

**Minutes of the Meeting of the
Board of University and School Lands
July 29, 2015**

The July 29, 2015 special meeting of the Board of University and School Lands was called to order in the Governor's Conference Room at 3:32 PM by Chairman Jack Dalrymple.

Members Present:

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

No Members Absent

Department of Trust Lands Personnel Present:

Lance D. Gaebe	Land Commissioner
Gerry Fisher	Director, Grants and Claims
Catelin Newell	Office Manager

Others in Attendance:

Ginny Peterson	Attorney General's Office
Ann Scott	Attorney General's Office
Daniel Wassim	Attorney General's Office
Chris Harvey	Attorney General's Office
Bonnie Storbakken	Governor's Legal Counsel

APPROVAL OF MINUTES

A motion to approve the minutes of the June 18, 2015 meeting was made by Secretary Al Jaeger and seconded by Attorney General Wayne Stenehjem and the motion carried on a voice vote.

ENERGY IMPACT AND INFRASTRUCTURE OFFICE

Law Enforcement Grant Recommendations

Law enforcement agencies experiencing impacts from oil and gas development were allocated at least \$10 million of grant funds by the 2015 Legislature. Of this \$10 million appropriated from the Oil and Gas Impact Grant Fund, \$750,000 was designated to assist hub city organizations efforts toward prevention and treatment services of human trafficking victims and \$250,000 was designated for grants for community-based sexual assault examiner programs.

In June 2015 the Board appointed the Drug and Violent Crime Policy Board (DVCPB) to act as an advisory committee for the law enforcement grant round. The EIO elected to utilize the grant processes and experience of the Bureau of Criminal Investigation in conjunction with the DVCPB during the law enforcement grant round.

The grant round was announced on May 1, 2015 with applications accepted until May 20, 2015. The focus is to assist criminal justice entities in addressing crime related issues affecting oil-

producing and oil impacted areas of the state as a result of oil-production and development activities.

Grant round requirements included:

- Applicants must be located in an oil-producing county or in an oil impacted county experiencing an increase in crime related issues which originated in oil-producing counties.
- Applying agencies must serve a criminal justice purpose and must be considered part of a city, county or domestic violence prevention program serving these areas.

A total of 59 applications were received from 41 political subdivisions. Projects totaled \$22,102,480 and \$19,853,329 million in award funds were requested. The Board reviewed a list of all of the applications received and reviewed by the Bureau of Criminal Investigation (BCI), the Drug and Violent Crime Policy Board (DVCPB) and the Energy Impact Office.

The following is a summary of projects by category:

\$ 6.2 million for equipment including vehicles	\$378,000 for other costs
\$11.2 million for salaries/overtime	\$1.8 million for housing
\$784,000 for travel & training	\$1.7 million for supplies

The Drug and Violent Crime Policy Board (DVCPB) studied all applications and developed formal recommendations for the Land Board's consideration. The DVCPB members are:

Board Chairman - Peter Welte, Vogel Law Firm

*Committee Chairs

Committee 1

*Wade Enget, Mountrail Co. (States Attorney)
 Dave Oehlke, State Senator
 Dave Todd, Fargo PD (Chief)
 Scott Busching, Williams Co. (Sheriff)
 Jake Rodenbiker, McKenzie Co. (States Attorney)

Committee 2

*Aaron Birst, Legal Counsel-ND Association of Counties
 Steve Kukowski, Ward Co. (Sheriff)
 Andrea Martin, Soul Survivor Counseling Service
 Pat Rummel, Billings Co. (Sheriff)
 Dustin Dassinger, Dickinson PD (Chief)

Committee 3

*Terry Traynor, Assoc. of Counties (Assistant Director Policy & Programs)
 Mark Saylor, BCI (Chief Agent)
 Arland Rasmussen, Cass Co. (Commissioner)
 Rory Tiegen, Bowman Co. (Sheriff)
 Jim Lokken, Williston PD (Chief)

Advisors

Senator Bill Bowman, Bowman Co.
 Dallas Carlson, Director-BCI
 Ginny Peterson, Bus. Serv. Manager-BCI
 Ann Scott, Grant Manager-BCI

Alternate

Phil Pfennig, BCI (Chief Agent)
 Mark Saylor, BCI (Chief Agent)

The DVCPB adopted cost share guidelines of: 10% for entities within western counties with oil and gas production and 10% cost-share for entities outside of those western counties and no cost-share requirement for task force agencies and regional training.

