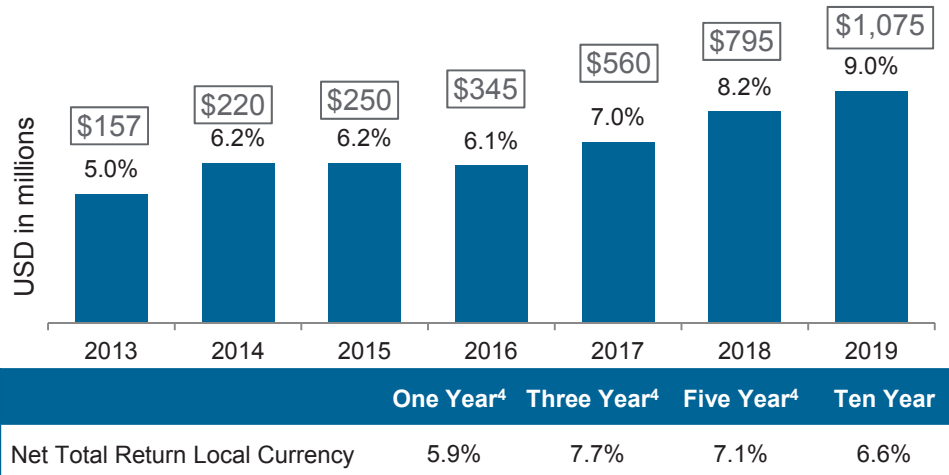
Summary

- **Long Term:** founded in 2006; open-ended structure
- **Cash Yield:** 7.9% cash yield p.a. over 5 years; 11.3% LTM
- **Governance:** co-largest/controlling owner in nearly all companies
- **Platform Investing:** 63% deployed behind current companies since 2013
- **ESG:** strong ESG ratings across external benchmarks
- **Guideline Midpoints :** Regulated: ~40%, Contracted/Power: ~40%, GDP Sensitive: ~20%
- **Dedicated Team:** Diverse 50+ person Infrastructure Investment Group (“IIG”) supervised by IIF Independent Board

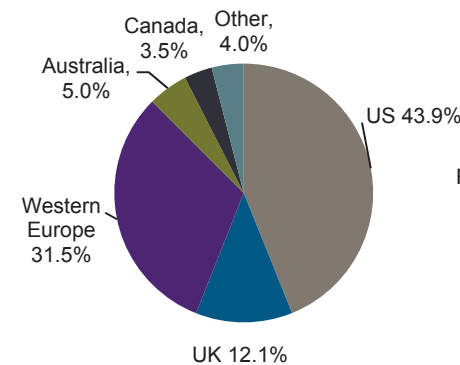
Summary of Key Strategy Elements

Net Asset Value	■ USD 12.4 billion
Target Return & Cash Yield	■ 8-12% net & 5-7% on NAV respectively ¹
Diversification	■ 17 portfolio companies (541 assets) in 22 countries & 11 subsectors
Leverage	■ 55% LTV, 82% fixed/index ² , 10.6 avg. life ²
IIG Team Alignment	■ Significant IIG team investment in addition to incentive fee
Commitment Queue	■ Estimated 6 - 12 months or less from closing

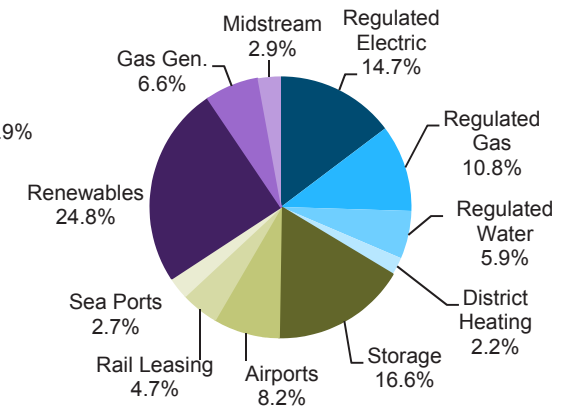
Cash Yield as Foundation of Total Return (% p.a.)³



Portfolio Geography⁵

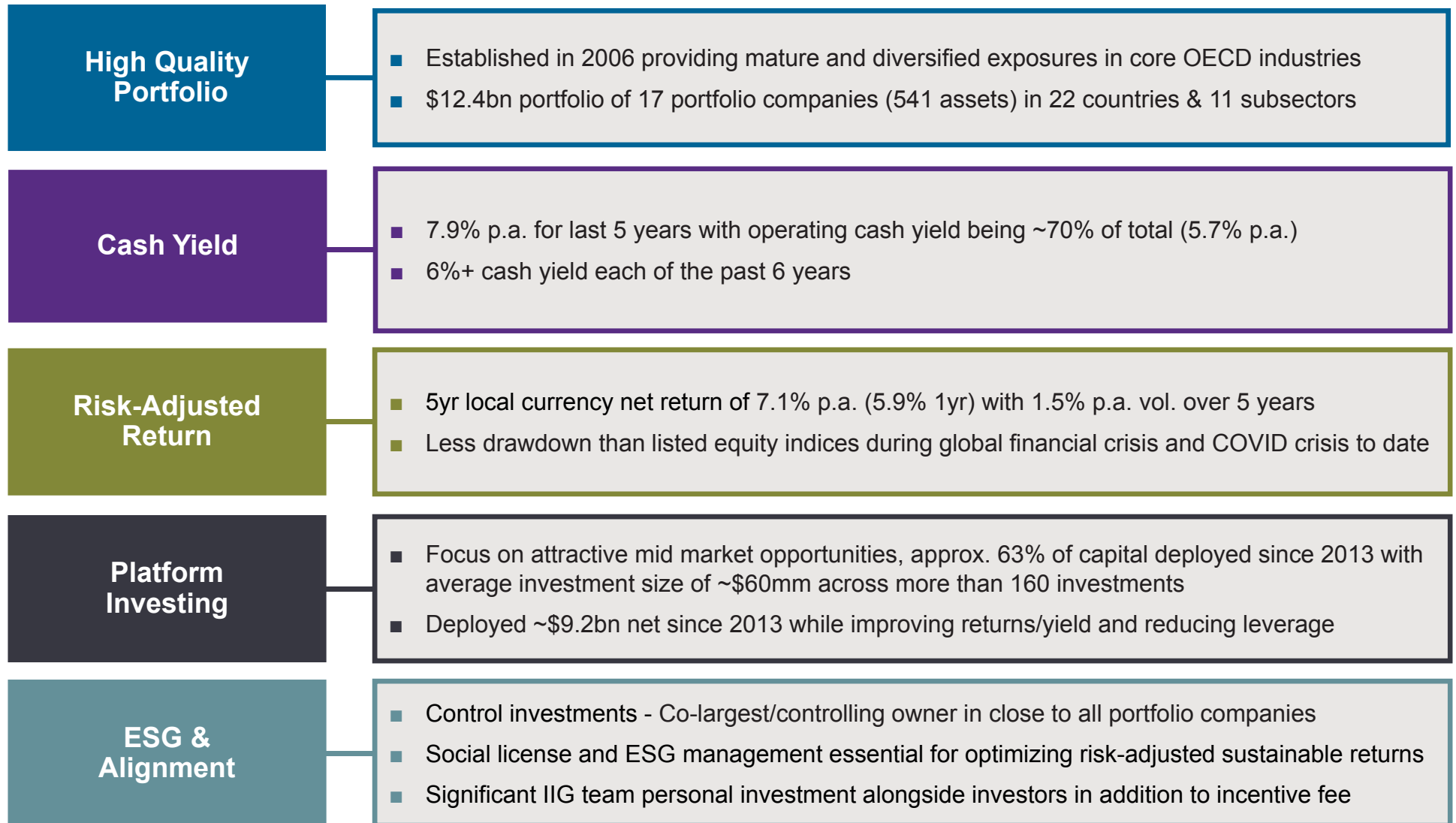


Portfolio Sub-Sectors⁵



All data as of June 30, 2020 unless otherwise stated. The Investment Adviser seeks to achieve the stated objectives. There can be no guarantee the objectives will be met. ¹ The target returns and cash yield are for illustrative purposes only and are subject to significant limitations. An investor should not expect to achieve actual returns or yield similar to the targets shown above. Please see the complete Target Return disclosure at the conclusion of the presentation for more information on the risks and limitation of target returns. ² As of March 31, 2020. ³ Yield on NAV, the one-year cash yields were calculated using individual quarterly cash yields. ⁴ Performance numbers represent a composite return of the combined fund investor vehicles (FIVs) in existence as of June 30, 2020. Specific FIV and investor returns are shown on the quarterly investor statements. Investment performance does not include hedging gains/(losses) resulting from the Hedging Program. ⁵ June 30, 2020 NAV pro-forma for the closing in July, 2020 of Mankato Energy Center and El Paso Electric

A Long-Term Focus on Quality Creates Resilient Competitive Advantages



Source: JPMAM, as of June 30, 2020 unless otherwise stated. The Investment Adviser seeks to achieve the stated objectives. There can be no guarantee the objectives will be met. Opinions, estimates, forecasts, and projections are based current market conditions, constitute IIF's judgment and are subject to change without notice. **Past performance is not a reliable indicator of current and future results.**

