

Minutes of a Meeting of the Industrial Commission of North Dakota

Held on March 31, 2014 at 1:00 p.m.

Governor's Conference Room, State Capitol, Bismarck, ND

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

Also

Present: DeAnn Ament, Public Finance Authority (By Speakerphone)
Jolene Kline, Housing Finance Agency
Max Wetz, Housing Finance Agency
Jerod Tufte, Governor's Office

Governor Dalrymple called the Industrial Commission meeting to order and the Commission took up Public Finance Authority business.

Ms. DeAnn Ament, Public Finance Authority Executive Director, presented a Drinking Water State Revolving Fund Program loan application for Stutsman Rural Water District in the amount of \$7,800,000. Ms. Ament stated that the total cost of the project is \$16,600,000 with \$7,800,000 being financed through the Drinking Water State Revolving Fund Program and the remaining \$8,800,000 being financed through the Capital Financing Program. She explained that the \$7.8 million amount is what the Health Department and bond counsel determined was eligible under the Drinking Water Program. Because a majority of this project is for the Spiritwood Industrial Park, which is a private activity, this financing also has to be broken down into taxable and tax exempt. The \$7.8 million will fund a new water tower on the west side of Jamestown as well as portions of the water treatment plant expansion that will be for residential and commercial use. The project also qualifies for loan forgiveness of \$1.487 million so the net amount to be borrowed under the Drinking Water Program will be \$6.3 million. The average annual payments for this project is going to be paid back by the increased number of residential users with 749 additional users and two commercial accounts, Dakota Spirit Ag Energy and the Spiritwood Station. The Water District has water supply contracts in place and each of those contracts also have a letter of credit to back up their commitment to the contract.

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

RESOLUTION APPROVING
LOAN FROM DRINKING WATER STATE REVOLVING FUND

WHEREAS, the Industrial Commission has heretofore authorized the creation of a Drinking Water State Revolving Fund Program (the "Program") pursuant to N.D.C.C. chs. 6-09.4, 61-28.1, and 61-28.2; and

WHEREAS, the State Revolving Fund is governed in part by the Master Trust Indenture dated as of July 1, 2011 (the "Indenture"), between the North Dakota Public Finance Authority (the "NDPFA") and the Bank of North Dakota (the "Trustee"); and

WHEREAS, Stutsman Rural Water District (the "Political Subdivision") has requested a loan in the amount of \$7,800,000 from the Program to finance water treatment plant expansion; and

WHEREAS, NDPFA's Advisory Committee is recommending approval of the Loan; and

WHEREAS, there has been presented to this Commission a form of Loan Agreement proposed to be adopted by the Political Subdivision and entered into with the NDPFA;

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

1. The Loan is hereby approved, as recommended by the Advisory Committee.
2. The form of Loan Agreement to be entered into with the Political Subdivision is 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.
3. The Executive Director is authorized to fund the Loan from funds on hand in the Drinking Water Loan Fund established under the Indenture upon receipt of the Municipal Securities described in the Political Subdivisions bond resolution, to submit to the Trustee a NDPFA Request pursuant to the Indenture, and to make such other determinations as are required under the Indenture.
4. The Commission declares its intent pursuant to Treasury Regulations §1.150-2 that any Loan funds advanced from the Federally Capitalized Loan Account shall be reimbursed from the proceeds of bonds issued by the NDPFA under the Indenture.

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

Ms. DeAnn Ament presented the following two Clean Water State Revolving Fund Program loan applications:

City of Berthold - \$2,471,000 – Ms. Ament stated this loan is to finance two lagoon cells and related piping. The cost of the project is \$3,131,000. In addition to the Clean Water financing, the City is borrowing \$450,000 from the Capital Finance Program to purchase the land which is not eligible under the Clean Water SRF Program. This project also qualifies for loan forgiveness of \$476,000 so the net borrowing will be approximately \$1,994,000. In addition, they have a developer that has agreed to pay 25 percent of the cost of the entire project – on the construction part – so we do not anticipate lending this entire amount. Repayment will come from special assessments throughout the city and will have a contingent general obligation on the city.

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

RESOLUTION APPROVING
LOAN FROM CLEAN WATER STATE REVOLVING FUND

WHEREAS, the Industrial Commission has heretofore authorized the creation of a Clean Water State Revolving Fund Program (the "Program") pursuant to N.D.C.C. chs. 6-09.4 and 61-28.2; and

WHEREAS, the Clean Water State Revolving Fund is governed in part by the Master Trust Indenture dated as of July 1, 2011 (the "Indenture"), between the North Dakota Public Finance Authority (NDPFA) and the Bank of North Dakota (the Trustee); and

WHEREAS, the City of Berthold (the "Political Subdivision") has requested a loan in the amount of \$2,471,000 from the Program to finance new lagoon cells; and

WHEREAS, the NDPFA's Advisory Committee is recommending approval of the Loan; and

WHEREAS, there has been presented to this Commission a form of Loan Agreement proposed to be adopted by the Political Subdivision and entered into with the NDPFA;

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

1. The Loan is hereby approved, as recommended by the Advisory Committee.
2. The form of Loan Agreement to be entered into with the Political Subdivision is 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.
3. The Executive Director is authorized to fund the Loan from funds on hand in the Clean Water Loan Fund established under the Indenture upon receipt of the Municipal Securities described in the Political Subdivisions bond resolution, to submit to the Trustee a NDPFA Request pursuant to the Indenture, and to make such other determinations as are required under the Indenture.
4. The Commission declares its intent pursuant to Treasury Regulations §1.150-2 that any Loan funds advanced from the Federally Capitalized Loan Account shall be reimbursed from the proceeds of bonds issued by the NDPFA under the Indenture.

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

City of Medora - \$2,880,000 – Ms. Ament stated this loan is to finance the mechanical sewer treatment facility that will serve the entire community. The fluid from the sewer treatment facility could also be used to irrigate the Bully Pulpit golf course. The total cost is \$7,880,000 and the City has submitted an application for a \$5 million energy impact grant. The project is also eligible for loan forgiveness so the net borrowing would be \$2,188,000. The city will issue revenue bonds payable with a half percent sales tax revenue that should be sufficient to cover the debt repayment and will pledge some of their two percent sales tax should that half percent not be enough to cover the payments.

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

RESOLUTION APPROVING
LOAN FROM CLEAN WATER STATE REVOLVING FUND

WHEREAS, the Industrial Commission has heretofore authorized the creation of a Clean Water State Revolving Fund Program (the "Program") pursuant to N.D.C.C. chs. 6-09.4 and 61-28.2; and

WHEREAS, the Clean Water State Revolving Fund is governed in part by the Master Trust Indenture dated as of July 1, 2011 (the "Indenture"), between the North Dakota Public Finance Authority (NDPFA) and the Bank of North Dakota (the Trustee); and

WHEREAS, the City of Medora (the "Political Subdivision") has requested a loan in the amount of \$2,880,000 from the Program to finance a mechanical sewer treatment facility; and

WHEREAS, the NDPFA's Advisory Committee is recommending approval of the Loan; and

WHEREAS, there has been presented to this Commission a form of Loan Agreement proposed to be adopted by the Political Subdivision and entered into with the NDPFA;

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

1. The Loan is hereby approved, as recommended by the Advisory Committee.
2. The form of Loan Agreement to be entered into with the Political Subdivision is 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.
3. The Executive Director is authorized to fund the Loan from funds on hand in the Clean Water Loan Fund established under the Indenture upon receipt of the Municipal Securities described in the Political Subdivisions bond resolution, to submit to the Trustee a NDPFA Request pursuant to the Indenture, and to make such other determinations as are required under the Indenture.
4. The Commission declares its intent pursuant to Treasury Regulations §1.150-2 that any Loan funds advanced from the Federally Capitalized Loan Account shall be reimbursed from the proceeds of bonds issued by the NDPFA under the Indenture.

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 application for Stutsman Rural Water District for \$8,800,000 – it is a piece of the financing project that goes in conjunction with the Drinking Water Program loan. These will be taxable bonds and this portion of the funding will provide the money to do the majority of the work for Dakota Spirit Ag Energy and the Spiritwood Station. The contracts that are in place under the Drinking Water Program also carry over for this Capital Financing Program financing as well and that letter of credit that they have also covers this financing as well.