LAW ENFORCEMENT GRANTS

The DVCPB and Energy Impact Office recommendations for Oil and Gas Impact grants to law enforcement were presented as follows:

Recommendation List					
Political Sub Name	Total Project Cost	Recommended	% Match	Project	Grant Portion
Adams County	\$209,960	\$171,160	10%	Salary & fringe for new Deputy along with fully equipped vehicle @ \$55,000	\$154,044
Billings County	\$193,837	\$159,297	10%	Salary & fringe for new deputy.	\$143,367
Bottineau County	\$27,467	\$12,500	10%	Salary & fringe for new victim advocate/victim witness advocate at reduced amount.	\$11,250
Bowman County	\$17,552	\$12,672	10%	Tasers, LED Spotlight, Respirators, Headlamps, EO Tech Sights.	\$11,405
Burke County	\$173,038	\$79,364	10%	Overtime for deputy at reduced flat rate. One vehicle. Housing for two deputies.	\$71,428
Burleigh County	\$76,176	\$16,954	25%	K9 travel & training.	\$12,716
City of Arnegard	\$340,916	\$157,889	10%	Salary, fringe & overtime for new officer. Housing for Chief of Police and new Officer.	\$142,100
City of Belfield	\$883,958	\$232,494	10%	Salary & fringe for new Officer. One flat amount overtime requested. Housing for Chief of Police, two existing officers and one new officer.	\$209,245
City of Berthold	\$155,202	\$22,875	10%	Overtime. Evidence locker, laptop, and medical bag.	\$20,587
City of Beulah	\$12,672	\$9,192	10%	Salary & fringe for existing Shelter Supervisor. Special Condition: Must make an attempt to approach Oliver, Dunn, & Mercer county as well as the city of Beulah to get alternate budgeted funds for personnel.	\$8,273
City of Bismarck	\$200,964	\$44,928	25%	Salary & fringe for one existing advocate.	\$33,696
City of Bismarck	\$95,000	\$95,000	25%	Fund as requested.	\$71,250
City of Burlington	\$137,640	\$59,086	10%	Salary & fringe for a new officer for 12 months.	\$53,178
City of Dickinson	\$145,772	\$95,772	10%	Tasers and accessories. K9.	\$86,194
City of Dickinson	\$106,485	\$25,000	10%	Salary & fringe for parenting time monitor at reduced amount.	\$22,500
City of Dickinson	\$26,970	\$23,136	10%	Fund as requested but with reduced amount of optics.	\$20,822
City of Dickinson	\$200,000	\$200,000	0%	Regional Trainings-Oil Counties	\$200,000
City of Kenmare	\$192,605	\$124,505	10%	Salary & fringe for existing officer for 12 months. Vehicle, portable radios, vehicle radio, radar gun. Housing for three officers reduced to \$300/officer/month.	\$112,055
City of Killdeer	\$685,517	\$303,329	10%	Salary & fringe for one new officer. Overtime at flat amt for all personnel listed. Taser, bulletproof vest, uniform. Housing for Chief of Police, Sergeant and (3) Officers.	\$272,996