Diverse IIG team of 50+ Supervised by IIF Independent Board and Supported by 75+ Independent PC Directors



Paul Ryan, Managing Director
Portfolio Manager
New York



Matthew LeBlanc, Managing Director
Chief Investment Officer
New York



Brian Goodwin, Managing Director
Head of Portfolio Asset Management
New York

Investment & Asset Management Team — New York



Landy Gilbert
Managing Director



Andrew Kapp
Managing Director



Hai-Gi Li
Managing Director



Kathleen Lawler
Executive Director



Dan Mitaro
Executive Director



Marko Josipovic
Vice President



Clara Lequin
Vice President



Preston Scherer
Vice President



Michael Karp
Associate



Stephen Leh
Associate



Mauricio Palazzi
Associate



Sophia Sciabica
Associate



Georgina Yea
Associate

Investment & Asset Management Team — London



Rob Hardy
Managing Director



John Lynch
Managing Director



Mark Walters
Managing Director



Mark Scarsella
Executive Director



Sara Sulaiman
Executive Director



Ben Francis
Vice President



Sneha Sinha
Vice President



Gary Blackburn
Associate



Frederico Correia
Associate



Jack Gillespie
Associate



Alexandru Godoroja
Associate



Michelle van Ryneveld
Associate

Client Strategy



Nick Moller
Executive Director
New York



Gilly Zimmer
Executive Director
New York



Dan Galinko
Executive Director
New York



Chris Simard
Vice President
New York



Cassie Winn
Vice President
New York

Fund Execution



Amanda Wallace
Managing Director
New York



Hannah Logan
Executive Director
London



Hardip Syan
Vice President
London



Ebru Sert
Executive Director
New York



Elaine Ashe
Analyst
New York

Research



Karthik Narayan
Vice President
New York



Katarina Roelle
Associate
London

Client Service, Finance & Tax



Stephen Liu
Executive Director



Manu Miriyagalla
Executive Director



Ed Wu
Executive Director



Esandra Blackwood
Vice President



Esther Cho
Vice President



Simon Choi
Vice President



April Lee
Vice President



Jonathan Schwartz
Vice President



Sara Scoppetuolo
Vice President



Frances Huang
Associate



Nina Maurio
Associate

All listed individuals are employees of JPMAM. There can be no assurance that the professionals currently employed by JPMAM will continue to be employed by JPMAM or that the past performance or success of any such professional serves as an indicator of such professional's future performance or success. Source: JPMAM, as of July 2020.

IIF Historical Return & Yield Summary

Annualized Returns for Period Ended June 30, 2020¹

<i>Since July 1st, 2007</i>	Quarter	One Year ²	Three Year ²	Five Year ²	Ten Year ²	Inception ²	5-yr Vol.
Net Total Return Local Currency	1.8%	5.9%	7.7%	7.1%	6.6%	5.8%	1.5%
Net Total USD <i>Unhedged</i> Return	3.2%	4.6%	6.8%	5.7%	5.8%	3.4%	4.2%
Cash Yield (Distributions / NAV)	1.6%	11.3%	9.2%	7.9%	6.7%	5.8%	

<i>Since October 1st, 2018</i>	Quarter	One Year ²	Inception ²
Net Total USD <u>Hedged</u> Return³	1.2%	6.3%	7.8%

All data as of June 30, 2020 unless otherwise stated.

Past performance is not indicative of future returns. Returns include the re-investment of income. All performance numbers have been calculated in US dollar terms. Please refer to the Fund's return snapshot and quarterly reporting for more information and detail.

¹ Performance numbers represent a composite return of the combined fund investor vehicles (FIVs) in existence as of June 30, 2020. Specific FIV and investor returns are shown on the quarterly investor statements. Investment performance does not include hedging gains/(losses) resulting from the Hedging Program.

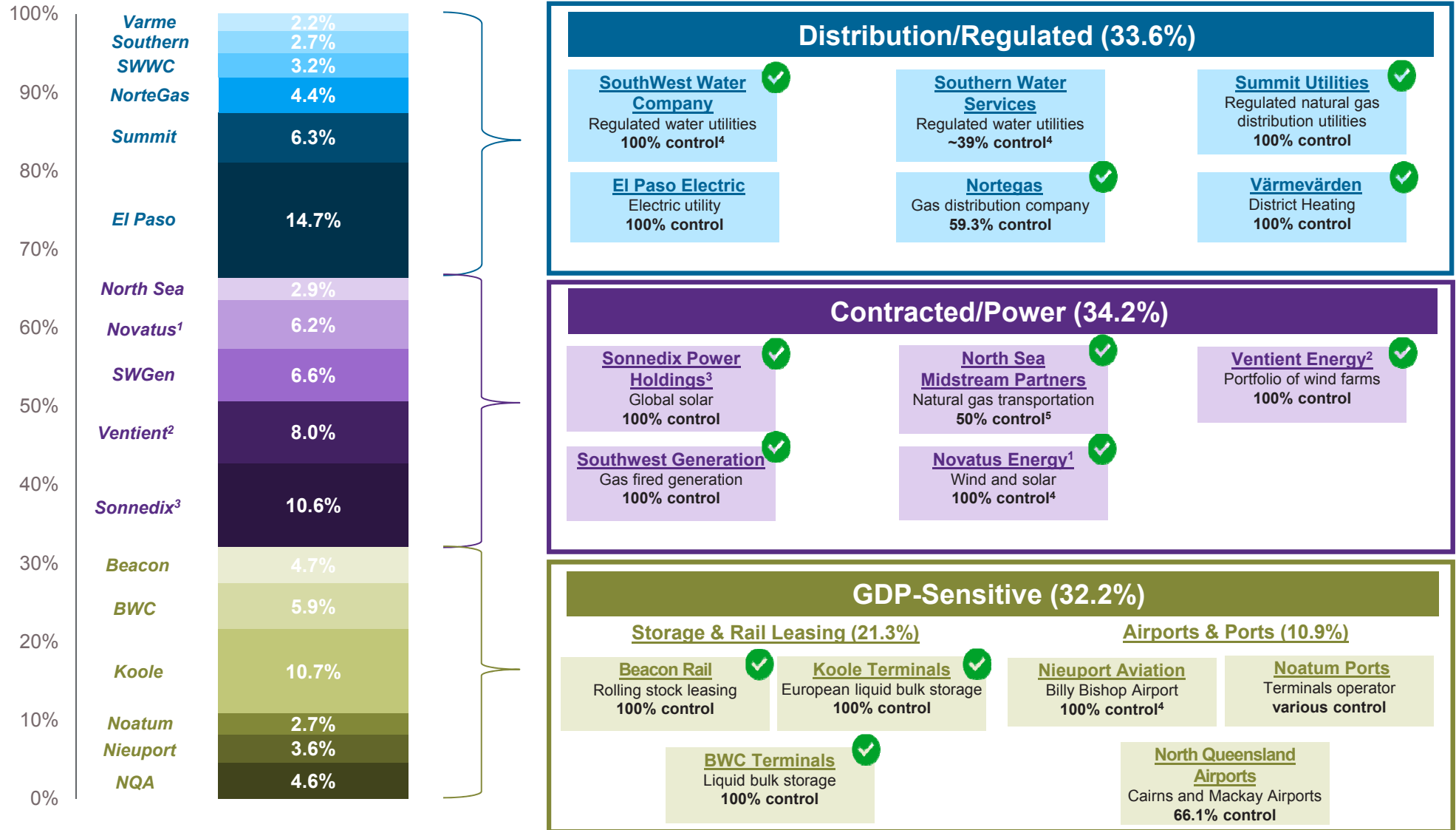
² Returns for periods greater than one quarter are time-weighted rates of return calculated by linking quarterly returns. Returns of greater than one year are annualized.