It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring 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, Stutsman Rural Water District (the "Political Subdivision") has requested a loan in the amount of \$8,800,000 (the "Loan") from the North Dakota Public Finance Authority (the "NDPFA") to finance water treatment plant expansion; 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 the \$9,500,000 Series 2014 B Taxable Capital Financing Program Resolution and the Preliminary Official Statement for the 2014 A & B bond issue. (A copy is available in the Commission files.) She said this is in conjunction with the Stutsman Rural Water loan. At the last Commission meeting the Commission approved the Resolution for the 2014 Series A in the amount of \$35 million. That issue was for the City of Fargo flood mitigation projects and a refinancing for the City of Noonan. That sale has not been held, it will be held in conjunction with the 2014 taxable bonds. That is why the Preliminary Official Statement has been changed to reflect the two bond series.

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

SERIES RESOLUTION FOR
\$9,500,000
NORTH DAKOTA PUBLIC FINANCE AUTHORITY
TAXABLE CAPITAL FINANCING PROGRAM BONDS
SERIES 2014B

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 Taxable Capital Financing Program Bonds, Series 2014B" (the "Series 2014B Bonds")

to provide moneys to lend to Stutsman Rural Water District through the purchase of up to \$9,500,000 water revenue bonds to finance certain water projects and to acquire obligations of other Political Subdivisions requesting taxable loans prior to the issuance of the Series 2014B 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 \$9,500,000 and having a final maturity not later than June 1, 2034.

WHEREAS, the Commission has received and reviewed a report of Public Financial Management, Inc., financial consultants to the Commission, describing the estimated costs to certain above-named entities (the "Political Subdivisions") of borrowing for their projects through the Capital Financing Program as compared to the costs of borrowing through other alternatives available to such Political Subdivisions, 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 2014B 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 2014B Bonds

Section 2.01. Authorization of Series 2014B Bonds. Pursuant to the General Bond Resolution, a Series of Capital Financing Program Bonds to be designated as the "Series 2014B Bonds" is hereby created and authorized to be issued in the aggregate principal amount of up to \$9,500,000; provided that

the terms of the Series 2014B 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 2014B 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, 2014, proceeds of the Series 2014B 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 2014B 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 2014B Bonds when due.

Section 2.03. Date, Payment Dates, and Maturities. The Series 2014B Bonds shall be dated as of a date determined by the Executive Director to be appropriate, except that Series 2014B 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 2014B Bonds shall bear interest from their date, payable semiannually on June 1 and December 1 in each year, commencing December 1, 2014. The Series 2014B 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 2014B Bonds may be issued in any amount not more than \$9,500,000 and maturing in amounts on each June 1 as determined by the Executive Director.

Section 2.04. Redemption. The Series 2014B Bonds maturing on or after June 1, 2025, are subject to redemption and prior payment at the option of the Authority at par plus accrued interest on June 1, 2024, and any date thereafter, in whole or in part in such order as the Executive Director may determine. The Series 2014B Bonds are also subject to mandatory redemption on December 1, 2014, at par 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, 2014.

Section 2.05. Interest Rates. The Series 2014B 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 2014B Bonds shall not exceed 6.00% per annum.

Section 2.06. Denominations, Numbers, and Letters. Each Series 2014B 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 2014B 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 2014B 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 2014B Bonds. The Series 2014B 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 2014B 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 2014B 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 2014B Bonds

Section 3.01. Reserve Fund Deposit; Letter of Credit. Upon or prior to the issuance and sale of the Series 2014B 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 2014B Bonds to be paid on maturing principal of and interest on the Series 2014B 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 2014B 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 2014B 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 2014B Bonds and solely from amounts on deposit in the Series 2014B 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 2014B Bonds, the Authority shall deposit in the Costs of Issuance Fund from the proceeds of the Series 2014B Bonds the sum determined by the Executive Director to be used to pay Costs of Issuance of the Series 2014B Bonds in accordance with the provisions of the General Bond Resolution.

Section 3.03. Deposit to Series 2014B Account of Loan Fund. The Authority shall deposit all other proceeds derived from the sale of the Series 2014B Bonds which are not deposited in the Reserve Fund or Cost of Issuance Fund in the Series 2014B 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 2014B Bonds plus

accrued interest for the period from the date of the Series 2014B 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 2014B Bonds plus all interest earnings on the amounts deposited in the Series 2014B Account of the Loan Fund under the General Bond Resolution.

ARTICLE IV
Form, Execution and Other Details of Series 2014B Bonds

Section 4.01. Form of Series 2014B Bonds. The Series 2014B 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 2014B 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 2014B Bonds that so long as any Series 2014B 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. 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.

Ms. Ament presented the following memorandum regarding loans to political subdivisions that were approved by the Advisory Committee:

Re: Noonan, Drinking Water State Revolving Fund Program Loan
Berthold, Capital Financing Program Loan
Passport Township, Capital Financing Program Loan

Under current policy, the Public Finance Authority can make loans under the State Revolving Fund Program in an amount not to exceed \$1,000,000 and under the Capital Financing Program in an amount not to exceed \$500,000 without seeking the final approval of the Industrial Commission. Within this policy, once the loan has been funded, the Public Finance Authority is required to provide the details of the loan to the Industrial Commission. Accordingly, the Public Finance Authority and its Advisory Committee used this policy to approve the following loan:

The committee reviewed an application from the City of Noonan requesting a \$282,130 loan under the Drinking Water State Revolving Fund (DW SRF) Program to finance water lines, gate valves, hydrants, service lines and meter pits. Total construction costs for this project will be \$480,946 with \$198,816 being provided by CDBG. The requested term for the DW SRF loan is 20 years. The City of Noonan will issue revenue bonds payable with user fees.

The committee reviewed an application from the City of Berthold requesting a \$450,000 loan under the Capital Financing Program (CFP) to finance to the purchase of land to build additional lagoon cells; the land purchase is not eligible for Clean Water SRF (CW SRF) financing. The entire cost of the project is \$3,131,000. In addition to the \$450,000 from the CFP, the city will use \$210,000 of city sales tax funds on hand for the land purchase and borrow \$2,471,000 from the CW SRF program for the lagoon project. The requested loan term is 5 years. The City will issue improvement bonds payable with special assessments. The improvement bonds will be a contingent general obligation of the City, backed by the statutory requirement that the City levy a general deficiency tax in the event that the revenues from the collection of special assessments are not sufficient to pay the debt service on the improvement bonds. The developer will pay 25% of the cost of the entire project when construction commences and 25% of the entire project will be paid from a development fee that will be collected when lots are sold. There will be a balloon payment in the 5th year which is anticipated to be paid off with the developer's contribution.

The committee reviewed an application from Passport Township in Ward County requesting a \$145,000 loan under the Capital Financing Program to finance a grade raise to 2011 FEMA site 8. It is anticipated FEMA and the State will provide \$145,000 and locally the Township will need to provide \$5,000. The Township will issue Certificates of Indebtedness in anticipation of the FEMA and State reimbursements.

The loans were approved by the Public Finance Authority's Advisory Committee the March 26, 2014 Advisory Committee meeting.

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Being no further Public Finance Authority business, Governor Dalrymple adjourned this portion of the meeting and the Commission took up Housing Finance Agency 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 March 31, 2014 at 1:00 p.m.

Governor's Conference Room, State Capitol, Bismarck, ND

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

Also

Present: Jolene Kline, Housing Finance Agency
Max Wetz, Housing Finance Agency
Jerod Tufte, Governor's Office

Governor Dalrymple called the Housing Finance Agency portion of the Industrial Commission meeting to order following completion of Public Finance Authority business.

Ms. Jolene Kline gave an update on the North Dakota Housing Finance Agency-Administered Federal Low Income Housing Tax Credit and Housing Incentive Fund programs by discussing the following memorandum:

Re: Update on NDHFA-Administered Federal Low Income Housing Tax Credit and Housing Incentive Fund programs

Federal Low Income Housing Tax Credit Program

NDHFA staff recently completed the processing of applications for the 2014 federal Low Income Housing Tax Credit (LIHTC) program. Five projects, which will provide 163 units of affordable housing when completed, were selected for funding. The projects, located in Dickinson (39 units), Fargo (30 units), Jamestown (24 units), Minot (40 units) and West Fargo (30 units) are all designed to provide housing for households age 55 and over. Construction of all five projects is slated to be completed in Summer-Fall 2015. The \$2.4 million in LIHTCs awarded will bring an estimated \$21 million of equity (approximately \$128,800 per unit) into these five projects, allowing the developers to offer truly affordable rents. The average total construction cost per unit was just over \$174,000. Federal rules require that all units benefiting from LIHTCs must be income and rent restricted for households with 60 percent or less of area median income.