Recommendation List					
City of Minot	\$201,313	\$142,365	10%	Salary & fringe for one new evidence technician. Overtime at reduced flat amount. Cellebrite. Evidence refrigerator and freezer.	\$128,128
City of Minot	\$153,296	\$35,000	10%	Salary & fringe for one existing forensic interviewer at reduced amount.	\$31,500
City of Minot	\$200,000	\$200,000	0%	Regional Trainings-Oil Counties	\$200,000
City of Powers Lake	\$148,860	\$84,303	10%	Salary & fringe for existing officer for 12 months. Overtime at reduced flat amount. Vehicle computer, netmotion & imobile fees, driver's license reader, camera system, Less Lethal supplies, shoreline rescue kit. Housing for 1officer.	\$75,873
City of Surrey	\$238,023	\$76,392	10%	Salary & fringe for new officer for 12 months. Overtime at reduced flat amount.	\$68,753
City of Tioga	\$842,361	\$286,213	10%	Salary, fringe & overtime for three existing officers.Housing for 2 officers, 1 sergeant, and 1admin assist/dispatch	\$257,592
City of Watford City	\$1,302,363	\$492,286	10%	(4) Fully equipped vehicles, portable radios, and housing as requested.	\$443,057
City of Williston	\$265,018	\$85,736	10%	Salary & fringe for one direct services provider advocate at reduced amount.	\$77,162
City of Williston	\$885,548	\$663,261	10%	Salary & fringe for (3) new officers and (3) fully equipped vehicles. (3) used detective vehicles.	\$596,935
Divide County	\$235,650	\$63,700	10%	One fully equipped vehicle. Mobile radios and repeaters.	\$57,330
Dunn County	\$1,102,814	\$361,740	10%	Salary & fringe for new admin assistant. Overtime at a flat amount for all/any of the personnel listed. Housing for thirteen deputies.	\$325,566
Golden Valley County	\$254,712	\$81,500	10%	Equipped patrol vehicle. One mobile computer. Server & wireless router.	\$73,350
Hettinger County	\$254,476	\$17,650	10%	Equipment & installation costs for an interview/interrogation room. Active shooter communication gear. Trauma kits.	\$15,885
McHenry County	\$37,599	\$2,500	10%	Security System	\$2,250
McKenzie County	\$368,353	\$303,960	10%	Salary & fringe for one existing and one new Assistant State's Attorney.	\$273,564
McKenzie County	\$3,645,801	\$1,005,000	10%	Overtime at flat rate for all personnel listed. New patrol deputy equipment packages for (7) deputies. Additional equipment and training for K9. Housing as requested.	\$904,500
McLean County	\$360,790	\$55,000	10%	One fully equipped vehicle.	\$49,500
Mercer County	\$74,400	\$5,000	10%	Radar units.	\$4,500
Morton County	\$429,689	\$123,042	25%	Salary & fringe for new deputy for 12 months. One fully equipped vehicle.	\$92,281
Mountrail County	\$152,134	\$68,858	10%	Salary & fringe for existing directed at reduced rate. Salary & fringe for new advocate.	\$61,972
Mountrail County	\$137,880	\$137,880	10%	Fund as requested	\$124,092
Mountrail County	\$713,418	\$82,278	10%	Overtime at reduced amount. Repeaters.	\$74,050
Renville County	\$58,053	\$10,223	10%	MDT, radar unit, in-car video.	\$9,201
Sheridan County	\$5,745	\$1,400	0%	Shotgun & camera kit.	\$1,400
Slope County	\$337,753	\$59,000	10%	One fully equipped vehicle and radios.	\$53,100
Stark	\$245,717	\$25,000	10%	Salary & fringe for new coordinator at a reduced amount.	\$22,500

Recommendation List					
County					
Stark County	\$391,244	\$342,244	0%	Salary & fringe for existing intel analyst/admin assistant and two TF agents. Overtime for TF agents. Housing for intel analysts & task force agents.	\$342,244
Stark County	\$1,144,915	\$132,025	10%	Salary & fringe for one new school resource officer. One vehicle. Rifles.	\$118,823
Ward County	\$173,475	\$85,736	10%	Salary & fringe for existing criminal justice advocate at reduced amount.	\$77,162
Ward County	\$346,314	\$166,157	10%	Salary & fringe for one new deputy. Overtime at reduced amount. One vehicle. One each of: Radar, cage, Toughbook with mount and printer/scanner, light bars, siren equipment, in-car camera. Personal (duty) equipment for one officer.	\$149,541
Ward County	\$582,650	\$233,904	10%	Salary & fringe for legal office assistant and legal administrative assistant.	\$210,514
Williams County	\$805,718	\$646,460	0%	Northwest Narcotics Task Force-Salary & fringe for existing intel analyst and (2) new TF officers. Overtime for (4) TF officers. (2) vehicles leased, vehicle radios, crime scene camera kit. Armor, search kit, binoculars, flashlights, handcuffs, computer, cell phones. Housing for six officers. Cell phone monthly costs, pen registers.	\$646,460
Williams County	\$1,366,995	\$296,830	10%	Salary & fringe for one new detective. One fully equipped vehicle for patrol 1 fully equipped vehicle for investigator.	\$267,147
Williams County	\$166,158	\$166,158	10%	Fund as requested	\$149,542
Williams County	\$200,000	\$200,000	0%	Regional Trainings-Oil Counties	\$200,000
	\$21,710,965	\$8,583,9574			\$7,842,580