³ Reflects the returns of IIF Hedged LP

Strategic Platforms Represent Approximately 70% of Portfolio

Control positions facilitate IIF's platform investing approach

✔ Denotes Platform Investments

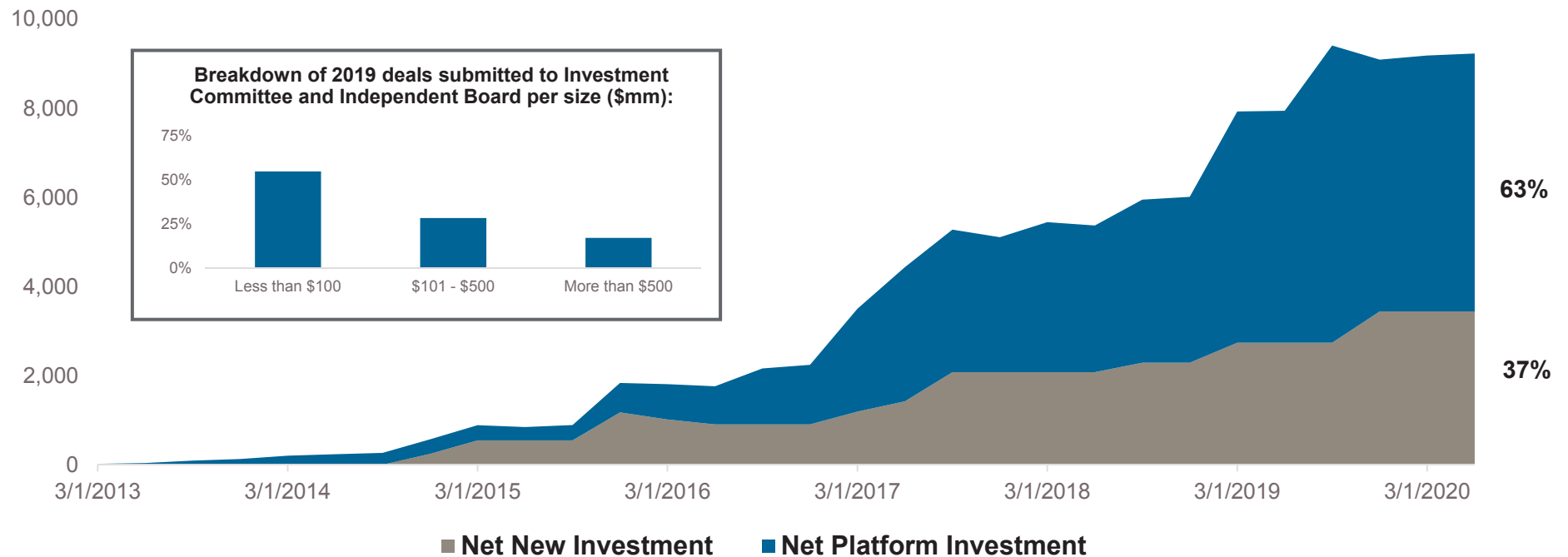


Note: June 30, 2020 NAV pro-forma for the closing in July, 2020 of Mankato Energy Center and El Paso Electric. Control includes managed co-investment stakes. Diversification does not guarantee investment returns and does not eliminate the risk of loss. There can be no guarantee they will be met. ¹ Includes Coastal Winds. Ownership for Coastal includes tax equity interests. ² Includes the Vision Renewables platform. ³ Comprises many assets. ⁴ Includes managed stake ⁵ Split control with financial partner and includes management stake.

Demonstrated Strategic Platform Investment Strategy

- Platform add-ons to existing portfolio companies expected to allow for a more efficient and de-risked capital deployment strategy
- Strategic Platforms represent approximately 70% of portfolio by NAV
- Since 2013, approximately **two-thirds** of the Fund’s capital has been deployed behind platform investments
 - More than 160 separate investments with average equity check size of ~\$60mm
 - Many of these investments are **non-competitive** processes
- EBITDA margin, a foundation of cash yield, has improved from ~45% in 2013 to approx. 58% in Q1 2020

Cumulative Net Investment 2013 – Q2 2020 – Platform vs. New



Note: Net Investment includes the sale and co-investments at the asset level.

Source: JPMAM. All data as of June 30, 2020 unless otherwise stated. Net capital invested into platforms includes (a) IIF equity provided to portfolio companies for acquisitions and capital improvements and (b) IIF equity used for the acquisition of portfolio company ownership interests from co-shareholders.

Past performance is not a reliable indicator of current and future results.

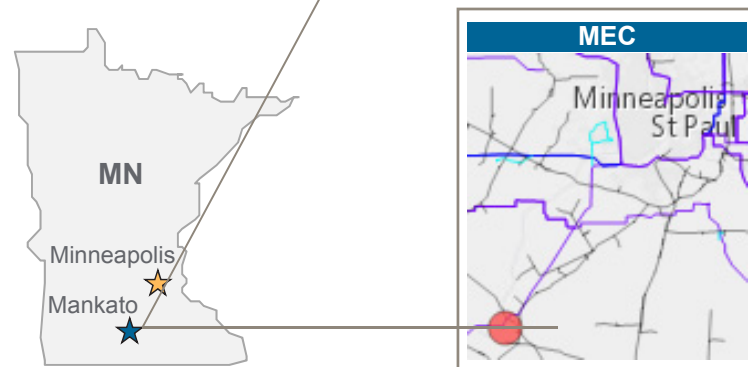
Mankato Energy Center



- In April 2020, Southwest Generation (“SWGen”) entered into an agreement to acquire Mankato Energy Center (“Mankato”) from Xcel Energy (“Xcel”)
- Mankato is a 720 MW gas-fired power plant located in Minnesota, consisting of Mankato Energy Center I (“MEC I”), a 375 MW unit, and Mankato Energy Center II (“MEC II”), a 345 MW unit
- The acquisition closed in 3Q 2020

ACQUISITION HIGHLIGHTS

- Core asset that significantly increases the scale of SWGen from 1.6 GW to 2.4 GW, while providing diversification outside of the Desert Southwest into the MISO transmission system
- Fully contracted under a tolling power purchase agreement with Xcel subsidiary (Northern States Power), with 19 years remaining on MEC II and 6 years remaining on MEC I
- Critical asset with strong recontracting prospects given familiarity with the offtaker and high renewable integration and coal retirements in the region
- Upside potential through platform synergies and optimization projects



These examples are included solely to illustrate the investment process and strategies which have been utilized by the Investment Adviser. It should not be assumed that investments within the portfolio have or will perform in a similar manner to the investment above. Please note that this investment is not necessarily representative of future investments that the Investment Adviser will make. There can be no guarantee of future success.

El Paso Electric – U.S. Electric Utility

- During July 2020 IIF closed on the acquisition of El Paso Electric Company (“EPE”)
- Increased exposure to both the US and to regulated utilities

ACQUISITION HIGHLIGHTS

- Vertically integrated electric utility serving ~435,000 residential, commercial, industrial, public authority and wholesale customers in Texas and New Mexico
- ~2,085 MW of owned generation capacity and ~1,100 employees
- Environmentally-favorable (coal-free) generation asset base, with close proximity to high-quality, and underutilized, renewable resources
- Regulatory regimes which are well understood by market participants
- Service territory with strong economic development plan and consistently increasing and above industry-average customer and load growth
- IIF is aligned with EPE and its mission to support the growth and success of EPE, its employee base, customers and communities
- IIF is making a significant investment in EPE’s service territory with a \$100 million commitment to regional economic development



These examples are included solely to illustrate the investment process and strategies which have been utilized by the Investment Advisor. It should not be assumed that investments within the portfolio have or will perform in a similar manner to the investment above. Please note that this investment is not necessarily representative of future investments that the Investment Advisor will make. There can be no guarantee of future success. As of 7/31/2020.

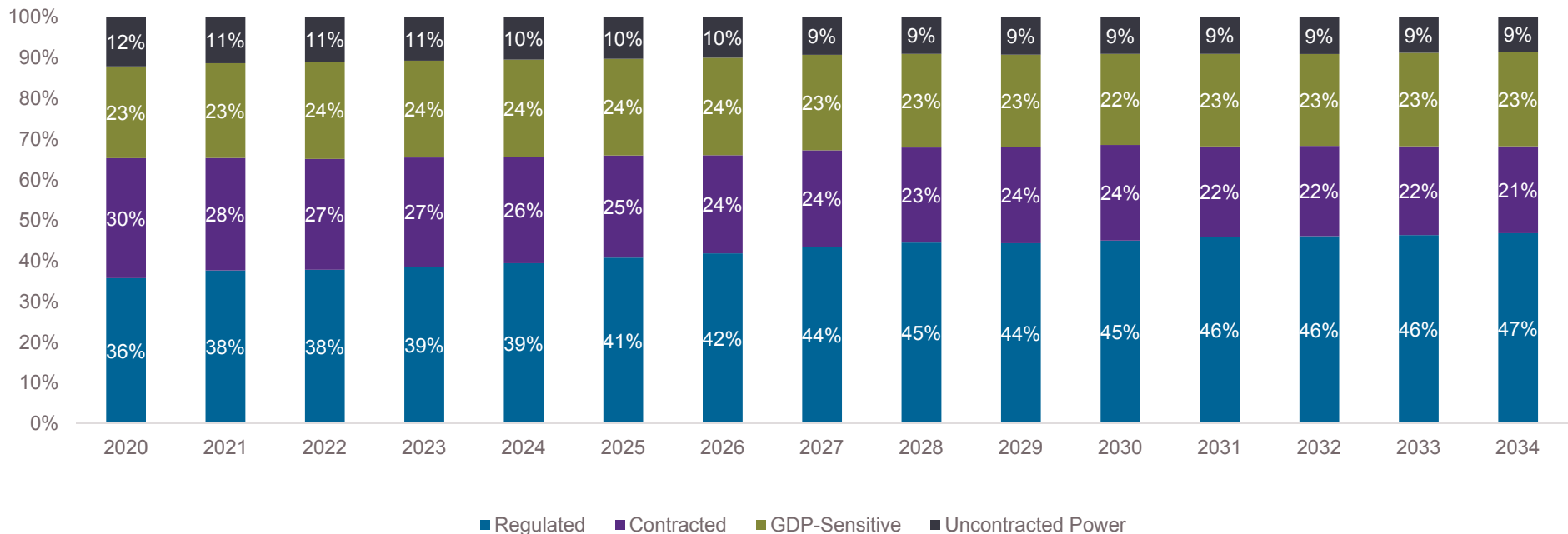
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Asset Management