2013/15 Biennium Housing Incentive Fund Program (HIF II)

Thirty-four projects were selected to receive funding under the 2013/15 biennium program. A total of 922 units of rental housing will be created as a result of HIF II. Seven hundred five of these units will have long term rent restrictions enforced by a deed restriction (HIF Assisted Units). The remaining 217 units will be market rate units. The average equity per HIF Assisted Unit provided from HIF II is \$52,583. The average total construction cost per unit is just under \$164,000 per unit. The HIF II program benefits households with incomes between 30 and 140 percent of area median.

Approximately \$5.6 million of the total HIF II funding has been disbursed to date to eight of the 34 projects. It is anticipated that all projects will be under construction by September 2014 and will have received at least a partial disbursement of HIF II funds.

2011/13 Biennium Housing Incentive Fund Program (HIF I)

HIF I funds were allocated to 23 projects containing 601 units. Three hundred sixty-five of these units will have long term deed restrictions to ensure rent restrictions for

households earning incomes between 30 and 140 percent of area median. The remaining 236 units will be market rate. The average equity per HIF Assisted Unit is \$34,353. The average total construction cost per unit is approximately \$153,200.

Approximately \$9.4 million of the HIF I funding has been disbursed. All remaining HIF I funds are expected to be disbursed by the end of this summer. Fourteen of the 23 projects are completed; six are under construction; and construction will commence on the final three this spring. The three projects in Ray and Crosby had construction delays due to infrastructure or site control issues.

Additional project information on the three programs is attached. (A copy of this material is available in the Commission files.)

In response to a question regarding rent amounts, Ms. Kline stated the rents will be as low as \$300.00 because some of those units are way down at the 30 percent of area median income (keep in mind there is a difference between counties), up to \$1,400.00.

Governor Dalrymple said he had a meeting the other day with USDA and they were very complimentary of the Housing Finance Agency programs and said their programs are basically hinged to what the Housing Finance Agency is doing. The Commission thanked the Agency staff for their work and encouraged them to keep it up.

Being no further Housing Finance Agency business, Governor Dalrymple adjourned this portion of the meeting and the Commission took up Western Area Water Supply Authority (WAWSA) 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 March 31, 2014 at 1:00 p.m.
Governor's Conference Room, State Capitol, Bismarck, ND

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

Also

Present: Jerod Tufte, Governor's Office
Jaret Wirtz, WAWSA (By Speakerphone)
Eric Hardmeyer, Bank of North Dakota
Annette Curl, Bank of North Dakota
Brad Thompson, Bank of North Dakota
Bob Humann, Bank of North Dakota
Andrea Travnicek, Governor's Office

Governor Dalrymple called the Western Area Water Supply Authority (Authority) portion of the Industrial Commission meeting to order following completion of Housing Finance Agency business.

Mr. Jaret Wirtz, Western Area Water Supply Authority Executive Director, joined the meeting by phone.

Ms. Karlene Fine, Industrial Commission Executive Director, gave the Monthly Report on Sales and Debt Payments (A copy with attachments is available in the Commission files.) as follows:

RE: Western Area Water Supply Authority - Industrial Sales - February, 2014 and Debt Repayment Report

Attached for your information are Western Area Water Supply Authority (WAWSA) Industrial Sales documents for the month of February and for the two months ending February 28, 2014.

The first page is the document prepared by the Bank of North Dakota reflecting debt service payments. Two payments were made in March:

- an interest payment of \$214,711 on March 6, 2014 which was applied to four of the WAWSA loans
- a debt service payment of \$1,291,074 applied to the debt service payments due later this year (actually two P&I payments). This payment was applied to the debt service owed on BND Loan #1. At the March 3, 2014 Industrial Commission meeting you had asked about the "sweeping" of funds and applying it to the debt. That is what took place with this payment.

The next two pages reflect the overall WAWSA debt and highlighted in yellow is the debt service payments that have been made on the State Guaranteed debt.

The next 3 pages (pages 4, 5 and 6) I prepared based on the information provided by WAWSA staff reflecting revenues and expenses and showing net income. (Income was down from January -- January daily net income was \$37,040.02; February daily net income was \$25,007.58.) The next 13 pages reflect information regarding sales from each of the depots. You will note on these pages where there were some days when depots were shut-in because of either a water shortage or a transmission break. This may be a reason why daily income was down in February. Jaret will be joining the meeting by phone and he may have some comments about operations in February.

If you have questions, Bank of North Dakota staff will be available to discuss the documents reflecting debt payments and I will be available to review the numbers. Jaret will be on the phone to respond to questions as well as to talk about operations. In addition to commenting about the February numbers he may want to give you a preview of sales in March.

In response to a question regarding February being down, Mr. Wirtz said yes the numbers do indicate that it was down but this is a result of the way the billing was done--it is a timing issue. The Authority had several temporary water connections and if the operator of the temporary connection is in the middle of a job, the Authority usually waits until the end of the job to bill them – so there was water being sold in February that will show up in March. We have already done the billing for March in the amount of \$3.4 million so it will balance out February. It is just the way the billing cycle worked.

In response to a question regarding if there were any problems, Mr. Wirtz stated no, nothing unusual - an issue at the water plant and a transmission line break that resulted in a shortage of water for a few days. There is always a challenge during the cold water of keeping the lanes open. There were no big issues; things are going well. He indicated that the outlook for the spring months is okay.

In response to a question regarding the \$1.3 million payment on principal and when it will happen again, Mr. Wirtz said at the end of each month he will confer with BND on the balance in the Industrial Water Sales and hope to make a similar payment next month. The \$1.291 million was for the loan payments that would be due in August and September – he thinks the way BND is scheduling it out is that the Authority is current to October. Mr. Brad Thompson, Bank of North Dakota, stated that was correct, on the first BND loan.

Mr. Wirtz said they hope to make at least one month's payment every month and they would like to make as many as possible. He wants to do it as full payments so we can either make one payment or a two month payment.

Being no further Western Area Water Supply Authority business, Governor Dalrymple adjourned this portion of the meeting 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 March 31, 2014 at 1:00 p.m.
Governor's Conference Room, State Capitol, Bismarck, ND

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

Also

Present: Jerod Tufte, Governor's Office
Eric Hardmeyer, Bank of North Dakota
Annette Curl, Bank of North Dakota
Brad Thompson, Bank of North Dakota
Bob Humann, Bank of North Dakota
Darrell Lingle, Eide Bailly

Governor Dalrymple called the Bank of North Dakota portion of the Industrial Commission meeting to order following completion of Western Area Water Supply Authority business.

Mr. Darrell Lingle, Eide Bailly, presented the following audit reports: (Copies of the audits are available in the Commission's files.)

Beginning Farmer Revolving Loan Fund Audit – Mr. Lingle stated their firm had issued an unmodified opinion over the financial statements. He explained that an unmodified opinion is what used to be called an unqualified opinion but with changes in the accounting or auditing standards, now it is referred to an unmodified opinion. There were no significant changes to the financial statements either in the presentation or the notes to the financial statements and we had no audit adjustments to the financials as a result of the audit performed during the year. Internal control over financial reporting and noncompliance and other matters had no items to report in regards to compliance and other matters regarding compliance to laws and regulations.

He stated that they did have an item in the internal control over financial reporting they would consider to be a significant deficiency. That definition is a deficiency or a combination of deficiencies in internal control that is less severe than a material weakness yet important enough to merit the attention by those charged with conveyance. So we concluded that the internal control item that we did identify would not cause the financial statements to be materially misstated but was significant enough of an issue that they needed to bring it to the attention of the Industrial Commission. The condition that they noted during the course of their engagement was that there were five employees with an unlimited Administrator Access to all applications in the entity's core IT system, which is known as Fiserv and there is no means of tracking changes under this user access identification. It was noted that a user identification for Department 99 called "Admin All" is being used by five IT employees. Their recommendation is that management should assign individual user ID's so that changes can be tracked by user, limit the assignment of the "Admin All" user ID and implement monitoring mechanisms as deemed appropriate. Managements response is: IT Applications Support access to the Fiserv system is currently undergoing modification with the intent to eliminate the access via the "Admin-Full" account or "Admin All" account. Each Application Support staff member will have an individual account set up within Navigator. Credentials for the "Admin Full" or "Admin All" account will be modified and retained by BND IT Security. In the event of an emergency where access is not adequate, the "Admin Full" or "Admin All" credentials will be provided and a change control will be submitted outlining the need for the credentials and the tasks performed. The estimated

completion date is April 30, 2014. They made sure there were no unusual transactions which there were not.