The following is a summary of grant recommendations by category:

- \$1.5 million for equipment including vehicles
- \$4.4 million for salaries/overtime
- \$616,000 for travel & training
- \$10,000 for other costs
- \$1.2 million for housing
- \$134,000 for supplies

Funds will be disbursed upon evidence of project completion, asset acquisition or hire. All reimbursement requests for these awards will be submitted through the BCI for review of compliance with the terms and cost-share. Once approved by BCI, the law enforcement reimbursements will be reviewed and paid from oil and gas impact grant fund by the EIIO.

Motion: The Board awarded \$7,842,580 from the oil and gas impact grant fund to law enforcement as detailed in the preceding list of recommended awards, including referenced cost-share requirements.

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

Emergency Medical Services Grant Recommendations

The 2015 Legislature directed that \$6 million from the oil and gas impact grant fund be provided toward Emergency Medical Services' (EMS) needs as a result of impacts being realized from oil and gas development.

In June 2015, the Board approved preliminary guidelines and made appointments to the EMS Grants Advisory Committee. The purpose of the advisory committee is to assist in formulating recommendations for energy development impact grants.

The EMS Impact Grants Advisory Committee:

Kari Enget, Powers Lake	Jason Catrombone, Williston	Lynn Hartman, Dickinson
Duane Estvold, New Town	Emily Halleen, Bowman	Ann Hafner, Killdeer
Diane Witteman, Mohall	Jerry Jurena, ND Hospital Association	
Tom Nehring, ND Department of Health		

Announcements indicating the availability of funds included the following grant guidelines:

- Grant round is for EMS needs resulting from impacts of oil and gas development activities.
- Requests for funding to improve readiness, quality and responsiveness of EMS response teams.
- Applications for projects to improve equipment; facilities; safety; staffing; oil industry specific training, leadership development; and obtaining assets to improve emergency response.

Grant applications were accepted from May 28, 2015 to June 17, 2015, with a total of 43 applications, requesting \$7,467,128 in funding. The Board reviewed a summary of all applications received

All applications were scored by a representative of the Department of Health, Emergency Medical Services Division; and EIO staff using the established criteria of:

- The need as a direct impact resulting from energy development
- The project meeting the objective identified for the grant round
- The project being ready to implement, i.e. planning and preliminary work completed
- Addressing public and personnel safety
- Financial need, giving consideration to cash on hand, other revenue sources available including previous EIO awards and debt

The EMS Grants Advisory Committees met in Killdeer on June 26, 2015 and it evaluated applications based upon:

- Critical and immediate needs
- Projects supporting enhanced readiness, quality and responsiveness of EMS providers.
- Staffing, training, leadership development and assets to improve emergency providers.
- Enhanced review of the scoring criteria including: safety improvement; financial need; result of energy activity; project readiness; and contribution to long-term service/department viability.

The following list of recommended awards was developed by the Energy Infrastructure and Impact Office in coordination with the Emergency Medical Services Division of the Health Department using the recommendations of the Emergency Medical Services Grants Advisory Committee:

