

Minutes of a Meeting of the Industrial Commission of North Dakota
Held on December 16, 2015 beginning at 1:00 p.m.
Governor's Conference Room - State Capitol

Present: Governor Jack Dalrymple, Chairman
Attorney General Wayne Stenehjem
Agriculture Commissioner Doug Goehring

Also

Present: Jolene Kline, Housing Finance Agency
Pat Nagel, Housing Finance Agency
Dave Flohr, Housing Finance Agency
Max Wetz, Housing Finance Agency
DeAnn Ament, Public Finance Authority
Bonnie Storbakken, Governor's Office
Members of the Press

Governor Dalrymple called the Industrial Commission meeting to order at 1:00 p.m. and the Commission took up Housing Finance Agency business.

Ms. Jolene Kline, Housing Finance Agency Executive Director, presented the Housing Finance Agency Home Mortgage Finance Program 2016 General Authorization Resolution authorizing the issuance of bonds in an amount not to exceed \$300,000,000 for long-term bonds and \$100,000,000 for short-term bonds. She said these would be bonds issued as part of the Agency's 1994 General Resolution. This is the proposed funding level for 2016.

It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the Industrial Commission approves the following resolution:

NORTH DAKOTA HOUSING FINANCE AGENCY
HOUSING FINANCE PROGRAM BONDS
HOME MORTGAGE FINANCE PROGRAM

2016 GENERAL AUTHORIZATION RESOLUTION

WHEREAS, the Industrial Commission of North Dakota (the "Commission") acting in its capacity as a state housing finance agency, i.e., the North Dakota Housing Finance Agency (the "Agency"), is empowered by the provisions of the North Dakota Century Code Chapter 54-17 (the "Act") to establish, and has established, a home mortgage finance program to contract to purchase from lenders mortgage loans made to persons or families of low or moderate income to finance the purchase or substantial rehabilitation of owner-occupied, residential dwelling units; and

WHEREAS, the Commission adopted the Housing Finance Program General Bond Resolution of 1994, on July 21, 1994, as amended (the "**General Resolution**"), wherein Wells Fargo Bank, National Association, Minneapolis, Minnesota, was appointed trustee (the "**Trustee**"), which General Resolution was accepted by the Trustee, and which General Resolution is hereby ratified and confirmed; and

WHEREAS, the Agency has previously issued certain bonds pursuant to the General Resolution (the "1994 Bonds") and the General Bond Resolution of 2009 adopted by the Commission on November 25, 2009 (the "2009 General Bond Resolution"), both of which allow for the issuance of additional bonds thereunder and the refunding of certain bonds currently outstanding thereunder; and

WHEREAS, with respect to the proceeds of the bonds issued pursuant to the General Resolution and the 2009 General Bond Resolution (collectively, the "Bonds"), such proceeds will be applied in

accordance with the Act to provide funding for the programs of the Agency to finance decent, safe and sanitary housing for persons and families of low and moderate income (the "Program"); and

WHEREAS, it is in the best interests of the Commission acting as the Agency to appoint as its agents the Executive Director, the Director of Homeownership Programs and the Chief Financial Officer of the Agency (the "Authorized Officers") for the negotiation of the terms of sale of the Bonds, and to sign such agreements on behalf of the Commission after such terms of sale have been negotiated, and such certificates and other documents as are necessary and customary to complete the sale of the Bonds, and to enter into agreements for their sale by the Agency and purchase by the Underwriters described below, private entities or the U.S. Treasury and/or instrumentalities thereof, subject to the limitations herein established with regard to the Bonds:

- (a) a maximum principal amount of long-term bonds of \$300,000,000;
- (b) a maximum principal amount of short-term bonds of \$100,000,000;
- (c) a final maturity of not later than forty-four years from the date of issuance;
- (d) a maximum average annual interest rate of 7.00% for fixed rate bonds and for variable rate bonds an initial rate of 7.00%, determined at the time of Bond pricing; and

WHEREAS, in furtherance of the above-stated objectives, the Commission, the Agency, and RBC Capital Markets, Wells Fargo Securities, Bank of America Merrill Lynch, Raymond James & Associates, or successors thereto, affiliates thereof, or other investment banking institutions (the "Underwriters") or purchasers approved by an Authorized Officer, will cause to be prepared and presented to the Commission for adoption after the sale of the Bonds, such bond issuance documents as are necessary for issuance, but prior to delivery of the Bonds; and

WHEREAS, Section 1.150-2 of the Internal Revenue Code regulations (the "Tax Regulations") provides, if the Agency intends to finance mortgage loans with its own funds or warehouse funds, and then reimburse itself with Bond proceeds, that the Agency declare its intention to do so prior to so financing such mortgage loans.

NOW BE IT HEREWITH RESOLVED:

1. The sale of the Bonds to the Underwriters, private entities or governmental entities in accordance with the limitations herein established is hereby authorized and the officers, agents and employees of the Commission and the Agency are hereby authorized, empowered and directed to take any actions required to effect such transactions and to execute any instruments and take any actions required to effect the issuance of the Bonds and to apply the monies received by the Commission from the bond proceeds in such manner as is necessary to give effect to the Program.

2. Any acts of the officers, agents and employees of the Commission and the Agency which are in conformity with the purpose and intent of this General Authorization Resolution and in furtherance of the sale of the Bonds shall be submitted for approval, ratification and confirmation prior to the delivery of the Bonds.

3. The appointment of the Agency's Executive Director, the Director of Homeownership Programs and the Chief Financial Officer of the Agency as Authorized Officers with the authority to accept and execute Mortgage Purchase Agreements with Lenders and Servicing Agreements with

Servicers, and the prior execution thereof by any such Authorized Officer, shall be and are in all respects ratified, approved, and confirmed.

4. The use and distribution by the Underwriters of initial offering documents in the form of Official Statement(s) as contemplated and in conformity with the provisions of sale of the Bonds is hereby authorized and the use thereof prior to the date of ratification and confirmation as of the date first circulated is also authorized.

5. The Bonds shall be executed by the manual or facsimile signatures of the Governor, the Attorney General, the Agriculture Commissioner and an Authorized Officer, and with the manual or a facsimile of the Official Seal of the Commission impressed, imprinted or otherwise reproduced thereon.

6. The Authorized Officers are authorized and empowered to enter into interest rate hedging agreements with respect to any Bonds with a variable interest rate, including replacement of expiring hedging agreements, but only for the purposes and in accordance with the Commission's Swap Management and Execution Policy as then in effect, and in no case may the national amount of any such agreement exceed the principal amount of variable interest rate Bonds whose interest rate is being hedged.

7. Program Directive No. 59, adopted by the Commission on September 23, 1998, authorizing the changing of Mortgage Loan purchase price, fees and points and interest rate is still in effect and is hereby ratified and confirmed.

8. The Master Reimbursement Resolution, adopted October 3, 1997, is hereby ratified and confirmed, and proceeds from the sale of the Bonds may be used to reimburse the Agency for its purchase of any Mortgage Loans in anticipation of the availability of the proceeds from the sale of the Bonds; in particular, the Agency hereby declares its intention, within the meaning of the Tax Code Regulations, to facilitate continuous funding of its home mortgage finance program (as described above) by, from time to time, financing Mortgage Loans and then issuing Bonds in one or more series within 18 months thereof to reimburse itself for such financing, all in an amount presently expected to not exceed the amount of long-term Bonds authorized by Section 1 hereof, and hereby confirms that any Authorized Officer is authorized to also so declare the intention of the Agency within the meaning of said Tax Regulations, provided that any such declaration does not authorize or obligate the Agency to issue any such Bonds.

On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Ms. Kline discussed the appointment of a public hearing representative for a public hearing regarding the issuance of bonds to be held on January 25, 2016 as follows:

INDUSTRIAL COMMISSION OF NORTH DAKOTA
Acting as the
NORTH DAKOTA HOUSING FINANCE AGENCY
Appointment of Public Hearing Representative
and
Order and Direction for Publication

The Executive Director of the North Dakota Housing Finance Agency (the "Agency"), is hereby appointed to represent the North Dakota Industrial Commission, (the "Commission"), acting as the Agency at the public hearing regarding the proposed issuance of Housing Finance Program Bonds, Home Mortgage Finance Program, (the "Bonds") by the Agency, to be held in Bismarck,

North Dakota, on January 25, 2016 at 10:00 A.M. (CT), as noticed by the Notice of Public Hearing hereto attached.

As Hearing Representative, the Executive Director will receive in behalf of the Commission public comments, oral or written, and advise the Commission of the substance of the testimony given at the public hearing prior to the date of issuance of the Bonds.

The Commission orders and directs the publication of the Notice of Public Hearing hereto attached to be published prior to the date set for the Public Hearing in the daily newspapers listed on Attachment 1, attached hereto, in the State of North Dakota in accordance with Internal Revenue Code Section 147(f).

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission appoints the Executive Director of the Housing Finance Agency to represent the Commission at the public hearing to be held on January 25, 2016. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Ms. Kline presented a resolution delegating authority to North Dakota Housing Finance Agency employees to execute paper or electronic instruments, documents and forms required by Freddie Mac and authorizing those employees to provide wire transfer or Automated Clearing House instructions to the Federal Home Loan Mortgage Corporation ("Freddie Mac") to transfer funds in connection with the sale of mortgages to Freddie Mac and authorizing the Industrial Commission's Secretary to sign Freddie Mac Form 9885F-1 as follows:

RE: Freddie Mac Resolution

Agency staff is requesting the Industrial Commission approve the Freddie Mac Form 9885F-1 and Exhibit A – Resolution of the Board of Directors.

The purpose of the documents is to allow designated Agency employees to execute paper or electronic instruments, documents, and forms required by Freddie Mac in the sale of mortgages. It also allows those designated employees to provide Freddie Mac with wire transfer instructions to transfer funds by wire transfer, ACH, or other funds transfer system in connection with the sale of mortgages to Freddie Mac.

The agency received approval from Freddie Mac to act as a seller-servicer for home mortgage loans, providing another option for the agency in the event that taxable bond issues are not feasible.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission adopts a resolution delegating authority to North Dakota Housing Finance Agency employees to execute paper or electronic instruments, documents and forms required by Freddie Mac and authorizing those employees to provide wire transfer or Automated Clearing House instructions to the Federal Home Loan Mortgage Corporation to transfer funds in connection with the sale of mortgages to Freddie Mac and authorizing the Industrial Commission's Secretary to sign Freddie Mac Form 9885F-1. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

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Ms. Kline updated the Commission regarding the discussions the Agency staff has been having with Ms. Nancy Hodur and Dean Bangsund at NDSU for an update of the Agency's 2012 Housing Needs Assessment. The Agency is finally at the stage where it is going to enter into a contract with NDSU to do that update--the cost is \$170,000 with no indirect costs included. Anticipated completion is the end of June 2016. It is the Agency's hope that the information will be useful to a variety of entities including local communities to gauge what their local housing needs are as well as for the Commission and the Agency to determine what funding level is needed for future housing needs.

Being no further Housing Finance Agency business, Governor Dalrymple adjourned this portion of the meeting at 1:05 p.m. and the Commission took up Public Finance Authority business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

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Present: Governor Jack Dalrymple, Chairman
Attorney General Wayne Stenehjem
Agriculture Commissioner Doug Goehring

Also

Present: DeAnn Ament, Public Finance Authority
Bonnie Storbakken, Governor's Office
Members of the Press

Governor Dalrymple called the Public Finance Authority portion of the Industrial Commission meeting to order at 1:06 p.m. following completion of Housing Finance Agency business.

Ms. DeAnn Ament, Public Finance Authority Executive Director, presented a Capital Financing Program loan to Dakota Rural Water District in the amount of \$1,800,000 for a series of improvements that will be taking place in 2016. She said they have raised their rates and plan to continue to raise the rates and should be able to repay this thirty year loan without any issues. The Advisory Committee recommended approval.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission approves the following resolution:

INDUSTRIAL COMMISSION OF NORTH DAKOTA
NORTH DAKOTA PUBLIC FINANCE AUTHORITY
RESOLUTION APPROVING
LOAN AND PURCHASE OF MUNICIPAL SECURITIES
WITH FUNDS HELD IN THE CAPITAL FINANCING PROGRAM
GENERAL BOND RESOLUTION OPERATING ACCOUNT

WHEREAS, Dakota Rural Water District (the "Political Subdivision") has requested a loan in the amount of \$1,800,000 (the "Loan") from the North Dakota Public Finance Authority (the "NDPFA") to finance system improvements; and

Whereas, the Political Subdivision will issue revenue bonds payable with user fees to repay the loan;

Whereas, upon a review of the loan application, the NDPFA's Advisory Committee is recommending approval of the Loan; and

NOW, THEREFORE, BE IT RESOLVED by the Industrial Commission of North Dakota as follows:

1. The Loan is hereby approved.
2. The Executive Director is authorized to fund the Loan as an eligible investment with funds available under the NDPFA's Capital Financing Program General Bond Resolution Operating Account, upon receipt of the Municipal Securities described and authorized to be issued in the Resolution to be adopted by the Political Subdivision's governing body.

On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Ms. Ament presented a Capital Financing Program Series 2016A Resolution in an amount up to \$10,000,000. She said this directly relates to the loan that was just approved and she is asking for

permission to sell up to \$10 million in bonds. She anticipates a couple loan applications next month so those loans could be combined into this bond issue if the loans were approved.

