

NORTH DAKOTA
DEPARTMENT OF
TRUST LANDS



JODI SMITH
COMMISSIONER

LITIGATION
UPDATE



BOARD OF
UNIVERSITY &
SCHOOL LANDS
DEPARTMENT OF
TRUST LANDS



LITIGATION UPDATE

- Continental
- Newfield

CONTINENTAL

December 2017 – Continental is seeking Declaratory Judgment that is currently paying royalties properly under the Board's lease. Specifically, Continental is asking the Court to order that Continental is allowed to deduct certain costs from royalty payments and that it does not owe the Defendants any additional royalty payments based on previous deductions.

The Court signed the Order Granting Joint Motion to Extend Stay on October 21, 2019.

NEWFIELD

March 7, 2018 - 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.

June 20 , 2019 - Oral Argument before the Supreme Court was held.

July 11, 2019 - The Supreme Court entered its Judgment reversing the Judgment of the McKenzie County District Court.

September 4, 2019 - Defendants/Appellants filed their Response to Petition for Rehearing.

September 9, 2019 - A Corrected Opinion was filed by the North Dakota Supreme Court changing the page number of a citation.

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.

NEWFIELD

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.

NEWFIELD

www.land.nd.gov

www.ndcourts.gov/supreme-court/dockets/20190088

66TH LEGISLATIVE
ASSEMBLY



2017-19 BIENNIUM



SENATE BILL 2212

- Allows Department to assess a penalty to operators who are non-compliant of the royalty audits.
- 30 days to get into compliance
- \$2,000 per day penalty
- District Court will review if the operator remains non-complaint; and if the Court rules the operator has been non-complaint, then the operator must pay royalties, reasonable cost, fees, financial expenses incurred; and the Court may assess to \$2,000 daily fine.



HOUSE BILL 1392

Confidentiality of records
submitted for Revenue
Compliance audits

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