Mr. Lingle reviewed the Independent Auditor's Communication to the Industrial Commission. Under Qualitative Aspects of Accounting Practices he noted there were two new accounting standards that were required to be applied in the current year--GASB 61 and 65 but neither of those statements had a significant impact to the statements. He noted that the most sensitive estimate affecting the Fund's financial statements was management's estimate of the Amortization of Prepaid Interest. That estimate is based on the estimate life of the loan for Chattel and Envest loans, but over five years based on repayment terms for Real Estate loans. It is the same significant estimate they had in the prior year and they performed their standard procedures and that estimate was reasonable in relation to the financial statements as a whole. Otherwise, there were no other matters to be brought to the Commission.

Community Water Facility Loan Fund Audit – He said their firm issued an unmodified opinion and there were no changes to the presentation and there were no financial statement adjustments as a result of the audit performed. Internal control over financial reporting and noncompliance and other matters had no items to report regarding compliance and other matters to laws and regulations. As with the Beginning Farmer Revolving Loan Fund audit, they had the significant deficiency related to the “Admin All” IT control issue. It is the exact same finding. Both these Funds rely on Fiserv as their primary accounting system software which is why the repeat finding. He reviewed the independent auditor's communication to the Industrial Commission – Community Water needed to apply GASB 61 and 65 but neither of those statements had a significant impact to the statements. The most sensitive estimate affecting the Community Water financial statements were the estimate of the allowance for loan loss. That was the same as what was included in the prior year.

ND Guaranteed Student Loan Program Audit – Mr. Lingle stated their firm had issued an unmodified opinion. He noted that in the opinion they stated:

“Emphasis of Matters

“Early Adoption of New Accounting Standard

“As described in Note 1 to the financial statements, the North Dakota Guaranteed Student Loan Program early adopted the provisions of GASB Statement No. 65, Items Previously Reported as Assets and Liabilities. As discussed in Note 1 to the financial statements, the North Dakota Guaranteed Student Loan Program has retroactively rested the previously reported 2012 financial statements to account for administrative fees in accordance with this Statement. Our opinion is not modified with respect to this matter.”

He noted that the reason they are required to early implement that standard is that it is effective for all agencies with a June 30, 2014 financial statement year end and it will impact the State's CAFR which would include the Guarantor financial statements. So for all the statements to be consistently presented and applied, the State Auditor's Office requested the Guarantor early implement this accounting standard. That also requires them to go back and retroactively restate the prior year financial statements as well for the effects of the implementation of GASB 65.

Mr. Lingle explained that the item this affects are the administrative fees in the Alternative Loan Fund Program that under the previous standards you would defer those and recognize those over the term of the loan. Under GASB 65, you go on a cash basis so the Fund no longer has to defer those fees. They are immediately recognized at the point the loan is closed. It helps to add to the Fund net equity at the end of the year.

Mr. Lingle stated there were no prior federal audit findings reported for this program. Internal Control over Financial Reporting and Noncompliance and Other Matters - they had no items to report in regards to compliance and other matters regarding compliance to laws and regulations – so a clean opinion in regards to compliance with federal programs. Under the Significant audit findings, qualitative aspects of accounting practices – they talked about the GASB 65 implementation and the Guarantor was required to apply GASB 61, 62 and 63 in the current year which did not have a significant impact on the financial statements. A couple significant estimates of the prior year were the estimate of the allowance of future refunds of default and aversion fees and the estimate of the allowance for loan losses. There were no issues in regards to those two estimates as they relate to the financial statements as a whole. There were no other matters to report. The Guarantor does not rely on the Fiserv system so they didn't have that issue to report.

Mr. Eric Hardmeyer provided copies of the Bank of North Dakota Advisory Board January 16, 2014 non-confidential meeting minutes.

Mr. Hardmeyer introduced Ms. Annette Curl who is making her presentation to the Commission as an Agriculture Loan Officer.

Prior to going into closed session it **was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the Industrial Commission meeting be closed to hear Lignite Research Program project reports that have been determined to be confidential pursuant to 54-17.5-06. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.**

Governor Dalrymple also closed the meeting pursuant to North Dakota Century Code 6-09-35 to discuss the items on the agenda under Bank of North Dakota confidential business.

During Executive Session, it had been moved and seconded that the Bank of North Dakota be authorized to participate in a loan identified as Attachment 14. In non-confidential session, on a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Being no further Bank of North Dakota business, Governor Dalrymple adjourned this portion of the meeting and the Commission took up Transmission 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 March 31, 2014 at 1:00 p.m.
Governor's Conference Room, State Capitol, Bismarck, ND

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

Also

Present: Jerod Tufte, Governor's Office
Ron Ness, ND Petroleum Council
John Morrison, Crowley Fleck
Jan Swenson, Badlands Conservation Alliance
Bill Kalanek, XTO
Lynn Helms, DMR
Mike Jones, Lignite Research Program
Jason Bohrer, Lignite Energy Council

Governor Dalrymple called the Transmission Authority portion of the Industrial Commission meeting to order following completion of Bank of North Dakota business.

Ms. Karlene Fine, Industrial Commission Executive Director, discussed the appointment of the North Dakota Transmission Authority Director effective April 1, 2014 as follows:

RE: Transmission Authority Director

I am pleased to recommend the appointment of Andrea Stomberg to serve as North Dakota Transmission Authority Director. As you are aware, the funding for the Transmission Authority Director position comes through the Lignite Research Program contract with the Lignite Energy Council. A portion of the funding the Industrial Commission awarded to the Lignite Energy Council for the "Enhance, Preserve and Protect the North Dakota Lignite Industry Phase VII Project" included dollars for the Transmission Authority work. The Lignite Energy Council staff is pleased to have Andrea as part of the team working on the Phase VII Project.

Andrea recently retired from Montana-Dakota Utilities Co. after over 20 years with the company with the last 10 years serving as Vice President, Electric Supply. Andrea has a great deal of experience with transmission in the region. She has served as an active member of the North Dakota EmPower Commission. Part of her work at MDU included working with agencies at both the state and federal level. Recently Andrea was a member of the team that worked on the Electric Load Growth Study completed by the Transmission Authority/Basin Electric/Montana-Dakota Utilities in 2012 and understands the transmission issues currently being faced in North Dakota as well as in the region. Andrea has a Bachelor of Science, Geological Science from the University of Washington, a Master of Science, Soil Chemistry from Oregon State University and a Masters of Management from the University of Mary. Andrea lives in Bismarck.

Therefore, it is my recommendation, that the Commission name Andrea Stomberg as the Director of the North Dakota Transmission Authority effective April 1, 2014.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission accept the recommendation of the Industrial Commission Executive Director and name Andrea Stomberg Director for the North Dakota Transmission Authority effective April 1, 2014. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Minutes - Page 2
March 31, 2014

Being no further Transmission Authority business, Governor Dalrymple adjourned this portion of the meeting 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 March 31, 2014 at 1:00 p.m.

Governor's Conference Room, State Capitol, Bismarck, ND

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

Also

Present: Jerod Tufte, Governor's Office
Ron Ness, ND Petroleum Council
John Morrison, Crowley Fleck
Jan Swenson, Badlands Conservation Alliance
Bill Kalanek, XTO
Lynn Helms, DMR

Governor Dalrymple called the Department of Mineral Resources portion of the Industrial Commission meeting to order following completion of Transmission Authority business.

Mr. Lynn Helms, Department of Mineral Resources Director, presented orders for the following cases heard on February 26 and 27, 2014:

Case 21424, Order 24390 (A copy of the proposed Order is available in the Commission files.) - Application for authorization to construct an oil treating and oilfield waste treating/processing facility – He distributed handouts. (Copies are available in the Commission files.) Mr. Helms stated that the waste treating facility would be co-located with a saltwater disposal well and the facility would be called Buffalo Hills. The reason the proposed order is before the Commission is Dunn County representatives appeared and indicated that this facility - if it was a standalone waste treatment facility - would have to go through the county's planning and zoning process. This location is currently zoned rural preservation. Treating plants are not allowed in a rural preservation zone. The alternative would be to rezone to a rural development zone which requires 120 acres to be zoned. Based on the Department's legal counsel's recommendation and changes to 38-08-04 (2) (e) last session as well as the Attorney General's Opinion 2010-L-01, what is stated in this order is that a treating plant located on a salt water disposal site does not require county zoning approval. That the location of these sites is subject to only Industrial Commission authority – so this specific type of application does not require the county planning and zoning approval. Proposed Order 24390 approves the Buffalo Hills application for a treating plant to be used in conjunction with the salt water disposal well.