It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the Industrial Commission approves the following resolution:

**SERIES RESOLUTION FOR
UP TO
\$10,000,000
NORTH DAKOTA PUBLIC FINANCE AUTHORITY
CAPITAL FINANCING PROGRAM BONDS
SERIES 2016A**

WHEREAS, the Industrial Commission of the State of North Dakota (the "Commission"), acting pursuant to provisions of the North Dakota Public Finance Authority Act, Chapter 6-09.4, North Dakota Century Code (the "Act"), and pursuant to the General Bond Resolution adopted by it on March 2, 1990, as amended March 16, 1990, March 30, 1992, and May 13, 1998 (the "General Bond Resolution"), desires to authorize and direct the issuance by the North Dakota Public Finance Authority (the "Authority") (formerly the North Dakota Municipal Bond Bank) of a Series of its Capital Financing Program Bonds (the "Bonds");

WHEREAS, the General Bond Resolution authorizes the issuance of Bonds in one or more Series pursuant to a Series Resolution authorizing each Series;

WHEREAS, the Industrial Commission of North Dakota has determined that it is necessary and expedient that the Authority issue at this time a Series of Bonds to be designated "North Dakota Public Finance Authority Capital Financing Program Bonds, Series 2016A" (the "Series 2016A Bonds") to provide moneys to lend to Dakota Rural Water District (the "District") through the purchase of approximately \$1,800,000 of water revenue bonds to finance improvements to its water system and, upon compliance with Section 6-09.4-06, North Dakota Century Code, to acquire obligations of other Political Subdivisions (as defined in Section 6-09.4-03) (the District and such other political subdivisions being referred to herein as the "Political Subdivisions") requesting loans prior to the issuance of the Series 2016A Bonds (the "Municipal Securities"), all pursuant to the General Bond Resolution;

WHEREAS, the Reserve Requirement for the Bonds will be provided by the Political Subdivisions and/or a letter of credit to be issued by the Bank of North Dakota pursuant to the Capital Financing Program Reserve Fund Master Letter of Credit and Reimbursement Agreement (the "Reimbursement Agreement") between the Bank of North Dakota and Authority; and

WHEREAS, the Municipal Securities are expected to mature on June 1 of each of the years and in the principal amounts determined by the Executive Director, not exceeding an aggregate of \$10,000,000 and having a final maturity not later than June 1, 2046.

WHEREAS, the Commission has received and reviewed a report of Public Financial Management, Inc., financial consultants to the Commission, describing the estimated costs to the District of borrowing for its project through the Capital Financing Program as compared to the costs of borrowing through other alternatives available to such Political Subdivision, copies of which are on file in the offices of the Commission.

NOW, THEREFORE, BE IT RESOLVED by the Industrial Commission of North Dakota as follows:

ARTICLE I

Authority, Definitions and Findings

Section 1.01. Series Resolution. This Series Resolution is adopted in accordance with the provisions of Section 2.02 of the General Bond Resolution and pursuant to the authority contained in the Act.

Section 1.02. Definitions. All terms defined in Article I of the General Bond Resolution or in the Act shall have the same meanings, respectively, in this Series Resolution and with respect to the Series 2016A Bonds as such terms are given in said Article I of the General Bond Resolution or the Act.

Section 1.03. Findings. The Commission hereby determines with respect to the Political Subdivisions for which reports were received that the reasons for the Authority's involvement in the bond issue through the Capital Financing Program are that (a) the net borrowing costs for the Political Subdivisions for the financings are expected to be lower under the Capital Financing Program than they would be under any other borrowing method available to the Political Subdivisions, (b) issuance costs and reserves required to be funded by the Political Subdivisions are lower than would be the case under other methods so that the aggregate amount required to be borrowed by the Political Subdivisions is less than other competitive means of borrowing, and (c) the Political Subdivisions voluntarily requested financing through the Authority's Capital Financing Program.

ARTICLE II

Authorization of Series 2016A Bonds

Section 2.01. Authorization of Series 2016A Bonds. Pursuant to the General Bond Resolution, a Series of Capital Financing Program Bonds to be designated as the "Series 2016A Bonds" is hereby created and authorized to be issued in the aggregate principal amount of up to \$10,000,000; provided that the terms of the Series 2016A Bonds may be established or revised to provide for any additional obligations authorized by the Commission or for the reduction in the amount of the Municipal Securities.

Section 2.02. Purposes. The Series 2016A Bonds are being issued to provide funds to be loaned to the Political Subdivisions by purchasing such Municipal Securities to be issued by the Political Subdivisions as are approved by this Commission pursuant to the Act. In the event any

Political Subdivision receiving such approval fails to issue its Municipal Securities as contemplated by September 1, 2016, proceeds of the Series 2016A Bonds allocated for such purpose may be used for the purchase of any other Municipal Securities subsequently approved by the Commission or for the redemption of Series 2016A Bonds as provided in Section 2.04. It is hereby found and determined in accordance with Section 2.11 of the General Bond Resolution that the Municipal Securities will be in an amount and will mature and bear interest at rates sufficient to pay the principal of and interest on the Series 2016A Bonds when due.

Section 2.03. Date, Payment Dates, and Maturities. The Series 2016A Bonds shall be dated as of a date determined by the Executive Director to be appropriate, except that Series 2016A Bonds issued on or subsequent to the first interest payment date shall be dated as of the most recent date to which interest has been duly paid or provided for. The Series 2016A Bonds shall bear interest from their date, payable semiannually on June 1 and December 1 in each year, commencing December 1, 2016. The Series 2016A Bonds shall mature, or at the option of the purchaser be subject to mandatory redemption, on June 1 in each of the years and in the principal amounts determined by the Executive Director to be necessary to accommodate the needs of the Political Subdivisions. The Series 2016A Bonds may be issued in any amount not more than \$10,000,000 and maturing in amounts on each June 1 as determined by the Executive Director.

Section 2.04. Redemption. The Series 2016A Bonds maturing on or after June 1, 2027, are subject to redemption and prior payment at the option of the Authority at par plus accrued interest on June 1, 2026, and any date thereafter, in whole or in part in such order as the Executive Director may determine. If the Executive Director determines that the Series 2016A Bonds shall so provide, the Series 2016A Bonds are also subject to mandatory redemption on December 1, 2016, at the amortized issue price as determined by the Executive Director plus accrued interest, in whole or in part in such order as the Authority may determine, to the extent that the net proceeds of such Series exceeds the net proceeds of the Municipal Securities which have been purchased by the Authority with the proceeds thereof on or prior to October 1, 2016.

Section 2.05. Interest Rates. The Series 2016A Bonds shall bear interest at such rate or rates as the Executive Director may approve based on the public sale procedure described in Section 2.08, provided that the net interest rate for the Series 2016A Bonds shall not exceed 5.00% per annum.

Section 2.06. Denominations, Numbers, and Letters. Each Series 2016A Bond shall be in an integral multiple of \$5,000 and shall be numbered separately from R-1 consecutively upwards in order of issuance.

Section 2.07. Registrar and Paying Agent. The principal of the Series 2016A Bonds shall be payable upon presentation and surrender thereof at the main office of the Bank of North Dakota, Bismarck, North Dakota, which is hereby appointed Registrar and Paying Agent under the General Bond Resolution. Interest on the Series 2016A Bonds shall be payable by wire transfer or by check or draft mailed to the registered Owners of record as of the 15th day of the month preceding each interest payment date at their registered addresses.

Section 2.08. Sale of Series 2016A Bonds. The Series 2016A Bonds shall be sold at public sale pursuant to and in accordance with the Official Terms of Offering which shall be prepared by the Executive Director in customary form and shall be mailed to prospective bidders in advance of the sale. Upon receipt and acceptance of a bid conforming to the Official Terms of Offering, the Executive Director is authorized to execute the bid form submitted by the successful bidder in acceptance thereof and to return the good faith deposits of the unsuccessful bidders.

Section 2.09. Official Statement. A Preliminary Official Statement of the Authority in respect of the Series 2016A Bonds, similar in form to previous official statements shall be prepared by the Executive Director and made available to members of the Commission, and a final Official Statement shall be distributed with such changes, omissions, insertions and revisions as the Executive Director shall deem advisable in order to make such Official Statement a complete and accurate disclosure of all material facts to prospective purchasers of the Series 2016A Bonds. The Executive Director shall sign one or more copies of such final Official Statement on behalf of the Authority, and at least one such signed copy shall be filed with the permanent records of the Commission.

Section 2.10. Loan Agreement. The forms of Loan Agreement proposed to be entered into between the Authority and the Political Subdivisions are hereby approved in substantially the form on file and the Executive Director is hereby authorized to execute the same with all such changes and revisions therein as the Executive Director shall approve.

ARTICLE III

Use of Proceeds of Series 2016A Bonds

Section 3.01. Reserve Fund Deposit; Letter of Credit. Upon or prior to the issuance and sale of the Series 2016A Bonds and as a condition to the delivery thereof, the Authority shall have received a letter of credit provided by the Bank of North Dakota in accordance with the Reimbursement Agreement (the "Letter of Credit") in an amount equal to the largest amount of money required by the terms of the Series 2016A Bonds to be paid on maturing principal of and interest on the Series 2016A Bonds in any period of 24 consecutive months (the "Series Reserve Fund Requirement"), less such amounts as may be deposited in the Reserve Fund from the proceeds of the Series 2016A Bonds as directed by the Executive Director or from funds deposited by the Political Subdivisions. The Executive Director is authorized to deposit up to one half of the Reserve Fund Requirement into the Reserve Fund from Series 2016A Bond proceeds. The proceeds of any draw on the Letter of Credit are pledged to the Reserve Fund and may be applied only for the purposes for which the Reserve Fund may be applied. The Authority shall make a draw on the Letter of Credit at any time funds thereunder are necessary to pay principal of or interest on Bonds issued under the General Bond Resolution when due. In the event of a draw on the Letter of Credit which has not been reimbursed by legislative appropriation, the Authority shall reimburse the Bank of North Dakota only after payment of the Series 2016A Bonds and solely from amounts on deposit in the Series 2016A Account of the Reserve Fund, subject and subordinate to the prior pledge to the holders of Bonds under the General Bond Resolution.

Section 3.02. Deposit to Costs of Issuance Fund. Upon receipt of the proceeds of sale of the Series 2016A Bonds, the Authority shall deposit in the Costs of Issuance Fund from the proceeds of the Series 2016A Bonds the sum determined by the Executive Director to be used to pay Costs of Issuance of the Series 2016A Bonds in accordance with the provisions of the General Bond Resolution.

Section 3.03. Deposit to Series 2016A Account of Loan Fund. The Authority shall deposit all other proceeds derived from the sale of the Series 2016A Bonds which are not deposited in the Reserve Fund or Cost of Issuance Fund in the Series 2016A Account of the Loan Fund, which is hereby created, to be applied to the making of loans to the Political Subdivisions through the purchase of the Municipal Securities at the prices corresponding to the percentages of par bid for the Series 2016A Bonds plus accrued interest for the period from the date of the Series 2016A Bonds to the date of purchase; provided that such accrued interest shall not in any event exceed the amount of accrued interest received from the sale of the Series 2016A Bonds plus all interest earnings on the amounts deposited in the Series 2016A Account of the Loan Fund under the General Bond Resolution.

ARTICLE IV

Form, Execution and Other Details of Series 2016A Bonds

Section 4.01. Form of Series 2016A Bonds. The Series 2016A Bonds, the Registrar's Authentication Certificate and the form of assignment shall be in substantially the form set forth in Exhibit A to the General Bond Resolution, with all such insertions as may be consistent with this Series Resolution and the successful bid. The approving legal opinion of bond counsel may be printed on the reverse side of the Bonds and certified by the Executive Director.

Section 4.02. Execution and Delivery. The Series 2016A Bonds shall be executed by the facsimile signatures of the Chairman and Executive Director and delivered as provided in the General Bond Resolution.

ARTICLE V

Special Covenants

The Commission and the Authority covenant and agree with the persons who at any time are Holders and Owners of the Series 2016A Bonds that so long as any Series 2016A Bonds remain outstanding and unpaid:

Section 5.01. Observe General Bond Resolution, Series Resolution, and Loan Agreement. The Commission and the Authority will faithfully keep and observe all the terms, provisions and covenants contained in the General Bond Resolution, this Series Resolution and the Loan Agreements.

Section 5.02. Maintenance of Tax-Exempt Status. Neither the Commission nor the Authority shall take, or permit the Political Subdivisions to take, any action that would cause the Series 2016A Bonds to be "private activity bonds" (other than "qualified 501(c)(3) bonds")

within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended. The Commission and the Authority shall comply with all the rebate requirements imposed under Section 148(f) of the Internal Revenue Code of 1986, as amended, and regulations thereunder, which are necessary to preserve the tax exempt status of the Series 2016A Bonds, including (if applicable) the requirement to make periodic calculations of the amount subject to rebate thereunder and the requirement to make all required rebates to the United States. The Authority agrees to use any moneys on deposit in any Fund or Account maintained under the General Bond Resolution to pay any such rebate (or penalty in lieu thereof) when due. In addition, the Authority shall make no investment of funds or take or permit any Political Subdivisions to take any action that would cause the Series 2016A Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, and regulations thereunder. All terms used in this Section 5.02 shall have the meanings provided in the Internal Revenue Code of 1986, as amended, and regulations thereunder. The Executive Director shall execute any certificates as may be necessary or appropriate to establish the tax exempt status of the Bonds.