Quality Portfolio Construction Underpins Reliable Long-Term Cash Flows and Returns

- 15-year projection of IIF’s NAV by underlying exposure illustrates its base case portfolio construction over the long term
- IIF’s NAV is underpinned by core essential services anticipated to have strong and stable cash flow generation through market cycles
- Long-term contracted/regulated exposures projected to grow from 66% in 2020 to nearly 70% of IIF’s NAV over the next 15 years
- Beyond 2020, forecast does not assume any material acquisitions/divestments expected to improve the current portfolio construction

IIF Forecast NAV Breakdown by Underlying Cash Flow Risk Profile



Source: J.P. Morgan Asset Management. Data as of 2Q 2020 and is pro-forma for the closing in July, 2020 of Mankato Energy Center and El Paso Electric. Opinions, estimates, forecasts, and projections are based on current market conditions, constitute IIF’s judgment and are subject to change without notice. There can be no guarantee they will be met. Past performance is not a reliable indicator of current and future results.

Appendix

IIF Governance and Asset Management Framework

Independent Board

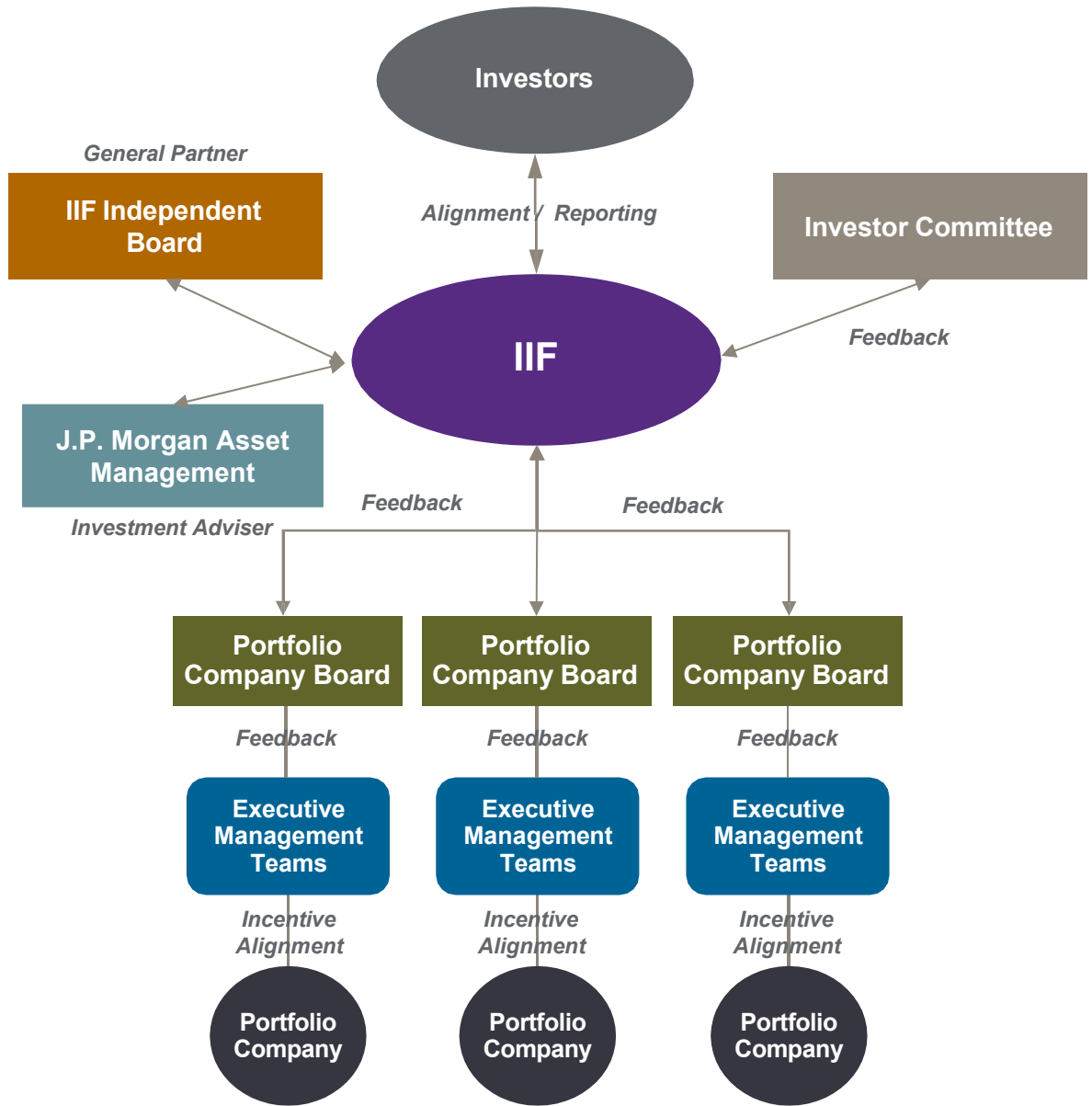
- Meet bi-weekly for investments as well as quarterly
- Responsibilities include:
 - Oversee JPM as investment adviser
 - Approve financial reporting
 - Monitor for conflicts of interest
 - Final approval of equity investments/divestments
 - Monitor risk and mitigation plans

Portfolio Company Boards

- Structured consistent with public company standards, directors owe fiduciary duty
- Comprises IIF Investment Principals and Independent Non-Executive Directors with diversity of experience
- Sourced through our networks
- Help drive business performance consistent with shareholder (investor) goals

Executive Management Teams

- Responsible for day-to-day management of the businesses
- Oversight and counsel provided by the Board of Directors
- Executive Management Team performance evaluated at least annually



For illustrative purposes only.

Risk and Disclosures

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In Switzerland, JPMorgan Asset Management (Switzerland) LLC, Dreikönigstrasse 37, 8002 Zurich, acts as Swiss representative of the funds and J.P. Morgan (Suisse) SA, 8 Rue de la Confédération, 1204 Geneva, as paying agent of the funds. JPMorgan Asset Management (Switzerland) LLC herewith informs investors that with respect to its distribution activities in and from Switzerland it receives commissions pursuant to Art. 34 para. 2bis of the Swiss Collective Investment Schemes Ordinance dated 22 November 2006. These commissions are paid out of the management fee as defined in the fund documentation. Further information regarding these commissions, including their calculation method, may be obtained upon written request from JPMorgan Asset Management (Switzerland) LLC.

Investors should note that there is no right to cancel an agreement to purchase shares under the Rules of the Financial Conduct Authority, the normal protections provided by the UK regulatory system do not apply and compensation under the Financial Services Compensation Scheme is not available. J.P. Morgan Asset Management or any of its affiliates and employees may hold positions or act as a market maker in the financial instruments of any issuer discussed herein or act as the underwriter, placement agent or lender to such issuer. The investments and strategies discussed herein may not be suitable for all investors and may not be authorized or its offering may be restricted in your jurisdiction, it is the responsibility of every reader to satisfy himself as to the full observance of the laws and regulations of the relevant jurisdictions. Prior to any application investors are advised to take all necessary legal, regulatory and tax advice on the consequences of an investment in the products.

Investing in infrastructure assets or debt associated with infrastructure involve a variety of risks, not all of which can be foreseen or quantified, and which include, among others: the burdens of ownership of infrastructure; local, national and international economic conditions; the supply and demand for services from and access to infrastructure; the financial condition of users and suppliers of infrastructure assets; risks related to construction, regulatory requirements, labor actions, health and safety matters, government contracts, operating and technical needs, capital expenditures, demand and user conflicts, bypass attempts, strategic assets, changes in interest rates and the availability of funds which may render the purchase, sale or refinancing of infrastructure assets difficult or impracticable; changes in environmental laws and regulations, investments in other funds, troubled infrastructure assets and planning laws and other governmental rules; changes in energy prices; negative developments in the economy that may depress travel activity; force majeure acts, terrorist events, under-insured or uninsurable losses; and other factors which are beyond the reasonable control of the Fund or the Investment Adviser. Many of these factors could cause fluctuations in usage, expenses and revenues, causing the value of the Investments to decline and negatively affecting the Fund's returns.

Risk and Disclosures (cont'd)

The extent of COVID-19's impact will depend on many factors, including the ultimate duration and scope of the public health emergency and the restrictive countermeasures being undertaken, as well as the effectiveness of other governmental, legislative and financial and monetary policy interventions designed to mitigate the pandemic and address its negative externalities, all of which are evolving rapidly and may have unpredictable results. Even if and as the spread of the COVID-19 virus itself is substantially contained, it will be difficult to assess what the longer-term impacts of an extended period of unprecedented economic dislocation and disruption will be on future macro- and micro-economic developments, the health of certain industries and businesses, and commercial and consumer behavior. The financial performance of the Fund's investments will depend on future developments all of which are highly uncertain and cannot be predicted at this time and the effects of which may be more adverse to the aggregate investment performance and any projected future performance of the Fund and to certain or all of the individual investments described herein than currently anticipated.