In response to a question Mr. Helms clarified that Dunn County has a county-wide rural preservation zone and they are working on amendments that will be considered in May and June that will allow exceptions or exemptions.

In response to a question if Dunn County had any objections other than their claim that the county has the authority to zone it – did they have arguments that they don't like what is being done, Mr. Helms said they didn't have a formal objection but they are indicating to the operator that they need to go through this process. He stated the Dunn County representatives did not voice any specific objections to having this waste treating plant or salt water disposal well at this location. The things that the Commission is to consider under 38-08-04 – road access, safety, etc. no objections were raised. The only issue raised was that it would require rezoning under the county's current ordinances and Buffalo Hills would have to acquire a minimum of 120 acres and

rezone the entire 120 acres and have an industrial development plan for those acres. This facility would utilize about five acres of land.

In response to a question regarding what Dunn County is going to do, Mr. Helms said they are going to hold a public hearing and discuss allowing exceptions for approximately two acres within a rural preservation zone. If an operator could somehow squeeze their industrial process into two acres, they are considering creating a process for that kind of approval. What it comes down to is that it appears the goal is to say no to these sites through their zoning ordinances.

In response to a question Mr. Helms stated that if this applied to the entire county then the liquid drilling mud would have to be transported to a facility in another county. He explained to the Commission what liquid drilling mud is and how it is processed and that it is disposed of in the Dakota Formation once it has been processed. This is the substance that the Commission no longer allows to go into a pit. The operator will separate the liquids off and inject that into the Dakota Formation and to the extent, whatever they can, they are going to grind the remaining solids really fine and inject the remaining solids as much as possible. He stated this is a process used in Louisiana and also in Prudhoe Bay on the Alaskan North Slope and they want to try it here. It has not been done in North Dakota. It is a different way of dealing with some waste – a permanent way of dealing with some waste that currently ends up in a special waste landfill.

Mr. Helms stated that when a company either makes a deal with a salt water disposal operator or acquires a salt water disposal well and wants to set up on that same site it is appropriate that the Commission have sole jurisdiction over siting that type of operation. It does not mean that the operation will fall under the salt water disposal well's bond. The Department is going to require additional bonding because there is additional environmental liability associated with this process. There will be a separate permit, a separate bond, etc. but as far as the siting issue, it is appropriate that the Commission site these operations that are located on a salt water disposal well site.

In response to a question regarding the legal basis on which we have determined that we have jurisdiction over this site rather than the county, Mr. Helms said this was researched very thoroughly by the Attorney General's Office in 2010. At that time it was a discussion between Mountrail County and the Commission about the Commission's authority versus Mountrail County's authority to zone oil well sites, oil wells, salt water disposal sites, salt water disposal wells, enhanced oil recovery, injection wells, etc. It was thoroughly researched and an Attorney General's Opinion was issued in 2010. The action of the Legislature in 2013 affirmed that because the Legislature took this issue up and discussed what the county's role in all of this should be. It was their decision that the jurisdiction should reside in N.D.C.C. 38-08-04 under the Industrial Commission. The Legislature did stipulate in law that additional notice needed to be provided to the counties so they could appear at the Commission hearings and talk about access to public roads or safety issues. Counties are given a specific notice that these types of cases are coming up a minimum of two weeks in advance of a hearing.

In response to a question regarding if the county objected to the holding tanks, loading bins, a mixing tank and a receiver bin--were they aware of all of those items, Mr. Helms said the County representatives stated no objection. They were provided with all the exhibits prior to hearing and

they appeared at the hearing and saw exactly what was being proposed, all the evidence that was presented and the only objection they raised is that it didn't fit within their zoning ordinance.

In response to a question if he received any other comments or objections, Mr. Helms said the Commission did not.

Case 21424: It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that Order 24390 issued in Case 21424, be approved and effective this 31st day of March, 2014. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Case 21761, Order 24090 (A copy of the proposed Order is available in the Commission files.) - Application to establish 2560-acre spacing unit – Mr. Helms stated that this is an application by WPX for a 2,560-acre spacing unit underlying Lake Sakakawea and the Van Hook Arm. He distributed two exhibits. (Copies are available in the Commission files.) He indicated that the current status is a 3840-acre spacing unit for 17 wells and the other exhibit is WPX's proposal to cut Sections 4 and 9 out and reduce the unit to a 2560-acre spacing unit and drill fourteen wells. The reason that they are proposing this is the Tribes one half mile set back resolution from the lakeshore. The original planned well pads do not fit within the Tribal Resolution. WPX maintains that they would need to move to the north segment pad which would require lateral wells to be well over three miles long in order to develop Sections 4 and 9. WPX has some Trust mineral leases expiring on the west half of Section 7 in August so they need to establish production by August in order to hold those leases.

Mr. Helms indicated that he is concerned that if the Commission approved this proposal by WPX that the reserves under Sections 4 and 9 would be lost and result in waste. WPX agreed to that fact in the hearing. However, they testified that drilling these very long laterals is too risky and they do not wish to take on that risk and expense.

Mr. Helms stated that what is being proposed in Order 24090 is that the Commission denies WPX's application for 2560-acre spacing, terminates the 3840-acre spacing unit, and creates one 1280-acre spacing unit and allows WPX to drill four wells from the Edward Flies Away pad. WPX has approval from the BIA and the Tribe to construct that pad but do not yet have the approval from the BLM of the drilling permits. They have submitted the permits to the Oil and Gas Division but they have not been approved. That will allow WPX to secure their leases in Section 7 but it will not forever condemn the minerals in Section 4 and 9 from being produced.

Mr. Helms further stated the in the findings of the Order, the Commission directs WPX and Spotted Hawk to go to the Tribe and ask for an exception to get approval of these closer well pads. No one has approached the Tribe yet to ask for that exception under the Tribal Resolution, so before the final spacing is set over this entire area and the reserves under Sections 4 and 9 are left undeveloped, that needs to be done.

In response to a question he said that lakeshore is a definition that the Tribe has developed for what the lakeshore really is.

Case 21761: It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that Order 24090 issued in Case 21761, be approved and effective this 31st day of March, 2014. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Case 21763, Order 24391 (A copy of the proposed Order is available in the Commission files.) - Application seeking temporary authority to rework a well to be used as a water injection well to test the feasibility of water flooding the reservoir – Mr. Helms stated this is the Spearfish Formation north of Souris, North Dakota. There is extensive development on the Canadian side where the economics of the Spearfish wells appear to be better. As they've moved into the North Dakota side, recovery of the reserves are significantly lower and the economics are pretty marginal. What Corinthian wants to do is take this one three well pad and do a pilot water flood test by injecting water into the middle well for eighteen months (total 175,000 barrels of water). If it is successful, they believe based on operations in Canada, it will increase the recovery factor from 11 percent of the oil in place to 16 percent which will make the North Dakota side of this play very economic. Order 24391 approves Corinthian's application and includes reporting requirements and limitations so they will not damage correlative rights or cause waste. If this water flood is successful it has the potential to significantly improve recoveries in this area and could result in much greater development and more oil being produced in Bottineau County. In response to a question he indicated that they have some water floods in Canada.

Case 21763: It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that Order 24391 issued in Case 21763, be approved and effective this 31st day of March, 2014. On a roll call vote, Governor Dalrymple, Attorney General Stenehjem and Commissioner Goehring voted aye. The motion carried unanimously.

Ms. Karlene Fine, Industrial Commission Executive Director, presented the Williston Basin Petroleum Conference welcome letter. She said the letter of greeting will be part of the materials provided to the attendees.

It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the Industrial Commission approves the Williston Basin Petroleum Conference welcome letter for the 2014 conference as follows:

Eighteenth Williston Basin Petroleum Conference
May 20-22, 2014
Bismarck, North Dakota

Greetings!

Welcome to the Twenty-second Williston Basin Petroleum Conference. This conference will provide you with an excellent opportunity to exchange ideas and technologies regarding Bakken and Three Forks development as well as the other oil and gas producing horizons in the Williston Basin. In recent years, this exchange of information has helped lead to more efficient oil drilling and completion methods across the basin.