Section 5.03. Continuing Disclosure. The Continuing Disclosure Certificate proposed to be executed and delivered in connection with the Bonds is hereby approved and the Authority’s undertaking therein shall be a contractual obligation of the Authority for the benefit of the holders of the Bonds.

ARTICLE VI

Book-Entry Bonds

Section 6.01. Depository. The Bonds shall be initially issued in the form of a separate single typewritten or printed fully registered bond. Upon initial issuance, the ownership of each such Bond shall be registered in the registration books kept by the Bond Registrar in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York, and its successors and assigns (“DTC”). Except as provided in Section 6.03 hereof, all of the outstanding Bonds shall be registered in the registration books kept by the Bond Registrar in the name of Cede & Co., as nominee of DTC.

With respect to Bonds registered in the registration books kept by the Bond Registrar in the name of Cede & Co., a nominee of DTC, the Authority, the Bond Registrar and the Paying Agent shall have no responsibility or obligation to any broker dealers, banks and other financial institutions from time to time for which DTC holds Bonds as securities depository (the “Participants”) or to any other person on behalf of which a Participant holds an interest in the Bonds, including but not limited to any responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any Participant or any other person other than a registered owner of Bonds, as shown by the registration books kept by the Bond Registrar, of any notice with respect to the Bonds, including any notice of redemption, or (iii) the payment to any Participant or any other person, other than a registered owner of Bonds, or any amount with respect to principal of, premium, if any, or interest on the Bonds. The Authority, the Bond Registrar and the Paying Agent may treat and consider the person in whose name each Bond is registered in the registration books kept by the Bond Registrar as the holder and absolute owner

of such Bond for the purpose of payment of principal, premium and interest with respect to such Bond, for the purpose of registering transfers with respect to such Bond, and for all other purposes whatsoever. The Paying Agent shall pay all principal of, premium, if any, and interest on the Bonds only to or on the order of the respective registered owners, as shown in the registration books kept by the Bond Registrar, and all such payments shall be valid and effectual to fully satisfy and discharge the Authority's obligations with respect to payment of principal of, premium, if any, or interest on the Bonds to the extent of the sum or sums so paid. No person other than a registered owner of Bonds, as shown in the registration books kept by the Bond Registrar, shall receive a certificate Bond evidencing the obligation of the Authority to make payments of principal, premium, if any, or interest pursuant to this Bond Resolution. Upon delivery by DTC to the Executive Director of a written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions herein with respect to record dates, the words "Cede & Co." shall refer to such new nominee of DTC; and upon receipt of such a notice, the Executive Director shall promptly deliver a copy of the same to the Bond Registrar and Paying Agent, if the Bond Registrar or Paying Agent is other than the Executive Director.

Section 6.02. Letter of Representations. The blanket Representation Letter submitted to DTC, which is on file with the Executive Director, is hereby confirmed. Any Paying Agent or Bond Registrar appointed by the Authority with respect to the Bonds shall agree to take all action necessary for all representations of the Authority in the Representation Letter with respect to the Bond Registrar and Paying Agent, respectively, to at all times be complied with.

Section 6.03. Discontinuance of Book-Entry. In the event the Authority, by resolution of the Industrial Commission, determines that it is in the best interest of the persons having beneficial interests in the Bonds that they be able to obtain Bond certificates, the Authority shall notify DTC, whereupon DTC shall notify the Participants, of the availability through DTC of Bond certificates. In such event the Authority shall issue, transfer and exchange Bond certificates as requested by DTC and any other registered owners in accordance with the provisions of this Bond Resolution. DTC may determine to discontinue providing its services with respect to the Bonds at any time by giving notice to the Authority and discharging its responsibilities with respect thereto under applicable law. In such event, if no successor securities depository is appointed, the Authority shall issue and the Bond Registrar shall authenticate Bond certificates in accordance with this Series Resolution and the provisions hereof shall apply to the transfer, exchange and method of payment thereof.

Section 6.04. Payments and Notices. Notwithstanding any other provision of this Series Resolution to the contrary, so long as any Bond is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, premium, if any, and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, in the manner provided in the Representation Letter.

ARTICLE VII

Miscellaneous

Section 7.01. Amendments. This Series Resolution may be amended as provided in the General Bond Resolution.

Section 7.02. Effective Date. This Series Resolution is effective immediately.

On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Attorney General Stenehjem said the RFP for bond counsel for a term up to four years was sent out October 23 with the deadline of December 2 for submitting proposals. Three firms submitted proposals: Dorsey Whitney, Faegre Baker Daniels and Kutak Rock. There was a committee convened consisting of Jessica Cameron Mitchell, Matt Schnackenberg along with Ms. Fine, John Fox, Kylee Merkel and Ms. Ament and their recommendation is we accept the proposal of Faegre Baker Daniels for a term of three years because the lead attorney, Stephen Rosholt is going to be retiring pursuant to their firm's mandatory retirement.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission accepts the recommendation of Attorney General Stenehjem and appoints Faegre Baker Daniels as bond counsel for the Public Finance Authority for a term of three years. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Ms. Ament said this year they hit \$1 billion in loan approvals for the State Revolving Fund Programs combined and the Public Finance Authority has funded over \$800 million of those loans. The Commission commended Ms. Ament on reaching that milestone.

Being no further Public Finance Authority business, Governor Dalrymple adjourned this portion of the meeting at 1:10 p.m. and the Commission took up Outdoor Heritage Fund business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

Minutes of a Meeting of the Industrial Commission of North Dakota
Held on December 16, 2015 beginning at 1:00 p.m.
Governor's Conference Room - State Capitol

Present: Governor Jack Dalrymple, Chairman
Attorney General Wayne Stenehjem
Agriculture Commissioner Doug Goehring

Also Present: Wade Moser, Outdoor Heritage Fund Advisory Board
Terry Allbee, ND Natural Resources Trust
Jim Melchior, Outdoor Heritage Fund Advisory Board
Bonnie Storbakken, Governor's Office
Members of the Press

Governor Dalrymple called the Outdoor Heritage Fund portion of the Industrial Commission meeting to order at 1:11 p.m. following completion of Public Finance Authority business.

Ms. Karlene Fine, Industrial Commission Executive Director and Secretary, presented the Outdoor Heritage Fund Financial Report as follows:

Outdoor Heritage Fund (294)
Financial Statement
2015-2017 Biennium
December 16, 2015 Industrial Commission Meeting

	<u>Cash Balance</u>
July 1, 2015 Balance	\$16,173,871.80
Interest Revenue through October 31, 2015	\$ 2,022.70
Revenues through October 31, 2015	\$ 2,640,440.40
Grant Expenditures through October 31, 2015	\$ (2,160,195.80)
Administrative Expenditures through October 31, 2015	<u>\$ (368.84)</u>
	\$16,655,770.26
Outstanding Administrative Expenses	\$ (149,631.16)
Outstanding Project Commitments as of October 31, 2015	<u>\$(19,019,404.24)</u>
Balance	\$(2,513,265.14)

Outdoor Heritage Fund
Continuing Appropriation Authority
2015-2017 Biennium

	Authority	Leg. Forecast
Balance July 1, 2015	\$(5,005,728.24)	\$(5,005,728.24)
Interest Revenue	\$ 10,000.00	\$ 10,000.00
Revenues Fiscal Year 2016	\$20,000,000.00	\$13,081,433.00
Revenues Fiscal Year 2017	<u>\$20,000,000.00</u>	<u>\$14,421,208.00</u>
	\$35,004,271.76	\$22,506,912.76
Administration Expenditures	\$ (150,000.00)	\$ (150,000.00)
Project Commitments 2015-2017	<u>\$ (00.00)</u>	<u>\$ (00.00)</u>
Available Funding Authority	\$34,854,271.76	\$22,356,912.76

54-17.8-02 North Dakota Outdoor Heritage Fund – Continuing appropriation

There is created a North Dakota Outdoor Heritage Fund that is governed by the Commission. Any money deposited in the Fund is appropriated on a continuing basis to the Commission for the purposes of this chapter. Interest earned by the Fund must be credited to the Fund. The Commission shall keep accurate records of all financial transactions performed under this chapter.

57-51-15. Outdoor Heritage Fund - Deposits.

First the tax revenue collected under this chapter equal to one percent of the gross value at the well of the oil and one-fifth of the tax on gas must be deposited with the State Treasurer who shall: ...

(f) Credit eight percent of the amount available under this subsection to the North Dakota Outdoor Heritage Fund, but not in an amount exceeding twenty million dollars in a state fiscal year and not in an amount exceeding forty million dollars per biennium; ...

There was discussion regarding the level of funding and the outstanding commitments. Ms. Fine indicated that a number of the contracts that are reflected under outstanding commitments are for projects where the funding will be dispersed over a 10 year period. The Commission will need to continue to monitor the amount of revenues based on oil tax revenues as they look at future rounds.

Mr. Wade Moser, Outdoor Heritage Fund Advisory Board Chairman, discussed the following Outdoor Heritage Fund Advisory Board ("Board") Grant Round 6 recommendations in the total corrected amount of \$3,593,093 as follows: (A copy of each summary is available in the Commission files.) He said the Board did have a discussion of the finances at their November 30 meeting and based on whatever information comes from the new forecast will make the appropriate changes and proceed with caution. The Board does not want to overcommit the funding this biennium.

Mr. Moser said there were seven proposals for the Commission's consideration. Twenty applications had been considered this grant round. He stated they are listed by the Directives A, B, C and D. He stated that the first project under Directive A which deals with access is as follows:

GR6-006 - Downtown River Access for Grand Forks Greenway; Submitted by City of Grand Forks; OHF Funding Request - \$126,805, Total Project Cost - \$169,073; Board Recommendation - \$100,000; Duration - 12 months. This project includes the installation of a paved trail and an ADA complaint kayak launch and fishing dock.

Mr. Moser said the recommendation is for \$100,000 which is not the full amount that they requested. The first vote by the Board for full funding did not get a majority. However, at the amount of \$100,000 there was a vote of 6 to 5 to fund.

There was discussion regarding the application as follows:

- How did this project differ from the funding that the Commission had already funded? The majority of the funding is for the ADA compliant kayak launching dock.
- Has the first project been completed which was the path down to the river - yes it is complete.
- Is this something that fits better with Parks and Recreation? There will always be some cross over with Parks and Recreation types of projects.
- Will there be future requests for funding? Is there a comprehensive long range plan for this area? That question had not been asked of the applicant so did not have an answer.
- With the reduced funding level, the City will need to provide over \$69,000 to the Outdoor Heritage Fund dollars of \$100,000. If they don't provide the matching dollars the Outdoor Heritage Fund dollars will not be disbursed.
- What is the exact location of this site?

Mr. Moser presented the next three projects which fall under Directive B which deal with agriculture and wildlife as it relates to tree plantings.

Mr. Moser indicated that the original Soil Conservation Tree Planting Initiative that the Commission funded in Grant Round 1 had been planned to last for three years. The program was so popular that they have committed all the funding within the first two years.

GR6-018 - ND Statewide Conservation Tree Planting Initiative; Submitted by ND Association of Soil Conservation Districts; OHF Funding Request - \$2,050,000; Total Project Cost - \$4,133,704; Board Recommendation - \$2,050,000; Duration - 24 months. This project would continue for two years the initiative that promotes and provides financial assistance to implement agroforestry practices in ND including farmstead, feedlot and field windbreaks; forestry, wildlife and riparian plantings, buffers and living snow fences and includes funding for staff costs.

Mr. Moser indicated that the other two projects under Directive B are both working on grassland projects. He indicated that the Board had not recommended the full amount of funding that the applicant had requested on the Alkali Lake project. They had reduced the level of the funding so it would be consistent with other projects the Commission has funded that require a 60/40% split. Whenever a landowner wants to do cross fencing and water development, the landowner needs to provide 40% of the cost involved in the project and the grant would be for 60%. This original request was at an 80/20% split. He indicated that he had personally talked to one of the cooperator land owners; he understood what the Board was doing and thought it was fair to be consistent.

GR6-017 - Working Grassland Partnership; Submitted by North Dakota Natural Resources Trust & 3 co-applicants; OHF Funding Request - \$1,097,250; Total Project Cost - \$1,467,250; Board Recommendation - \$1,097,250; Duration - 10 years. This project would provide funding to be used to provide land development assistance to landowners interested in livestock fencing and livestock water development on SAFE and adjacent acres with a project area focus that is important for grassland birds with declining populations and includes funding for project staff.

GR6-020 - Alkali Lake Habitat Enhancement; Submitted by Audubon Dakota; OHF Funding Request - \$207,057; Total Project Cost - \$425,316; Board Recommendation - \$118,200; Corrected Recommendation \$135,169; Duration - 12 months. This project would fund the implementation of a prescribed grazing system on the Audubon's Edward M. Brigham III Alkali Lake Ranch/use cattle in a managed rotational system to increase nesting, brooding and feeding cover for grassland birds and create more hunting and outdoor recreation opportunities. This project involves 1,000 acres of grassland and wetland habitat.