Securities products, if presented in the U.S., are offered by J.P. Morgan Institutional Investments, Inc., member of FINRA.

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MEMORANDUM TO THE BOARD OF UNIVERSITY AND SCHOOL LANDS

September 24, 2020

RE: Investment Fee Report – FY 2020

(No Action Requested)

Attached is a report of the Board of University and School Land's (Board) investment fees paid for the twelve months ending June 31, 2020 (Fiscal Year 2020).

Summary:

- During fiscal year 2020 the Permanent Trust Funds (PTFs) paid \$22,335,336 in investment fees (including investment manager fees, custodial expenses, general consultant fees, and specialty consultant fees); this is a decrease of -1.7% from the \$22,711,405 in fees paid in FY 2019. The PTFs' average asset balance increased by 4.76% during the same period (including contributions and withdrawals), from \$4.63 billion in FY 2019 to \$4.85 billion in FY 2020. The primary driver of the decrease in fees is a result of lower incentive fees paid during the year.
- Incentive fees totaling \$898,695 were paid by the PTFs during FY 2020 due to outperformance in the Morgan Stanley Prime Property Fund, Prologis U.S. Logistics Fund and the Angelo Gordon Direct Lending Fund III; this equals 1.4 basis points on the average value of total trust assets during FY 2020, or 4.0% of the total fees of managing the PTF's investment program. Incentive fees totaled \$1,810,455 during FY 2019, the equivalent of 3.9 basis points and 8.0% of the total cost to manage the program.
- The pooled investments of the Strategic Investment and Improvements Fund, Coal Development Trust Fund, and Capitol Building Trust Fund paid \$437,862 in investment management expenses during FY 2020, up from \$274,497 in management fees paid in FY 2019. The increase in management fees is due to the increase in the average assets under management from \$609.8 million in FY 2019 to \$718.0 million in FY 2020.
- The fee consultant Novarca was able to negotiate a fee reduction for the Payden & Rygel Aggregate Bond fund in which fees were lowered from 20 basis points to 17.5 basis points on the first \$250 million and 15 basis points on every dollar above \$250 million. Novarca is paid 27.5% of realized fee savings for 3 years.
- The PTFs entered a fee reduction agreement with JP Morgan based on the total amount of fees paid to JP Morgan each year. The agreement will reduce fees from 10% to 25% depending on fees paid each year.

Attachment 1: Investment Fee Report

ND Land Board Investment Fees

Investment Fees for the Fiscal Year Ended June 30, 2020

Summary

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- The PTFs entered a fee reduction agreement with JP Morgan based on the total amount of fees paid to JP Morgan each year. The agreement will reduce fees from 10% to 25% depending on fees paid per year.

Permanent Trust Fund Pool

TABLE 1	2016	2017	2018	2019	2019
Investment Manager Fees	\$ 16,026,712	\$ 20,679,283	\$ 24,750,026	\$ 22,388,660	\$ 22,043,555
Custodial Fees	190,257	169,356	183,019	159,687	118,792
General Consultant Fees	147,917	145,000	148,625	163,058	157,633
Specialty Consultant Fees					15,355
Total Fees	\$ 16,364,886	\$ 20,993,639	\$ 25,081,670	\$ 22,711,405	\$ 22,335,336
Total Fee (bps)	46.3	53.7	57.4	49.0	46.1
Incentive Fees	\$ 1,375,889	\$ 3,513,737	\$ 5,819,245	\$ 1,810,455	\$ 898,695
Incentive Fees (bps)	3.9	9.0	13.3	3.9	1.4
Total Fees Ex Incentives	\$ 14,988,997	\$ 17,479,902	\$ 19,262,425	\$ 20,900,950	\$ 21,436,641
Total Fee Ex Incentives (bps)	42.4	44.7	44.1	45.1	44.6
Avg. Assets (\$ billion)	\$3.53	\$3.91	\$4.37	\$4.63	\$4.85

Base management fees (excluding incentive fees) over the past five fiscal years have been consistent between 42 and 45 basis points. Total management fees, including incentive fees, have oscillated between 46 and 58 basis points owing to significant swings in incentive fees paid primarily to real estate managers. In FY 2017 and FY 2018, incentive fees accounted for 17% and 23% of total fees, respectively. Meanwhile, in FY 2016, FY 2019 and FY 2020 incentive fees accounted for 8%, 8% and 4% of total fees, respectively. Both FY 2019 and FY 2020 proved challenging for commercial real estate, which explained the lower incentive fees paid. From FY 2019 to FY 2020 total fees decreased by just -\$376,069 or -1.7%, due mostly to lower incentive fees paid.

TABLE 2	FY 2019			FY 2020		
	Fees Paid	Avg Mkt Val (\$ Million)	Avg. Fee (in bps)	Fees Paid	Avg Mkt Val (\$ Million)	Avg. Fee (in bps)
Equity	\$ 2,984,645	\$ 1,554.7	19.2	\$ 3,361,745	\$ 1,807.5	18.7
Fixed Income	3,277,444	1,003.2	33.1	3,897,862	1,157.5	34.4
Absolute Return	7,051,943	920.7	76.6	6,020,335	710.0	84.9
Inflation Strategies	2,445,248	457.5	53.4	2,275,177	431.1	69.5
Real Estate	6,629,380	697.6	95.0	6,488,437	731.8	88.7
Transition Account	-	-	-	0	16.4	-
Total Management Fees	\$ 22,388,660	\$ 4,633.7	48.3	\$ 22,043,555	\$ 4,854.3	45.4
Custody Fees	159,687	4,633.7	0.34	118,792	4,854.3	0.25
General Consultant	163,058	4,633.7	0.35	157,633	4,854.3	0.33
Specialty Consultant	-	-	-	15,355	4,854.3	0.03
Total Fees	\$ 22,711,405	\$ 4,633.7	49.0	\$ 22,335,336	\$ 4,854.3	46.1

Tables 3-7 break down the average fees paid for each asset class by manager for FY 2020.

Equity

TABLE 3		Fees	Avg Mkt Value	Fee
Mandate	Vehicle	Paid	(\$ Millions)	(in bps)
SSGA Russell 1000 Index	CFA	\$ 58,756	\$ 722.2	0.8
SSGARussell Mid Cap Index	SMA	25,856	86.2	3.1
NTGA Small Cap Equity	CFA	717,285	102.5	70.0
SSGA MSCI World Ex US Index	CFA	122,922	569.6	2.2
QMA International Small Cap Equity	CFA	867,825	133.3	66.0
DFA EM All Cap Core Fund	MFA	487,898	96.7	50.3
Harding Loevner EM Core Equity Fund	MFA	1,081,202	97.0	111.7
Total Equity		\$ 3,361,745	\$ 1,807.5	18.7

The increase in the amount of fees paid for equity investments during FY 2020 is primarily the result of the 14% increase in average asset balance across all equity managers from an average of \$1.6 billion in FY 2019 to an average of \$1.8 billion in FY 2020. Fees in basis points were roughly the same at 18.7 bps vs 19.2 bps.

Fixed Income

TABLE 4		Fees	Avg Mkt Value	Fee
Mandate	Vehicle	Paid	(\$ Millions)	(in bps)
JP Morgan Intermediate Bond Fund	SMA	\$ 602,069	\$ 336.2	18.2
Payden & Rygel Aggregate Bond	SMA	630,483	345.8	18.4
Payden & Rygel Low Duration *	MFA	101,412	49.1	23.0
Farm Loan Pool (FLP)	BND	44,469	14.6	30.6
Energy Construction Loan Pool (ECLP)	BND	2,516	1.0	25.0
Brandywine Global Opportunistic FI	CFA	683,194	174.7	39.3
Angelo Gordon Direct Lending Fund III	LPF	1,426,167	119.2	133.9
Schroders Securitized Credit	SMA	407,551	116.7	35.2
Total Fixed Income		\$ 3,897,862	\$ 1,157.5	34.4

The increase in the amount of fees paid for fixed income investments during FY 2020 is primarily the result of the 15.7% increase in average asset balance across all fixed income managers from an average of \$1.0 billion in FY 2019 to an average of \$1.16 billion in FY 2020. Especially, to higher fee managers Angelo Gordon and Schroders, including a \$110,186 incentive fee paid to Angelo Gordon. These were somewhat offset by lower average fee rates paid to both JP Morgan and Payden & Rygel, each averaged around 20 bps in FY 2019 and 18 bps in FY 2020, however the lower rates were on higher balances for both core fixed income managers in FY 2020. *Payden & Rygel Low Duration was eliminated with the funding of Angelo Gordon.