We commend the North Dakota Petroleum Council, North Dakota Department of Mineral Resources, and the Saskatchewan Ministry of the Economy for hosting this long-running event. This cooperative effort has been mutually beneficial.

The North Dakota Industrial Commission is mindful of the importance of this conference to the oil and gas industry and the vital role this industry plays in our regional economies.

Best wishes for an enjoyable and informative conference!

Sincerely,

Jack Dalrymple
Governor

Wayne Stenehjem
Attorney General

Doug Goehring
Agriculture Commissioner

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

Mr. Helms presented and discussed with the Commission the Implementation Plan for the Drilling Permit Review Policy and Areas of Interest as follows:

**North Dakota Industrial Commission
03/31/2014**

Drilling Permit Review Policy and Areas of Interest



<http://www.oilgas.nd.gov>

<http://www.state.nd.us/ndgs>

<https://www.dmr.nd.gov>

600 East Boulevard Ave. - Dept 405
Bismarck, ND 58505-0840
(701) 328-8020 (701) 328-8000

NDIC-PP 1.01. For all applications for a permit to drill under NDAC 43-02-02, 43-02-02.2, 43-02-02.3, 43-02-02.4, 43-02-03 and 43-02-05, regardless of location, the director shall consider the proximity of the proposed location to the following:

- U-a. A shallow glacial aquifer;
 - U-b. A lake (with a water surface of 640 acres or more);
 - U-c. Lake Sakakawea;
 - D-d. A well head protection area;
 - U-e. Near-surface coal, sand, or gravel deposit;
 - U-f. Unstable soils or areas with a high potential for soil instability;
 - U-g. A natural drainage;
 - U-h. A 100-year (or less) floodplain;
 - U-i. An occupied dwelling;
 - U-j. A military facility;
 - U-k. A plugged and/or abandoned well;
 - D-l. A planned bypass route that has been proposed in an approved ten-year, or less, county, state, or federal road master plan;
 - U-m. 33 feet of any section line which has not been closed or within 200 feet of the centerline of a state or federal highway;
 - D-n. A city's extra-territorial boundary;
 - D-o. A county, state, or federally designated historic site; a public recreation area; or a wildlife management area; and
 - D-p. Any other areas or geographical formations the director deems appropriate.
- U-procedures in place for permit review. Director reviews if unique/unusual circumstances
D-permits reviewed by Director

NDIC-PP 1.05. If the proposed location is within 33 feet of any section line which has not been closed or within 200 feet of the centerline of a state or federal highway, or is within any setback previously established by the governing body prior to the filing of the application, the director shall require documentation that the applicant has notified the applicable county or township.

Plan to require documentation of contact with NDDOT on state or federal highways

NDIC-PP 2.01. After May 1, 2014, any application for a permit within the following areas of interest that relates to public lands, shall comply with NDIC-PP 2.02 through NDIC-PP 2.04.



Black Butte—There is a point to the west of the current elevation being used (3437') that appears to be 3465' and was not legible on different format of the 24K topo. A two mile buffer around the 3465' point would barely include eastern Black Butte

Minutes - Page 6

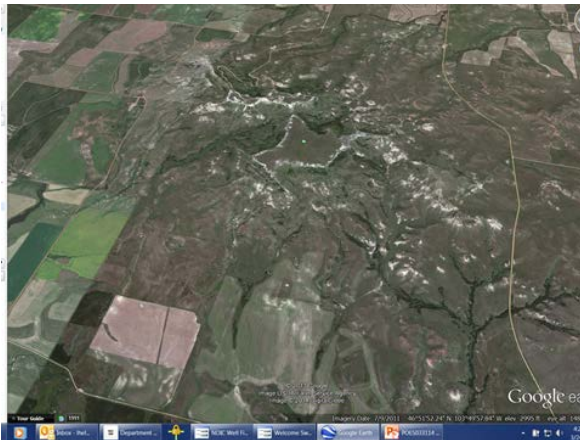
March 31, 2014

NDIC-PP 2.01. After May 1, 2014, any application for a permit within the following areas of interest that relates to public lands, shall comply with NDIC-PP 2.02 through NDIC-PP 2.04.

NDIC-PP 2.01. After May 1, 2014, any application for a permit within the following areas of interest that relates to public lands, shall comply with NDIC-PP 2.02 through NDIC-PP 2.04.

Lake Sakakawea 1850' MSL / Little Missouri River Centerline / Confluence of Yellowstone and Missouri Rivers
The current 1:24,000 scale datasets being used have a horizontal accuracy of +/- 40 feet. The vertical accuracy of these topography contours is approximately one half of the ten foot contour interval.
This information is stated by the United States National Map Accuracy Standard. The policy incorrectly indicates that the spillway elevation is 1850' msl)
LIDAR data that will have an accuracy of approximately 10 centimeters is expected to be available in 2015.

- Sentinel Butte
 - Area of Interest contains no public lands



NDIC-PP 2.01. After May 1, 2014, any application for a permit within the following areas of interest that relates to public lands, shall comply with NDIC-PP 2.02 through NDIC-PP 2.04.

- Permit module of RBDMS is being modified to run a GIS query on all applications for permit to drill received after 5/1/14
- Plan to post Area of Interest shape file on NDIC website

NDIC-PP 2.02. The director shall, within five calendar days after receiving an application to drill a well on public land within an area of interest identified under NDIC-PP 2.01:

A. Post on the daily activity reports section of the Department of Mineral Resources website a notice including all non-confidential permit application information.

DATE: MM DD, YYYY

DAILY REPORT: XXXXX

AREAS OF INTEREST PERMIT LIST

#XXXXX - Operator, Well Name, Surface location XX XX Sec-Twp-Rng, County, XXXX' FXL and XXXX' FXL, Well type, Field name, 'Tight Hole', XXXX' Ground elevation, API #33-XXX-XXXXX

NDIC-PP 2.02. The director shall, within five calendar days after receiving an application to drill a well on public land within an area of interest identified under NDIC-PP 2.01:

B. Forward the portions of the application that are not confidential to the Director of North Dakota Game and Fish Department, the State Historical Preservation Officer, the Director of North Dakota Parks and Recreation Department, the Director of North Dakota Department of Transportation, the Commissioner of North Dakota Department of Trust Lands, the State Engineer of the North Dakota Water Commission, the State Director of the Bureau of Land Management, the Park Superintendent of Theodore Roosevelt National Park, the Supervisor of Dakota Prairie Grasslands, the Field Supervisor of United States Fish and Wildlife Service North Dakota Field Office and the county auditor of the affected county.

Permit module of RBDMS is being modified to send an email that contains the following information to all of the parties above:

DATE: MM DD, YYYY

AREAS OF INTEREST PERMIT LIST

#XXXXX - Operator, Well Name, Surface location XXXX Sec-Twp-Rng, County, XXXX' FXL and XXXX' FXL, Well type, Field name, 'Tight Hole', XXXX' Ground elevation, API #33-XXX-XXXXX

NDIC-PP 2.02. The director shall, within five calendar days after receiving an application to drill a well on public land within an area of interest identified under NDIC-PP 2.01:

A. . . . Public comments about public lands within the areas of interest regarding such issues as access road and well location, reclamation plans and timing, noise, traffic, and visual impact mitigation, will be accepted by the Industrial Commission executive director's designee for 10 calendar days after the notice is posted.

B. . . . Any comments regarding the permit application may be accepted by the Industrial Commission executive director's designee within 10 calendar days after the information is sent.

NDIC-PP 2.03. All comments shall be reviewed by the Industrial Commission executive director's designee who shall summarize any comments received for the director of the Division of Mineral Resources. However, the Mineral Resources director is not bound to act upon any comments.

In reviewing the information related to PP 1.01 Mr. Helms stated that where there is a “D” in front of the items that are part of the required review process for all permits, either he as the Director or Bruce Hicks as the Assistant Director will always see those permits. Where there is a “U” the permitting staff will do the review and only if they identify something as unique or unusual will it be brought to either his or Bruce’s attention.

Mr. Helms said there are technical issues that they will have to work through as this process goes forward. There is an “ellipse of uncertainty” that has a vertical component and a horizontal component in this process that will have to be addressed as this policy is implemented.

Ms. Fine stated the type of person she is looking for as the “designee” is someone that is good at details, that has the ability to summarize the comments and to put them into a format that will be beneficial to the Department of Mineral Resources Director.