In response to a question regarding the Working Grassland Partnership program Mr. Moser stated that the vote was 6 to 5 and there were four partners involved in the application--the North Dakota Natural Resources Trust, Pheasants Forever, Ducks Unlimited and the Soil Conservation Districts. He indicated that it was okay for four entities to do a project together but he thought the lead on the project should be the Soil Conservation Districts in order to deliver it on a timely basis. He didn't know if the Soil Conservation Districts have been contacted specifically and were onboard and willing to move forward with this project. Some of the questions were:

- Delivery of the program
- Confidentiality requirements when the NRCS is involved
- Who was going to be responsible to make sure that a good grass management plan was implemented
- Were rangeland specialists going to be involved in the management of this project?
- What were the cost shares going to be with the landowners?

He indicated that he thought those were the reasons why the vote was close. Commissioner Goehring expressed a concern about whether landowners would be targeted to become involved in the program.

Mr. Moser said under Directive C there is one application for the installation of 200 hen houses. The Commission had previously funded a similar project and the applicant has come back for another phase of funding. The Board reduced the request by \$300 because the Fund cannot be used for the purchase of equipment.

GR6-010 - North Dakota Hen House Project II; Submitted by Delta Waterfowl; OHF Funding Request: \$26,600; Total Project Cost - \$60,900; Board Recommendation - \$26,100; Corrected Recommendation \$26,300; Duration 20 months/10 years This project would fund the installation of 200 new hen houses

Mr. Moser presented the following Directive D projects. He noted that the vote had been close on the Minot Retrievers Club application. Some of the Board members felt that this application did not meet any of the four directives and it was not a conservation issue and it wasn't a new project. He noted on the Sheep Creek and Raleigh Dam project the amount being funded is less than what the applicant had requested. The Outdoor Heritage Fund has not been funding picnic tables and equipment so the funding for those items was removed.

GR6-002 - Saving Minot Retriever Club Grounds for Future Generations; Submitted by Minot Retriever Club Inc.; OHF Funding Request: \$144,000; Total Project Cost - \$195,000; Board Recommendation - \$144,000; Duration 15 months. This project would construct 2 dikes that would separate the current ponds from the De Lacs River allowing the ponds to maintain their water level. This project would restore and maintain this sportsmen's resource.

GR6-008 - Tree Planting & Accessibility Improvements at Sheep Creek Dam & Raleigh Dam; Submitted by Grant County Water Resource District; OHF Funding Request: \$44,631; Total Project Cost - \$62,508; Board Recommendation - \$41,384; Corrected Recommendation - \$40,374; Duration 12 months. This project would fund construction of 2 handicap accessible campsites, improvements to accessible fishing pier, upgrade 4 campsites, expand and upgrade primitive campsites at Sheep Creek Dam. At the Raleigh Dam it would fund construction of 1 handicap accessible campsite, upgrade 1 campsite, expand and upgrade primitive campsites, planting of trees at both recreation areas.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission accepts the Outdoor Heritage Fund Advisory Board's recommendations as corrected and approves the funding of the following six projects in the total amount of \$2,495,843 and authorizes the Industrial Commission Executive Director to enter into contracts with the applicants as noted below:

1. **"Downtown River Access for Grand Forks Greenway - \$100,000**
2. **"ND Statewide Conservation Tree Planting Initiative" - \$2,050,000**
3. **"Alkali Lake Habitat Enhancement" - \$135,169**
4. **"North Dakota Hen House Project II" - \$26,300**
5. **"Saving Minot Retriever Club Grounds for Future Generations" - \$144,000**
6. **"Tree Planting & Accessibility Improvements at Sheep /Creek Dam and Raleigh Dam" - \$40,374**

On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

It was moved by Attorney General Stenehjem and seconded by Governor Dalrymple that the Industrial Commission accepts the Outdoor Heritage Fund Advisory Board's recommendations as corrected and approves the funding for the Working Grassland Partnership in the amount of

\$1,097,250 and authorizes the Industrial Commission Executive Director to enter into a contracts with the applicant.

Commissioner Goehring stated that there are only a handful of Soil Conservation Districts across the state that will be able to carry out this work because of a lack of funding. He liked the concept of the project but wanted to make sure the landowners would be participating on a voluntary basis and not be targeted.

In response to a question it was indicated that it would be voluntary because the farmer and landowner is not required to do anything. There may be a location that is identified as an opportunity but no one would be forcing the landowner to participate.

Commissioner Goehring said it is opportunistic. Back in the 60's and 70's the Fish and Wildlife Service had access to information and went out and targeted farmers and landowners and were able to acquire permanent easements on land. You might say it was in a voluntary fashion--the producer signed on the dotted line and took the check but it was producers that were under duress, financial stress.

Mr. Moser said he asked specifically whether this project would be consistent on the 60/40% cost share and the answer was no, it is going to be wide open. They could allow participation in the project without the landowner having any skin in the game. You would think the more flexibility the better but at the same time the Board is striving to get some consistency in the projects.

Mr. Moser said his concern is delivery and he thinks the wrong entity is trying to deliver the project. He encouraged them to be a partner in the project but he didn't think they can deliver. In response to a question he indicated that he had voted no on this project. A majority of the Board voted yes and overall they liked the idea. He thought there was an interest by the wildlife community and the agriculture community to save as much grass as possible and to make that grass the best utilized by both wildlife and landowners. He thought the people who voted yes on this want to get that accomplished.

It was clarified that what Mr. Moser was concerned about was a clearly defined structure and a lack of consistency in what has been proposed.

There was discussion about the model plan that has been approved by the Subcommittee which is to be delivered through the Soil Conservation District.

In response to a question regarding how they are going to deliver on this, Mr. Moser said the soil conservation districts are going to have to do that. Some have staff to do the work. In some instances it might require more than one soil conservation district; it might have to be three or four districts getting together and say I have a specialist in this area, you have a specialist in this area, let's combine our efforts and move forward. That is where the comfort level is with the landowners.

In response to a question, Mr. Moser said that some of the Soil Conservation Districts do have a range specialist on staff or under contract. That is going to have to be part of the plan otherwise you are going to spend a lot of money and you are not going to accomplish anything. You are going to have people that take advantage of the fence and the water and graze it like they did before and accomplish nothing for anyone.

It was indicated that the Commission needs to know who is participating, who is in charge, if there are multiple funding sources what is the split, who is ultimately responsible in making this happen and have a model that is consistent. The multiple entities is a problem, it slows down the process. The SCD can probably do it as long as they don't have to deal with four other entities.

Commissioner Goehring made the following substitute motion: It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission refer the grant application “Working Grassland Partnership - \$1,097,250 back to the Board to address some of the concerns on structure and delivery. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Governor Dalrymple stated that he had been in contact with some Soil Conservation District people who were deeply involved in tree plantings, which is one of the things the Commission just approved. They indicated that the program has been incredibly successful with tremendous interest. It has become the funding source of choice because it is clean, clear and simple and easy for the Soil Conservation Districts to work with. He indicated that the Board and Commission are on the right track with that project.

Governor Dalrymple also indicated that he hoped to meet with the subcommittee on a streamlined model wildlife habitat project that goes beyond just trees and has a couple other elements in it as well like a water feature or herbaceous cover. If we can find a model that works well, everything goes better, you get more interest, get more projects plus we know what the money is being used for.

Commissioner Goehring said the Commission has previously talked about Outdoor Heritage Fund dollars not be used to rent land. It had come to his attention that some dollars in one grant is being used for long term contracts similar to CRP.

Mr. Moser said he had informed the Board that he had become aware that some CRP contracts were extended with dollars that the Commission had allocated for the PLOTS program. He stated that Mr. Steinwand had not been at the meeting at the time this was discussed so the Board did not hear from him about this matter. He had provided this information to the Board because he wanted all the Board members to be informed about how those dollars had been expended. It had been his understanding, when the project was approved in Grant Round 1, that the funding would be used for PLOTS access.

Commissioner Goehring said PLOTS is very definite and specific in what it does. It was his hope that the Board and Commission was not going down the path of renting grasslands. Mr. Moser said he thought Game and Fish has signed some contracts to do that.

Governor Dalrymple said the Commission has talked before about a preference for one-time conservation and habitat improvement projects that do not have a continuing obligation and that should be the Commission’s goal. There may be situations, however, where what you are doing requires a more long-term commitment of some kind.

Mr. Moser discussed the Outdoor Heritage Fund Advisory Board recommendation regarding amendments to the Outdoor Heritage Fund Application Form. In almost every grant round an applicant has proposed tree planting. Each time the technical committee asks the same questions about what kind of trees the applicant is planting and if they are the kind of trees that will work for a conservation plan in North Dakota. Mr. Larry Kotchman put some wording together for the Board to take a look at and it is reflected in the recommendation. The Outdoor Heritage Fund has a number of common interests with the Health Department/EPA 319 Watershed Program. There are certain things that the federal government allows to be cost shared in the 319 Program that the Board doesn’t view should be funded. Mr. Moser said the Board wanted to include language that requires more details specifically on how the requested Outdoor Heritage Fund dollars will be used on the 319 projects. The wording would be as outlined below:

Purpose of Grant – Describe the proposed project identifying how the project will meet the specific directive(s) of the Outdoor Heritage Fund Program *

Identify project goals, strategies and benefits and your timetable for implementation. Include information about the need for the project and whether there is urgency for funding. Please indicate if this is a new project or if it is replacing funding that is no longer available to your organization. Identify any innovative features or processes of your project. If your project includes tree/shrub/grass planting, please provide a planting plan describing the site design, planting methods, number of trees/shrubs by species and stock size, grass species and future maintenance. A statement certifying that the applicant will adhere to USDA-NRCS tree/shrub/grass planting specifications along with the name of the governmental entity designing the planting may be substituted for a planting plan. If your project includes Section 319 program funding, please provide, in detail, the specific best management practices that will be implemented and the specific projects for which you are seeking funding. Please note that if your proposal provides funding to an individual, the names of the recipients must be reported to the Industrial Commission/Outdoor Heritage Fund. These names will be disclosed upon request.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission accept the Outdoor Heritage Fund Advisory Board recommendation and approve the following amendment (underscored) to the Outdoor Heritage Fund application form:

Purpose of Grant – Describe the proposed project identifying how the project will meet the specific directive(s) of the Outdoor Heritage Fund Program *

Identify project goals, strategies and benefits and your timetable for implementation. Include information about the need for the project and whether there is urgency for funding. Please indicate if this is a new project or if it is replacing funding that is no longer available to your organization. Identify any innovative features or processes of your project. If your project includes tree/shrub/grass planting, please provide a planting plan describing the site design, planting methods, number of trees/shrubs by species and stock size, grass species and future maintenance. A statement certifying that the applicant will adhere to USDA-NRCS tree/shrub/grass planting specifications along with the name of the governmental entity designing the planting may be substituted for a planting plan. If your project includes Section 319 program funding, please provide, in detail, the specific best management practices that will be implemented and the specific projects for which you are seeking funding. Please note that if your proposal provides funding to an individual, the names of the recipients must be reported to the Industrial Commission/Outdoor Heritage Fund. These names will be disclosed upon request. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Mr. Moser reported on the election of Chairman and Vice Chairman of the Outdoor Heritage Fund Advisory Board. He said he had served as Chairman for the last two years and felt it was time to move on. Jim Melchior was elected as Chairman and Jon Godfread was elected as Vice Chairman for the next year. He indicated that the election of the officers is done each fall after the Governor has appointed or reappointed committee members.

Being no further Outdoor Heritage Fund business, Governor Dalrymple adjourned this portion of the meeting at 1:52 p.m. and the Commission took up Oil and Gas Research Program business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

Minutes of a Meeting of the Industrial Commission of North Dakota
Held on December 16, 2015 beginning at 1:00 p.m.
Governor's Conference Room - State Capitol

Present: Governor Jack Dalrymple, Chairman
Attorney General Wayne Stenehjem
Agriculture Commissioner Doug Goehring

Also

Present: Brent Brannan, Oil and Gas Research Program
John Harju, EERC
Justin Kringstad, Pipeline Authority
Michael Ziesch, DMR – Oil and Gas Division
Alison Ritter, DMR – Oil and Gas Division
Ron Ness, ND Petroleum Council
Bruce Hicks, DMR – Oil and Gas Division
Lynn Helms, DMR
Bill Kalanek, XTO
Christy Schafer, Department of Agriculture
Members of the Press

Governor Dalrymple called the Oil and Gas Research Program portion of the Industrial Commission meeting to order at 1:52 p.m. following completion of Outdoor Heritage Fund business.

Mr. John Harju, Vice President for Strategic Partnerships, Energy & Environmental Research Center, presented the Energy and Environmental Research Center Liquid Gathering Pipelines Study: A Comprehensive Analysis (Phase 1). (Copies of the Powerpoint presentation and copies of the Study are available in the Commission files.) He reviewed the following:

Report was delivered on December 1 per the directive of HB 1358. Since that time the report has been downloaded by 230 individuals in 21 states, 3 countries -- US & Canada & Malaysia and the top four states ND, TX, MN, CO and District of Columbia.