Political Subdivision	Short Description	Amount Requested	Recommended Award
BEACH COMMUNITY AMBULANCE SERVICE	AMBULANCE EQUIPMENT	\$67,500	\$67,500
BILLINGS COUNTY	STAFFING-PARAMEDIC POSITION/EMT STIPENDS	\$90,000	\$60,000
BOWMAN COUNTY RURAL AMBULANCE DISTRICT	STAFFING	\$75,000	\$75,000
BOWMAN COUNTY RURAL AMBULANCE DISTRICT	AMBULANCE EQUIPMENT	\$69,135	\$52,830
CITY OF BELFIELD	PARAMEDIC AND VOLUNTEER STAFFING	\$80,000	\$60,000
CITY OF TIOGA	NEW AMBULANCE BUILDING	\$1,000,000	\$200,000
CITY OF TIOGA	12 LEAD EKG SYSTEM/LUCAS CPR SYSTEM/POWER LOAD SYSTEM	\$72,000	\$72,000
CITY OF WATFORD CITY	STAFFING, TRAINING, OFFICE AND LIVING QUARTERS UPGRADES	\$284,674	\$272,674
CITY OF WILLISTON	STAFFING, TRAINING, RADIOS, EQUIPMENT, AND VEHICLE	\$419,904	\$369,324
DICKINSON AREA AMBULANCE	STAFFING	\$60,000	\$60,000
DIVIDE COUNTY AMBULANCE SERVICE	CONTACT STAFFING	\$120,000	\$120,000
GARRISON-MAX AMBULANCE DISTRICT	STAFFING, TYPE 2 AND 3 AMBULANCES	\$445,860	\$120,000
GRENORA AMBULANCE DISTRICT	PERSONNEL	\$176,800	\$80,000
HALLIDAY RURAL FIRE DISTRICT	EQUIPMENT FOR TWO AMBULANCE RIGS	\$49,848	\$26,479
KILLDEER AREA AMBULANCE DISTRICT	STAFFING AND BUILDING REPAIR	\$440,977	\$332,000
MANDAREE EMD AMBULANCE SERVICE	STAFFING, AMBULANCE, AND EQUIPMENT	\$526,362	\$206,362
MERCER COUNTY RURAL AMBULANCE DISTRICT	NEW AMBULANCE AND HAZMAT TRAINING	\$160,947	\$120,000
NEW ENGLAND RURAL FIRE DISTRICT	STRYKER POWER LOAD SYSTEM	\$22,741	\$22,741
NEW ENGLAND RURAL FIRE DISTRICT	STAFFING FOR BOTH FULL TIME AND PART TIME STAFF FOR ONE YEAR	\$34,000	\$34,000
NEW TOWN AMBULANCE	NEW AMBULANCE & STAFFING	\$600,000	\$485,000
PARSHALL AMBULANCE DISTRICT	STAFFING	\$80,000	\$80,000
PORTAL RURAL AMBULANCE DISTRICT	NEW AMBULANCE BUILDING	\$27,000	\$20,000
POWERS LAKE RURAL AMBULANCE DISTRICT	AMBULANCE COT LOADING SYSTEM	\$25,335	\$25,335
RAY AMBULANCE DISTRICT	LUCAS II CPR DEVICE, ZOLL 12 LEAD MONITOR UPDATES, SUPPLIES	\$50,000	\$50,000
RENVILLE COUNTY RURAL AMBULANCE DISTRICT	MOHALL AMBULANCE AND SUBSTATIONS STAFFING	\$82,200	\$82,200
RENVILLE COUNTY RURAL AMBULANCE DISTRICT	STAFFING AND AMBULANCE FOR GLENBURN	\$150,000	\$60,000
RICHARDTON-TAYLOR AMBULANCE DISTRICT	STAFFING	\$80,000	\$60,000
RURAL EMS ASSISTANCE, INC	STAFFING	\$30,000	\$30,000
STANLEY RURAL AMBULANCE SERVICE DISTRICT	BUILDING EXPANSION & RENOVATION	\$400,000	\$200,000
UNITED RURAL AMBULANCE DISTRICT	NEW AMBULANCE BUILDING	\$750,000	\$100,000
WARD COUNTY	AMBULANCE REPLACEMENT AND STAFFING ASSISTANCE	\$250,000	\$60,000
WESTHOPE AMBULANCE SERVICE	STAFFING AND COMPLETION OF A NEW BUILDING	\$112,750	\$92,750
			\$3,696,195

\$2,303,805 will remain to be awarded in a future grant round to be held during the biennium to reach the \$6 million designated for awards to EMS by the 2015 Legislature.

Motion: The Board awarded \$3,696,195 from the Oil and Gas Impact Grant Fund to the 28 Emergency Medical Services providers identified in the 32 award recommendations listed previously.

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

Update of Department and Board Legal Issues

Attorney General Stenehjem and Commissioner Gaebe provided an update regarding litigation involving the Board and the Department.

SOVEREIGN LANDS LITIGATION

In December 2013 the North Dakota Supreme Court issued a decision in Reep v State and Brigham v State upholding that the State of North Dakota holds title to mineral interests to the ordinary high water mark of navigable rivers and water bodies.