Mr. Helms presented the following information on the final EPA Guidance for Oil and Gas Hydraulic Fracturing Activities using Diesel Fuels and discussed the letter sent to Region VIII on North Dakota Industrial Commission mechanism of informing operators on the application of Underground Injection Control requirements:

North Dakota Industrial Commission
03/31/2014

Presentation on final EPA Guidance for Oil and Gas Hydraulic Fracturing Activities using Diesel Fuels

<http://www.oilgas.nd.gov>



<http://www.state.nd.us/ndgs>

<https://www.dmr.nd.gov>

600 East Boulevard Ave. - Dept 405
Bismarck, ND 58505-0840
(701) 328-8020 (701) 328-8000

NDIC comments submitted June 25, 2012

- **17 recommended changes**
 - 10 were adopted
 - 6 were not adopted
 - Most concerned about refusal to allow de minimis amounts
 - 1 was partially granted
 - Eliminated Distillates from definitions
 - Kept Kerosene which has a completely different CASRN

Comment: If the EPA regulates diesel fuels HF under the UIC program, the EPA should include a de minimis threshold of 1%.

Response: Some commenters suggested that the EPA adopt a de minimis threshold for diesel fuels, below which an operator does not need to obtain a UIC Class II permit for diesel fuels HF. The EPA disagrees. The SDWA provides that "diesel fuels" be subject to UIC requirements, without specifying any minimum threshold. Presumably, Congress could have set such a threshold or required the EPA to set a threshold if it had so intended. Moreover, to include a threshold where none is provided in the statute would likely be considered creating new law, rather than merely interpreting the existing statute and regulations, and therefore require notice and comment rulemaking. The EPA is therefore not including a 1% threshold in today's interpretive rule.

Also, the implementation of a de minimis threshold would be infeasible due to the challenges and the uncertainty it would impose on owners and operators pursuing HF, as well as on regulators. Because operators estimate fluid amounts in their fracturing and well completion plan, and adjust amounts real-time during HF, it is very possible for an operator to exceed the threshold and fall into non-compliance if any amount of diesel fuels are part of the fracturing fluid mixture.

Definition

- **68334-30-5 Primary Name: Fuels, diesel**
Common Synonyms: Automotive diesel oil; Diesel fuel; Diesel oil (petroleum); Diesel oils; Diesel test fuel; Diesel fuels; Diesel fuel No. 1; Diesel fuel (United Nations-North America (UN/NA) number 1993); Diesel fuel oil; European Inventory of Existing Commercial Chemical Substances (EINECS) 269-822-7.
- **68476-34-6 Primary Name: Fuels, diesel, No. 2**
Common Synonyms: Diesel fuel No. 2; Diesel fuels No. 2; EINECS 270-676-1; No. 2 Diesel fuel.
- **68476-30-2 Primary Name: Fuel oil No. 2**
Common Synonyms: Diesel fuel; Gas oil or diesel fuel or heating oil, light [UN1202] No. 2 Home heating oils; API No. 2 fuel oil; EINECS 270-671-4; Fuel oil No. 2; Home heating oil No. 2; No. 2 burner fuel; Distillate fuel oils, light; Fuel No. 2; Fuel oil (No. 1, 2, 4, 5 or 6) [NA 1993].
- **68476-31-3 Primary Name: Fuel oil, No. 4**
Common Synonyms: Caswell No. 2 333AB; Cat cracker feed stock; EINECS 270-673-5; EPA Pesticide Chemical Code 063514; Fuel oil No. 4; Diesel fuel No. 4.
- **8008-20-6 Primary Name: Kerosene**
Common Synonyms: JP-5 navy fuel/marine diesel fuel; Deodorized kerosene; JPS Jet fuel; AF 1 00 (pesticide); Caswell No. 517; EINECS 232-366-4; EPA Pesticide Chemical Code 06350 1; Fuel oil No. 1; Fuels, kerosene, Shell 140; Shellsol 2046; Distillate fuel oils, light; Kerosene, straight run; Kerosene, (petroleum); Several Others.

NDIC response

- **EPA Guidance #84 Memorandum, February 2014**
 - **Page 5 directs EPA Regional offices to coordinate with state oil and gas programs to establish a mechanism to inform operators of applicable UIC requirements**
 - Letter sent to EPA Region VIII on 3/21/14
 - North Dakota Industrial Commission, Department of Mineral Resources, Oil and Gas Division (NDIC) "mechanism to inform owners or operators of applicable UIC Program requirements and application deadlines" and procedure for identifying whether diesel fuel, as defined by the Environmental Protection Agency (EPA), will be utilized in Hydraulic fracturing activities
 - **Retain special fund for litigation**
 - **EPA's history of sue & settle makes it imperative that NDIC can react immediately to become a party to any lawsuit and settlement negotiations that may result from this guidance**

Mr. Helms said the Commission is in a good position compared to what the original guidance had proposed. He stated that the Commission's position had been that kerosene should not be included and the final guidelines include it. The Commission had also advocated for a de minimis threshold which the guidelines do not provide. He stated that the Commission has sent their letter to the Region VIII EPA Administrator informing them of the "mechanism to inform owners or operators of applicable UIC Program requirements and application deadlines" and the procedure for identifying whether diesel fuel, as defined by EPA, will be utilized in hydraulic fracturing activities. He noted that with the litigation fund being available to the Commission, the Commission is in a position to reactive immediately to become a party to any lawsuit or settlement negotiations that may result for the EPA guidance

Mr. Helms presented the following information on the new underground gathering pipeline rules that will be going into effect on April 1, 2014 and discussed with the Commission how the rules will be implemented:

North Dakota Industrial Commission
03/31/2014

Presentation on new underground gathering pipeline rules



38-08-02. DEFINITIONS. As used in this chapter, unless the context otherwise requires:

1. "Abandoned pipeline" means an underground gathering pipeline that is no longer in service, is physically disconnected from in-service facilities, and is not intended to be reactivated for future use.
12. "Pipeline facility" means a pipeline, pump, compressor, storage, and any other facility, structure, and property incidental and necessary or useful in the interconnection of a pipeline or for the transportation, distribution, and delivery of energy-related commodities to points of sale or consumption or to the point of distribution for consumption located within or outside of this state.
18. "Underground gathering pipeline" means an underground gas or liquid pipeline that is designed for or capable of transporting crude oil, natural gas, carbon dioxide, or water produced in association with oil and gas which is not subject to chapter 49-22.

38-08-04. JURISDICTION OF COMMISSION.

1 h. Metering or other measuring of oil, gas, or product related to production in pipelines, gathering systems, storage tanks, barge terminals, loading racks, refineries, or other places, by meters or other measuring devices approved by the commission.

38-11.1-09.2. MEDIATION SERVICE. The North Dakota mediation service may mediate disputes related to easements for oil and gas-related pipelines and associated facilities.

NDIC 2013-2014 Rulemaking

- 41 sections proposed
 - 16 due to statute changes
 - HB1134, HB1149, HB1198, HB1333, HB1348, SB2014
 - 11 apply to treating plants
 - 13 administrative or industry request
- Hearing October 1, 2013
- Comment period ended October 11, 2013
- Final NDIC approval December 19, 2013
- Effective date April 1, 2014

38-08-04.4. COMMISSION AUTHORIZED TO ENTER INTO CONTRACTS.

The commission may enter public and private contractual agreements for the plugging or re-plugging of oil and gas or injection wells, the removal or repair of related equipment, the reclamation of abandoned oil and gas or injection well sites, and the reclamation of oil and gas-related pipelines and associated facilities, including reclamation as a result of leaks or spills from a pipeline or associated facility, if any of the following apply:

38-08-04.5. ABANDONED OIL AND GAS WELL PLUGGING AND SITE RECLAMATION FUND - BUDGET SECTION REPORT.

There is hereby created an abandoned oil and gas well plugging and site reclamation fund.

2. Moneys in the fund may be used for the following purposes:

- d. Defraying costs incurred under section 38-08-04.4 in reclamation of oil and gas-related pipelines and associated facilities.

38-08-26. SUBMISSION OF GEOGRAPHIC INFORMATION SYSTEM DATA ON OIL AND GAS UNDERGROUND GATHERING PIPELINES REQUIRED.