EERC
Center for Excellence
ENVIRONMENTAL TECHNOLOGIES TO PROTECT AND CLEAN OUR AIR, WATER AND SOIL



EERC Liquids Gathering Pipeline Study

Briefing to the North Dakota Industrial Commission

Bismarck, ND
Wednesday, December 16, 2015

John Harju, Vice President for Strategic Partnerships



EERC
Energy & Environmental Research Center (EERC)
INDUSTRY, GOVERNMENT AND THE RESEARCH COMMUNITY

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Project Prescribed by HB 1358

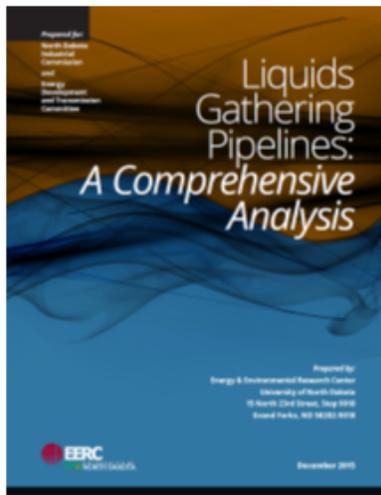
- Project is focused on conducting analysis of crude oil and produced water (gathering) pipelines
 - Phase I -- Study
 - ◆ Analyze the existing regulations on construction and monitoring of crude oil and produced water pipelines
 - ◆ Determine the feasibility and cost-effectiveness of requiring leak detection and monitoring technology on new and existing pipeline systems
 - ◆ Provide a report with recommendations to the NDIC and the EDTC by December 1
 - Phase II -- Demonstration
 - ◆ Pilot project to evaluate a pipeline leak detection and monitoring system

\$1.5M in state funding covers both phases.

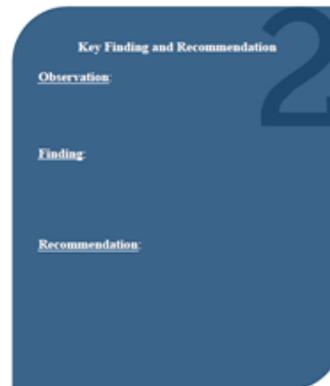


2

A Guide to Reading the Document



Key findings and recommendations are highlighted throughout document in nested blue balloons. Text leading up to balloons provides context and foundation for each balloon.



3

A Brief Summary of Recommendations From the Detailed Report

- For brevity today, we will summarize the key points and recommendations of the study into broad categories
 - Infrastructure
 - Leaks and Spills Statistics
 - Materials
 - Construction
 - Maintenance & Inspection
 - Monitoring and Leak Detection
 - Abandonment



4

DMR Map of Gathering Lines (since 2011)



Mr. Harju indicated that this map shows the 4,000 miles of gathering lines that the Department of Mineral Resources (DMR) now has in their data base since 2011. It is estimated that there is another 19,000 miles of gathering lines that is currently not in the DMR data.

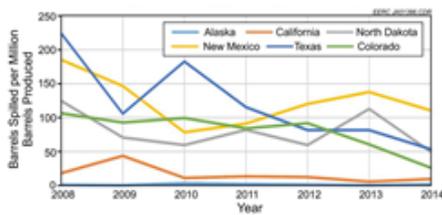
Key Infrastructure Recommendations

- DMR should encourage real-time data sharing among pipeline partners. (1)
- Any new regulations should build upon successes from other pipeline sectors, but must be tailored to ND-specific operating conditions. (2)
- ND should continue to work with industry stakeholders to inventory and catalog existing pipeline locations for pipelines that were installed prior to the new GIS reporting rule. (23)

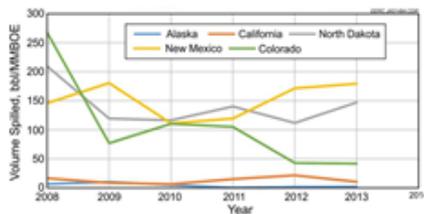


6

Key Statistical Summary



Normalized Crude Oil Spill Volumes



Normalized Brine Spill Volumes



7

Mr. Harju stated that part of the study focused on collecting data from peer producing states -- Alaska, California, New Mexico, Texas and Colorado and these charts are just a quick snapshot of the data that illustrates that North Dakota performed similarly in terms of incidents to that peer group.

Key Leak & Spills Analysis Recommendations

- ND should streamline the ways spill data are reported, processed, and analyzed to facilitate data analysis. (3)
- Streamlined data management system should be collaborative among several agencies with complementary reporting jurisdictions to eliminate redundant and misleading data. (4)
- DMR should collect and analyze data to determine root causes of pipeline leaks, then continually refine regulations that address root cause determinations. (3)
- ND should recognize the impact of minimum reporting thresholds on spill statistics, and evaluate accordingly how to interpret and report these data. (5)



8

Mr. Harju indicated that there was a significant frustration experienced by EERC staff -- many major incidents result in litigation and often times the root cause is subject of a sealed and confidential settlement and in turn there is no learning that the state or other operators can walk away from. Our recommendation is that the State tries to play a more active role in determining those root causes and tailoring regulations as such.

Mr. Harju also noted that in regards to reporting thresholds you have to look closely at the numbers. Other states may have a higher threshold for reporting spill incidents so their numbers may not reflect some incidents. A key caveat as you look at some of the statistics is they are not volumetrically normalized -- if they are just number of incidents that is a key difference that you will find.

Key Materials Recommendations

- ND should consider regulations on pipeline material selections, as has been done in other oil-producing states. (6) **
- Installation crews should be thoroughly trained in all manufacturer-prescribed installation procedures and be contractually bound to use those procedures. Independent inspectors should be responsible for ensuring that manufacturer specifications are precisely followed. (10)
- DMR should seek to place its own SME on the API committee studying modifications to API RP 15S. If DMR considers deriving regulations governing installation of reinforced pipe from PHMSA standards, these new regulations should allow for use of reinforced, spoolable pipeline materials not yet included in a standard practice. (11)
- Composite pipeline manufacturers with applicable products should develop a collection of test data to support claims that these pipeline materials can assist LDS. DMR should continue to monitor development of this aspect of these pipeline products and carefully consider its impact on future rulemaking. (12)



9

Mr. Harju pointed out that some of these other states do have guidelines on materials selections that refer to either API codes or statements to compatibility of materials to fluids transmitted and that is an area where the State could consider additional rulemaking. He did clarify that when the EERC used the term comparable states or comparable state regulations they mean comparable in terms of oil production. The regulatory environments might be very different than what is done in North Dakota. When that term is used that's a key filter to remember – that it is only comparable in that the other state is a substantial producer.

Key Construction Recommendations

- DMR should consider requiring prior notice of intent to install liquid gathering pipelines. (8)
- HDD may be the most appropriate construction method near wetlands to reduce surface disturbances. Other measures may be warranted to ensure the impact to these areas are minimized in the case of a leak. (13)
- ND may consider regulating to construction standards currently required for transmission pipelines. (14)
 - 3rd-party inspectors would be responsible for ensuring compliance with state construction standards
 - State inspectors would verify that 3rd-party inspectors maintain adequate oversight of the project.

Key Maintenance & Inspection Recommendations

- ND should consider regulations on maintenance and corrosion control best practices. (7)
- DMR should consider requiring assurance of hydrostatic testing according to manufacturer recommendations on all newly installed or newly repaired liquid gathering pipeline segments. (15)

Key Monitoring & Leak Detection Recommendations

- ND should encourage R&D of low-cost external leak detection technologies specific to the needs of produced water gathering lines. (18)
- DMR should examine a potential role in the implementation and enforcement of a Pipeline Safety Management System for operators, modeled after API RP 1173. (19)
- The state, in cooperation with operators and vendors, could investigate alternate gathering system design features or unit operations that would enable pressurized and/or more consistent flow conditions, thus enabling improved leak detection system performance and accuracy. (20) **
- Operators should be encouraged to incorporate technologies such as SCADA to improve communication within and between operators. (21)
- ND should seek to demonstrate the role of UAS in pipeline monitoring. With its vast rural landscape and challenging climate, we have more to gain from remote sensing than other locations across the nation. (22)



12

Mr. Harju noted that one of the things you find on mainline transmission pipes is that they tend to be packed or full at all times which makes the technical challenge of monitoring that performance much easier. Gathering lines tend to be more or less full from time to time and that poses a particular challenge. There are some things that could be done that might facilitate getting that packing at a higher level on these pipelines.

Key Abandonment Recommendations

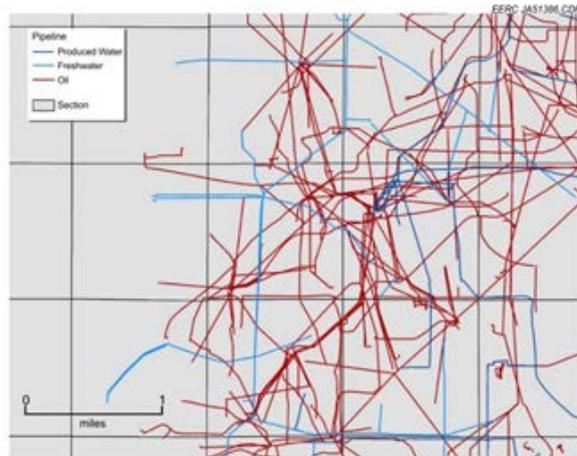
- ND should continue to work with industry stakeholders to:
 - Inventory and catalog existing pipeline locations for pipelines that were installed prior to the new GIS reporting rule. (23)
 - Develop a mechanism that allows for rapid acquisition of information about pipelines for use in construction activities. (23)



13

Mr. Harju stated that when a new install is going into the field is an opportunity to provide information to installers regarding existing systems. One of the key reasons that pipelines fail is third party strikes.

Highlighting the Need for Improved GIS Data



14

Mr. Harju stated that this picture shows some of the gathering infrastructure that is out there in the field and again illustrates the need for better data

**Noted Clarifications Requested to EERC Wording

- Where the EERC report uses the term "comparable states" or "comparable state regulations", DMR would like us to clarify that the EERC meant comparable states in terms of oil production. Their regulatory environments actually differ significantly from that found in North Dakota.
- DMR requested clarification regarding wording of Key Finding #20
 - EERC suggested that "creating a similar regulatory environment for both gathering and transmission pipelines" could eliminate the industry incentive to avoid promoting system designs capable of near-steady-state operation
 - DMR correctly points out that we should have instead suggested that "creating a regulatory environment that facilitates transition of pipelines from gathering to transmission" would promote gathering system design and operation that provides best possible performance of leak detection systems.



15

Mr. Harju indicated that sometimes a pipeline may be initially permitted under DMR oversight and at some point in the future could be transitioned over to Public Service Commission jurisdiction so homogenizing some of those construction requirements may facilitate that subsequent transition.



The Bottom Line

- Better installations, more thorough 3rd party inspections, and increased facilitation of learning from past incidents will do more to prevent future gathering pipeline leaks than any available leak detection system.
- Phase I of this project (the study) provides information that allows ND DMR and industry to move quickly on actions they can take now to decrease spills and leaks.
- Phase II of this project (the demonstration) will provide information on the performance of those technologies with greatest potential to lessen the severity of future spills and leaks.



16

Mr. Harju stated the monitoring and detection technology really doesn't prevent leaks; what it does is provides you with quick notification of leaks so that damages can be mitigated more quickly.



Contact Information

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17

In response to a question regarding third party inspectors and if there are enough competent people to do this type of work, Mr. Harju said today, absolutely. There are a number of certification programs and courses that are available – for example, API has courses for inspectors. If there is a shortage of certified inspectors they could be developed relatively quickly.

Mr. Helms said what he was directed to do in the budget for 2015-2017 was to staff with two pipeline field inspectors in each district. Four inspectors have been hired and the staff is conducting interviews for the

last two positions. The Division will have a full-time staff of six inspectors. Their job will be to inspect the inspectors. Upon receiving notice of a pipeline installation the law requires the Division to ask for a list of the independent inspectors and at that time the Division staff can review their experience and training. The job of the Division's inspectors is going to be to make unannounced visits to that site and follow that independent inspector to see if they are doing their job; do they have manufacturer specifications with them; do they understand them; do they understand the standards and are they following them. If they are not following those specifications and standards, then there will be a notice of violation sent to the pipeline owner/operator or the oil company that is putting the pipeline in that they have got an inspector who is not following the rules and let them deal with that on a contract basis. Mr. Helms indicated that the Division has an analog for how this works. The Division has been doing oil and gas measurement for about thirty years. The Division has three inspectors who make unannounced visits and watch the independent meter provers and meter inspectors do their work. If they are not following API standards and not properly proving the meters, then the oil operator gets a notice of violation and typically the independent meter provers or meter inspectors become unemployed or retrained or reassigned. This process has worked very well in oil measurement and it has allowed the Division to cover thousands of measurement points with a relatively small staff. The Division staff makes sure the people responsible for inspecting the meters and proving the meters are doing their job correctly.

In response to a question Mr. Harju said there may be value in developing an online data base on leak detection. He described the data base that had been developed in regards to remote capture as it related to reducing flaring. In that instance the EERC put together a request for qualifications and a problem description that was put out to all perspective vendors that might have remote capture solutions and systematically took in all their information, populated this data base and it became a go to place for operators that might be looking for solutions on a location by location basis. Currently the EERC has approximately 70 vendors that supplied information and were put into that data base. There were 6 to 10 that have been engaged considerably in providing solutions in the oil fields. It does act as a means of quickly channeling prospective buyers to that technology that actually is likely to work. These things happen in real time, there is always development going on and a data base like that might be a way to try to stay on the pulse of some of the leading detection technologies that are currently being worked on.