The court left open the possibility of private ownership of shore zone mineral interests in instances where the chain of title establishes the state granted its interests to a private upland owner. The court said that if the State has contractually granted or conveyed a part of its shore zone interests to upland owners by deed, the grantee may take to the low watermark subject to the restrictions of the public trust doctrine, which provides that the State cannot totally abdicate its interest in the shore zone but must protect the public's right to use the navigable waters, and where the deed provides otherwise.

The Department continues to work with lessees and operators to collect royalties that have been held in suspense or escrowed pending the outcome of legal action.

Notwithstanding affirmation of the State's ownership of the land and minerals to the OHWM in Reep, litigation on specific local circumstances and river features continue. Including:

Brigham Oil & Gas

On June 9, 2011, Brigham Oil & Gas filed a suit seeking resolution of the title question. It did so because it operates a well just to the southeast of Williston. The well produces from a 1,280-acre spacing unit that includes the Missouri River. There are dozens of parties with interests in the spacing unit.

Because of the title disputes among those parties, Brigham has withheld royalty payments. In its lawsuit, Brigham, essentially, asks the court to require all those asserting title to the minerals in the spacing unit to set forth and prove their claims, and once the court rules on those claims, Brigham will know who to pay.

Brigham named 83 defendants in its complaint, including the Land Board, City of Williston, Williams County, and many individuals and oil companies. Brigham also named the United States.

Unlike the *Reep* case, this issue was before the court on a motion for partial summary judgment meaning the resolution of this issue does not resolve the entire case. No party has requested further action from the District Court since issuance of the Supreme Court opinion.

Wilkinson Family

The Wilkinson family lawsuit was filed on January 10, 2012, asserts that it owns minerals in about 200 acres west of Williston. This suit was initially filed in state court as a quiet title action. The AG'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. The Plaintiffs also pled into the case the State's other two lessees in the affected acreage. The Plaintiffs assert in their amended complaint that the Land Board should be issuing leases on the west side of the Highway 85 bridge pursuant to the Phase II survey –the historical Missouri River – rather than the Phase I survey – current location of the ordinary high water mark.

The parties are currently conducting discovery and depositions, and a trial date for this case was been scheduled for November 9-20, 2015, but has now been shifted to May 2016.

EEE Minerals, LLC et. al. v. State of North Dakota; Continental Resources, Inc.

On July 31, 2014 the Attorney General's Office was served with a complaint in the above referenced matter. This case is requesting class action status and alleges identical causes of action to what was pled in the Wilkinson amended complaint.

Continental filed a motion to dismiss for failure to join indispensable parties. Continental believes the Plaintiffs have failed to name all the parties who have interest in the property in question. The Plaintiffs have agreed to amend their complaint to join in the additional parties. The State is waiting for the Plaintiffs to amend the complaint.

Whitetail Wave LLC v. XTO Energy, Inc., Board of University and School Lands, and the State of North Dakota

On August 1, 2015, the Attorney General's Office was served with a complaint in the above referenced case. This case is also challenging the State's determination of the OHWM but the tract is located on the east side of the Highway 85 Bridge where the Department has currently leased only the historic channel of the Missouri River. The Plaintiffs are requesting that title to the minerals be quieted and have alleged claims of unconstitutional takings, trespass, slander of title and constructive trust/unjust enrichment against the State. The complaint also makes a number of claims against XTO individually. An answer was filed on behalf of the Board and the State on July 21, 2015.

Statoil Oil & Gas, LP v. Abaco Energy, LLC, et. al.

On June 22, 2015, the Attorney General's Office was served with a complaint in the above referenced case. Similar to the Brigham Oil & Gas case listed above, Statoil filed an interpleader for the lands underlying two spacing units located east of the Highway 85 Bridge containing 15 active wells. Statoil is requesting the Court determine the property interests for the two spacing units so that Statoil can correctly distribute the proceeds from the wells. The federal government claims interest in the disputed lands however Statoil acknowledges that the United States is not amenable to state court jurisdiction. There have been ongoing discussions with Statoil regarding this case and an answer is due from the Board by August 15, 2015.