Absolute Return

TABLE 5		Fees	Avg Mkt Value	Fee
Mandate	Vehicle	Paid	(\$ Millions)	(in bps)
GMO Benchmark Free	MFA	\$ 2,986,723	\$ 360.3	82.9
PIMCO All Asset All Authority	MFA	3,033,612	349.8	87.0
Total Absolute Return		\$ 6,020,335	\$ 710.0	84.9

The lower fee amount paid in FY 2020 is entirely due to the removal of the Westwood portfolio, which reduced the average asset balance from \$921 million in FY 2019 to \$710 million in FY 2020. However, the removal of Westwood has resulted in an increase in basis points paid, since Westwood charged a lower rate than GMO and PIMCO. The average fee charged for the absolute return portfolios was 76.6 bps in FY 2019 vs 84.9 bps in FY 2020.

Diversified Inflation Strategies

TABLE 6		Fees	Avg Mkt Value	Fee
Mandate	Vehicle	Paid	(\$ Millions)	(in bps)
NTQA TIPS Index	CFA	\$ 37,832	\$ 99.6	3.8
Van Eck Natural Resource Equities	SMA	540,227	80.8	71.1
Gresham Commodities MTAP	SMA	790,247	127.8	61.6
Harvest MLP	SMA	906,871	122.9	83.1
Total Inflation Strategies		\$ 2,275,177	\$ 431.1	69.5

The fee charged for the diversified inflation strategies declined on lower average balances during FY 2020 compared with FY 2019. The board has eliminated the Diversified Inflation Strategies asset class.

Accordingly, the TIPS and Gresham portfolios have been fully liquidated, and the Van Eck portfolio has been 2/3rds liquidated. The Harvest portfolio and the remaining Van Eck portfolio are being monitored against their respective liquidation targets.

Real Estate

TABLE 8		Fees	Avg Mkt Value	Fee
Mandate	Vehicle	Paid	(\$ Millions)	(in bps)
Morgan Stanley Prime Property Fund	LPF	2,108,791	\$ 214.4	98.0
UBS Trumbull Property Fund	LPF	1,351,331	178.3	76.0
Jamestown Premier Property Fund	LPF	402,301	71.5	55.8
JP Morgan Income and Growth RE	LPF	1,266,787	134.8	94.3
Prologis Targeted US Logistics Fund	LPF	1,359,227	132.8	108.6
Total Real Estate		\$ 6,488,437	\$ 731.8	88.7

The fee charged for real estate increased due to the increase in average balance from \$698 million in FY 2019 to \$732 million in FY 2020. Fees in basis points were basically decreased from 95.0 bps in FY 2019 to 88.7 bps in FY 2020, due to lower incentive fees paid.

Incentive Fees

TABLE 8		Incentive	Incentive	2019	2019	Index	Alpha
Mandate	Fee	Fee	(in bps)	Gross Return	Net Return	Net Return	
Angelo Gordon Direct Lending Fund III	\$ 110,186	32.1		11.14%	10.02%	8.17%	1.85%
Morgan Stanley Prime Property Fund	309,904	14.3		7.38%	6.17%	4.39%	1.78%
Jamestown Premier Property Fund	-28,192	-4.8		3.02%	2.40%	4.39%	-1.99%
Prologis Targeted US Logistics Fund	506,796	44.8		19.51%	16.84%	4.39%	12.45%
Total Incentive Fees Paid		\$ 898,695					

During FY 2020, the PTFs paid total incentive fees of \$898,695 versus \$1,810,455 in FY 2019; these incentive fees are based upon contractual agreements made with each manager. During FY 2020 incentive fees were paid to Angelo Gordon (\$110,186), Morgan Stanley (\$309,904) and Prologis (\$506,796), and the funds earned net returns of 10.02%, 6.17% and 16.84%, respectively, while their indices generated 8.17% for Angelo Gordon and 4.39% for both real estate funds. Also, Jamestown made an adjustment to prior incentive fees paid of -\$28,192, which reduced fees owed by that amount.

SIIF/Coal/Capitol Investment Pool

The assets of the Strategic Investment and Improvements Fund, Coal Development Trust Fund, and Capitol Building Trust Fund are pooled together and invested in a short duration fixed income strategy with Northern Trust. During FY 2020, fees totaling \$437,862 were paid on an average balance of \$718.0 million in this account. During FY 2019, total fees were \$274,497, while the average asset balance was \$609.8million. The increase in fees paid during FY 2020 was entirely a result of the increase in assets under management.

Appendix: Contracted Fee Arrangements

Equity

Asset Subclass	Account	Contracted Fee
Large Cap Equity	SSGA Russell 1000 Index	1 bps on total market value; cash balances are invested in money market funds, which have a fee of 12 bps
Mid Cap Equity	SSGA Russell Mid Cap Index	3 bps on total market value
Small Cap Equity	NTGA Small Cap Equity	70 bps on total market value
International Equity	SSGA MSCI World Ex US Index	2 bps on total market value; cash balances are invested in money market funds, which have a fee of 12 bps
International Equity	QMA International Small Cap Equity	65 bps on total market value
Emerging Markets Equity	DFA EM All Cap Core Fund	48 bps on total market value
Emerging Markets Equity	Harding Loevner EM Core Equity Fund	111 bps on total market value

Fixed Income

Asset Subclass	Account	Contracted Fee
Core Fixed Income	JP Morgan Intermediate Bond Fund	15 bps on the first \$150 million and 10 bps thereafter on money invested directly by the Intermediate Bond team; a portion of this mandate is invested in the JP Morgan MBS mutual fund, which has a fee of 25 bps (previously 20 bps on the first \$75 million and 18 bps next \$75 million and 12 bps thereafter)
Core Fixed Income	Payden & Rygel Aggregate Bond	17.5 bps on the first \$250 million and 15 bps thereafter (previously 20 bps on total market value)
Core Fixed Income	Payden & Rygel Low Duration	43 bps on total market value
Loan Pools	Farm Loan Pool (FLP)	50 bps of the unpaid principal balance of each loan
Loan Pools	Energy Construction Loan Pool (ECLP)	25 bps withheld from annual interest payments
Non-Core Fixed Income	Brandywine Global Opportunistic FI	45 bps on the first \$50 million, 40 bps on the next \$50 million, and 35 bps thereafter
Non-Core Fixed Income	Angelo Gordon Direct Lending Fund III	63.75 bps on balance of contributions made to the fund through Fall of 2021 (first 3 years), then 75 bps thereafter; plus a 15% performance fee with 7% hurdle
Non-Core Fixed Income	Schroders Securitized Credit	35 bps on the first \$350 million, 30 bps on next \$250 million, 25 bps thereafter

Absolute Return

Asset Subclass	Account	Contracted Fee
Global Tactical	GMO Benchmark Free	83 bps on total market value
Global Tactical	PIMCO All Asset All Authority	94 bps on total market value

Diversified Inflation Strategies

Asset Subclass	Account	Contracted Fee
Inflation Protected	Gresham Commodities MTAP	67 bps on the first \$75 million, 50 bps on the next \$75 million, and 40 bps thereafter
Inflation Protected	Harvest MLP	75 bps on the first \$100 million, and a discount of 5 bps for each \$50 million thereafter until \$300 million, where it is 50 bps thereafter
Inflation Protected	NTQA TIPS Index	6 bps on the first \$50 million and 3 bps thereafter
Inflation Protected	Van Eck Natural Resource Equities	75 bps on the first \$50 million, 50 bps on the next \$200 million, and 47.5 bps thereafter

*TIPS and Gresham portfolios have been liquidated; Harvest and Van Eck are in the process of liquidation as they reach liquidation metrics.

Real Estate

Asset Subclass	Account	Contracted Fee
Core Real Estate	Morgan Stanley Prime Property Fund	84 bps on total market value, plus an incentive fee of 5% multiplied by NAV multiplied by comparable property NOI growth; and capped at 35 bps.
Core Real Estate	UBS Trumbull Property Fund	95.5 bps on the first \$10 million, 82.5 bps on the next \$15 million, 80.5 bps on the next \$25 million, 79 bps on the next \$50 million, 67 bps on the next \$150 million, and 60 bps thereafter; additionally a 0-25 bps incentive fee based on gross returns in relation to CPI plus 5% per annum <u>Lock-up Fee Discount:</u> 4-year lock-up term in exchange for a 25% reduction in management fees; if PTFs redeem shares early they have to pay back the reduced management fee (effective 7/1/2020 through 6/30/2024)
Non-Core Real Estate	Jamestown Premier Property Fund	60 bps on total market value, plus an incentive fee of 20% of returns greater than 7%, and 25% of returns greater than 10% (Jamestown gives a fee break for RVK clients, resulting in an aggregation of assets for all RVK clients and a subscription date equal to the earliest of all RVK clients)
Non-Core Real Estate	JP Morgan US Real Estate Income and Growth Fund	105 bps on the first \$50 million, 90 bps on the next \$50 million, 85 bps on the next \$50 million, 80 bps on the next \$50 million, and 75 bps thereafter <u>Lock-up Fee Discount:</u> 3-year lock-up in exchange for a 25% reduction in management fees, however, there is a penalty of 4% if shares are redeemed within the lock-up period (effective 7/1/2020 through 6/30/2023)
Non-Core Real Estate	Prologis Targeted US Logistics Fund	Reinvested dividends and new investments (Class A) have the following fee structure: 120bps first \$25 million, 100bps on next \$25 million, 90 bps on next \$50 million, 80 bps between \$100 to \$250 million, and 70 bps thereafter; plus an incentive fee of 10% over a 7% IRR in a 3-year period with a high water mark. Investments before July 2017 (Class E) have the following fee structure: 7.5% of NOI as a base fee; acquisition fee of 0.90% of total acquisition cost on fund acquisitions; renovation fee of 0.70% per year of the acquisition cost of the capital expenditures made for renovation properties during the applicable renovation period; fees are subject to a quarterly cap of 0.30% of the fund NAV; plus an incentive fee of 15% over a 9% net IRR and 20% over a 12% net IRR is payable at the end of each 3-year incentive period.