Mr. Helms said the legislation and the Oil and Gas Research Program contract for Phases I & II of this study didn't really anticipate this idea or provide enough time and perhaps money to look at all of the available technologies out there or who knows what technology will be invented next week, month or year. The only way to bring all of that together to where industry could use it was to set up a website similar to what was done for gas capture technologies. The difficulty is that it could be \$100,000 to set that up which wasn't built into the Phase II funding. One possibility would be to direct the Oil and Gas Research Council to waive the 50% match and an industry partner and consider a proposal to build such a leak detection and pipeline monitoring technology site.

In response to a question, Mr. Ron Ness, North Dakota Petroleum Council, indicated that the website developed by the EERC in regards to remote gas capture technologies has been appreciated by the industry. The operator has a one stop shop and it has substantially increased the knowledge base for everybody on what works and what doesn't work and who is available. It's been one of the best things done on the gas capture side. He indicated that you have to have a third party scientist do it so it's unbiased.

In response to a question, Mr. Helms said the report indicated that the best thing the Commission can do right now is implement regulations that prevent leaks and those regulations should be directed towards proper material selection, installation, independent inspections of all new pipes and repairs going in the ground and do that as soon as possible and follow that up with Phase II study of some existing monitoring

leak detection systems out there. He suggested that work could be enhanced by a website which would look for new technologies to further improve that.

There was discussion about how the Commission could facilitate the industry learning from past practices--especially in view of closed records in the case of a settlement. Mr. Helms indicated that what is being recommended is that some level of confidentiality is provided so that the State can be part of the failure analysis and the determination of root cause. The Division could then share that information with other pipeline operators in a form so that it doesn't point to an individual failure. The conclusion was that this would require some legal analysis and would likely require a legislative change.

Mr. Helms said there are many recommendations in the report regarding installation practices and since receiving the report the staff has been working on rules to implement those recommendations. It is the Division's intention to bring those proposed rules to the Commission at their February meeting so that the rules can be fully implemented and in place by October 1, 2016.

In response to a question, Mr. Helms said he can provide an update of where they are at with the pipeline program in terms of staffing and also how they are going about enforcing the existing rules.

The consensus of the Commission was that the Division should develop proposed rules based on all the recommendations outlined in the report. It was noted that if appropriate the Commission should consider the emergency rule process--if not on all the rules perhaps the most critical ones. It was also suggested that it might be appropriate to have certain rules for areas where there should be stronger requirements --such as near lakes and rivers. The Commission indicated that the EERC should develop a proposal for the monitoring leak detection website and present it to the Oil and Gas Research Program for consideration. It was also indicated that the Division should work with the Attorney General's Office in the legal analysis of providing some level of confidentiality so that the State can be part of the failure analysis and the determination of root cause and then sharing information as quickly as possible so everyone can learn from these incidents.

Being no further Oil and Gas Research Program business, Governor Dalrymple adjourned this portion of the meeting at 2:40 p.m. and the Commission took up Department of Mineral Resources business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

Minutes of a Meeting of the Industrial Commission of North Dakota
Held on December 16, 2015 beginning at 1:00 p.m.
Governor's Conference Room - State Capitol

Present: Governor Jack Dalrymple, Chairman
Attorney General Wayne Stenehjem
Agriculture Commissioner Doug Goehring

Also

Present: Brent Brannan, Oil and Gas Research Program
John Harju, EERC
Justin Kringstad, Pipeline Authority
Michael Ziesch, DMR – Oil and Gas Division
Alison Ritter, DMR – Oil and Gas Division
Ron Ness, ND Petroleum Council
Bruce Hicks, DMR – Oil and Gas Division
Lynn Helms, DMR
Bill Kalanek, XTO
Christy Schafer, Department of Agriculture
Members of the Press

Governor Dalrymple called the Department of Mineral Resources portion of the Industrial Commission meeting to order at 2:40 p.m. following completion of Oil and Gas Research Program business.

Mr. Lynn Helms, Department of Mineral Resources Director, presented orders for cases heard on October 29 and November 19 and 20, 2015. (Copies of the orders are available in the Commission files.)

Mr. Helms said the first two cases on the agenda the Commission will not be able to act on today because the staff has not received the telephonic witness affidavits and so without those, the staff cannot incorporate the testimony of those witnesses in the record and have the Commission make a decision on the cases.

Case 23981, Order 26325 - risk penalty request

Case 24591, Order 26957 - risk penalty request

Case 24593, Order 26959 - request for revocation or modification of a drilling permit – He said this is a case where a company (1804 Operating) who owns a salt water disposal well wants the permit for a competing salt water disposal well (High Roller) nearby to be revoked. He noted that the permit they are asking to have revoked had been granted based on a 1972 area permit for all areas along the Nesson Anticline – salt water disposal wells in those areas are granted under administrative orders. In the analysis of all the filings in the case and the Assistant Attorney General's review of all the legal matters, they have determined that the filings, petition and the objection by 1804 Operating are not legally valid. The order being recommended grants High Roller's motion to dismiss – the case would be dismissed based on the fact that the permit was issued legally, based on a 1972 order that allowed for area permits.

Case 24593: It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that Order 26959 issued in Case 24593, dismissing the case be approved and effective this 16th day of December, 2015.

In response to a question Mr. Helms said 1804 Operating has operated a salt water disposal well in the area for approximately two years and High Roller wants to site a salt water disposal well just a couple miles down the road and across the highway. High Roller got their permit through this administrative order process that was implemented back in 1972. 1804 Operating wanted to block the High Roller permit because it would be a competitor in the area. They raise some issues like correlative rights and those sorts of things but there are no such things as correlative rights for waste disposal, it is the rule of capture. The

staff and the legal counsel examined all the questions about the legality of the 1972 administrative order process and the permit granted to High Roller. We are confident it was done properly.

On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Case 24643, Order 27007 - request for approval of an alternative method of oil conditioning – He said this is the first application for an alternative technology for oil conditioning. This is an entrepreneur out of Fargo, Hellervick Oilfield Technologies, LLC. This group has developed a piece of equipment that continuously monitors the vapor pressure of the crude oil leaving their vessel and it uses heat, pressure and residence time to remove the propanes and butanes to get the vapor pressure down to the Commission's limit of 13.7. They are just in the process of constructing their first prototype but needed to get Commission approval to field test it. This order grants that permission under very similar rules to what the Commission did with the first special kind of oil metering systems that were mounted on trucks; they were called Coriolis Meters. They had a one year test period, they have monthly calibrations and those calibrations have to be witnessed by the Division's meter inspectors. The Division will have to know where this prototype is being located and Division inspector will be able to observe all of the calibrations of it and make sure it is working and that the operator has approved its use on that site. Based on the testimony it shows real promise to be a big improvement in oil conditioning over the standard heater treater. It is important to give Hellervick the opportunity to test this technology.

Case 24643: It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that Order 27007 issued in Case 24643, be approved and effective this 16th day of December, 2015. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Mr. Bruce Hicks, Oil and Gas Division Assistant Director, presented and discussed the Department of Mineral Resources Oil and Gas Division 3rd Quarterly Report. (A copy of the report is available in the Commission files.)

- Number of permits and rigs is down
- Production is up from a year ago - holding steady at 1.2 million per day
- Gas capture is starting to come back up
- Inspections - nearly 40,000 during the quarter - the 38 inspectors are very busy
- Funds are healthy
- The Gas flaring graphs showed gas flaring for the month of October was at 86%. - not only is the % going down but the total volume of gas that is being flared is going down

In response to a question, Mr. Helms said the current gas capture is 86%, almost 87% as of October. The next plant is coming on in January. He said two days ago, Hess let us know that they got approval from the U.S. Army Corp of Engineers to do the Hawkeye Project and they are ready to move on that. That was about 42 mcfpd that was trapped south of the river that needs to get across the river. That project is coming through and will take until mid-year because there is a lot of line testing. It goes under Lake Sakakawea. Lonesome Creek is in the process of ramping up or starting up that plant this month and expect to be in operation by the end of January. During the third quarter there is another plant that has never really been publicly talked about, the Wild Basin Plant by Oasis another 80 mcfpd. In October, the Bear Creek Plant an additional 80 mcfpd. All of these are on track. That should put us right at 90% gas capture ahead of goals. Mr. Helms indicated that the curve on the graph shows that we are 50% down in terms of flaring. The Commission's efforts to push the goals and to hold them are truly being effective with increasing production.

Mr. Hicks said the April 1 requirement was 80% and we are currently at 86% gas capture but winter is coming on. Some of this is due to the slowdown.

Mr. Helms indicated that part of the 86% capture is that with the beautiful fall weather OneOK was able to run their plants 10% above name plate capacity. They can't do that in the winter. It won't be so easy in January, February and March.

Mr. Hicks concluded his review of the report by discussing the Areas of Interest report and the Complaints--6 new complaints have been added since last quarter.

Mr. Helms discussed the recent news coverage regarding a complaint matter. He indicated that the headline and article was way overstated regarding the Division being actively involved in settle negotiations. He stated that the status of this matter is the staff met four months ago with the company and talked about the complaint and they were asked if the Division would consider a settlement offer and the response was yes. That was the extent of any discussion with Summit Midstream Partners. There are way too many moving parts for the Division to be in any hurry to come to a settlement agreement.

Attorney General Stenehjem said there has not been a response to the complaint that's been filed so it would be premature and the remediation isn't even done and you wouldn't want to settle until you know that and you certainly need to know whether the problem was a result of negligence or gross negligence or intentional. Those things all matter when it comes to assessing whatever the penalty is. The other thing that needs to be considered is there are other agencies that could well be looking at this with the potential for fining them including the Health Department and the EPA. Attorney General Stenehjem pointed out that one thing that he read was that a ten percent settlement is the Commission's standard. That is not the Commission's standard. All the things that he just stated impact what the penalty will be. He said any final determination of whatever kind of settlement comes to the Commission.

Governor Dalrymple indicated that on a significant complaint like this particular one would need to come to the Commission before anything is agreed to. Mr. Helms indicated that it would be brought to the Commission.

Mr. Helms stated Attorney General Stenehjem is correct. In addition there is an investigation by the Justice Department of EPA and nothing could really move forward in terms of a settlement until that's complete because it might affect that or be affected by that.

In response to a question regarding if we know what happened and why and why it went on for so long, Mr. Helms said the staff has their opinion about how long it went on. He said this incident really speaks to what Mr. Harju was talking about earlier in the meeting. The failed piece of pipe was hauled away and it's gone through several different testing procedures which when they have been completed it has taken a long time for the Division to get the results and none of them have answered the question about why the pipe failed. That answer is not there. There is not an agreement at this point on the volume that was leaked, that is a point of contention. The Division used its best estimated volume and best estimate of time to determine the size of the proposed penalty. That time frame is what determines the amount of the proposed penalty. AG and even then not until you get an answer to the complaint that was filed.

Mr. Helms said he wanted the Commission aware of one of the things the staff is spending a great deal of time on is transfers of oil wells from one operator to another. About a week ago the Division reported that it had 710 wells in progress – that number is now over 919 and growing. A week ago they had nine new operators that were proposing to become operators in North Dakota, that is now twelve and growing. The

Division is spending a lot of field inspection resources checking those wells, checking those files because a well can't transfer unless it is in compliance or there is a "bring it into compliance plan" in the file. To put that in perspective – roughly 1,000 wells out of a total of 13,000 are in the process of moving to a new operator.

In response to a question, Mr. Helms stated all 1,000 wells have to be inspected to make sure that they are sound and there are no problems with them before they are transferred to a new owner.

Mr. Helms stated in addition that new owner has to post a bond and there has to be a background check on the company and the officers of the company. It will be a big workload.

In response to a question regarding how much time goes into each well, Mr. Helms said a minimum of two hours, maybe twice that much. It is a minimum of an hour on the site checking it over and an hour checking through the file – then violations have to be corrected so if there is a violation of some kind then double that time. It is very important that the wells are in compliance when they move to the new operator. These new operators appear to be venture capital or hedge fund companies that see an opportunity to buy when oil prices are low. He said we welcome them but cautiously.

In response to a question, Mr. Helms indicated that approximately two-thirds of the 1,000 wells being transferred are legacy oil wells that were probably drilled in the 1970's, 80's and 90's that are being moved and that asset is being monetized. Approximately one-third were actually drilled as Bakken and Three Forks by one company but the vast majority is legacy assets. Again, it is 1,000 out of 13,000 so it is not like the whole landscape is changing but it is a big time demand on staff.

Being no further Department of Mineral Resources business, Governor Dalrymple adjourned this portion of the meeting at 3:04 p.m. and the Commission took up Lignite Research, Development and Marketing Program business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

Minutes of a Meeting of the Industrial Commission of North Dakota
Held on December 16, 2015 beginning at 1:00 p.m.
Governor's Conference Room - State Capitol

Present: Governor Jack Dalrymple, Chairman
Attorney General Wayne Stenehjem
Agriculture Commissioner Doug Goehring

Also

Present: Jason Bohrer, Lignite Energy Council
Mike Jones, Lignite Research, Development and Marketing Program
John Harju, EERC
Christy Schafer, Department of Agriculture
Members of the Press

Governor Dalrymple called the Lignite Research, Development and Marketing Program portion of the Industrial Commission meeting to order at 3:11 p.m. following completion of Department of Mineral Resources business.