43-02-03-29. WELL AND LEASE EQUIPMENT. Wellhead and lease equipment with a working pressure at least equivalent to the calculated or known pressure to which the equipment may be subjected shall be installed and maintained. Equipment on producing wells shall be installed to facilitate gas-oil ratio tests, and static bottom hole or other pressure tests. Valves shall be installed and maintained in good working order to permit pressure readings to be obtained on both casing and tubing.

All newly constructed underground gathering pipelines must be devoid of leaks and constructed of materials resistant to external corrosion and to the effects of transported fluids. All such pipelines installed in a trench must be installed in a manner that minimizes interference with agriculture, road and utility construction, the introduction of secondary stresses, the possibility of damage to the pipe, and tracer wire shall be buried with any nonconductive pipe installed. When a trench for an oil and gas underground gathering pipeline is backfilled, it must be backfilled in a manner that provides firm support under the pipe and prevents damage to the pipe and pipe coating from equipment or from the backfill material.

Basic Construction

1. Test the pipeline to make sure it doesn't leak.
2. Construct the pipeline out of materials that resist external corrosion as well as corrosion from the transported fluids.
3. Buried pipelines must minimize interference with agriculture, road and utility construction, the introduction of secondary stresses, and the possibility of damage to the pipe.
4. Buried pipelines made of a material that doesn't conduct electricity must have a tracer wire.
5. Trenches must be properly backfilled

43-02-03-29. WELL AND LEASE EQUIPMENT.

The operator of any underground gathering pipeline placed into service on August 1, 2011 to June 30, 2013, shall file with the director, by January 1, 2015, a geographical information system layer utilizing North American Datum 83 Geographic Coordinate System (GCS) and in an Environmental Systems Research Institute (Esri) Shape File format showing the location of the pipeline centerline. The operator of any underground gathering pipeline placed into service after June 30, 2013, shall file with the director, within one hundred and eighty days of placing into service, a geographical information system layer utilizing North American Datum 83 Geographic Coordinate System (GCS) and in an Environmental Systems Research Institute (Esri) Shape File format showing the location of the pipeline centerline. An affidavit of completion shall accompany each layer containing the following information:

1. A statement that the pipeline was constructed and installed in compliance with section 43-02-03-29.
2. The pipeline specifications.
3. The anticipated operating pressure of the pipeline.
4. The type of fluid that will be transported in the pipeline and direction of flow.
5. Pressure to which the pipeline was tested prior to placing in service.
6. The minimum pipeline depth of burial.
7. Leak detection and monitoring methods that will be utilized after in service date.
8. In service date.
9. Pipeline name.
10. Accuracy of the geographical information system layer.

Construction Self Certification and Location

1. Operator of any underground gathering pipeline placed into service from August 1, 2011 to June 30, 2013 (estimate 4,300 miles) file by January 1, 2015 and
2. Any underground gathering pipeline placed into service after June 30, 2013 (estimate 2,200 miles per year) file within 180 days of placing into service:
 - a) GIS layer showing the location of the pipeline centerline
 - b) An affidavit of completion
 - c) A statement that the pipeline was constructed and installed in compliance with 43-02-03-29
 - d) The pipeline specifications
 - e) The anticipated operating pressure of the pipeline
 - f) The type of fluid that will be transported in the pipeline and direction of flow
 - g) Pressure to which the pipeline was tested prior to placing in service
 - h) The minimum pipeline depth of burial
 - i) Leak detection and monitoring methods that will be utilized after in service date
 - j) In service date
 - k) Pipeline name
 - l) Accuracy of the geographical information system layer.
3. GIS layer is not required on buried piping utilized to connect flares, tanks, treaters, or other equipment located entirely within the boundary of a well site or production facility.

43-02-03-29. WELL AND LEASE EQUIPMENT.

When an oil and gas underground gathering pipeline or any part of such a pipeline is abandoned, the operator shall leave such pipeline in a safe condition by conducting the following:

1. Disconnect and physically isolate the pipeline from any operating facility or other pipeline.
2. Cut off the pipeline or the part of the pipeline to be abandoned below surface at pipeline level.
3. Purge the pipeline with fresh water, air or inert gas in a manner that effectively removes fluid contaminants.
4. Remove cathodic protection from the pipeline.
5. Permanently plug or cap all open ends by mechanical means or welded means.

Basic Abandonment and Reclamation Rules

When an oil and gas underground gathering pipeline or any part of such a pipeline is abandoned, the operator is now required to leave the pipeline in a safe condition.

1. Disconnected and isolated from any operating facilities or other pipelines
2. Cut off below surface at pipeline level.
3. Purged with fresh water, air or inert gas to remove fluid contaminants
4. Cathodic protection removed.
5. Permanently plug or cap all open ends by mechanical means or welded means.

43-02-03-29. WELL AND LEASE EQUIPMENT.

Within one hundred eighty days of completing the abandonment of an underground gathering pipeline the operator of the pipeline shall file with the director a geographical information system layer utilizing North American Datum 83 Geographic Coordinate System (GCS) and in an Environmental Systems Research Institute (Esri) Shape File format showing the location of the pipeline centerline and an affidavit of completion containing the following information:

1. A statement that the pipeline was abandoned in compliance with section 43-02-03-29.
2. The type of fluid used to purge the pipeline.

The requirement to submit a geographical information system layer is not to be construed to be required on buried piping utilized to connect flares, tanks, treaters, or other equipment located entirely within the boundary of a well site or production facility.

Abandonment Self Certification and Location

Within 180 days of completing the abandonment of an underground gathering pipeline (estimate 12,700 miles pre-2011 + 4,300 miles August 2011-June 2013 + 2,200 miles per year July 2013-Dec 2020 = 35,700 miles) the operator of the pipeline shall file:

1. GIS layer showing the location of the pipeline centerline
2. An affidavit containing the following information:
 - A. A statement that the pipeline was abandoned in compliance with 43-02-03-29.
 - B. The type of fluid used to purge the pipeline.
3. GIS layer not required on buried piping utilized to connect flares, tanks, treaters, or other equipment located entirely within the boundary of a well site or production facility.

Mr. Helms stated as of August 1, 2011 there were about 13,000 miles in the ground of this underground gathering pipeline. There has been about 4,300 miles installed since then and about 2,200 miles are being added per year. It is estimated the state will end up with between 35,000 to 40,000 miles of pipeline range when this oil field development is completed. He reviewed the table (a copy is available in the Commission files) that had been developed by Public Service Commission staff and then edited by the agencies that are involved in pipeline regulation. It is intended to identify for the public who is responsible for interstate and intrastate pipelines, gathering, transmission, distribution, what type of fluids are going through them, CO₂, hazardous liquids, natural gas, salt water or brine. It is a really nice table and he commended Pat Fahn with the PSC for putting it together. It will go a long ways in terms of providing comfort to the public in North Dakota that these areas are now being regulated.

Mr. Helms stated they expect that there will be 15,000 wells in mid-July which triggers three new engineering technician/field inspectors for us. Our goal is to make sure we have at least one field inspector in each district office that has pipeline expertise so it isn't just paper regulation. Our intent is to have staff in each district office on the ground that understands pipelines and know what to look for. There are already two individuals hired out of industry that have extensive pipeline experience and they are recruiting for a third person.

Mr. Helms said in regards to the new pipeline rules they plan to create a web form on the Department's website to allow surface owners to send in a complaint. The web form would allow them to tell us who they are and the location of the problem. We will require a photograph of the problem and then we should be able to use information in our data base to tie that location to an operator and get them out there to fix it. That is the goal. Another part of the goal is to staff on the ground who understands pipelines so they can look at the problem and make a good judgment call about what needs to be done to fix it.

In response to a question regarding if they sent out any type of notice that all of this is available on the website, Mr. Helms said yes, typically when they create something new like this is we put out a press release and we post it on our website as well.

Commissioner Goehring requested that he be notified when it is available so he can reach out to the agriculture community and make them aware that this is now available.

Mr. Helms said April 22 is going to be the flaring production restriction hearing starting at 9:00 a.m. at the DMR offices. He invited the Commission members to attend any or all or part of it. He indicated that there is going to be a press release distributed before the end of the week that will provide guidance for people to know what kind of information the staff is looking for. It will not be an exclusive list but we hope will be helpful in letting individuals know the kind of technical information that is needed to craft a workable production restriction policy. This policy will ultimately impact about 340 proper spacing orders.

Being no further Department of Mineral Resources business, Governor Dalrymple adjourned the meeting.

INDUSTRIAL COMMISSION OF NORTH DAKOTA



Karlene Fine, Executive Director and Secretary