Transition Account

Asset Subclass	Account	Contracted Fee
PTF - Ultra Short	Northern Trust Investments	6 bps on first \$500 million, 5 bps on next \$500 million, and 4 bps thereafter

Ultra Short (SIIF, CDT & CBT)

Asset Subclass	Account	Contracted Fee
Ultra Short	Northern Trust Investments	6 bps on first \$500 million, 5 bps on next \$500 million, and 4 bps thereafter

MEMORANDUM TO THE BOARD OF UNIVERSITY AND SCHOOL LANDS

September 24, 2020

RE: Sorum Litigation

(No Action Requested)

Case: Paul Sorum, et. al. v. State of North Dakota, et. al. – Civ. No. 09-2018-CV-00089

Tribunal: Cass County District Court

Judge: John C. Irby

Attorney: Mark Hanson, Nilles Law Firm

Opposing Counsel: Terrance W. Moore, Fintan L. Dooley

Issues: The Board was named as a defendant in the above reference case which was served on January 10, 2018. Plaintiffs have filed this action to challenge the Constitutionality of S.B. 2134 passed during the last legislative session and codified as N.D.C.C. ch. 61-33.1. Under the new legislation, “[t]he state sovereign land mineral ownership of the riverbed segments inundated by Pick-Sloan Missouri basin project dams extends only to the historical Missouri riverbed channel up to the ordinary high water mark.” N.D.C.C. § 61-33.1-02. S.B. 2134 established a process by which the Department of Mineral Resources is directed to procure a “qualified engineering and surveying firm” to “review the delineation of the ordinary high water mark of the corps survey segments” for the portion of the Missouri River designated as the “historical Missouri riverbed channel.” N.D.C.C. § 61-33.1-03(2), (3). Following a review process, which includes a public hearing and public comments, the North Dakota Industrial Commission must adopt final review findings which “will determine the delineation of the ordinary high water mark for the segment of the river addressed by the findings.” N.D.C.C. § 61-33.1-03(7). Plaintiffs’ complaint requests from the court a declaratory judgment finding that N.D.C.C. ch. 61-33.1 violates the Public Trust Doctrine and the Anti-Gift, Privileges and Immunities, and Local and Special Law Clauses of the North Dakota Constitution. Plaintiffs are also requesting the Court issue an injunction to prevent all state officials from further implementing and enforcing N.D.C.C. ch. 61-33.1.

History: An Answer was filed. Defendants filed a Motion to Dismiss, which was denied in April 2018. Petition for Supervisory Writ and Exercise of Original Jurisdiction was filed by Defendants and denied in May 2018. A Motion for Preliminary Injunction was brought by Plaintiffs and a hearing was held on May 21, 2018. An Order for Preliminary Injunction was filed June 26, 2018. A Scheduling Conference was held on September 6, 2018 and the following briefing deadlines were set: Summary Judgment Motions were filed October 22, 2018. Response Briefs were filed December 10, 2018. Reply Briefs were due December 21, 2018. A hearing on the Motions for Summary Judgment was held on January 4, 2019. The Order on Cross-Motions for Summary Judgment was issued on February 27, 2019, and Defendants were directed to prepare the proposed Judgment. On March 6, 2019, Defendants filed their proposed Judgment. Plaintiff’s filed a letter on March 7, 2019, advising the Court that they felt Defendants’ proposed Judgment was deficient and that they would also be submitting a proposed Judgment. Plaintiff’s proposed Judgment was filed March 8, 2019. Defendants filed a letter on March 8, 2019 advising the Court that they intended to submit a response to Plaintiffs’ proposed Judgment within 14 days. On March 19, 2019, Defendants filed an Objection to Plaintiffs’ Proposed Judgment. Thereafter, Plaintiffs filed a letter asking the Court not to rule on Defendants’

Objection until Plaintiffs have had the opportunity to be heard and further, that Plaintiffs' intend to bring a Motion for Clarification concerning retroactive royalty refunds within 14 days. Plaintiffs filed their Response to Defendants' Objection to Proposed Judgment and Request for Clarification and their Amended Proposed Order and Judgment on March 29, 2019. Defendants filed their Objection to Plaintiffs' Proposed Order and Judgment (Plaintiffs' Amended Proposed) and Reply to Plaintiffs' Response to Defendants' Objection to Proposed Judgment and Request for Clarification on April 8, 2019. On April 25, 2019, Judge Irby entered an Order for Entry of Judgment ordering the Clerk to enter Defendants' Proposed Order as the Judgment of the Court. Judgment was entered on April 26, 2019. Plaintiffs' filed a Notice of Motion for Attorney Fees, Costs, and Service Award to Plaintiffs scheduling a hearing for 1:30 p.m. June 10, 2019 in Fargo. The Notice of Entry of Order on Cross-Motions for Summary Judgment, Order for Entry of Judgment, and Judgment was filed by Defendants on May 3, 2019. On May 15, 2019, Plaintiffs filed their Motion for Attorney Fees, Costs and Service Award to Plaintiffs and the Memorandum in Support of Motion, together with supporting documents. On May 20, 2019, Plaintiffs filed their Amended Motion for Attorneys Fees, Costs and Service Award to Plaintiffs. Defendants filed an Expedited Motion for Extension of Time to Respond to Plaintiffs' Memorandum in Support of Motion for Attorney Fees, Costs and Service Award to Plaintiffs and requested the June 10, 2019 hearing be postponed. Defendants filed, with the District Court, its Response to Plaintiffs' Memorandum in Support of Motion for Attorneys Fees, Costs and Service Award to Plaintiffs on June 12, 2019. Plaintiffs' filed their Reply Memorandum in Support of Motion for Attorney Fees, Costs and Service Award to Plaintiffs on June 19, 2019. A hearing on the motion for attorneys fees was held before the District Court on July 18, 2019. The State Defendants/Appellants filed a Notice of Appeal to the North Dakota Supreme Court (Supreme Court) on June 27, 2019. Plaintiff/Appellees/Cross-Appellants filed a Notice of Cross-Appeal dated July 10, 2019. Appellants' Briefs were due to the Supreme Court on August 6, 2019. On July 18, 2019, the parties filed a Stipulation and Joint Motion for Appellate Briefing Schedule with the Supreme Court to allow for a decision to be rendered in the District Court on the issue of attorneys fees prior to the briefs being due to the Supreme Court. On July 19, 2019, the Joint Motion for Appellate Briefing Schedule was denied and an Order of Remand was entered by the Supreme Court temporarily remanding the case to the trial court for the limited purpose of consideration and disposition of Plaintiffs' Motion for Attorney Fees, Costs and Service Award to Plaintiffs. The briefing schedule for briefs before the Supreme Court is stayed pending the District Court's disposition of the attorneys fees issue. On July 24, 2019, the District Court issued its Order on Plaintiffs' Motion for Attorney Fees, awarding attorney fees to Plaintiffs' attorneys and service awards to Plaintiffs. An Amended Judgment was entered in the District Court on July 31, 2019. On August 1, 2019, State Defendants filed an Amended Notice of Appeal and the Order and Request for Transcript. Also on August 1, 2019, the Supreme Court provided its Notice of Filing Notice of Appeal. On August 7, 2019, the Amended Notice of Cross-Appeal was filed by Plaintiffs. The transcripts requested by the State Defendants of the January 4, 2019 summary judgment hearing and the July 18, 2019 hearing on attorney fees/costs/service award were filed with the North Dakota Supreme Court on October 4, 2019. In light of the filing of those transcripts, the Supreme Court's clerk has advised that the State Defendants' initial appellant brief is to be filed on November 13, 2019. Brief of Defendants, Appellants and Cross-Appellees the State of North Dakota, the Board of University and School Lands of the State of North Dakota, the North Dakota Industrial Commission, the Hon. Douglas Burgum, in his Official Capacity as Governor of the State of North Dakota, and the Hon. Wayne Stenehjem, in his Official