Ms. Karlene Fine, Industrial Commission Executive Director and Secretary, presented the Lignite Research Fund Financial Report as follows:

Lignite Research Program Preliminary 2015-2017 Budget	2013-2015 Budget*	One-Time General Fund Appropriation	2015-2017 Preliminary Budget***
Administration (1)	\$750,000	\$0	\$750,000
Non-matching Feasibility Studies (2)	\$3,000,000	\$0	\$3,000,000
Small Projects/Education	\$1,500,000	\$0	\$1,500,000
Demonstration Projects **	\$4,404,000	\$5,000,000	\$9,404,000
Marketing Projects (3)	\$1,200,000	\$0	\$1,200,000
Litigation (Non-matching Dollars)	\$1,500,000	\$0	\$1,500,000
	\$12,354,000	\$5,000,000	\$17,354,000

*Approved November 19, 2013

**As of July 1, 2015 there remains an outstanding commitment to the GNPD LV21 Project in the total amount of \$3,572,866 to be disbursed over the 2015-2017 biennium and future biennia

***Assumption that income will be approximately \$12,750,000 with \$4,604,000 of uncommitted carryover dollars

(1) Includes funding for Technical Advisor, legal services, meeting expenses, technical reviewers, payment to IC Administrative Office

(2) These dollars have already been committed to the Enhance, Preserve & Protect ND Lignite Industry Phase VII Project

(3) Coalition for a Secure Energy Future

Ms. Fine stated there is \$19 million in the Fund so there are sufficient funds for the projects the Commission is looking at today. They will bring back a recommendation after the next Council meeting regarding the allocation of the funds -- it is time to take a fresh look at it.

The Lignite Research Council's recommendations were discussed regarding the following non-confidential Grant Round 79 applications:

“Annual Lignite Energy Council Education Program”, Submitted by: Lignite Energy Council; Request for \$100,000 (Small Research); Total Project Costs \$210,000; Project Duration: 1 year (Copies of the application and the Technical Reviews are available in the Commission files.) – Ms. Fine said because this application came from the Lignite Energy Council she served as the technical advisor. The purpose of this project is to continue the annual Lignite Education Seminar and an expansion of the Lignite Education Seminar to an all-encompassing Education Program. The requested funding will be used for the four-day teacher’s seminar as well as a two-day North Dakota Energy Tour for college professors and administrators. The LEC has identified some additional opportunities to enhance the Seminar--one example is the development of the “Electricity from Lignite Go-Box” which would be available for school districts to check-out and use in the classroom. The LEC noted in the application that they will be focusing more attention on updating and broadening their library of educational videos that showcase various aspects of the lignite industry such as mining and reclamation or converting lignite into electricity or synthetic natural gas. This application was reviewed by two independent Technical Reviewers and they had both recommended funding. The Lignite Research Council vote was 21 yes and 1 no and 1 abstain.

It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the Industrial Commission accepts the Lignite Research Council recommendation to fund the grant application “Annual Lignite Energy Council Education Program” and to authorize the Industrial Commission Executive Director to execute an agreement with the Lignite Energy Council to provide a total of Industrial Commission Lignite Research Program funding in an amount not to exceed \$100,000 (small research). On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

“Pathway to Low-Carbon Lignite Utilization”, Submitted by Energy & Environmental Research Center; Request for \$1,480,000 (General Fund Appropriation); Total Project Costs \$3,180,000; Project Duration: 1 year (A copy is available in the Commission files.) – Mr. Mike Jones, Lignite Research Program Director and Technical Advisor to the Commission, said this is in response to some of the key issues the lignite industry is dealing with right now. The whole landscape with the Clean Power Plan has changed things significantly and low carbon will be a key part of the lignite industry’s future. He noted that the Legislature provided an appropriation for an additional \$5 million to focus on this particular topic area. The Commission had previously funded a pre-feasibility about two years ago. This project will focus on answering key questions on technical issues with the next generation on lignite based, low carbon options for energy generation systems. This special project work is a key step on the path to develop the revolutionary technology which is referred to as the Allam Cycle. While the end goal is focused on the development of a mature lignite-based Allam Cycle, the work identified during this phase can largely be applied to other supercritical CO₂ (sCO₂) power cycles. He gave background information stating Department of Energy is also participating in this project. There were three reviewers and all indicated it should be funded; the Council vote was 23 to 0 to fund. He said he told them he does not want to see any request for time extensions because time is of the essence; we have to move quickly on this. He recommended approval. Conflict of interest is the funders from industry – Basin and ALLETE.

In response to a question regarding what will be known in a year that we don’t know now, Mr. Jones said there are some candidate materials that we think will be able to withstand the conditions that you will see in this system. It comes down to high temperatures and high pressure with a corrosive environment. As you move from the gasifier into that combustor – that combustor will operate at 4,000 PSI so it is very high pressure. There are some unique challenges there. They will also give a recommendation for the top priority in terms of gasification technology. There are probably a dozen different gasifiers each of which have some unique characteristics based on their ability to work with fuel types and also the composition of the output and the thermal profile because we want to integrate thermally with that part of the system too.

Those will be considered and they will back with recommendations with a ranking of those. It started with the other report and this will be a finalization of that. There is also going to be some work done on that combustor and that is part of the funding that came from 8 Rivers. They have additional funding from another source that is looking at the syngas combustor which is what we are going to have in this case -- it is not a natural gas combustor. There is also a parallel effort which is with natural gas going on and that demonstration will be operating next fall in 2016.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission accepts the Lignite Research Council recommendation to fund the grant application “Pathway to Low-Carbon Lignite Utilization” and to authorize the Industrial Commission Executive Director to execute an agreement with the Energy & Environmental Research Center to provide a total of Industrial Commission Lignite Research Program funding in an amount not to exceed \$1,480,000 (demonstration/General Fund appropriation) with the conditions that the match funding is received from all the parties, the Technical Advisor participates in the advisory group and the questions on in-kind contributions are answered in a manner acceptable to the Technical Advisor. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

“LP Amina Beneplus Commercial Demonstration Project Feasibility Study”, Submitted by: LP Amina; Request for \$209,000 (Demonstration); Total Project Costs: \$700,000; Project Duration 3 months (A copy is available in the Commission files.) – This project will focus on determining the feasibility of applying the LP Amina Beneplus technology to North Dakota lignite coal. This technology results in a value added liquid from coal and a beneficiated lignite coal product. The project will also consider the viability of using the beneficiated coal in an existing lignite-based boiler. The liquids produced will be evaluated by Tesoro as an input to existing refinery operations.

Mr. Jones said they came to him about a year or two ago. What their concept is a pyrolysis system to produce liquids but they have a catalyst in here which is the uniqueness of what they are doing. He described the application and stated both North American Coal and Basin Electric are the sponsors looking at this. The goal long term is to be able to demonstrate a value proposition where between the liquids you have there and upgraded char - which is really an upgraded coal - that would be burned in the boilers; you could make a business case. This is going to run a smaller pilot scale system, located in Texas, generate enough materials and Tesoro in Mandan is going to work with us to evaluate the liquids and give us a value proposition for them. He would like to see a commitment to purchase not just that it looks good. He hopes that is what comes out of this and if that's the case, we move to the next phase which would be a demonstration probably at Basin's facility and then finally full commercial operation. This really rests on the value of the liquids in his opinion and that is what they are going to try to prove out. We had four reviewers – two said fund and two said consider funding. He recommends funding with contingencies along with him being on the advisory council and if a fatal flaw is identified, we stop (that was a recommendation of a reviewer.)

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission accepts the Lignite Research Council recommendation to fund the grant application “LP Amina Beneplus Commercial Demonstration Project Feasibility Study” and to authorize the Industrial Commission Executive Director to execute an agreement with LP Amina to provide a total of Industrial Commission Lignite Research Program funding in an amount not to exceed \$209,000 (demonstration) with the conditions that the match funding is received from all the parties, the Technical Advisor participates in the advisory group and if a fatal flaw is identified, all work shall stop immediately. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Mr. Jason Bohrer reported on the election of the Lignite Research Council Chairman, Vice Chairman and Lignite Research Council Executive Committee as follows:

Lignite Research Council Officers and Executive Committee

Term: January 2016 through December 2017

Chairman: Jason Bohrer, Lignite Energy Council
Vice Chairman: Randel Christmann, ND Public Service Commission

Other Members: Nicole Kivisto, Montana-Dakota Utilities Company
John Weeda, Great River Energy
Dave Sauer, Dakota Gasification Company
Ed Murphy, North Dakota Geological Survey
Jay Kost, The Falkirk Mining Company

Mr. Bohrer said the only change was under the other members--Nicole Kivisto.

Mr. Jones reported that he is in discussions with the EERC about having a workshop to talk about carbon management in North Dakota – what are the issues, what are the opportunities, what are the challenges and the options. As currently being discussed is participation by both the coal industry and the oil and gas industry.

It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the Industrial Commission pursuant to North Dakota Century Code 54-17.5-06 close the meeting to consider those items listed on the Industrial Commission agenda regarding the “Continued Funding for Regional Lignite Energy Marketing Program” application; project applicants requesting confidentiality and to hear a report on a project that has previously been determined to be confidential. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Governor Dalrymple announced that after the conclusion of the Lignite Research Program closed meeting the Commission would continue in closed session pursuant to N.D.C.C. 6-09-35 to discuss items listed on the agenda under Bank of North Dakota Confidential Business.

Following the confidential Bank of North Dakota portion of the meeting, the Commission reconvened in non-confidential Lignite Research, Development and Marketing Program session at 4:38 p.m. and it was noted that during the confidential portion of the meeting, it had been moved and seconded that:

The Industrial Commission accepts the Lignite Research Council recommendation to fund the grant application “Continued Funding for Regional Lignite Energy Marketing Program” and to authorize the Industrial Commission Executive Director to execute an agreement with the Lignite Energy Council to provide a total of Industrial Commission Lignite Research Program funding in an amount not to exceed \$1,800,000 (\$600,000 annually) (marketing) with the condition that the applicant provide, at a minimum, annual updates to the Lignite Research Council and to the Industrial Commission.

On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

The Industrial Commission determines that the following information is confidential:

All information contained in the LP Amina application - LP Amina BenePlus: Commercial Demonstration project Feasibility Study” from page 39 onward (section titled “Confidentiality Material”) and all of the appendices (marked as “Confidential Information Appendices I - IV”)

The Lignite Energy Council grant application - “Continued Funding for Regional Lignite Energy Marketing Program”

On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

The Industrial Commission determines that the following information is confidential:

Portions of the interim and final reports that will be filed in regards to the LP Amina BenePlus: Commercial Demonstration Project Feasibility Study”

The Lignite Energy Council reports on the “Continued Funding for Regional Lignite Energy Marketing Program”

On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Being no further Lignite Research, Development and Marketing Program business, Governor Dalrymple adjourned this portion of the meeting at 4:38 p.m. and the Commission took up Bank of North Dakota business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

Minutes of a Meeting of the Industrial Commission of North Dakota
Held on December 16, 2015 beginning at 1:00 p.m.
Governor's Conference Room
Bismarck, ND

Present: Governor Jack Dalrymple, Chairman
Attorney General Wayne Stenehjem
Agriculture Commissioner Doug Goehring

Also
Present: Eric Hardmeyer, Bank of North Dakota
Todd Steinwand, Bank of North Dakota
Chad Johnson, Bank of North Dakota
Tom Redman, Bank of North Dakota
Joel Erickson, Bank of North Dakota
Bonnie Storbakken, Governor's Office
Members of the Press

Governor Dalrymple called the Bank of North Dakota non-confidential portion of the Industrial Commission meeting to order at 4:40 p.m. following completion of Lignite Research, Development and Marketing Program business.

Following the confidential portion of the meeting, the Commission reconvened in non-confidential session at 4:40 p.m. and it was noted that during the confidential portion of the meeting, it had been moved and seconded that the Bank of North Dakota be authorized to participate in loans identified as Attachments 28-32 and to authorize the Bank of North Dakota deferring monthly interest payments until July 31, 2017. In non-confidential session, on a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Mr. Eric Hardmeyer, Bank of North Dakota President, updated the Commission regarding the Infrastructure Loan Program. He said this is a legislative program that the Bank administers. It has a total of \$150 million available with \$100 million coming from the Bank of North Dakota and \$50 million from the Strategic Investments and Improvements Fund. The purpose of the Program is to assist political subdivisions with new development – water and sewer lines, hook up new developments to existing water lines, etc. He indicated that Bank management thought the Bank was going to see significant interest in this program. In order to deal with that level of interest and to assure that it would be available to all sizes of communities it had put together an application period which started in early October and ran through November 30. Bank management was surprised when they received only five loan requests totaling \$34.5 million. Bank management is going to have some meetings with interested individuals and look at the parameters for the program and see if there are any provisions that should be changed.

Governor Dalrymple said based on some conversations he has had with community leaders there may be a lack of understanding about the availability and purpose of the program. When he has explained the program to the community leaders they indicate that it is something that is right on the mark in meeting their needs.