OTHER LITIGATION**Willard Burk v. State of North Dakota, et. al.**

On April 24, 2015 the Attorney General's Office was served with a complaint in the above referenced case. Mr. Burk has brought this suit against the State through both the Board of University and School Lands and Tax Commissioner Ryan Rauschenberger. Mr. Burk is requesting a declaratory judgment that the State has wrongfully withheld gross production taxes on Mr. Burk's share of royalties being paid to him pursuant to a Settlement Agreement with the State.

In 1991, the Bank of North Dakota conveyed to Mr. Burk and his wife some property in Williams County reserving 50% of the minerals. At the time, the statutory mineral reservation was 100%. Mr. Burk brought this issue to the Board in 2011 and threatened litigation. The Board entered into an agreement with Mr. Burk to convey to him 50% of the minerals he thought were previously conveyed to him. Mr. Burk now claims that he should not have to pay taxes on the royalties he is receiving pursuant to this agreement. The Board filed an answer to the Complaint and is now waiting for further deadlines to be established by the Court.

EOG Resources v. Soo Line Railroad Company, et. al.

EOG Resources filed this quiet title action on January 20, 2010, against the railroad and its lessee to determine the ownership of the minerals to land acquired by the railroad in Mountrail County. The railroad acquired its interest to the disputed land by three different means: railroad right-of-way deeds, condemnation, and the 1899 Act. The railroad leased its mineral interests to G-4, LLC. The railroad claims that it acquired fee simple interest to this land, whereas EOG claims the railroad only acquired a surface easement. The parties filed cross summary judgment motions, G-4 filed its motion on July 28, 2011, and EOG filed its motion on October 26, 2011. Before considering the summary judgment motions, the court directed G-4 to plead in all the other parties claiming an interest in the disputed property.

There were two issues being contested: (1) the validity of a condemnation order issued in 1914 to the railroad for a tract across state school lands which purported to grant the railroad fee simple title to the tract; and (2) whether right-of-way deeds issued by private parties to the railroad conveyed fee simple title or an easement interest. On January 20, 2014, the district court found in favor of the State and the private interest defendants. The court found that the condemnation order could only convey an easement interest because that was all the statute provided for at the time. Any conveyance of an interest beyond an easement was void. The court also found that the private right-of-way deeds only conveyed an easement interest to the railroads.

Both the railroad and its lessee, G-4, LLC, appealed this judgment to the Supreme Court, which issued an opinion in this case on July 15, 2015. For the tract to which the State claims interest, the Supreme Court found that the deed was ambiguous and remanded the case back to the district court for further trial.

Stenehjem ex rel. State of North Dakota v. United States:

In 2012, the Attorney General filed suit in federal court naming the United States as the defendant. The basis for the lawsuit is that the United States, through its Forest Service, refuses to recognize that section lines in the Little Missouri, Sheyenne, and Cedar River National Grasslands are subject to a public easement to travel over thirty-three feet on each side of section lines. On several occasions, this refusal has required that roads be built entirely on state school land. Both federal and state law recognize a public easement over section lines, even section lines on federal

land, and the suit asks that the court declare that the Grasslands are subject to this public easement.

In April 2013, the United States moved to dismiss both the State and County complaints arguing the State and Counties' claims were barred by the 12-year statute of limitations. All parties agreed to conduct "jurisdictional" discovery which included the exchange of interrogatories, requests for production of documents, and depositions; the United States would subsequently be allowed to refile its brief. The parties exchanged thousands of pages of documents and conducted over 20 depositions. During discovery various special interest groups also attempted to intervene in the lawsuit, but their request was denied by the federal district court. The denial of intervention was appealed to the Eighth Circuit Court of Appeals and was affirmed on June 1, 2015. The United States re-filed its brief in support of its motion to dismiss on September 26, 2014 and the State and Counties responded on January 27, 2015. The United States filed its reply brief on April 30, 2015. On May 22, 2015, the State and Counties requested leave to file a surreply, which was then filed on May 28, 2015. The United States replied to the surreply on June 8, 2015. To date, no party has requested oral argument. The parties are awaiting a ruling from the Court on the United States' motion to dismiss.

A D J O U R N

There being no further business, the meeting was adjourned at 4:14 PM.

Jack Dalrymple, Chairman
Board of University and School Lands

Lance D. Gaebe, Secretary
Board of University and School Lands