Capacity as Attorney General of North Dakota was filed with the Supreme Court on November 13, 2019. A Motion for Leave to File *Amicus Curiae* Brief by the North Dakota Petroleum Council in Support of the Constitutionality of N.D.C.C. ch. 61-33.1 was filed with the Supreme Court on November 13, 2019. The Supreme Court granted the North Dakota Petroleum Council's Motion for Leave to File *Amicus Curiae* Brief on November 14, 2019. Plaintiffs' brief was due to the Supreme Court on or before December 13, 2019. On December 9, 2019, Plaintiff Paul Sorum made a request to the Supreme Court for an extension to file his brief until January 29, 2020. The Supreme Court granted Plaintiff Paul Sorum's request for an extension, giving him until January 21, 2020 to file his brief. On January 29, 2020, Defendants requested an extension of time to file the reply brief until February 14, 2020, due to the amount of information that was filed in the separate briefs and appendixes. On January 30, 2020, an initial letter was issued in which the Supreme Court granted Defendants' request for an extension to file the Reply Brief until February 24, 2020. Thereafter, the Court issued a corrective letter advising reply briefs are due February 14, 2020. On February 13, 2020, Paul Sorum filed the Reply to Appellant Brief of Defense. Defendants filed the Reply Brief of Defendants, Appellants and Cross-Appellees the State of North Dakota, the Board of University and School Lands of the State of North Dakota, the North Dakota Industrial Commission, the Hon. Douglas Burgum, in his Official Capacity as Governor of the State of North Dakota, and the Hon. Wayne Stenehjem, in his Official Capacity as Attorney General of North Dakota on February 14, 2020. Oral Argument before the Supreme Court is scheduled for 1:30 p.m. on March 4, 2020. Terry Moore filed letter with the District Court on July 28, 2020, concerning issue of injunction and release of funds. On July 29, 2020, the District Court issued a Notice of Hearing scheduling a hearing on Terry Moore's July 28, 2020 letter for August 17 at 1:30 p.m. On July 30, 2020, the North Dakota Supreme Court issued its Opinion. On July 31, 2020, Mark Hanson filed a letter with the District Court advising of the issuance of the North Dakota Supreme Court Opinion and requesting cancellation of the August 17 hearing. That hearing was cancelled. The Supreme Court's Opinion was amended on August 4, 2020, and on August 18, 2020. Neither amendment was substantive. Terrance Moore filed with the Supreme Court the Plaintiffs, Appellees, and Cross-Appellants Marvin Nelson, Michael Coachman, Charles Tuttle and Lisa Omlid's Petition for Rehearing on August 12, 2020.

**Current
Status:**

- **On September 22, 2020, the North Dakota Supreme Court entered an order denying the petition for rehearing.**

MEMORANDUM TO THE BOARD OF UNIVERSITY AND SCHOOL LANDS

September 24, 2020

RE: Fall Surface Lease Auctions

(No action requested)

The Department of Trust Lands (Department) Surface Management Division manages more than 706,000 surface acres owned by the various trust funds under the Board of University and School Land's (Board) control. One of the major sources of income from these lands comes from agricultural leases (grassland, crop and hay land uses).

On Monday, September 28, 2020, 1,051 surface tracts are scheduled to become available to bid on at public auction using the online auction platform EnergyNet. The auctions will be open for bidding until 5:00 p.m. on Friday, October 9, 2020.

On April 8, 2020, Governor Burgum issued Executive Order 2020-25 (Executive Order) in response to the public health crisis resulting from COVID-19. The Executive Order suspended the requirement in N.D.C.C. § 15-04-10 that requires the Commissioner of University and School Lands to hold public auctions for public land leasing in the county seat. This provided the Commissioner with flexibility for holding public land auctions in a manner to facilitate social distancing and utilize best management practices to mitigate the spread of COVID-19.

In November of 2019, the Department contracted with EnergyNet to host and facilitate online auctions. EnergyNet is a provider of oil, gas, and other commodity auction and sealed bid transaction services. EnergyNet was the sole responder to the Department's Request for Proposal. At the time, it was not anticipated EnergyNet's services would need to be used for surface lease auctions.

After the issuance of the Executive Order, the Department worked with EnergyNet to modify their mineral auction platform to allow it to host surface lease auctions in the spring of 2020. In August of 2020, the Department announced that the fall surface lease auctions would also be hosted online by EnergyNet due to the continuing concerns associated with the public health crisis and hosting auctions that congregate large gatherings of people. Beginning in September of 2020, the Department received feedback from lessees as well as the North Dakota Stockman's Association, the Little Missouri Grazing Association, and the McKenzie Grazing Association. In response, the Department worked with the Governor's staff and the associations on modifications to the auction process, produced guidance for the public to become familiar with the online process, and published a Frequently Asked Questions (FAQ) document, available on the Department's website.

The Executive Order suspended the Department's requirement to hold public actions at a set date and time in the county seat, but it did not change other notice requirements in N.D.C.C. § 15-04-09 or requirements governing leasing by auction under N.D.C.C. § 15-04-10.

Under N.D.C.C. § 15-04-09:

All lands to be leased or offered for lease within the respective counties must be advertised for lease by the board by publication once each week for a period of three weeks prior to the day of leasing in the official county newspaper where said land is situated and in such other newspapers as the board deems appropriate. A list of the lands to be offered for leasing must be filed with the county treasurer of the county wherein such lands are situated at least ten days prior to the day of leasing.

The Department has published notice of its fall surface lease auction in the official county newspapers where all tracts are located; however, a list of lands offered for leasing in each county has not been submitted to the county treasurers. Historically, the Department considers an auction to be finalized when the Commissioner approves the lease. This typically occurs several days after an auction is complete and the payment has been received.

Under N.D.C.C. § 15-04-10, when the land is offered for lease, the Department is required to give notice that all bids are subject to approval by the Board. This notice was not stated in the advertisement submitted for publication.

In 2005, former Land Commissioner Gary Preszler obtained an Attorney General's opinion concerning the validity of an Adams County lease after the fall auction. N.D.A.G. 2005-L-44. After the auction, the Board learned that notice of the auction was only run twice in the official county newspaper, rather than three times as required by statute. Commissioner Preszler inquired whether the Department could approve the lease even though the auction was not advertised in full compliance with the notice requirements set forth in the constitution and Century Code.

The Attorney General's opinion confirmed the statute must be followed. "The statute's plain meaning mandated publication of the notice. 'The word "shall" is unambiguous . . . it means "must."' It creates a mandatory duty, 'absent any legislative intent to the contrary. . . . This is particularly so when the statute is addressed to public officials.'" *Id.* at 3 (footnote omitted) (citations omitted).

Here, N.D.C.C. § 15-04-10 requires: "Notice must be given when the land is offered for lease that all bids are subject to approval by the board."

The last paragraph of N.D.A.G. 2005-L-44 states: "Failure to comply with a mandatory duty has serious consequences: 'it invalidate[s] subsequent proceedings.' The Land Board must correct the non-compliance with the notice requirement before it can enter leases for its Adams County school lands." *Id.* at 4.

N.D.C.C. § 15-04-12 allows the Board to adjourn the auction for leasing if the interests of the state will be subserved.

Attachment 1 – Summary of Comments

ATTACHMENT 1

The following is a summary of the comments received and the Department's response:

- Opposition to EnergyNet's anonymous bidding platform, in particular due to the grazing associations bylaws prohibiting members from bidding against each other
 - Although the anonymous bidding platform isn't able to be changed in time for the fall surface auctions beginning on September 28th, Department staff suggested that grazing association members could share their bidder numbers with each other prior to the auction so that members knew the grazing associations' bidder number and not bid against the association.
- Opposition to EnergyNet communications requesting financial information from the registered bidders
 - This resulted from bidders who erroneously registered under the business category
 - In response, the Department published a how-to guide directing registrants to the Government category
- Opposition to the online auction host procurement process
 - The Request for Proposal was issued in November 2019, and EnergyNet was the only bidder
 - A 5-year contract was issued and included all Department auctions
- Opposition to the ACH payment process
 - In response, the Department modified the payment process to allow bidders the option to pay by check
- Opposition to the length of time the auctions are open
 - Public notice has been sent out for the fall auctions
 - The length of time auctions are open can be reduced if future online auctions are needed
- Opposition to the indemnity clause for bidding and concern with slow internet connections
 - EnergyNet cannot guarantee that bids placed too close to the auction closing time will be received prior to closing
 - EnergyNet recommends bidders place their bids in advance of the auction closing time
- Opposition to convenience fees for bidders
 - The Department has covered the convenience fees for the fall auctions using CARES Act appropriations
 - Continuing authority can cover costs if future online auctions are needed

- Concern that bidders may not have access to computers or internet
 - Similar concerns are occasionally expressed for unclaimed property claims and access to Department records
 - Public libraries may be a resource for bidders without internet access. In addition, Department staff and EnergyNet representatives will be available to answer any technical questions
- Concern for ease-of-access for out-of-state bidders
 - The Department does not discriminate, the only requirement is for bidders to be of 18 years-of-age or older
 - Out-of-state bidders have always had access to surface auctions and many hire local agents to bid on their behalf for in-person auctions
- Concerns that hunters will increase the bids on certain tracts
 - All Trust Lands are open to the public for hunting
 - Lessees cannot close leased lands for their exclusive hunting privileges