Mr. Hardmeyer said some of the communities are prohibited from applying at this time because they received surge money. There were a significant number of communities that were ineligible because of that. When that prohibition goes away they can start considering applications from those communities. The Bank management was still surprised that they did not received applications from some communities that were eligible for the loans and did not apply.

Mr. Hardmeyer discussed the Farm Financial Stability Program. He said the Bank opened it up December 1. The Bank received approximately 16 applications with the Bank's share at about \$6.2 million.

Mr. Todd Steinwand, Bank of North Dakota, said the Bank is starting to see more applications. The local bankers are talking to their customers and some have decided to go another route in financing this year's loans. The way the Bank has structured the collateral on these loans is that the Bank of North Dakota has to have the first lien position so the local lender is going to have to subordinate everything else behind these loans and the lead lender is going to have to approve an operating line for the next year. Two things have happened – some banks have restructured the borrower's loans themselves and have indicated they do not need to use this program and some are using FSA. The Bank is anticipating more applications to come in as the lead lenders sit down with their borrowers to do their financing for 2016. It now appears that they might want to use the real estate loan aspect of this program. The loans will have longer terms but the collateral will provide a safer loan. There is a lot of interest and conversations going on about the program.

Mr. Steinwand indicated that under the new Bank structure, after the first of the year the Bank's bankers will be reassigned to each of the local banks. They will be reaching out to the local lenders, introducing themselves and asking the local lender if they will be submitting any applications for this program. At that point the Bank will have an idea of what the usage will be for this program and if the Bank will reach the \$300 million cap.

Mr. Hardmeyer said after eight or nine years, the Bank of North Dakota today raised their prime lending rate for the first time. The base rate is now at 3.5 percent.

Mr. Hardmeyer presented the non-confidential Bank of North Dakota Advisory Board October 15-16, 2015 meeting minutes.

Being no further Bank of North Dakota business, Governor Dalrymple adjourned this portion of the meeting at 4:45 p.m. and the Commission took up Western Area Water Supply Authority business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary

Minutes of a Meeting of the Industrial Commission of North Dakota
Held on December 16, 2015 beginning at 1:00 p.m.
Governor's Conference Room
Bismarck, ND

Present: Governor Jack Dalrymple, Chairman
Attorney General Wayne Stenehjem
Agriculture Commissioner Doug Goehring

Also

Present: Jaret Wirtz, WAWSA
Cory Chorne, WAWSA
Bonnie Storbakken, Governor's Office
Members of the Press

Governor Dalrymple called the Western Area Water Supply Authority portion of the Industrial Commission meeting to order at 4:45 p.m. following completion of Bank of North Dakota business.

Ms. Karlene Fine, Industrial Commission Executive Director and Secretary, presented the November financial report and Debt Reduction Report as follows: (A full copy of the report is available in the Commission files.)

RE: Western Area Water Supply Authority - Industrial Sales - November, 2015 & Debt Repayment Report

Attached is the Western Area Water Supply Authority (WAWS) financial information for the month of November, 2015.

Page 1 prepared by the Bank of North Dakota, reflects debt service payments through the month of November, 2015. Joel has noted that WAWS has paid ahead on the BND \$50 million loan by approximately \$13 million.

The next 3 pages (pages 2, 3 & 4) I prepared based on the information provided by WAWS staff reflecting November revenues and expenses and net income. On page 2 you will see that there were no capital improvement disbursements (highlighted in orange) and the principal payments made in November (highlighted in yellow). Net income for the month of November was \$56,196.01 before making their principal payments. Page 5 is the balance sheet prepared by WAWS staff as of November, 2015. As noted on the Balance Sheet the Accounts Receivables are \$1,899,840.96 which is included in the assets of \$2,928,739.15. Last month you requested a list of the Accounts Receivables. I've attached those as pages 6 & 7.

In response to a question, Mr. Jaret Wirtz said November was their lowest month since WAWS had gotten all their depots and infrastructure in place. Sales are very slow right now and they don't expect much better in December. There are a lot less wells being drilled and completed. There are still some completions going on but WAWS isn't getting any of those frack jobs.

Mr. Wirtz discussed a request for suspension of monthly principal payments on a WAWSA loan with the Bank of North Dakota until 7/31/2017 as follows:

RE: Suspension of principal payments

Beginning in 2014 WAWS began making prepayments on one of the Bank of North Dakota (Bank) loans (original amount of loan was \$50,000,000 -- current balance is \$28,602,246.15) from industrial sales revenues. As of today WAWS has prepaid approximately \$12.3 million which means we have prepaid our principal until 7/31/2017.

Because of current conditions in the market we would request that the Industrial Commission direct the Bank of North Dakota to consider suspending the monthly principal payments on this loan until 7/31/2017. This would reduce WAWS's total monthly payments by approximately \$590,000. Since WAWS has prepaid principal ahead to 7/31/2017 and will continue to make the monthly interest payments, this is not considered a payment restructure or modification.

In addition we would agree to pay the suspended monthly principal payment or a portion of it if our industrial sales revenues increase to a certain level -- determined by either a formula/calculation or a cash threshold as negotiated with the Bank.

We are committed to making all debt service payments on the loans that have been provided by the State, the Water Commission and the Bank of North Dakota. However, at this particular time we ask that our principal payments on this one loan be suspended until 7/31/2017.

In response to a question regarding what they make if they fracture one well, Mr. Wirtz said depending on the flows anywhere from 60,000 to 80,000 barrels so anywhere from \$50,000 to \$70,000 per well. Most of these jobs would involve a well pad so there would be 3 to 5 wells on each pad and that would result in approximately \$250,000 to \$300,000. If WAWS was to get one of those jobs every month that is all it would need to break even.

In response to a question regarding the 1,000 wells needing to be fractured, Mr. Wirtz said they don't know if they would get those jobs because it really depends on location and where those wells are at. It will be determined by location, how much water is available in that area, and where the infrastructure is. As far as capacity, WAWS has capacity in most areas. As you get further away from the main transmission lines and where there are smaller diameter lines then WAWS wouldn't have the capacity. In some cases WAWS is asked to supplement a job - the operator will go with another industrial water supplier who might be offering water at a lower price and then WAWS is the backup if the primary supplier doesn't have enough flow for the job. Right now everybody has water available because there are only a few wells getting fracked. There is such a supply of surplus water that has drawn down that market price.

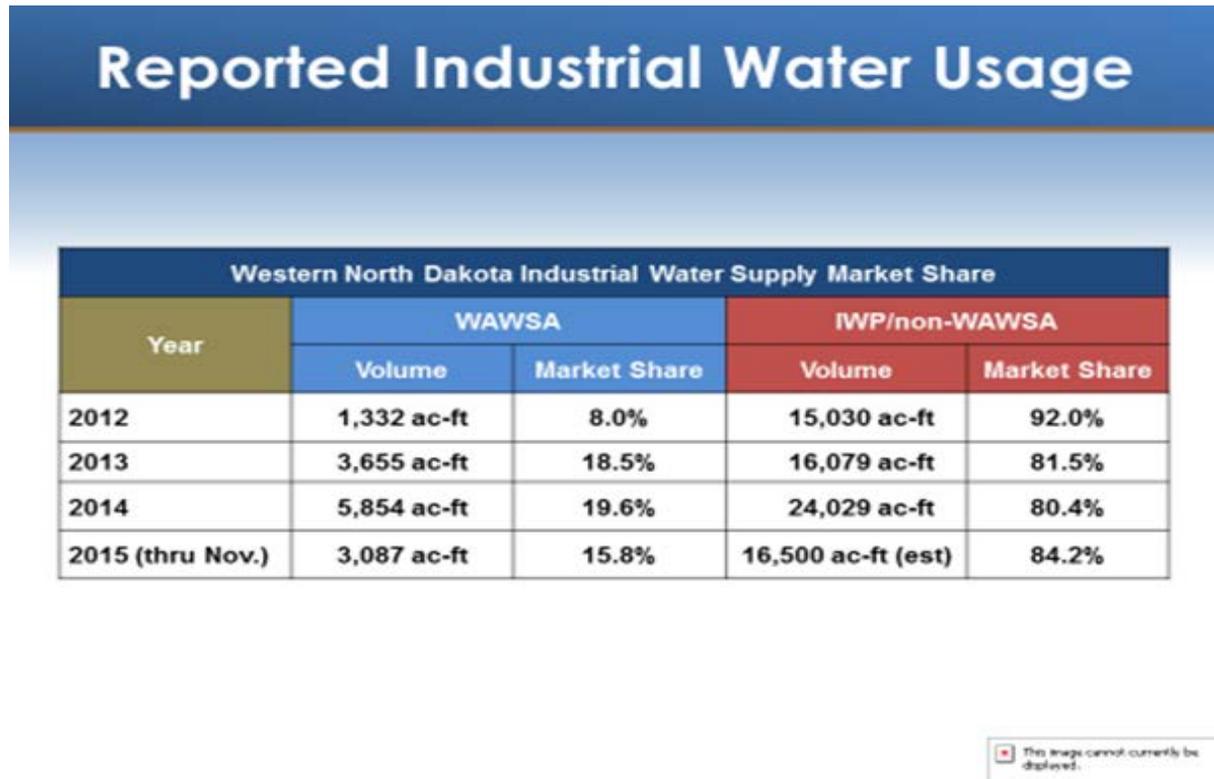
Mr. Wirtz said as WAWS has been looking at their financial situation the WAWS Board is considering suspending the baseline sales payments to their members. The legislation provides that these payments are made and that comes near the top of the priority list. Those payments are about \$4.7 million per year. They are still developing the proposal but what they are discussing is in those months where there is a shortage of sales they wouldn't make the payment to their members. The revenues would be used to pay on loans instead of making payments to their members. It would impact Ray, Stanley, Tioga, R&T, Watford City, Williston and Crosby. They are just beginning to have those conversations with the mayors and the entities. So far they understand that when times are like this that WAWS may need to keep some money back to help pay off these loans.

In response to a question, Mr. Wirtz stated that what they are proposing is that if there are sufficient revenues in a good month then they would make the 1/12th payment; if there isn't money to make the payment, they won't make the 1/12th payment. If there is a really good month they would only pay the 1/12th payment; they would not go back and make up any payments that may have been missed. Mr. Wirtz said that the Board and member entities still need to act on this and it would be for the entire year of 2016. The Commission indicated that they thought that was a good plan and appreciated the Board taking this under consideration.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Bank of North Dakota (BND) consider suspending the monthly principal payments on BND Loan Number 125025800001 until 7/31/2017 with monthly interest payments continuing to be made and

that suspended monthly principal payments (or a portion of a monthly principal payment) be made based on either a formula/calculation or cash threshold as negotiated between the Western Area Water Supply Authority and BND. Further that it be noted that since the Western Area Water Supply Authority has prepaid principal ahead to 7/31/2017 this is not considered a payment restructure or modification. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Mr. Wirtz said they get questions about what percentage of the market WAWS has. They developed this graph using the information from the State Water Commission:



Mr. Wirtz noted that the information is through November. The Water Commission is keeping a much closer tab on this now that the telemetry is set up for all the independents and WAWS. WAWS peaked out in 2014 at a high of 19.6 percent and has dropped down to about 15.8 percent. He is projecting that number to continue dropping.

In response to a question regarding if he feels they are becoming less competitive, Mr. Wirtz said yes. There are jobs getting done by other companies where the water to site with the transfer costs is less than the WAWS water rate. They will continue to develop some ideas for the Commission to consider in 2016.

Being no further Western Area Water Supply Authority business, Governor Dalrymple adjourned this portion of the meeting at 4:59 p.m. and the Commission took up Renewable Energy Program business.

INDUSTRIAL COMMISSION OF NORTH DAKOTA

Karlene Fine, Executive Director and Secretary

Minutes of a Meeting of the Industrial Commission of North Dakota
Held on December 16, 2015 beginning at 1:00 p.m.
Governor's Conference Room
Bismarck, ND

Present: Governor Jack Dalrymple, Chairman
Attorney General Wayne Stenehjem
Agriculture Commissioner Doug Goehring

Also
Present: Bonnie Storbakken, Governor's Office
Members of the Press

Governor Dalrymple called the Renewable Energy Program portion of the Industrial Commission meeting to order at 5:00 p.m. following completion of Western Area Water Supply Authority business.

Ms. Karlene Fine, Industrial Commission Executive Director and Secretary, presented a confidentiality request for portions of the reports filed by Packet Digital for the Soaring Solar Power Manager Phase 1 and Phase II projects as follows:

RE: Confidentiality determination

The Renewable Energy Program statute - Chapter 54-63 - allows the Industrial Commission to determine if certain information is confidential. The Commission has received a letter (see attachment) from Terri Zimmerman with Packet Digital requesting that the appendices of the Phase 1 midterm and final reports and anticipated appendices of the Phase II reports be determined as confidential. Packet Digital has met the requirements of Chapter 54-63. Therefore it is my recommendation that the Industrial Commission grants their request and determines that the following information is confidential:

Solar Soaring Power Manager - Phase 1 Midterm and Final Report appendices and anticipated Phase II Reports' appendices.

It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the Industrial Commission determines that the following information is confidential:

Solar Soaring Power Manager - Phase 1 Midterm and Final Report appendices and anticipated Phase II Reports' appendices.

On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Being no further Renewable Energy Program business, Governor Dalrymple adjourned the meeting at 5:02 p.m.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary